

BOARD MEETING OF OCTOBER 9, 2012

J. Paul Ozer, Chair



Tom Gann, Vice-Chair
Leslie Bingham Escareño, Member
Lowell Keig, Member
Juan Muñoz, Member
J. Mark McWatters, Member

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

A G E N D A

**10:00 a.m.
October 9, 2012**

Capitol Extension, Room 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.

CONSENT AGENDA

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

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

EXECUTIVE:

- a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summary for September 6, 2012
- b) Discussion and Possible Action to authorize the initiation of procurement to select one or more independent fact finders to resolve contested quantifiable community participation

Brooke Boston
Board Secretary

Tim Irvine
Executive Director

ASSET MANAGEMENT:

- c) Presentation, Discussion, and Possible Action to approve a material amendment to the Land Use Restriction Agreement (LURA) for Denton Affordable Housing Corporation (Special Needs Rental Housing)
- d) Presentation, Discussion, and Possible Action to approve a material amendment to the Land Use Restriction Agreement (LURA) for Denton Affordable Housing Corporation (Strata Drive and Cassie Court)

Cari Garcia
Dir. Asset Management

BOND FINANCE:

- e) Presentation, Discussion, and Possible Action adopting Resolution 13-009 authorizing the Investment of Escrowed Funds in Mortgage Backed Securities

Tim Nelson
Dir. Bond Finance

COMMUNITY AFFAIRS:

- f) Presentation, Discussion, and Possible Authorization to Apply for Continuum of Care funds administered by the U.S. Department of Housing and Urban Development (HUD) under the Homeless Emergency Assistance and Rapid Transition (HEARTH) Act

Michael DeYoung
Assist. DED, Network & Customer Service

MULTIFAMILY FINANCE DIVISION:

- g) Presentation, Discussion, and Possible Action to adopt Inducement Resolution No. 13-010 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for Private Activity Bond Authority – 2012 Waiting List

Cameron Dorsey
Dir. Multifamily Finance

12607 Terrace View Apartments
12608 Evergreen at McKinney

Grand Prairie
McKinney

- h) Presentation, Discussion, and Possible Action Regarding Determination Notices for Housing Tax Credits with another Issuer

12410 Gateway Northwest

Georgetown

- i) Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2012-1 HOME Multifamily Development Program Notice of Funding Availability

12269 Stonebridge at Kelsey

Lubbock

NEIGHBORHOOD STABILIZATION PROGRAM:

- j) Presentation, Discussion, and Possible Action to approve additional financing options for Land Bank properties under Neighborhood Stabilization Program 1 (NSP1) contracts

77090000101	Texas State Affordable Housing Corporation	Statewide
77090000108	Affordable Homes of South Texas, Inc.	Hidalgo County
77090000150	Community Development Corporation of Brownsville	Cameron County
77090000154	City of Port Arthur	Jefferson County
77090000204	Affordable Homes of South Texas, Inc.	Hidalgo County

Marni Holloway
Neighborhood Stabilization Program

RULES:

- k) Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 7, §§7.1 - 7.9 concerning the Texas First Time Homebuyer Program Rule and an order adopting new 10 TAC Chapter 27, §§27.1 - 27.10 concerning the Texas First Time Homebuyer Program Rule and directing their publication in the *Texas Register*
- l) Presentation, Discussion, and Possible Adoption of an order adopting new 10 TAC Chapter 20, §§20.1 – 20.15 concerning the Single Family Programs Umbrella Rule and directing its publication in the *Texas Register*
- m) Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 2, §§2.1 – 2.13 concerning the Texas Bootstrap Loan Program Rule and an order adopting new 10 TAC Chapter 24, §§24.1 – 24.13 concerning the Texas Bootstrap Loan Program Rule and directing their publication in the *Texas Register*
- n) Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 3, §§3.1 - 3.9 concerning the Colonia Self-Help Center Program Rule and an order adopting new 10 TAC Chapter 25, §§25.1 – 25.9 concerning the Colonia Self-Help Center Program Rule and directing their publication in the *Texas Register*
- o) Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 51, §§51.1 – 51.11 concerning the Texas Housing Trust Fund (HTF) Program Rule and adopting new 10 TAC Chapter 26, §§26.1 – 26.7 concerning the Housing Trust Fund Program Rule and directing their publication in the *Texas Register*
- p) Presentation, Discussion, and Possible Adoption of an order amending 10 TAC Chapter §9.1 and §9.2 concerning the Texas Neighborhood Stabilization Program Rule and an order adopting new §9.8, 10 TAC Chapter 29, §§29.1 - 29.8 concerning the Neighborhood Stabilization Program Rule and directing their publication in the *Texas Register*
- q) Presentation, Discussion, and Possible Adoption of orders repealing 10 TAC Chapter 53, Subchapter C, concerning Homeowner Rehabilitation Assistance Program Activity; Subchapter D, concerning Homebuyer Assistance Program Activity; Subchapter E, concerning Contract for Deed Conversion Program Activity; Subchapter F, concerning Tenant Based Rental Assistance Program Activity, and Subchapter G, concerning Single Family Development Program Activity; and order adopting new 10 TAC Chapter 23, concerning HOME Single Family Program, and directing their publication in the *Texas Register*
- r) Presentation, Discussion, and Possible Action proposing amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter A, General Provisions, §§5.2 - 5.5, 5.7, 5.9 - 5.14, 5.16, 5.17, 5.19 - 5.22 and proposing a new §5.23 concerning Protected Health Information and directing their publication in the *Texas Register*
- s) Presentation, Discussion, and Possible Action regarding proposing amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter B, Community Services Block Grant (CSBG) §§5.201, 5.203 – 5.207 and 5.210 - 5.217, and directing their publication in the *Texas Register*
- t) Presentation, Discussion, and Possible Action regarding proposed amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter D, Comprehensive Energy Assistance Program (CEAP) §§5.401 –

Eric Pike
Dir. Texas Homeownership

Homero Cabello
Dir. Colonia Initiatives, Housing Trust Fund

Homero Cabello
Dir. Colonia Initiatives, Housing Trust Fund

Homero Cabello
Dir. Colonia Initiatives, Housing Trust Fund

Homero Cabello
Dir. Colonia Initiatives, Housing Trust Fund

Marni Holloway
Dir. Neighborhood Stabilization Program

Sara Newsom
Dir. HOME

Michael DeYoung
Assist. DED, Network & Customer Service

Michael DeYoung
Assist. DED, Network & Customer Service

Michael DeYoung
Assist. DED, Network & Customer Service

5.408, 5.421 – 5.423, and 5.430 – 5.432, proposing the repeal of §§5.424 and 5.425, and proposed new §5.424 concerning Utility Assistance Component, and directing their publication in the *Texas Register*

- u) Presentation, Discussion, and Possible Action proposing an amendment to 10 TAC Chapter 5 Community Affairs Programs, Subchapter F, Weatherization Assistance Program Department of Energy, §5.601 concerning DOE Cost Principles and Administrative Requirements and directing their publication in the *Texas Register*
- v) Presentation, Discussion, and Possible Action proposing the repeal of 10 TAC Chapter 5 Community Affairs Programs, Subchapter I, concerning Weatherization Assistance Program Department of Energy American Recovery and Reinvestment Act (WAP ARRA), and directing their publication in the *Texas Register*

Michael DeYoung
Assist. DED, Network & Customer Service

Michael DeYoung
Assist. DED, Network & Customer Service

The Board accepts the following reports:

1. Presentation and Discussion of the Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)
2. Status Report on the HOME Program Contracts and Reservation System Participants for August and Year-to-Date
3. Update on the Status of the Preparation of the State of Texas Plan for Fair Housing Choice: Analysis of Impediments
4. Report on Homeless Housing and Services Program and Emergency Solutions Grants Program Awards through the Community Affairs Division
5. TDHCA Outreach Activities, September 2012

Brooke Boston
DED SF, CA & Metrics

Sara Newsom
Dir. HOME

Jennifer Molinari
Fair Housing Coordinator

Michael DeYoung
Assist. DED, Network & Customer Service

Michael Lyttle
Dir. External Affairs

ACTION ITEMS

ITEM 2: RULES:

Presentation, Discussion, and Possible adoption of an order and Resolution No. 13-011 adopting new 10 TAC Chapter 28, §§28.1 - 28.9 concerning the Taxable Mortgage Program (TMP) Rule and directing that it be published in the *Texas Register*, and also authorizing payment of a servicing release premium

Eric Pike
Dir. Texas Homeownership

ITEM 3: HOME:

- a) Presentation, Discussion, and Possible Action to authorize the issuance of the 2012 HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA) for Homebuyer Assistance, Homeowner Rehabilitation Assistance, and Tenant Based Rental Assistance
- b) Presentation, Discussion, and Possible Action to authorize the issuance of the 2012 HOME Single Family Development (SFD) Activity Program Notice of Funding Availability (NOFA)

Sara Newsom
Dir. HOME

ITEM 4: MULTIFAMILY FINANCE DIVISION:

- a) Presentation and Discussion regarding the status of the 2012 Competitive (9%) Housing Tax Credit Round
- b) Presentation and Discussion regarding policy issues and receipt of public comment related to 2013 Qualified Allocation Plan. No action is contemplated or recommended at this time but it may be taken based on public comment and Board deliberations at the meeting.

Cameron Dorsey
Dir. Multifamily Finance

ITEM 5: HOUSING RESOURCE CENTER:

- a) Presentation, Discussion, and Possible Action to approve *The Contract for Deed Prevalence Project: A final report to the Texas Department of Housing and Community Affairs*
- b) Presentation, Discussion, and Possible Action to approve and publish the proposed 2013 Regional Allocation Formula Methodology for Public Comment
- c) Holding of a public hearing to receive public comment on the 2013 State of Texas Consolidated Plan: One-Year Action Plan

Elizabeth Yevich
Dir. Housing Resource Center

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.

EXECUTIVE SESSION

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

J. Paul Oxer
Chairman

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, including, specifically, the performance evaluation of the Executive Director.
2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al. filed in federal district court, Northern District of Texas*
 - b) *Pineywoods Home Team Affordable Housing, Inc.; US Bankruptcy Court, Eastern District of Texas; Cause # 12-90255.*
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, including but not limited to:
 - a) *Attorney General Opinion Request RQ-1068-GA, Rep. Rene Oliveira;*
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; and/or-
5. Pursuant to Tex. Gov't. Code, §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.
 - a) *Report*

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

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, 512-475-3930; 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.

1a

BOARD ACTION REQUEST

BOARD SECRETARY

OCTOBER 9, 2012

Presentation, Discussion, and Possible Action regarding the Board Minutes Summary for September 6, 2012.

RECOMMENDED ACTION

Approve Board Meeting Minutes Summary for September 6, 2012.

RESOLVED, that the Board Meeting Minutes Summary for September 6, 2012, is hereby approved as presented.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

September 6, 2012
10:00 A.M.

CAPITOL EXTENSION, E2.026
1500 NORTH CONGRESS AVE., AUSTIN, TX

SUMMARY OF MINUTES

CALL TO ORDER, ROLL CALL, CERTIFICATION OF QUORUM

The Board Meeting of the Texas Department of Housing and Community Affairs of September 6, 2012, was called to order by J. Paul Oxer, Chair, at 10:05 a.m. It was held at the Capitol Extension, E2.026, 1500 North Congress Ave, Austin, Texas. Roll call certified a quorum was present.

MEMBERS PRESENT:

J. Paul Oxer, Chair
Tom H. Gann, Vice Chair
Leslie Bingham-Escareño
Lowell Keig
J. Mark McWatters
Juan Muñoz

Mr. Irvine read for the record a Resolution recognizing William “Bill” Dally for his retirement. Motion by Lowell Keig to approve resolution; duly seconded by Juan Muñoz; passed unanimously.

CONSENT AGENDA

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

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

Executive

- a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summaries for July 10 and July 26, 2012

Internal Audit

- b) Presentation, Discussion, and Possible Action regarding Approval of the FY2013 Audit Plan

RULES

- c) Presentation, Discussion, and Possible Action regarding a final order adopting the repeal of 10 TAC Chapter 1, §1.6, and new 10 TAC Chapter 1, §1.6, concerning Historically Underutilized Businesses for publication in the *Texas Register*
- d) Presentation, Discussion, and Possible Action regarding a final order adopting the repeal and new 10 TAC Chapter 5, Subchapter A, §§5.2 and 5.3, concerning General Provisions, and a final order adopting amendments to 10 TAC Chapter 5, Subchapter A, §§5.4, 5.8, 5.10, 5.13, 5.15 - 5.17, 5.19, and 5.20, concerning General Provisions, for publication in the *Texas Register*

Michael DeYoung, TDHCA Assistant Executive Director, Network and Customer Service, provided corrections to Item 1d. In §5.20 determining income eligibility, staff inadvertently omitted the language “and DOE” from the Rule. The correct wording for the Rule should read, “To determine income eligibility for U.S. Department of Health and Human Services and DOE funded programs.”

- e) Presentation, Discussion, and Possible Action regarding a final order adopting new 10 TAC Chapter 5, Subchapter K, §§5.2001 – 5.2012, concerning the Emergency Solutions Grants (ESG), for publication in the *Texas Register*

- f) Presentation, Discussion, and Possible Action regarding a final order adopting new 10 TAC Chapter 5, Subchapter J, §5.1006, and the withdrawal of §5.1007, concerning the Homeless Housing and Services Program (HHSP), for publication in the *Texas Register*
- g) Presentation, Discussion, and Possible Action regarding a proposed repeal of 10 TAC Chapter 1, §1.19 concerning Deobligated Funds, and proposed new 10 TAC Chapter 1, §1.19 concerning Reobligation of Deobligated Funds and Other Related Sources of Funds, for public comment and publication in the *Texas Register*

BOND FINANCE

- h) Presentation, Discussion, and Possible Action on Resolution No. 13-004 authorizing the investment of the TMP Escrow Agreement in mortgage backed securities
- i) Presentation, Discussion, and Possible Action on Resolution 13-005 authorizing the conversion of the fourth tranche of the New Issue Bond Program 2009C (Program 77), the purchase of warehoused mortgage backed securities with proceeds of Residential Mortgage Revenue Bonds, Series 2009C-4 and approval of the Single Family Residential Mortgage Revenue Bonds Special Advisor
- j) Presentation, Discussion, and Possible Action on Resolution No. 13-007 authorizing the sale of residual mortgage certificates in the Warehousing Agreement
- k) Presentation, Discussion, and Possible Action on Resolution No. 13-006 authorizing the sale of mortgage certificates and redemption of bonds from Residential Mortgage Revenue Bonds Series 2009C-3

HOUSING TRUST FUND

- l) Presentation, Discussion, and Possible Action to approve amendment to Housing Trust Fund "USDA Section 502 Direct Loan Application Assistance Program" reservation agreement
1001303 Community Development Corporation of Brownsville Brownsville
- m) Presentation, Discussion, and Possible Action to approve amendment to the Housing Trust Fund – Amy Young Barrier Removal Program Notices of Funding Availability

HOUSING RESOURCE CENTER

- n) Presentation, Discussion, and Possible Approval of the 2013 State of Texas Consolidated Plan: One-Year Action Plan (Draft for Public Comment)

NEIGHBORHOOD STABILIZATION PROGRAM

- o) Presentation, Discussion, and Possible Action to approve a request for an amendment to Neighborhood Stabilization (NSP) Program Contract with Builders of Hope, Inc.
77090000153 Builders of Hope Dallas County
- p) Presentation, Discussion, and Possible Action to approve direct Department action for the Neighborhood Stabilization Program Contract

ASSET MANAGEMENT

- q) Presentation, Discussion, and Possible Action on a material amendment to the Land Use Restriction Agreement for Saint Charles Apartments
- r) Presentation, Discussion, and Possible Action on a material amendment to the Land Use Restriction Agreement for Crown Point Apartments
- s) Presentation, Discussion, and Possible Action on a material amendment to the Land Use Restriction Agreement for San Augustine Seniors Apartments
- t) Presentation, Discussion, and Possible Action on a material amendment to the Land Use Restriction Agreement for Meadowbrook Square Apartments
- u) Presentation, Discussion, and Possible Action on a material amendment to the Land Use Restriction Agreement for Mariposa at Ella Blvd
- v) Presentation, Discussion, and Possible Action Regarding Housing Tax Credit Amendment for Eban Village II
- w) Presentation, Discussion, and Possible Action Regarding Housing Tax Credit Amendment for RoseHill Ridge
- x) Presentation, Discussion, and Possible Action Regarding Housing Tax Credit Amendment for Sphinx at Fiji Seniors
- y) Presentation, Discussion, and Possible Action Regarding Housing Tax Credit Amendment for Zion Gardens

MULTIFAMILY FINANCE

- z) Presentation, Discussion, and Possible Action Regarding HOME Multifamily Development Program Commitments:
12501 Villas of Brownwood II Brownwood

- | | | | |
|-----|---|---------------------------|--------|
| | 12503 | Chandler Place Apartments | Blanco |
| aa) | Presentation, Discussion, and Possible Action Regarding modifications to Terms of HOME Multifamily Development Program Loans: | | |
| | 1000651 | LULAC Amistad Apartments | Sinton |
| bb) | Presentation, Discussion, and Possible Action Regarding a Qualified Investment Banking Firm to provide Underwriting or Remarketing Agent Services for Multifamily Bond Transactions | | |
| cc) | Presentation, Discussion, and Possible Action regarding Inducement Resolution No. 13-008 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for Private Activity Bond Authority – 2012 Waiting List | | |
| | 12606 | Park Creek Manor | Dallas |
| dd) | Presentation, Discussion, and Possible Action Regarding NSP-1 Multifamily Commitments: | | |
| | 12-600 | Guadalupe NDC | Austin |

Motion by Tom Gann to approve the Consent Agenda, including amendments to Agenda Item 1d; duly seconded by Leslie Bingham-Escareño; motion passed unanimously.

REPORT ITEMS

The Board accepts the following reports:

1. Presentation and Discussion on a Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)
2. Report on Roundtables regarding the 2010 Americans with Disability Act Standards
3. Presentation and Discussion on Report to Board regarding administrative penalties for The Shire Apartments, HTC 02470 / CMTS 3273
4. Report on the State of Texas Housing and Health Services Coordination Council 2012-2013 Biennial Plan
5. Status Report on the HOME Program Contracts and Reservation System Participants
6. Reservation System Fund Report
7. TDHCA Outreach Activities, July-August 2012

ACTION ITEMS

AGENDA ITEM 2: INTERNAL AUDIT:

Report from the Audit Committee Meeting
Report item only. No action required.

Chairman Oxer recognized Hasan Mack with the Lieutenant Governor's Office as being in the audience.

AGENDA ITEM 3: BOND FINANCE:

Presentation, Discussion, and Possible Action on Resolution No. 13-003 authorizing a Taxable Mortgage Program (TMP) for homebuyers (Program 79) along with related program documents to be administered by the Texas Department of Housing and Community Affairs

Motion by Tom Gann to approve Resolution No. 13-003; duly seconded by Lowell Keig; motion passed unanimously.

AGENDA ITEM 4: PROGRAM SERVICES:

Presentation by BBC on the Status of the Preparation of the State of Texas Plan for Fair Housing Choice: Analysis of Impediments

Heidi Aggeler, BBC Research and Consulting, presented on the status of fair housing.

Report item only. No action required.

AGENDA ITEM 5: APPEALS:

- a) Timely Filed Appeals Under any of the Department's Program or Underwriting Rules

12379	Sunrise Terrace	La Feria
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Motion by Lowell Keig to deny the appeal; duly seconded by Juan Muñoz;

Toni Jackson, Sunrise Terrace, provided testimony in support of Sunrise Terrace.

The Honorable Steve Brewer, Mayor, La Feria, provided testimony in support of Sunrise Terrace.

Sonny Phillips, Sunrise Terrace, provided testimony in support of Sunrise Terrace.

Janna Cormier, PNC, provided testimony in support of Sunrise Terrace.

Noor Jooma, PNC, provided testimony in support of Sunrise Terrace.

Juan Muñoz withdrew his second; Lowell Keig withdrew his motion.

Motion by Lowell Keig to table item; duly seconded by Juan Muñoz; motion passed unanimously.

AGENDA ITEM 6: MULTIFAMILY FINANCE DIVISION:

- a) Presentation, Discussion, and Possible Action Regarding Determination Notices for Housing Tax Credits with another Issuer:

12404	Pine Club Apartments	Beaumont
12405	Saddlewood Club Apartments	Bryan
12407	Woodglen Park Apartments	Dallas
12406	Ridgewood West Apartments	Huntsville
12408	Willow Green Apartments	Houston
12409	Tealwood Place Apartments	Wichita Falls

Motion by Leslie Bingham-Escareño to approve staff recommendation to approve determination notices; duly seconded by Mark McWatters; motion passed unanimously.

- b) Presentation, Discussion, and Possible Action Regarding Resolution No. 13-002 for the Second Supplemental Trust Indenture relating to the Multifamily Housing Revenue Bonds for Center Ridge Apartments, Series 2006

060616	Center Ridge	Duncanville
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Motion by Lowell Keig to approve Resolution No. 13-002; duly seconded by Leslie Bingham-Escareño; motion passed unanimously.

- c) Presentation, Discussion, and Possible Action Regarding Resolution No. 13-001 for Modification to Terms of Previous TDHCA Issued Multifamily Mortgage Revenue Bonds, subject Bond Review Board Approval:

12604	Providence at Mockingbird Apartments	Dallas
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Motion by Leslie Bingham-Escareño to approve Resolution No. 13-001; duly seconded by Tom Gann; motion passed unanimously.

EXECUTIVE SESSION

At 11:49 a.m. Chairman Oxer convened the Executive Session.

1. The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee including, specifically, the performance evaluation of the Internal Auditor.
2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al* filed in federal district court, Northern District of Texas
 - b) *Heston Emergency Housing, LP and Naji Al-Fouzan vs. Texas Department of Housing and Community Affairs, Michael Gerber, Martin Rivera, Jr., Marisa Callan, and Timothy Irvine*
 - c) *Complaint of James Reedom filed with U.S. HHS/OCR (No. 09-99008)*
 - d) *TDHCA v. William Ross & Susan Ross; Cause No. D-1-GN-11-002226, filed in district court, Travis County*
 - e) *Complaint of Ameenah Montgomery filed with U.S. HUD (No. 06-12-0779-8)*
 - f) *Harris County v. Pleasant Hill Community Development Corporation; 80th Jud. Dist., Harris Co., Texas*
 - g) *EEOC matters;*
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; OAG opinion request 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; and/or-
5. Pursuant to Tex. Gov't. Code, §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

OPEN SESSION

At 1:21 p.m. Chairman Ozer reconvened the Open Session and announced that No Action had been taken during the Executive Session and certified that the posted agenda had been followed.

AGENDA ITEM 7: MULTIFAMILY FINANCE DIVISION RULES:

- a) Presentation and Discussion of the new Multifamily Umbrella Rules
Report item only. No action required.

Chairman Ozer recognized in attendance, Mr. Don Jones, Chief of Staff, Representative Menendez office; former Executive Director, Edwina Carrington, and former Executive Director, Mike Gerber as being in the audience.

- b) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 1 §1.1 concerning 2012 Definitions and Amenities for Housing Program Activities, the proposed repeal of 10 TAC Chapter 53, Subchapters A, B, H, and I, concerning HOME, and a proposed new 10 TAC Chapter 10, Subchapters A, B, C, and G, concerning 2013 Uniform Multifamily Rules for publication and public comment in the *Texas Register*

Motion by Lowell Keig to approve staff recommendation to publish the proposed rulemakings; duly seconded by Mark McWatters;

Barry Kahn, Hettig-Kahn, provided testimony.

Michael Hartman, Tejas Housing, provided testimony.

Bobken Simonians, Houston Housing Authority, provided testimony.

Darrell Jack, Apartment Market Data, provided testimony.

David Koogler, on behalf of TAAHP, provided testimony on this Rule.

Dennis Hoover, on behalf of Rural Rental Housing Association and QAP Committee, provided testimony.

Ginger McGuire, on behalf of Rural Rental Housing Association, provided testimony.

Walter Moreau, Foundation Communities, provided testimony on.

Donna Rickenbacker, Marque Real Estate Consultants, provided testimony.

Tamea Dula, Coats Rose, provided testimony.

Bobby Bowling, developer in El Paso, provided testimony.

Sarah Andre, consultant, provided testimony.

Stacy Kaplowitz, provided testimony.

Granger MacDonald, developer in Kerrville, provided testimony.

Diana McIver, DMA Development Company, provided testimony.

The Board took a brief recess at 3:25 p.m. and resumed at 3:46 p.m.

Bill Fisher, Sonoma Housing, provided testimony.

Joel North, City of Houston, provided testimony.

Chris Applequist, Miller-Valentine Group, provided testimony.

Michael Hartman, Tejas Housing, provided additional testimony.

Donna Rickenbacker, Marque Real Estate Consultants, provided additional testimony.

Barry Kahn, Hettig-Kahn, provided additional testimony on this Rule.

Walter Moreau, Foundation Communities, provided testimony.

Motion passed unanimously.

- c) Presentation, Discussion, and Possible Action Regarding the proposed repeal of 10 TAC Chapters 33 and 35, concerning the 2011 and 2012 Multifamily Housing Revenue Bond Rules, and a proposed new 10 TAC Chapter 12, concerning 2013 Multifamily Housing Revenue Bond Rules for publication and public comment in the *Texas Register*

Motion by Tom Gann to approve staff recommendation to publish the proposed rulemaking; duly seconded by Juan Muñoz; motion passed unanimously.

At the Board Chair's discretion, Agenda Items were taken out of order.

AGENDA ITEM 7: MULTIFAMILY FINANCE DIVISION RULES *CONTINUED*:

- e) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 1, Subchapter B,

concerning 2012 Real Estate Analysis Rules and Guidelines and a proposed new 10 TAC Chapter 10, Subchapter D, concerning 2013 Underwriting and Loan Policies for public comment and publication in the *Texas Register*

- f) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 1, §1.9, concerning Qualified Contracts and §1.25 concerning Right of First Refusal; and proposed new 10 TAC Chapter 10, Subchapter E, concerning Post Award and Asset Management Requirements for public comment and publication in the *Texas Register*
- g) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 60, Subchapter A, §§60.101 – 60.130, concerning Compliance Administration; and proposed new 10 TAC Chapter 10, Subchapter F, concerning Compliance Monitoring, for public comment and publication in the *Texas Register*
- h) Presentation, Discussion, and Possible Action regarding the proposed new 10 TAC Chapter 1, §1.5, concerning Previous Participation Reviews, for public comment and publication in the *Texas Register*

Motion by Tom Gann to approve staff recommendation for Agenda Items 7e, 7f, 7g, 7h to publish the proposed rulemaking; duly seconded by Leslie Bingham-Escareño; motion passed unanimously.

- d) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapters 49 and 50 concerning the 2011 and 2012 Housing Tax Credit Program Qualified Allocation Plan and proposal of new 10 TAC Chapter 11, concerning the 2013 Housing Tax Credit Program Qualified Allocation Plan for public comment and publication in the *Texas Register*

Motion by Tom Gann to approve staff recommendation to publish the proposed rulemaking with amendments to ensure that the rule published for comment would enable, but not require, the adoption of a final rule addressing issues raised at this meeting in accordance with public comment; duly seconded by Mark McWatters; motion passed unanimously.

Motion by Juan Muñoz that the Chair of the Audit Committee complete the annual review of the Internal Auditor and be responsible for the completion of that process; duly seconded by Mark McWatters; motion passed unanimously.

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.

No further testimony.

ADJOURN

Motion by Leslie Bingham-Escareño to adjourn; duly seconded by Mark McWatters; motion passed unanimously.

Since there was no other business to come before the Board, the meeting was adjourned at 4:32 p.m. on September 6, 2012.

Brooke Boston, Board Secretary

FOR A FULL TRANSCRIPT OF THIS MEETING, PLEASE VISIT THE TDHCA WEBSITE AT WWW.TDHCA.STATE.TX.US

1b

BOARD ACTION REQUEST
EXECUTIVE DIVISION
OCTOBER 9, 2012

Discussion and Possible Action to authorize the initiation of procurement to select one or more independent fact finders to resolve contested quantifiable community participation.

RECOMMENDED ACTION

WHEREAS, the Department's rules require that a neighborhood organization expressing opposition to a proposed development under the scoring item for quantifiable community participation must set forth their reasons for opposition; and

WHEREAS, the possibility exists that the reasons for opposition may also be the subject of a prior determination by a local governmental or quasi-governmental body such as a zoning board, a school board, or the like; and

WHEREAS, it is appropriate to defer to official findings; and

WHEREAS, it is highly desirable to have in place one or more neutral, competent finders of fact to address promptly situations where reasons for opposition may be in conflict with prior findings by local governmental or quasi-governmental bodies,

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department to take such actions as they may reasonably deem necessary or advisable to procure one or more competent and neutral finders of fact to review, make determinations with regard to, and report on instances where neighborhood organization opposition to as proposed development is alleged to be contrary to a prior determination by a local governmental or quasi-governmental body.

BACKGROUND

From time to time neighborhood organizations opposed to developments may provide reasons which are more consistent with local findings. For example, a group opposing a deal in an area that has already been zoned for multifamily has no colorable basis for objecting to it solely because it will be multifamily housing which will add burdens to things like local roads and emergency response services. If they object because the development will burden the schools, then the situation of the local schools, as reviewed by the local school board, may be the best information. There needs to be an independent party to review situations where opposition may conflict with local determinations such as zoning and school board projections for capacity and the need for growth.

1c

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
October 9, 2012

Presentation, Discussion, and Possible Action to approve a material amendment to the Land Use Restriction Agreement (LURA) for Denton Affordable Housing Corporation (Special Needs Rental Housing).

RECOMMENDED ACTION

WHEREAS, Denton Affordable Housing Corporation was awarded HOME funds in the amount of \$952,200 during the 2000 cycle for the new construction of 10 scattered site units located in Denton;

WHEREAS, the Development is required under the LURA to restrict 100% of the units to households with incomes at or below 50% of the area median family income (Low HOME limits);

WHEREAS, the Owner has not been able to make consistent, full payment on the associated loan since April 2006 and therefore has requested a material amendment to the LURA changing the income and rent restrictions to the minimum federal requirements of 20% of the units at Low HOME limits and 80% of the units at High HOME limits;

WHEREAS, the Owner has complied with the notification requirements under the Department's Material Amendment rule, 10 TAC §60.130;

WHEREAS, this change is consistent with federal regulations and will assist the Owner in meeting the financial obligations of the Development, which constitutes good cause for permitting the amendment, it is hereby

RESOLVED, that the Executive Director, and his designees, are hereby authorized, directed, and empowered, for and on behalf of the Department, to amend the LURA for Denton Affordable Housing Corporation (Special Needs Rental Housing) to change the income and rent restrictions to the minimum federal requirements for the HOME program.

BACKGROUND

The HOME LURA for Denton Affordable Housing Corporation (Special Needs Rental Housing) was executed in July 2002, and required 100% of the units to be set aside at the Very Low Income level as defined by the Housing and Urban Development (HUD) HOME program. The 10 units were completed in 2002 and monthly mortgage payments began in October of that year. The TDHCA HOME Loan is the only debt on the property. Payments were made consistently between 2002 and 2006 when the organization began to have financial difficulty and could not make the mortgage payments. Although the development is producing cash flow, it is not sufficient to keep the HOME loan current. Since 2008, the property has averaged an annual net operating income of \$35,545 and the scheduled annual debt service is \$36,800.

Staff completed a financial analysis of the development's current ability to service its debt and presented this analysis to the Asset Review Committee on August 14, 2012. Upon discussion, the Committee agreed to modify the loan terms and recommended that the LURA be amended to meet the minimum federal requirement, with 20% of the units at Low HOME limits (50%AMI) and the remainder at High HOME limits (80%AMI). This would ensure that the property makes the modified loan payments and is able to set aside replacement reserves for future repairs needed at the property.

The owner has complied with the material amendments policy adopted by the Board, given the appropriate notices to the tenants and elected officials and provided the opportunity for public input. The public hearing was held on September 11, 2012, at 5:00 p.m. There were no residents in attendance and the Owner received no written public comment on the proposed change.

Staff recommends approval to amend the LURA for Denton Affordable Housing Corporation (Special Needs Rental Housing) to permit a change in the income and rent restrictions consistent with federal requirements.

1d

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
October 9, 2012

Presentation, Discussion, and Possible Action to approve a material amendment to the Land Use Restriction Agreement (LURA) for Denton Affordable Housing Corporation (Strata Drive and Cassie Court).

RECOMMENDED ACTION

WHEREAS, Denton Affordable Housing Corporation was awarded HOME funds in the amount of \$582,600 during the 1998 cycle for the new construction of eight scattered site units located in Denton;

WHEREAS, the Development is required under the LURA to restrict 100% of the units to households with incomes at or below 50% of the area median family income (Low HOME limits);

WHEREAS, the Owner has not been able to make consistent, full payment on the associated loan since April 2006 and therefore has requested a material amendment to the LURA changing the income and rent restrictions to the minimum federal requirements of 20% of the units at Low HOME limits and 80% of the units at High HOME limits;

WHEREAS, the Owner has complied with the notification requirements under the Department's Material Amendment rule, 10 TAC §60.130;

WHEREAS, this change is consistent with federal regulations and will assist the Owner in meeting the financial obligations of the Development, which constitutes good cause for permitting the amendment, it is hereby

RESOLVED, that the Executive Director, and his designees, are hereby authorized, directed, and empowered, for and on behalf of the Department, to amend the LURA for Denton Affordable Housing Corporation (Strata Drive and Cassie Court) to change the income and rent restrictions to the minimum federal requirements for the HOME program.

BACKGROUND

The HOME LURA for Denton Affordable Housing Corporation (Strata Drive & Cassie Court) was executed in April 1999 and required 100% of the units to be set aside at the Very Low Income level as defined by the Housing and Urban Development (HUD) HOME program. The eight units were completed in 2001. The TDHCA HOME Loan is the only debt on the property. Payments were made consistently until 2006 when the organization began to have financial difficulty and could not make the mortgage payments. Although the development is producing cash flow, it is not sufficient to keep the HOME loan current. Since 2008, the property has averaged an annual net operating income of \$21,153 and the scheduled annual debt service is \$22,486.

Staff completed a financial analysis of the development's current ability to service its debt and presented this analysis to the Asset Review Committee on August 14, 2012. Upon discussion, the Committee agreed to modify the loan terms and recommended that the LURA be amended to meet the minimum federal requirement, with 20% of the units at Low HOME limits (50%AMI) and the remainder at High HOME limits (80%AMI). This would ensure that the property makes the modified loan payments and is able to set aside replacement reserves for future repairs needed at the property.

The owner has complied with the material amendments policy adopted by the Board, given the appropriate notices to the tenants and elected officials and provided the opportunity for public input. The public hearing was held on September 11, 2012, at 4:00 p.m. There were no residents in attendance and the Owner received no written public comment on the proposed change.

Staff recommends approval to amend the LURA for Denton Affordable Housing Corporation (Strata Drive & Cassie Court) to permit a change in the income and rent restrictions consistent with federal requirements.

1e

BOARD ACTION REQUEST
BOND FINANCE DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Action adopting Resolution No. 13-009 authorizing the investment of Escrowed Funds in Mortgage Backed Securities

RECOMMENDED ACTION

WHEREAS, the Department has entered into one or more escrow agreements in connection with its single family programs (the “Escrow Agreements”) with the Texas Treasury Safekeeping Trust Company; and

WHEREAS, the Department from time to time has issued various series of Single Family Mortgage Revenue Bonds and Residential Mortgage Revenue Bonds (“RMRB”); and

WHEREAS, certain mortgage backed securities (“MBSs”) originally purchased with proceeds of Single Family Mortgage Revenue Bonds or RMRBs continue to be held under the Single Family Indenture or the RMRB Indenture, as applicable, after such bonds have been redeemed in full (such MBSs are hereinafter referred to as “Residual MBSs”); and

WHEREAS, the investment of Escrowed Funds in residual MBSs will further the goals of the Department by increasing the rate of return on the Escrowed Funds while also increasing the funds available for Down Payment Assistance for Program 77 and Program 79; and

NOW, THEREFORE, IT IS HEREBY RESOLVED, that Resolution No. 13-009 is adopted in the form presented to this meeting.

BACKGROUND

The Department’s Investment Policy was revised and approved at the Board Meeting of April 12, 2012, to allow Escrow Funds to be invested in securities exceeding five years and the investment of funds being sold from a bond indenture so long as such investment furthers the goals of that program and the Investment Officer receives Board approval prior to undertaking such investment.

The Board previously approved the investment of Residual MBSs from Residential Mortgage Revenue Bonds Series 1998A/B and Residential Mortgage Revenue Bonds Series 2001A/B/C in Escrow Funds on June 14, 2012, and approved the investment of Residual MBSs from Residential Mortgage Revenue Bonds Series 2002A in Escrow Funds on September 6, 2012. Today, staff is seeking authority to invest any Single Family or RMRB Residual MBS in the Department's Escrow Funds as they become available.

The investment of Escrowed Funds in residual MBSs will further the goals of the Department by increasing the rate of return on the Escrow Funds while also increasing the funds available for Down Payment Assistance for Program 77 and Program 79.

RESOLUTION NO. 13-009

RESOLUTION AUTHORIZING THE INVESTMENT OF ESCROWED FUNDS HELD BY THE TEXAS TREASURY SAFEKEEPING TRUST COMPANY UNDER ESCROW AGREEMENTS IN MORTGAGE-BACKED SECURITIES; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS RELATING TO THE FOREGOING; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

WHEREAS, the Department has entered into one or more escrow agreements in connection with its single family programs (the "Escrow Agreements") with the Texas Treasury Safekeeping Trust Company (the "Trust Company"); and

WHEREAS, the Department has issued from time to time various series of (i) its Single Family Mortgage Revenue Bonds ("Single Family Bonds") pursuant to the Single Family Mortgage Revenue Bond Trust Indenture dated as of October 1, 1980 (as heretofore amended and supplemented, the "Single Family Indenture") between the Department, as successor to the Texas Housing Agency, and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Single Family Trustee") and (ii) its Residential Mortgage Revenue Bonds ("RMRBs" and together with the Single Family Bonds, collectively, the "Bonds") pursuant to the Residential Mortgage Revenue Bond Trust Indenture dated as of November 1, 1987 (as heretofore amended and supplemented, the "RMRB Indenture") between the Department and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "RMRB Trustee"); and

WHEREAS, certain mortgage backed securities ("MBSs") originally purchased with proceeds of Single Family Bonds or RMRBs continue to be held under the Single Family Indenture or the RMRB Indenture, as applicable, after such Bonds have been redeemed in full by the Department and are no longer outstanding (such MBSs are hereinafter referred to as "Residual MBSs"); and

WHEREAS, the Governing Board desires to authorize the investment of funds held under the Escrow Agreements (the "Escrowed Funds") in Residual MBSs and authorizes the sale of the Residual MBSs in accordance with the terms of the Single Family Indenture or the RMRB Indenture, as applicable; and

WHEREAS, the Governing Board desires to approve taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution;

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

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Investment of Escrowed Funds in Residual MBSs. The investment of Escrowed Funds in Residual MBSs is hereby authorized and approved.

Section 1.2 Sale of Residual MBSs. The sale of the Residual MBSs identified by an Authorized Representative of the Department named in this Resolution at price of 100% or greater (representing the weighted average sales price of all mortgage certificates sold) of the outstanding principal balance thereof, in accordance with the terms of the Single Family Indenture or the RMRB Indenture, as applicable, is hereby authorized.

Section 1.3 Execution and Delivery of Documents. The Authorized Representatives are each hereby authorized to execute and deliver all agreements, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.4 Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, the Director of Bond Finance of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives."

Section 1.5 Ratifying Other Actions. All other actions taken or to be taken by the Executive Director and the Department's staff in connection with the investment of Escrowed Funds under the Escrow Agreements are hereby ratified and confirmed.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[Execution page follows]

PASSED AND APPROVED this 9th day of October, 2012.

Chair, Governing Board

ATTEST:

(Assistant) Secretary to the Governing Board

(SEAL)

1f

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Authorization to Apply for Continuum of Care (CoC) funds administered by the U.S. Department of Housing and Urban Development (HUD) under the Homeless Emergency Assistance and Rapid Transition (HEARTH) Act

RECOMMENDED ACTION

WHEREAS, the U.S. Department of Housing and Urban Development has made known its intention to make available funds through a Notice of Funding Availability, to enable Continuums of Care and State Housing Agencies to provide voucher-based rental assistance for homeless persons or persons at risk of homelessness;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be, and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to apply to the U.S. Department of Housing and Urban Development for Balance of State Continuum of Care program funds and to do all things they may deem necessary or advisable to effectuate the foregoing.

BACKGROUND

The Community Affairs Division is exploring options for helping agencies expand the availability of permanent supportive housing units in the Texas Balance of State (BoS) CoC. A CoC is a unified network of services and service providers that address homelessness in a defined geographic area. A CoC can cover a city, a county, multiple counties, or in some cases an entire state. A CoC acts as the core entity for organizing and coordinating resources at the local level for homelessness assistance. There are 14 CoCs in Texas recognized by HUD.

One of those CoCs is the Texas BoS, which covers 205 predominately non-metropolitan counties in Texas, is the largest CoC in Texas and contains approximately 30 percent of Texas's homeless population. However, the BoS CoC receives approximately three percent of all CoC grant funds in the state largely because many non-profits in the BoS CoC lack the administrative capacity to develop transitional housing and permanent supportive housing.

In 2011, HUD set the BoS CoC Pro Rata Need at \$17,390,595, with an additional \$2,608,589 allowed if the CoC prioritized a new permanent supportive housing project, bringing the total Pro Rata Need to \$19,999,184. This means that this total allocation was available to non-profits and units of government in the BoS CoC to address homelessness in their geographic area.

Agencies in the BoS CoC applied for and received only \$5.4 million in 2011 funding. Thus, BoS CoC agencies are currently drawing down only 27 percent of available funds. This means that in the 2011 competitive process, approximately \$12 million of allocated funds was not requested (and thus not used). The amount of Pro Rata Need for 2012 is expected to be greater than \$24 million. TDHCA's participation in the BoS CoC program, if feasible, may assist in the capture and use of these Pro Rata Need allocated funds.

1g

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

OCTOBER 9, 2012

Presentation, Discussion, and Possible Action to adopt Inducement Resolution No. 13-010 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for Private Activity Bond Authority – 2012 Waiting List.

RECOMMENDED ACTION

WHEREAS, the Board approval of the inducement resolution is the first step for the Board in the application process for a multifamily bond issuance; and

WHEREAS, the inducement allows staff to submit an application to the Bond Review Board (BRB) to await a Certificate of Reservation; and

WHEREAS, the Executive Award and Review Advisory Committee recommends the issuance of the Inducement Resolutions;

Now, therefore, it is hereby,

RESOLVED, that Inducement Resolution 13-010 to proceed with the application submission to the Bond Review Board for possible receipt of State Volume Cap issuance authority from the 2012 Private Activity Bond Program for Terrace View Apartments (#12607) and Evergreen at McKinney (#12608) is hereby approved as presented to this meeting.

BACKGROUND

The Texas Bond Review Board (BRB) administers the state’s annual bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and each issuer’s Board is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the Development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a reservation of allocation, the Applicant has 150 days to close on the private activity bond transaction.

During the 150-day process, the Department will review the Applicant’s complete application for threshold and compliance with the Department’s Rules and underwrite the transaction in accordance with the Real Estate Analysis Rules. The Department will schedule and conduct a public hearing in the community of the proposed location of the development. The complete application, including a transcript from the hearing, will then

be presented before the Board for a decision on the actual issuance of the bonds as well as the determination of housing tax credits.

Each year, the State of Texas is notified of the cap on the amount of private activity tax-exempt revenue bonds that may be issued within the state. Approximately \$536 million is set aside for multifamily until August 15th for the 2012 program year which includes the TDHCA set aside of approximately \$108 million. After August 15th, reservations are issued on a first-come first-served basis. Inducement Resolution 13-010 represents the fourth application submitted to the Department for the 2012 program year and will reserve approximately \$21 million and \$10.5 million, respectively in state volume cap.

Terrace View Apartments: This proposed development is located at 417 W. Tarrant Rd. in Grand Prairie, Dallas County. The development is rehabilitation and consists of 192 total units serving the general population. This transaction is Priority 3 consisting entirely of low income units. The Department has not received any letters of support or opposition for this Development.

Demographics for the census tract (0155.00) include AMFI of \$40,524; the total population is 3,550; the percent of population that is minority is 64.96%; the percent of population that is below the poverty line is 32.91%; the number of owner occupied units is 562 and the number of renter units is 892. (Census information from FFIEC Geocoding for 2012).

Evergreen at McKinney: This proposed development is located at 1400 Block of S. College St. in McKinney, Dallas County. The development is new construction and consists of 160 total units serving the elderly population. This transaction is Priority 3 consisting entirely of low income units. The Department received a letter of support from Don Day, McKinney City Council Member District 1. The Department has not received any letters of opposition for this Development.

Demographics for the census tract (0308.02) include AMFI of \$43,737; the total population is 5,635; the percent of population that is minority is 60.21%; the percent of population that is below the poverty line is 27.14%; the number of owner occupied units is 955 and the number of renter units is 962. (Census information from FFIEC Geocoding for 2012).

RESOLUTION NO. 13-010

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS WITH RESPECT TO RESIDENTIAL RENTAL DEVELOPMENT; AUTHORIZING THE FILING OF APPLICATION FOR ALLOCATION OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

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

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

WHEREAS, it is proposed that the Department issue its revenue bonds for the purpose of providing financing for the multifamily residential rental development (the "Development") more fully described in Exhibit A attached hereto. The ownership of the Development as more fully described in Exhibit A will consist of the ownership entity and its principals or a related person (the "Owner") within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Owner has made not more than 60 days prior to the date hereof, payments with respect to the Development and expects to make additional payments in the future and desires that it be reimbursed for such payments and other costs associated with the Development from the proceeds of tax-exempt and taxable obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, the Owner has indicated its willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that 100 percent of the units of the Development will be occupied at all times by eligible tenants, as determined by the Board pursuant to the Act ("Eligible Tenants"), that the other requirements of the Act and the Department will be satisfied and that the Development will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse the Owner for the costs associated with the Development listed on Exhibit A attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of the Owner, the Department reasonably expects to incur debt in the form of tax-exempt and taxable obligations for purposes of paying the costs of the Development described on Exhibit A attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for the Development an Application for Allocation of Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review

Board's authority to administer the allocation of the authority of the state to issue private activity bonds; and

WHEREAS, the Board has determined to declare its intent to issue its multifamily revenue bonds for the purpose of providing funds to the Owner to finance the Development on the terms and conditions hereinafter set forth; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD THAT:

Section 1. Certain Findings. The Board finds that:

- (a) the Development is necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owner will supply, in its Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owner is financially responsible;
- (d) the financing of the Development is a public purpose and will provide a public benefit; and
- (e) the Development will be undertaken within the authority granted by the Act to the Department and the Owner.

Section 2. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds (the "Bonds") in amounts estimated to be sufficient to (a) fund a loan or loans to the Owner to provide financing for its Development in an aggregate principal amount not to exceed those amounts, corresponding to the Development, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and state law requirements regarding tenancy in each Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the "Attorney General"); (v) satisfaction of the Board that each Development meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and state laws applicable to the issuance of such Bonds.

Section 3. Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 4. Reimbursement. The Department reasonably expects to reimburse the Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction of its Development and listed on Exhibit A attached hereto ("Costs of the Development") from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction or rehabilitation of its Development, including reimbursing the Owner for all costs that have

been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction or rehabilitation of the Development; (b) to fund any reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 5. Principal Amount. Based on representations of the Owner, the Department reasonably expects that the maximum principal amount of debt issued to reimburse the Owner for the costs of the Development will not exceed the amount set forth in Exhibit A.

Section 6. Limited Obligations. The Owner may commence with the acquisition and construction or rehabilitation of the Development, which Development will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, the Owner will enter into a loan agreement on an installment payment basis with the Department under which the Department will make a loan to the Owner for the purpose of reimbursing the Owner for the costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for the Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 7. The Development. Substantially all of the proceeds of the Bonds shall be used to finance the Development, which is to be occupied entirely by Eligible Tenants, as determined by the Department, and which is to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 8. Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse the Owner for costs of its Development.

Section 9. Costs of Development. The Costs of the Development may include any cost of acquiring, constructing, reconstructing, improving, installing and expanding the Development. Without limiting the generality of the foregoing, the Costs of the Development shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Development, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Development, the placing of the Development in operation and that satisfy the Code and the Act. The Owner shall be responsible for and pay any costs of its Development incurred by it prior to issuance of the Bonds and will pay all costs of its Development which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 10. No Commitment to Issue Bonds. Neither the Owner nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature.

Neither the Owner nor any one claiming by, through or under the Owner shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 11. No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

Section 12. Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by the Owner and the Department of contractual arrangements providing assurance satisfactory to the Department that 100 percent of the units for each Development will be occupied at all times by Eligible Tenants, that all other requirements of the Act will be satisfied and that each Development will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds); (b) the receipt of an opinion from Bracewell & Giuliani LLP or other nationally recognized bond counsel acceptable to the Department, substantially to the effect that the interest on the tax-exempt Bonds is excludable from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

Section 13. Certain Findings. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Development will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

Section 14. Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of the Development's necessary review and legal documentation for the filing of an Application for the 2012 program year and the issuance of the Bonds, subject to satisfaction of the conditions specified in Section 2(i) and (ii) hereof. The Board further authorizes staff, Bond Counsel and other consultants to re-submit an Application that was withdrawn by an Owner so long as the Application is re-submitted within the current or following program year.

Section 15. Related Persons. The Department acknowledges that financing of all or any part of the Development may be undertaken by any company or partnership that is a "related person" to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the Owner.

Section 16. Declaration of Official Intent. This Resolution constitutes the Department's official intent for expenditures on Costs of the Development which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of the Development may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 17. Authorization of Certain Actions. The Department hereby authorizes the filing of and directs the filing of the Application in such form presented to the Board with the Bond Review

Board and each director of the Board are hereby severally authorized and directed to execute the Application on behalf of the Department and to cause the same to be filed with the Bond Review Board.

Section 18. Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 19. Notice of Meeting. This Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 20. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[Execution page follows]

PASSED AND APPROVED this 9th day of October, 2012.

[SEAL]

By: _____
Chairman, Governing Board

Attest: _____
Assistant Secretary to the Governing Board

EXHIBIT "A"

Description of the Owner and the Development

Project Name	Owner	Principals	Amount Not to Exceed
Terrace View	T View Partners, Ltd., a Texas limited partnership	The Principals are T View GP, LLC, Managing General Partner and T View I, LLC, General Partner and a to be determined limited partner. The sole member of T View GP, LLC is Ruel Hamilton; the sole member of T View I, LLC is Rick J. Deyoe	\$21,000,000
Costs: Acquisition/rehabilitation excluding reconstruction of a 192 unit affordable multifamily community located on +/- 11.85 acres of land located at 417 W. Tarrant Road, Grand Prairie, Dallas County, Texas 75050			
Project Name	Owner	Principals	Amount Not to Exceed
Evergreen at McKinney Senior Community	McKinney Senior Community, L.P.	The Principals are LifeNet-McKinney G.P., L.L.C., General Partner; Churchill 2012 SLP, LLC, Special Limited Partner, and a to be determined limited partner. The sole member of LifeNet-McKinney G.P., L.L.C. is LifeNet Community Behavioral Healthcare; the sole member of Churchill 2012 SLP, LLC is Brad Forslund	\$10,500,000
Costs: Construction of a 160 unit affordable senior housing community located on +/- 6.67 acres of land located at approximately the 1400 block of S. College Street, McKinney, Texas 75069			

1h

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

OCTOBER 9, 2012

Presentation, Discussion, and Possible Action Regarding Determination Notices for Housing Tax Credits with another Issuer.

RECOMMENDED ACTION

WHEREAS, a Housing Tax Credit and HOME application for the Gateway Northwest was originally submitted to the Department on May 1, 2012; and,

WHEREAS, the proposed issuer of the bonds is the Texas State Affordable Housing Corporation (“TSAHC”); and,

WHEREAS, a HOME Multifamily Development Program (MFD) loan from the General Set-Aside was awarded on July 26, 2012 in the amount of \$2,000,000, and this loan has an anticipated closing date of November 15, 2012; and,

WHEREAS, due to timing issues with HUD the Applicant was unable to close on the bonds by the 150 day deadline of September 29, 2012 and anticipates a new Certificate of Reservation prior to the October 9, 2012 Board meeting; and,

WHEREAS, a decrease in interest rates has prompted the applicant to submit revised financing commitments which, pursuant to §50.11(e) of the 2012 Qualified Allocation Plan, requires a re-evaluation by Real Estate Analysis, which has been performed, and Board re-consideration of the application; and,

WHEREAS, the Executive Award and Review Advisory Committee recommends the issuance of the Determination Notice;

NOW, therefore, it is hereby,

RESOLVED, that the issuance of a Determination Notice in the amount of \$631,844 in Housing Tax Credits, subject to underwriting conditions, as applicable, for the Gateway Northwest is hereby approved as presented to this meeting.

BACKGROUND

Background and General Information: The development is new construction and will consist of 180 total units serving a general population in Georgetown, Williamson County. This transaction is a Priority 3, with a combination of the units proposed to be restricted at 30%, 50%, and 60% Area Median Family Income (AMFI) for the tax credit program and will have additional restrictions under the HOME Program. The development is also proposed to include three (3) market rate units. The site has been rezoned to allow for this type of development and received approval on April 10, 2012.

Organizational structure and Compliance: The Borrower is THF Georgetown Gateway Northwest, Ltd., and the General Partner is THF Gateway Northwest, LLC. The Compliance Status Summary completed on June 21, 2012, reveals that the principals of the general partner have received 15 multifamily awards.

Census Demographics: The development is located at Northwest Boulevard at Washam Drive in Georgetown. Demographics for the census tract (0201.14) include AMFI of \$72,560; the total population is 4,935; the percent of population that is minority is 35.26%; the percent of population that is below the poverty line is 5.83%; the number of owner occupied units is 979 and the number of renter units is 823. (Census information from FFIEC Geocoding for 2012).

Public Comment: The Department has received three letters of support from George Garver, Mayor, City of Georgetown; Rachael Jonrowe, Councilmember, City of Georgetown and Paul E. Brandenburge, City Manager, City of Georgetown. No letters of opposition have been received.

1i

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2012-1 HOME Multifamily Development Program Notice of Funding Availability

RECOMMENDED ACTION

WHEREAS, on or before March 1, 2012, an application for Stonebridge of Kelsey Park (#12269) was submitted for Competitive Housing Tax Credits under the 2012 Qualified Allocation Plan and HOME Program funds under the Persons with Disabilities Set-Aside of the HOME Multifamily Development Program Notice of Funding Availability (NOFA);

WHEREAS, on July 26, 2012, the Board approved placing Stonebridge of Kelsey Park on the waiting list for tax credits and no awards of HOME funds were made for applications on the waiting list;

WHEREAS, since July 26, 2012, an approved Housing Tax Credit application in Urban Region 1 was unable to meet the requirements for commitment and Stonebridge of Kelsey Park, being located in Urban Region 1 and the first application on the waiting list, has now received a commitment of Competitive Housing Tax Credits and is therefore eligible for an award of HOME funds;

WHEREAS, the applicant applied for \$400,000 in HOME funds but only \$356,266 in funds remains available under the Persons with Disabilities Set-Aside;

RESOLVED, that a commitment of \$356,266 in HOME funds from the 2012-1 HOME Multifamily Development Program Notice of Funding Availability for Stonebridge of Kelsey Park is hereby approved in the form presented at this meeting; and

FURTHER RESOLVED, that the Board's approval is conditioned upon completion of underwriting and any conditions therein, and completion of any other reviews required to ensure compliance with the applicable rules and requirements for HOME Multifamily Development Program funds.

BACKGROUND

On July 26, 2012, the Board approved the 2012-1 HOME Multifamily Development (MFD) Program Notice of Funding Availability (NOFA) with \$ 37,220,274 in funds, divided between the General, Community Housing Development Organization (CHDO), and Persons with

Disabilities Set-Asides. The Board action included a transfer of all pending applications from the 2011 HOME MFD NOFA.

Staff is recommending application #12269, Stonebridge at Kelsey, for an award under the Persons with Disabilities Set-Aside. Stonebridge at Kelsey is a 152-unit new construction transaction located in Lubbock, Texas. This application replaced #12125 Monarch Meadows for a Competitive (9%) Housing Tax Credit award because Monarch Meadows was unable to meet the requirements of its commitment. Staff, in accordance with the rules and previous board action, issued a commitment of tax credits to Stonebridge at Kelsey as the next application on the approved waiting list. Stonebridge at Kelsey has priority over some other HOME MFD applications with earlier received dates but that were not recommended for tax credit awards. If approved, no funds will remain available under the Persons with Disabilities Set-Aside and the NOFA closes to any new applications on September 30, 2012. Details of the application and award amount are outlined in the posted underwriting report.



2012-1 HOME Multifamily Development Program - Application Log
 Application Acceptance Period ends 9/30/2012
 Total Funding Amount: \$37,220,274

Total Set Aside Funding Level: \$ 26,732,208
 Available Balance (after recommended/awarded): \$ 5,813,455

General Set-Aside

File #	Reg.	Date Received	Development Name	City	Housing Activity ⁽¹⁾	Reqstd HOME Units	Total units	Target Population ⁽²⁾	Layering ⁽³⁾		Requested Project Funds	As Underwritten	Recommended Project Funds	Status
									9%	4%				
12069	3	2/15/2012	Evergreen at Rowlett	Rowlett	NC	26	130	Elderly	Yes	No	\$ 2,000,000	\$ -		Not recommended for 9% HTC
12099	4	2/15/2012	Lindale Senior Living Community	Lindale	NC	16	80	Elderly	Yes	No	\$ 850,000	\$ -		Not recommended for 9% HTC
12501	2	2/16/2012	Villas of Brownwood II	Brownwood	NC	16	36	General	No	No	\$ 2,000,000	\$ 1,500,000	\$ 1,500,000	Awarded September 6, 2012
12061	4	2/23/2012	Lost Creek	Mount Pleasant	NC	20	80	General	Yes	No	\$ 2,000,000	\$ -		Withdrawn 7/25/2012
12031	12	2/23/2012	Mesquite Terrace	Midland	NC	12	60	Elderly	Yes	No	\$ 120,000	\$ -		Not recommended for 9% HTC
12146	10	2/23/2012	Seaside Manor	Ingleside	NC	20	100	Elderly	Yes	No	\$ 200,000	\$ -		Not recommended for 9% HTC
12113	3	2/24/2012	Churchill at Northlake	Northlake	NC	29	144	General	Yes	No	\$ 750,000	\$ -		Not recommended for 9% HTC
12032	4	2/27/2012	Heartland Village Apartments	Sulphur Springs	NC	16	80	General	Yes	No	\$ 1,510,000	\$ 1,510,000	\$ 1,510,000	Awarded July 26, 2012
12150	5	2/27/2012	Whitetail Ridge	Hemphill	NC	8	36	Elderly	Yes	No	\$ 550,000	\$ -		Not recommended for 9% HTC
12345	7	2/27/2012	Merritt Legacy	Leander	NC	42	208	General	Yes	No	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	Awarded July 26, 2012
12346	7	2/27/2012	Merritt Hill Country	Dripping Springs	NC	16	80	Elderly	Yes	No	\$ 1,999,801	\$ -		Not recommended for 9% HTC
12347	7	2/27/2012	Merritt Estates	Leander	NC	20	100	Elderly	Yes	No	\$ 2,000,000	\$ -		Not recommended for 9% HTC
12303	5	2/28/2012	Pinedale Village	Lufkin	NC	5	64	General	Yes	No	\$ 575,000	\$ -		Not recommended for 9% HTC
12306	11	2/28/2012	Stardust Apartments	Uvalde	NC	4	80	General	Yes	No	\$ 675,000	\$ -		Not recommended for 9% HTC
12175	4	2/29/2012	Royal Garden	Sulphur Springs	NC	20	80	General	Yes	No	\$ 250,000	\$ -		Not recommended for 9% HTC
12177	11	2/29/2012	Royal Garden	Rio Grande City	NC	20	80	General	Yes	No	\$ 280,356	\$ 280,356		Not recommended for 9% HTC
12024	3	2/29/2012	Artisan at Twin Creeks	Allen	NC	30	150	Elderly	Yes	No	\$ 1,000,000	\$ -		Not recommended for 9% HTC
12326	3	2/29/2012	Summerstone Senior Village	Ennis	NC	20	80	Elderly	Yes	No	\$ 1,311,864	\$ -		Not recommended for 9% HTC

File #	Reg.	Date Received	Development Name	City	Housing Activity (1)	Reqstd HOME Units	Total units	Target Population (2)	Layering (3)		Requested Project Funds	As Underwritten	Recommended Project Funds	Status
									9%	4%				
12328	3	2/29/2012	Windvale Park Phase II	Corsicana	NC	10	36	General	Yes	No	\$ 910,000	\$ -		Not recommended for 9% HTC
12084	7	3/1/2012	San Gabriel Apartments	Georgetown	R	35	136	General	Yes	No	\$ 1,300,000	\$ 1,300,000	\$ 1,300,000	Awarded July 26, 2012
12174	3	3/1/2012	Royal Gardens	Mineral Wells	NC	19	75	Elderly	Yes	No	\$ 280,356	\$ 280,356	\$ 280,356	Awarded July 26, 2012
12310	6	3/1/2012	The Monarch at Bay Prairie	Bay City	NC	15	72	Elderly	Yes	No	\$ 700,000	\$ -		Not recommended for 9% HTC
12318	7	3/1/2012	Cottonwood Square	Hutto	NC	13	61	Elderly	Yes	No	\$ 1,300,000	\$ -		Not recommended for 9% HTC
12334	8	3/1/2012	The Overlook at Linheir Farm	Brenham	NC	14	75	Elderly	Yes	No	\$ 1,300,000	\$ -		Not recommended for 9% HTC
12060	1	3/1/2012	The Reserves at High Plains	Dumas	NC	13	64	General	Yes	No	\$ 500,000	\$ 500,000	\$ 500,000	Awarded July 26, 2012
12075	2	3/1/2012	Saddlebrook Apartments	Burkburnett	NC	18	64	General	Yes	No	\$ 300,000	\$ 300,000	\$ 300,000	Awarded July 26, 2012
12206	6	3/1/2012	Spring Hills Apartments	Huntsville	NC	20	80	General	Yes	No	\$ 80,000	\$ -		Not recommended for 9% HTC
12063	10	3/1/2012	Stockbauer Landings Apartments	Victoria	NC	31	168	General	Yes	No	\$ 304,000	\$ -		Not recommended for 9% HTC
12336	9	3/1/2012	The Residences of Solms Village	New Braunfels	NC	16	80	General	Yes	No	\$ 1,900,000	\$ 1,900,000		Not recommended for 9% HTC
12155	13	3/1/2012	Laureles del Este	Fabens	NC	9	42	General	Yes	No	\$ 200,000	\$ -		Not recommended for 9% HTC
12105	4	3/1/2012	New Haven Apts.	Athens	R	0	50	General	Yes	No	\$ 100,000	\$ -		Not recommended for 9% HTC
12100	5	3/1/2012	Pinewood Park	Lufkin	R	0	94	General	Yes	No	\$ 188,000	\$ -		Not recommended for 9% HTC
12112	5	3/1/2012	Inez Tims	Lufkin	R	14	70	Elderly	Yes	No	\$ 390,000	\$ 390,000	\$ 390,000	Awarded July 26, 2012
12297	3	3/1/2012	Abbingtion Commons	Kaufman	NC	16	80	General	Yes	No	\$ 766,479	\$ 1,500,000		Not recommended for 9% HTC
12245	1	3/1/2012	Perryton Apartments	Perryton	NC	16	80	General	Yes	No	\$ 860,868	\$ 1,100,000		Not recommended for 9% HTC
12244	12	3/1/2012	Monahans Apartments	Monahans	NC	14	66	General	Yes	No	\$ 1,500,000	\$ -		Not recommended for 9% HTC
12228	2	3/1/2012	Iowa Park Homes	Iowa Park	NC	15	72	General	Yes	No	\$ 1,350,000	\$ -		Not recommended for 9% HTC
12278	10	3/1/2012	TGO Independence Village	Port Lavaca	NC	16	80	General	Yes	No	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	Awarded July 26, 2012
12140	7	3/1/2012	KIRON at Mesquite Lane	Georgetown	NC	6	82	General	Yes	No	\$ 165,000	\$ -		Not recommended for 9% HTC
12268	1	3/1/2012	Stonebridge of Plainview	Plainview	NC	12	80	General	Yes	No	\$ 1,000,000	\$ -		Not recommended for 9% HTC
12371	7	3/1/2012	Mariposa at Ranch Road 12	Wimberley	NC	22	80	Elderly	Yes	No	\$ 2,000,000	\$ -		Not recommended for 9% HTC

File #	Reg.	Date Received	Development Name	City	Housing Activity (1)	Reqstd HOME Units	Total units	Target Population (2)	Layering (3)		Requested Project Funds	As Underwritten	Recommended Project Funds	Status	
									9%	4%					
12372	3	3/1/2012	Mariposa at Woodbridge	Wylie	NC	22	180	Elderly	Yes	No	\$ 2,000,000	\$ -		Not recommended for 9% HTC	
12379	11	3/1/2012	Sunrise Terrace	La Feria	NC	16	70	General	Yes	No	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	Awarded July 26, 2012	
12048	10	3/1/2012	Cottonwood Apartments	Taft	R	8	24	General	Yes	No	\$ 402,932	\$ 340,810	\$ 340,810	Awarded July 26, 2012	
12045	8	3/1/2012	Elmwood Apartments	Buffalo	R	8	24	General	Yes	No	\$ 369,733	\$ 369,733	\$ 369,733	Awarded July 26, 2012	
12397	11	3/1/2012	Cottonwood II Apartments	Raymondville	NC	25	80	General	Yes	No	\$ 575,000	\$ -		Not recommended for 9% HTC	
12314	6	3/1/2012	Parkview Place	Huntsville	R	9	41	Elderly	Yes	No	\$ 41,000	\$ 41,000	\$ 41,000	Awarded July 26, 2012	
12388	11	3/1/2012	Paseo Pointe	Los Fresnos	NC	42	208	General	Yes	No	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	Awarded July 26, 2012	
12339	11	3/1/2012	Hacienda del Sol	San Benito	NC	31	152	General	Yes	No	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	Awarded July 26, 2012	
12074	5	3/1/2012	Acadiana Village	Bridge City	NC	17	80	General	Yes	No	\$ 250,000	\$ 250,000	\$ 250,000	Awarded July 26, 2012	
12365	7	3/1/2012	Stepping Stone & Taylor Square Apts.	Taylor	R	20	96	General	Yes	No	\$ 1,036,854	\$ 1,036,854	\$ 1,036,854	Awarded July 26, 2012	
12366	8	3/1/2012	Pecan Creek & Pecan Grove	Lampasas	R	20	96	General	Yes	No	\$ 929,028	\$ -		Not recommended for 9% HTC	
12147	11	3/5/2012	Sunflower Gardens	Carrizo Springs	NC	15	72	Elderly	Yes	No	\$ 72,000	\$ -		Not recommended for 9% HTC	
12145	9	3/5/2012	Comfort Place	Comfort	NC	10	48	Elderly	Yes	No	\$ 48,000	\$ -		Awarded July 26, 2012; subsequently returned	
12049	12	3/19/2012	Brownstones Midland	Midland	NC	14	70	General	Yes	No	\$ 140,000	\$ 140,000		Not recommended for 9% HTC	
12267	11	3/30/2012	Cornerstone Apartment Homes	Cameron County	NC	25	104	General	Yes	No	\$ 500,000	\$ -		Not recommended for 9% HTC	
12199	9	4/2/2012	Freedoms Path at Kerrville	Kerrville	NC	49	49	Elderly	Yes	No	\$ 500,000	\$ -		Not recommended for 9% HTC	
12395	8	4/2/2012	Colonial Point	Gatesville	NC	12	60	General	Yes	No	\$ 60,000	\$ -		Not recommended for 9% HTC	
12410	7	4/30/2012	The Gateway Northwest	Georgetown	NC	36	180	General	No	Yes	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	Awarded July 26, 2012	
12503	7	7/16/2012	Chandler Place Apartments	Blanco	NC	21	48	General	No	No	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	Awarded September 6, 2012	
12502	7	7/16/2012	Creek View Apartments III	Johnson City	NC	16	16	General	No	No	\$ 1,450,000	\$ -		Under Review	
Total General Applications					59	Unit Totals:		1063	5089	Total:		\$ 56,941,271	\$ 25,839,109	\$ 20,918,753	

File #	Reg.	Date Received	Development Name	City	Housing Activity (1)	Reqstd HOME Units	Total units	Target Population (2)	Layering (3)		Requested Project Funds	As Underwritten	Recommended Project Funds	Status
									9%	4%				

PWD Set-Aside

Total Set Aside Funding Level: \$ 938,066.00
 Available Balance (after recommended/awarded): \$ -

File #	Reg.	Date Received	Development Name	City	Housing Activity (1)	Reqstd HOME Units	Total units	Target Population (2)	Layering (3)		Requested Project Funds	As Underwritten	Recommended Project Funds	Status	
									9%	4%					
12104	3	2/16/2012	Evergreen at Euless	Euless	NC	4	170	Elderly	Yes	No	\$ 350,000	\$ -		Not recommended for 9% HTC	
12034	2	2/28/2012	Meadow Place Apartments	Wichita Falls	NC	5	64	General	Yes	No	\$ 500,000	\$ -		Not recommended for 9% HTC	
12210	8	3/1/2012	Park Hudson Seniors	Bryan	NC	8	90	Elderly	Yes	No	\$ 500,000	\$ -		Not recommended for 9% HTC	
12168	4	3/1/2012	Robbins Villas	Athens, Texas	NC	4	80	General	Yes	No	\$ 100,000	\$ -		Not recommended for 9% HTC	
12260	2	3/1/2012	Wichita Homes	Wichita Falls	NC	5	58	General	Yes	No	\$ 500,000	\$ -		Not recommended for 9% HTC	
12288	3	3/1/2012	Cedarwood Apartments	Cedar Hills	R	4	37	Elderly	Yes	No	\$ 80,000	\$ -		Not recommended for 9% HTC	
12290	1	3/1/2012	Woodbridge of Lubbock	Lubbock	NC	9	90	Elderly	Yes	No	\$ 180,000	\$ -		Not recommended for 9% HTC	
12269	1	3/1/2012	Stonebridge of Kelsey Park	Lubbock	NC	16	152	General	Yes	No	\$ 400,000	\$ -	\$ 356,266	Recommended for Award	
12393	8	3/1/2012	Highland Villas	Bryan	NC	4	180	General	Yes	No	\$ 361,800	\$ 361,800	\$ 361,800	Awarded July 26, 2012	
12356	10	3/1/2012	Sunrise Villas Apartments	Odem	NC	4	52	General	Yes	No	\$ 104,260	\$ -		Not recommended for 9% HTC	
12042	6	3/1/2012	Brentwood Apartments	West Columbia	R	8	24	General	Yes	No	\$ 141,807	\$ 24,000		Not recommended for 9% HTC	
12166	6	3/1/2012	Villa Brazos	Freeport	R	3	108	General	Yes	No	\$ 220,000	\$ 220,000	\$ 220,000	Awarded July 26, 2012	
12188	6	3/8/2012	Independent Missionary Village	Hitchcock	R	4	72	General	Yes	No	\$ 612,000	\$ -		Not recommended for 9% HTC	
Total PWD Applications					13	Unit Totals:		78	1177	Total:		\$ 4,049,867	\$ 605,800	\$ 938,066	

CHDO Set-Aside

Total Set Aside Funding Level: \$ 9,550,000.00
 Available Balance (after recommended/awarded): \$ 9,550,000.00

File #	Reg.	Date Received	Development Name	City	Housing Activity (1)	Reqstd HOME Units	Total units	Target Population (2)	Layering (3)		Requested Project Funds	As Underwritten	Recommended Project Funds	Status
									9%	4%				
12323	4	2/29/2012	Lexington Court Phase III	Kilgore	NC	13	48	General	Yes	No	\$ 675,000	\$ -		Not recommended for 9% HTC
12327	3	2/29/2012	West Park Senior Housing	Corsicana	NC	10	48	Elderly	Yes	No	\$ 539,371	\$ -		Not recommended for 9% HTC

File #	Reg.	Date Received	Development Name	City	Housing Activity (1)	Reqstd HOME Units	Total units	Target Population (2)	Layering (3)		Requested Project Funds	As Underwritten	Recommended Project Funds	Status
									9%	4%				
12329	4	2/29/2012	Stonebridge Place	Palestine	NC	16	80	Elderly	Yes	No	\$ 950,000	\$ -		Not recommended for 9% HTC
12608	5	9/5/2012	Evergreen at McKinney	McKinney	NC	32	160	Elderly	No	Yes	\$ 3,000,000	\$ -		Under Review
Total CHDO Applications					4	Unit Totals:		71	336	Total:		\$ 5,164,371	\$ -	

Sorted by Date and Time Received

1 = Housing Activity: New Construction=NC, Rehabilitation=R

2 = Target Population Abbreviation: Intergenerational=Intg

3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

1j

NEIGHBORHOOD STABILIZATION PROGRAM

BOARD ACTION REQUEST

OCTOBER 9, 2012

Presentation, Discussion, and Possible Action to approve a request to include additional financing options for Land Bank properties under Texas Neighborhood Stabilization Program 1 contracts.

RECOMMENDED ACTION

WHEREAS, Texas State Affordable Housing Corporation, Affordable Homes South Texas, Community Development Corporation of Brownsville, and the City of Port Arthur, as NSP subrecipients, have acquired properties to be land banked under the NSP Contracts No. 77090000101, 77090000108, 77090000150, 77090000154, and 77090000204 and wish to be able to convert these investments into homebuyer assistance in the form of deferred forgivable loans or amortized payable loans, rental properties, or other permitted long term activities, and

WHEREAS, the original Notice of Funding Availability (NOFA), the NSP1 Program Income NOFA, and the NSP1 – Reallocation (NSP-R) NOFA did not specifically address all of the allowable methods of financial assistance available, an amendment of the NSP Contracts and express Board approval are required to effectively complete redevelopment of the properties and assure long-term affordability,

NOW, therefore, it is hereby

RESOLVED, that current NSP Contracts 77090000101, 77090000108, 77090000150, 77090000154 and 77090000204 are authorized to be amended, and any other current eligible NSP1 Contract, and any future Land Bank contracts shall now allow for conversion of the NSP investment into homebuyer assistance in the form of a deferred forgivable loan, amortized payable loan, rental properties or other long term activities.

BACKGROUND

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by HR3221, the “Housing and Economic Recovery Act of 2008” (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the State of Texas 2008 CDBG Action Plan (Action Plan) and provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111-203, approved July 21, 2010) (Dodd-Frank Act) through an amendment to the existing State of Texas

2010 CDGB Action Plan. The purpose of the program is to redevelop into affordable housing or acquire and hold abandoned, foreclosed, and vacant properties in areas that are documented to have the greatest need for arresting declining property values.

The original NSP1 NOFA, as approved by the TDHCA Governing Board on March 12, 2009, required repayment of the NSP investment in Land Bank properties at their final eligible use as the only option. At the November 10, 2011 meeting, the TDHCA Governing Board approved the provision of funds invested in Land Bank properties to eligible homebuyers as Homebuyer Assistance, in the maximum amount of \$30,000 via a **deferred forgivable** loan.

Similarly, the NSP1 – Reallocation (NSP-R) NOFA approved by the TDHCA Governing Board on March 11, 2010, and the NSP1 Program Income NOFA, and NSP1 provide for Homebuyer Assistance in the maximum amount of \$30,000 in a deferred forgivable loan.

The need for additional flexibility in disposition of the Land Bank investment has become apparent. As the NSP evolved, it was evident that securing the affordability of foreclosed properties, as required by HERA, through Homebuyer Assistance alone would be difficult without the additional permissible options of an **amortized** loan at 0% interest for up to 30 years financing of rental properties or other affordable housing finance options.

Currently, some NSP Land Bank subrecipients are financing construction of affordable housing using non-TDHCA NSP funds on land purchased with NSP acquisition funds. Because the construction loan amount is often much larger than the NSP acquisition investment, the NSP Land Bank subrecipients are positioned to follow industry custom and carry a first lien with the Department's NSP Land Bank investment in a subordinate lien position.

With Board approval, eligible homebuyers purchasing homes on NSP Land Bank properties will be able to access homebuyer assistance up to the amount invested in the property, not to exceed \$30,000 with the final amount dependent on a needs-based calculation. For those households that do not qualify for the entire NSP investment as deferred-forgivable financing, all or a portion of the NSP investment will be available as an amortized loan at 0% interest for up to 30 years. For those properties that were purchased with existing homes, the entire amount of the NSP Land Bank financing may be provided as homebuyer financing. The terms of financing will be determined based on loan qualification under the NSP Homebuyer Financing Guidelines.

For NSP Land Bank properties that will be used as long-term rental housing for households at or below 50% AMI, the land bank investment may be provided to eligible entities under the terms and conditions of the NSP1 or NSP1-PI NOFA, as applicable.

1k

BOARD ACTION REQUEST
TEXAS HOMEOWNERSHIP DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 7, §§7.1 - 7.9 concerning the Texas First Time Homebuyer Program Rule and an order adopting new 10 TAC Chapter 27, §§27.1 - 27.10 concerning the Texas First Time Homebuyer Program Rule and directing their publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, at the July 26, 2012, Board meeting, the proposed Texas First Time Homebuyer Program Rule was approved for publication in the *Texas Register* for public comment and the public comment period has ended

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the repeal of 10 TAC Chapter 7, §§7.1 - 7.9 regarding the Texas First Time Homebuyer Program Rule and new 10 TAC Chapter 27, §§27.1 - 27.10 regarding the Texas First Time Homebuyer Program Rule, in the forms presented to this meeting, to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

BACKGROUND

The proposed repeal and new rule were approved for publication on July 26, 2012, by the Board and were published in the August 10, 2012, issue of the *Texas Register* to allow for public comment. The public comment period closed on September 10, 2012.

No comments were received.

Attachment A: Preamble and New 10 TAC Chapter 27, §§27.1 - 27.10, concerning the Texas First Time Homebuyer Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 27, §§27.1 - 27.10 concerning the Texas First Time Homebuyer Program Rule. Section 27.2 is adopted with a change to the proposed text as published in the August 10, 2012, issue of the *Texas Register* (37 TexReg 5859). Sections 27.1, 27.3 – 27.10 are adopted without change and will not be republished.

REASONED JUSTIFICATION: Recently the Department reorganized and restructured all of its housing and community affairs programs. Part of the purpose of the reorganization was to separate single and multi-family housing program delivery and to standardize much of the single family housing program procedures. These changes were implemented for the purpose of improving the delivery of housing solutions to Texans. The Department finds that the new chapter aligns with 10 TAC Chapter 20, First Time Homebuyer Program with the new Single Family Umbrella Programs Rule.

The Department accepted public comments between August 10, 2012, and September 10, 2012. Comments regarding the new section(s) were accepted in writing and by fax. No comments were received concerning the new sections.

The Board approved the final order adopting the new sections as well as other non-substantive technical corrections, on October 9, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules and pursuant to Texas Government Code, §2306.141, which specifically authorizes the Department to promulgate rules concerning the Department's housing programs.

§27.1.Purpose.

The purpose of the Texas First Time Homebuyer Program is to facilitate the origination of single-family mortgage loans for eligible first time homebuyers and to provide to qualifying homebuyers down payment and closing cost assistance. The Texas First Time Homebuyer Program is administered in accordance with Texas Government Code, Chapter 2306 and Chapter 20 of this title (relating to the Single Family Programs Umbrella Rule). Chapter 20 of this title will apply to all Single Family activities, including Single Family development involving rental or ownership.

§27.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

(1) **Applicable Median Family Income**--The Department's determination, as permitted by Texas Government Code, §2306.123, of the median income of a family for an area using a source or methodology acceptable under §143(f) of the Code. Amounts of the Applicable Median Family Income, as updated from time to time, may be found on the Department's website (www.tdhca.state.tx.us) in the "Combined Income and Purchase Price Limits Table."

(2) **Applicant**--A person or persons applying for financing of a mortgage loan under the Program.

(3) **Areas of Chronic Economic Distress**--Those areas in the state, whether one or more, designated from time to time as areas of chronic economic distress by the state and approved by the U.S. Secretaries of Treasury and Housing and Urban Development, respectively, pursuant to §143(j) of the Code.

(4) **Average Area Purchase Price**--With respect to a Residence financed under the Program, the average purchase price of single-family residences in the statistical area in which the Residence is located which were purchased during the most recent twelve (12) month period for which statistical information is available, as determined in accordance with §143(e) of the Code.

(5) **Code**--The Internal Revenue Code of 1986, as amended from time to time.

(6) **Contract for Deed Exception**--The exception for certain mortgage loan eligibility requirements, as provided in the master mortgage origination agreement, available with respect to a principal residence owned under a contract for deed by a person whose family income is not more than 50 percent of the area's Applicable Median Family Income.

(7) **First Time Homebuyer**--A person who has not owned a home during the three years preceding the date on which an application under this program is filed, except if the application is with respect to a home in a targeted area. A person will be considered to have owned a home if the person had a present ownership interest in a home during the three years preceding the date on which the application was filed. In the event there is more than one person applying with respect to a home, each applicant must separately meet this three year requirement.

(8) **Master mortgage origination agreement**--The contract between the department and a mortgage lender, together with any amendments thereto, setting forth certain terms and conditions relating to the origination and sale of mortgage loans by the mortgage lender and the financing of such mortgage loans by the department.

(9) Program--The Texas First Time Homebuyer Program.

(10) Purchase Price Limit--The Purchase Price Limits published and updated from time to time in the "Combined Income and Purchase Price Limits Table" found on the Department's website equal to 90 percent of the Average Area Purchase Price, subject to certain exceptions for Targeted Area Loans.

(11) Qualified Veteran Exemption to First Time Homebuyer Requirement--A qualified veteran who has not previously received financing as a first time homebuyer through a single family mortgage revenue bond program is exempt from the requirement to be a first time homebuyer. The veteran must certify that he or she has not previously obtained a mortgage loan financed by single family mortgage revenue bonds and is utilizing the veteran exception set forth in §143(d)(2)(D) of the IRS Code. Qualified veterans must also complete a worksheet evidencing qualification as a veteran and provide copies of discharge papers.

(12) Residence--A dwelling in Texas in which an Applicant intends to reside as the Applicant's principal dwelling space.

(13) Targeted Area--A qualified census tract, as determined in accordance with §6(a)103A-(2)(b)(4) of the Regulations or any successor regulations thereto, an Area of Chronic Economic Distress. Applicants purchasing in Targeted Areas may have higher income and purchase price limits as set forth in the "Combined Income and Purchase Price Limits Table" found on the Department's website.

(14) Targeted area exemption to first time homebuyer requirement--Borrower's purchasing homes in targeted areas financed through the program are exempt from the requirement to be a first time homebuyer and income and purchase price limits may be higher as found in the "Combined Income and Purchase Price Limits Table" located on the Department's website.

§27.3.Procedures for Submitting Requests or Inviting Proposals.

The Department will publish requests for proposals as needed for the purchase and sale of mortgage loans or interests in the mortgage loans. Based on published scoring criteria, an organization will be selected and a contract executed with the Department to carry out these responsibilities.

§27.4.Restrictions on Residences Financed and Applicant.

(a) Type of Residence and Number of Units. To be eligible for assistance under the program an Applicant must apply with respect to a home that is either a new or existing single family residence, new or existing condominium or town home, or manufactured housing that has been converted to real property in accordance with the Texas Occupations Code, Chapter 1201 or

FHA guidelines as required by the Department. A duplex may be financed under the Program as long as one unit of the duplex is occupied by the Applicant as his or her Residence and the duplex was first occupied for residential purposes at least five (5) years prior to the closing of the mortgage loan.

(b) Location of Residence. The Residence being financed must be located in Texas.

(c) Homebuyer Education. Each applicant must complete a Department approved pre-purchase homebuyer education course.

(d) Income Limits. Applicants applying for a mortgage loan must meet Applicable Median Family Income requirements.

(e) Down Payment Assistance. All Applicants meeting the Income Limit requirement in subsection (d) of this section may qualify for down payment and closing cost assistance in connection with the mortgage loan on a first come, first served basis, subject to availability of funds.

§27.5. Occupancy and Use Requirements.

(a) Occupancy requirement. The Applicant must occupy the home within sixty (60) days after the date of closing as his or her Residence. Borrower's receiving down payment assistance must repay the amount of assistance whenever they sell the property.

(b) Prohibited uses. Applicants may not use the property, or any part thereof, as an investment property, rental property, vacation or second home, or recreational home.

(c) Use for a business. Applicants may not use more than 15 percent of the residence in a trade or business (including childcare services) on a regular basis for compensation. If the residence is to be used, in part, for a trade or business, a schematic drawing from an appraiser must be provided.

§27.6. Application Procedure and Requirements for Commitments by Mortgage Lenders.

(a) Applicants seeking assistance under the Program must first contact a participating mortgage lender. A list of participating mortgage lenders may be obtained on the Department's website or by contacting the Department.

(b) All Applicants shall complete an application with a participating mortgage lender.

(c) Application Fees. Fees that may be collected by the mortgage lender from the Applicant relating to a mortgage loan include:

(1) an appropriate, as determined by the Department, origination fee and/or buyer/seller points;
and

(2) all usual and reasonable settlement or financing costs that are permitted to be so collected by Federal Housing Administration (FHA), Veteran's Administration (VA), Rural Housing Services (RHS), Freddie Mac or Fannie Mae, as applicable, and other applicable laws, but only to the extent such charges do not exceed the usual and reasonable amounts charged in the area in which the home is located. Such usual and reasonable settlement or financing costs shall include an application fee as determined by the Department, the total estimated costs of a credit report on the Applicants and an appraisal of the property to be financed with the mortgage loan, title insurance, survey fees, credit reference fees, legal fees, appraisal fees and expenses, credit report fees, FHA insurance premiums, private mortgage guaranty insurance premiums, VA guaranty fees, VA funding fees, RHS guaranty fees, hazard or flood insurance premiums, abstract fees, tax service fees, recording or registration fees, escrow fees, and file preparation fees.

(d) The Department will determine from time to time, a schedule of fees and charges necessary for expenses and reserves of the housing finance division as set forth in a Board resolution.

(e) The mortgage lender must register the mortgage loan in accordance with the Department's published procedures.

§27.7. Criteria for Approving Participating Mortgage Lenders.

To be approved by the Board for participation in the program, a mortgage lender must meet the requirements to be a qualified mortgage lender as specified by:

(1) Federal Housing Administration (FHA);

(2) Veteran's Administration (VA);

(3) Rural Housing Service's (RHS); and

(4) be a lender currently participating in the conventional home lending market for loans originated in accordance with Fannie Mae's and/or Freddie Mac's requirements;

(5) agree to originate mortgage loans and assign those loans and related mortgages and servicing to the Department's master servicer;

(6) originate, process, underwrote, close and fund originated loans; and

(7) be an approved seller/servicer with the program's master servicer.

§27.8. Resale of the Residence.

All mortgage loans will be subject to federal income tax recapture provisions. Assumption of a mortgage loan is allowed under the Program if the new owner meets the Program requirements at the time of the sale of the Residence.

§27.9. Conflicts with Bond Indentures and Applicable Law.

(a) All assistance provided under the program is funded from mortgage revenue bonds issued by the department and is subject to changes in the mortgage revenue bond indentures and applicable law. If there is a conflict between this chapter and any bond indenture or applicable law regarding the use of the funds from mortgage revenue bonds, the mortgage revenue bond indenture or applicable law shall control.

(b) Assistance under this program is dependent, in part, on the availability of funds. The Department may cease offering all or a part of the assistance available under the program at any time and in its sole discretion.

§27.10. Waiver.

The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the rules governing this Program if the Board finds that waiver is appropriate to fulfill the purposes or polices of Texas Government Code, Chapter 2306, or for good cause, as determined by the Board.

Attachment B: Preamble and Adoption of the Repeal of 10 TAC Chapter 7, §§7.1 - 7.9. concerning Texas First Time Homebuyer Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 7, §§7.1 - 7.9 concerning the Texas First Time Homebuyer Program Rule without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859) and will not be republished.

REASONED JUSTIFICATION: This repeal will allow the adoption of a new Texas First Time Homebuyer Program Rule which will implement the reorganization and restructuring by the Department of its Housing and Community Affairs Programs.

The Department accepted public comments between August 10, 2012, and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repealed sections.

The Board approved the final order adopting the repeal on October 9, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules and pursuant to Texas Government Code, §2306.141, which specifically authorizes the Department to promulgate rules implementing the Department's housing programs.

§7.1.Purpose.

§7.2.Definitions.

§7.3.Administration of the Program.

§7.4.Criteria for Approving Participating Mortgage Lenders.

§7.5.Insurance Requirements.

§7.6.First-Time Homebuyer Occupancy and Use Requirements.

§7.7.Contracts with Mortgage Lenders.

§7.8.Conflicts with Bond Indentures and Applicable Law.

§7.9.Waiver.

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BOARD ACTION REQUEST

SINGLE FAMILY PROGRAMS

OCTOBER 9, 2012

Presentation, Discussion, and Possible Approval of an order adopting new 10 TAC Chapter 20, §§20.1 – 20.15 concerning the Single Family Programs Umbrella Rule for publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, at the Board meeting of July 26, 2012, the proposed new Single Family Programs Umbrella Rule was approved for publication in the *Texas Register* for public comment. The public comment period has ended; and

WHEREAS, staff has proposed changes to §20.3, §20.6, §20.10, and §20.12, as published, based on public comment

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the new 10 TAC 20, §§20.1 – 20.15 concerning the Single Family Programs Umbrella Rule in the form presented to this meeting, to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

BACKGROUND

The proposed new Single Family Programs Umbrella Rule was approved for publication at the Board meeting of July 26, 2012 and published in the August 10, 2012 issue of the *Texas Register* to allow for public comment. The public comment period closed on September 10, 2012, with comments received from:

Ann Williams Cass, ED Chair, Equal Voice Housing Coalition Executive Committee; Charles Cloutman, Meals on Wheels and More; Donna M. Johnson and Tres Davis, Grantworks, Inc.; Jean Langendorf, Easter Seals; Matt Hull, Texas Association of CDCs; Michael Hunter, Hunter & Hunter Consultants, Inc.; Rachel Edwards, Resource Management & Consulting Co.; and Robin Sisco, Grant Administrator, Langford Community Management Services, Inc.

Comments are summarized in the preamble attached.

Attachment A: Preamble and 10 TAC 20, §§20.1 – 20.15, concerning the Single Family Programs Umbrella Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the new 10 TAC 20, §§20.1 – 20.15 concerning the Single Family Programs Umbrella Rule. Sections 20.1, 20.3, 20.6, 20.10, and 20.12 are adopted with changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859). Sections 20.2, 20.4, 20.5, 20.7 – 20.9, 20.11, and 20.13 – 20.15 are adopted without change and will not be republished.

REASONED JUSTIFICATION: Recently the Department reorganized and restructured all of its housing and community affairs programs. Part of the purpose of the reorganization was to separate single and multi-family housing program delivery and to standardize much of the single family housing program procedures. These changes were implemented for the purpose of improving the delivery of housing solutions to Texans. This Single Family Programs Umbrella Rule contains all of the common requirements of the Department's housing programs thereby partially accomplishing the purposes of the reorganization.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.

Comments were accepted from August 10, 2012 to September 10, 2012 with comments received from: (1) Ann Williams Cass, ED/Chair, Equal Voice Housing Coalition; (2), Charles Cloutman, Meals on Wheels and More; (3) Donna M. Johnson and Tres Davis, Grantworks, Inc.; (4) Jean Langendorf, Easter Seals; (5) Matt Hull, Texas Association of CDCs; (6) Michael Hunter, Hunter & Hunter Consultants, Inc.; (7) Rachel Edwards, Resource Management & Consulting Co.; and (8) Robin Sisco, Grant Administrator, Langford Community Management Services, Inc.

Chapter 20 - GENERAL COMMENTS – No Specific Section of the Rule References. (1), (4), (6), (7), and (8)

COMMENT SUMMARY: Commenter (1) expressed a concern about rule and definition changes during active contract periods. Commenter (4) recommended that the Department consider including a statement that the Department will make a reasonable accommodation or a reasonable modification in the rules. Commenters (6), (7) and (8) expressed that rules should be streamlined and simplified to reflect requirements that are federally or legislatively mandated.

STAFF RESPONSE: In response to commenter (1), all contracts signed with Contract Administrators clearly indicate laws and rules will apply, as amended, and the Contract Administrators agrees to abide by the changes where applicable. In response to commenter (4), the law already requires reasonable accommodation to program rules, if applicable, therefore, no change to the rule is recommended. In response to commenters (6), (7), and (8), staff generally agrees with the concept of streamlining and simplifying. However, various federal requirements and laws require the Department to create various policies and procedures. The Department is also required to ensure that risks are kept to a minimum while managing public funds. No changes are recommended based on these general comments.

SPECIFIC RULE COMMENTS

§20.3. Definitions. (4)

COMMENT SUMMARY: Commenter (4) requested that the definition under paragraph (23), Household, explicitly include renters.

STAFF RESPONSE: Staff agrees with commenter and recommends that the definition be amended as proposed.

COMMENT SUMMARY: Commenter (4) requested that the definition under paragraph (48) Single Family Housing Units, explicitly include renters.

STAFF RESPONSE: Staff agrees with commenter and recommends that the definition be amended as proposed.

§20.4. Eligible Single Family Activities. (1)

COMMENT SUMMARY: Commenter (1) was concerned with subsection (c) regarding eligible activities. Commenter does not recommend excluding the rehabilitation of a Mobile Home Unit (“MHU”) as an eligible Activity means that MHUs will not be eligible simple repairs after a disaster, such as a hurricane.

STAFF RESPONSE: When compared to the cost of replacement, the rehabilitation of an MHU tends to be cost-prohibitive when bringing the unit up to current housing standards. Due to these prohibitive costs, staff believes that MHUs should not be eligible for rehabilitation. However, MHUs will remain eligible for replacement. Staff recommends no changes to this section.

§20.6. Applicant Eligibility. (1)

COMMENT SUMMARY: Commenter (1) asked for clarification of subsection (f), concerning the adjustment of award amounts and more information about other factors that the Department will consider when adjusting the award amount.

STAFF RESPONSE: Staff agrees with commenter and recommends an amendment to this section to restrict “other factors” to only those factors similar to feasibility, underwriting analysis or the availability of funds as may be appropriate under the specific circumstances.

COMMENT SUMMARY: Commenter (7) requested more objective, clear, and concise language to avoid potential discrimination and unfair advantages to applicants, with regard to subparagraph (g) regarding declining applications for activities that do not represent a prudent use of Department funds.

STAFF RESPONSE: Staff believes the proposed language in this section will allow the Department to reject applications that may otherwise meet current applications requirements but, under the circumstances, are not in line with the Department’s overall immediate goals. The Department’s staff appeal process is available at 10 TAC §1.7. Staff recommends no changes based on this comment.

§20.10. Inspection Requirements for Construction Activities. (2), (3), (4), (5), (6), (7), and (8)

COMMENT SUMMARY: Commenter (8) requested clarification in subsection (a) regarding which parties will complete the inspection forms.

STAFF RESPONSE: In response to commenter, Forms 11.01 & 11.17 should be completed by the Contract Administrator, not the inspector. The initial inspection report identifies the areas and systems of the housing unit in need of repair in order to prepare a work write-up and cost estimates. Staff recommends no changes based on this comment.

COMMENT SUMMARY: Commenter (3) requested that under subsection (b)(1) regarding submission of proposed plans and specifications, that plans be approved only once by the Department and expressed concerns regarding their distribution due to their proprietary nature.

STAFF RESPONSE: Staff understands the commenter's concerns that plans and specifications should only be submitted once as long as no additional changes are made. To protect the proprietary use of submissions, the Department, through its standard operating procedures, will not provide an architect's or organizational plans to another entity; subject to the requirements of the Texas Public Information Act. Staff recommends no changes based on this comment.

COMMENT SUMMARY: Commenters (3) and (8) expressed concerns under subsection (b)(4) regarding requirements for a Certificate of Occupancy, that smaller cities do not issue Certificates of Occupancy and may not have a basis for determining whether a unit passes the applicable building code.

STAFF RESPONSE: State law requires that municipalities adopt, at a minimum, the 2000 International Residential Code (IRC), which requires that a Certificate of Occupancy be issued upon completion. Staff recommends no changes based on these comments.

COMMENT SUMMARY: Commenter (1) agreed with subsection (b)(6) regarding cosmetic issues, which will not be required to be corrected for self-help construction programs.

STAFF RESPONSE: Staff agrees with this comment and recommends no changes to this section.

COMMENT SUMMARY: Commenters (2), (3), (5), and (8) requested under subsection (c), that the Department allow Contract Administrators who have proven qualified inspectors continue to conduct initial and final inspections after September 1, 2014. Commenter (4) requested that the Amy Young Barrier Removal Program be exempt from requiring the use of professional inspectors or qualified inspection individuals and expressed concern that some homes will need a lot of repairs commenter stated that the focus of the Amy Young Program should be to address accessibility. Commenters (6) and (7) requested that the Department delay the requirement for certification for all inspections until the Department develops a training and certification program.

STAFF RESPONSE: In response to commenters (2), (3), (5), (6), (7), and (8), staff recommends the amendment of this subsection to allow professional home inspectors that have received current and comprehensive training to conduct effective inspections. Additionally, staff agrees to remove the September 1, 2014 cutoff deadline for qualified inspectors. While staff understands the concerns of commenter (4), staff believes that the homes for Persons with Disability in the Amy Yong Barrier Removal Program should meet the same safety and health requirements as other housing units and staff recommends no changes based on this comment.

§20.11. Survey Requirements. (7)

COMMENT SUMMARY: Commenter (7) expressed concerns regarding paragraph (2) regarding the Department's discretion to determine whether additional surveys are required on a per project basis and requested that the rule be more specific.

STAFF RESPONSE: The Department needs the flexibility to require additional surveys on a case-by-case basis, including, but not limited to situations where we have a pre-improvement survey and determine that an additional survey reflecting constructions improvements is necessary. Staff recommends no changes based on this comment.

§20.12. Insurance Requirements for Acquisition Activities. (1)

COMMENT SUMMARY: Commenter (1) requested that the Department reconsider requiring title insurance since title reports are often sufficient, under subsection (a).

STAFF RESPONSE: Staff recommends amending this section to provide the Department flexibility to determine when Title Insurance will be required through its Program Rules or NOFA.

§20.14. Amendments and Modifications to Written Agreements and Contracts. (1), (7)

COMMENT SUMMARY: Commenter (1) stated that subsection (a) concerning time extensions to contracts, may penalize administrators in the Rio Grande Valley due to hurricanes.

STAFF RESPONSE: The Department will review contract parameters and requirements on a case-by-case basis to ensure administrators have sufficient time to deliver the various activities under their contract. Staff recommends no changes based on this comment.

COMMENT SUMMARY: Commenter (7) expressed that under subsection (c), regarding Award or Contract Reductions, the HOME rehabilitation program should have clear and concise benchmark and appeals criteria based on realistic project times.

STAFF RESPONSE: HOME assistance contracts are effective for a two year period to allow for the identification of the eligible household and rehabilitation or reconstruction of the dwelling. Benchmark rules were streamlined in 2011 to require submission of the household information within twelve months of the effective date of the contract. Committing the assistance to specific households within the first year of the contract allows time to rehabilitate or reconstruct of the dwelling and close activities within the HUD timelines and deadlines. The 2011 rule changes allow the Department to de-obligate all or part of the awards if the benchmarks are not achieved. This allows us to reallocate funds to entities that are better able to timely expend the funds. The Department's staff appeal process is available under 10 TAC 1.7. Staff does not recommend any changes based on these comments.

COMMENT SUMMARY: Commenter (1) stated that inclement weather affects costs, so contract administrators should be allowed to access additional funds under subsection (e), regarding Award or Contract Increases.

STAFF RESPONSE: Staff understands that construction costs may increase temporarily after inclement weather events. The Department will review contract increase requests on a case-by-case basis. Staff recommends no changes based on this comment.

COMMENT SUMMARY: Commenter (1) expressed concerns about subsection (h) ,regarding termination of a contract if benchmarks are not achieved. They noted that delays due to inclement weather events would jeopardize a contract and requested that the Department allow flexibility.

STAFF RESPONSE: Staff believes that this section already provides the flexibility for the Department to respond to delays due to significant weather events, which may be taken into consideration on a case-by-case basis. Staff recommends no change based on this comment.

The Board approved the final order adopting the new section, as well as non-substantive corrections, on October 9, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§20.1.Purpose.

This chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the "Department") single family programs, which includes the Department's HOME Investments Partnership Program (HOME), Housing Trust Fund (HTF), Bond/First Time Homebuyer (FTHB), Taxable Mortgage Program (TMP), Neighborhood Stabilization (NSP), and Office of Colonia Initiatives (OCI) Programs and other Single Family Programs as developed by the Department. Single family programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with [Texas Government Code](#), Chapter 2306 ~~of the Texas Government Code~~, and any applicable statutes and federal regulations.

§20.2.Applicability.

Unless otherwise noted, this chapter only applies to single family programs. Program Rules may impose additional requirements related to any provision of this chapter. Where Program Rules conflict with this chapter, the provisions of this chapter will control program decisions.

§20.3.Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306 and Chapter 1 of this title (relating to Administration).

- (1) Activity--A form of assistance provided to a Household or Administrator by which single family funds are used for acquisition, new construction, reconstruction, rehabilitation, refinance of an existing mortgage or tenant-based rental assistance for single family housing.
- (2) Administrator--A unit of local government, nonprofit corporation or other entity who has an executed written Agreement or Contract with the Department.
- (3) Agreement--Same as "Contract." May be referred to as a "Reservation System Agreement" or "Reservation Agreement" when providing access to the Department's reservation system as defined in this chapter.
- (4) Amortized--A loan in which the principal as well as the interest, if applicable, is payable monthly or in some other periodic installment over the term of the loan.
- (5) Annual Income--The definition of Annual Income and the methods utilized to establish eligibility for other types of housing assistance as defined under the Program Rule.
- (6) Applicant--An individual, unit of local government, nonprofit corporation or other entity who has submitted to the Department an Application for Department funds or other assistance.
- (7) Application--A request for a contract award or to participate in a reservation system submitted to the Department in a form prescribed by the Department, including any exhibits or other supporting material.
- (8) Chapter 2306--Texas Government Code, Chapter 2306.
- (9) Combined Loan to Value (CLTV)--The aggregate principal balance of all the mortgage loans, including Forgivable Loans, divided by the appraised value.
- (10) Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.

- (11) Conforming Mortgage Loan--A first-lien loan that meets Federal Housing Administration (FHA), U.S. Department of Agriculture (USDA), U.S. Department of Veterans Affairs (VA), and Fannie Mae or Freddie Mac guidelines.
- (12) Contract--The executed written Agreement between the Department and an administrator performing an Activity related to a single family program that describes performance requirements and responsibilities assigned by the document. May also be referred to as "agreement."
- (13) Contract Administrator (CA)--Same as "Administrator."
- (14) Deferred Payment Loan--Any loan which includes deferral of payments.
- (15) Deobligate--The cancellation or release of funds as a result of the termination or reduction of a Contract or Agreement between the Department and the Administrator.
- (16) Department--The Texas Department of Housing and Community Affairs as defined in Chapter 2306.
- (17) Developer--Any person, general partner, or affiliate of a person who owns or proposes a Development or expects to acquire control of a Development and is the person responsible for performing under the contract with the Department.
- (18) Domestic Farm Laborer--Individuals (and the family) who receive a substantial portion of their income from the production or handling of agricultural or aquacultural products.
- (19) Draw--Funds requested by the Administrator, approved by the Department and subsequently disbursed to the Administrator.
- (20) Executive Director--Director of the Department, as defined in Chapter 2306.
- (21) Forgivable Loan--Financial assistance in the form of money that, by Agreement, is not required to be repaid if the terms of the mortgage loan are met.
- (22) HOME Program--HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.
- (23) Household--One or more persons occupying a rental unit or owner-occupied Single Family Housing Unit. May also be referred to as a "family."
- (24) Housing Contract System (HCS)--The electronic information system established by the Department to be used for tracking, funding, and reporting single family contracts and activities.
- (25) HUD--The United States Department of Housing and Urban Development or its successor.
- (26) Life of Loan Flood Certification--Tracks the flood zone of the Single Family Housing Unit for the life of the loan.
- (27) Loan--Same as "mortgage loan as defined in Chapter 2306."
- (28) Loan Assumption--An Agreement between the buyer and seller of Single Family Housing Unit that the buyer will make remaining payments and adhere to terms and conditions of an existing mortgage loan on the Single Family Housing Unit and program requirements. A mortgage loan assumption requires Department approval.
- (29) Loan to Value (LTV)--The amount of the mortgage loan(s) divided by the Single Family Housing Unit's appraised value, excluding Forgivable Loans.
- (30) Manufactured Housing Unit (MHU)--A structure that meets the requirements of Texas Manufactured Housing Standards Act, Texas Occupations Code, Chapter 1201 or FHA guidelines as required by the Department.
- (31) Nonconforming Mortgage Loan--Any mortgage loan that does not meet the definition of a "Conforming Mortgage Loan" defined in paragraph (11) of this section.
- (32) Neighborhood Stabilization Program (NSP)--A HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA) and §1497 of the Wall

Street Reform and Consumer Protection Act of 2010, as a supplemental allocation to the CDBG Program.

(33) NOFA--Notice of Funding Availability.

(34) Nonprofit Organization--An organization that is organized as such under state or federal laws and does not have a pending Application for nonprofit status.

(35) Open Application Cycle--A defined period of time in which Applications may be submitted according to a published NOFA and which will be reviewed on a first-come, first-served basis until the NOFA is closed.

(36) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in the collateral.

(37) Persons with Disabilities--Any person who has a physical or mental impairment that substantially limits one or more major life activities and has a record of such impairment; or is regarded as having such impairment.

(38) Principal Residence--The primary Single Family Housing Unit that a Household inhabits. May also be referred to as "primary residence."

(39) Program--The specific fund source from which single family funds are applied for and used.

(40) Program Income--Gross income received by the Administrator directly generated from the use of Single Family funds.

(41) Program Manual--A set of guidelines designed to be an implementation tool for the single family programs which allows the Administrator to search for terms, statutes, regulations, forms and attachments. The program manual is developed by the Department and amended or supplemented from time-to-time.

(42) Program Rule--Chapters of this title which pertain to specific single family program requirements.

(43) Reconstruction--The demolition and rebuilding a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of Application. Reconstruction includes replacing existing, sub-standard MHUs with a new MHU or site built house. MHUs must be installed according to the manufacturer's installation instructions and in accordance with state laws and regulations.

(44) Reservation--Funds set-aside for a Household Applicant or single family activity registered in the Department's registration system.

(45) Reservation System--The Department's computer registration system(s) that allows Administrators to reserve funds for a specific Household.

(46) Resolution--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws.

(47) Self-Help--Housing programs that allow low, very low, and extremely low-income families to build or rehabilitate their Single Family Housing Units through their own labor or volunteers.

(48) Single Family Housing Unit--A home designed and built ~~to support the habitation of~~ for one person or one Household for rental or owner-occupied. This includes the acquisition, construction, reconstruction or rehabilitation of an attached or detached unit. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

- (49) Soft costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs. May also be referred to as "direct delivery" costs.
- (50) Subgrantee--Same as "Administrator."
- (51) Subrecipient--Same as "Administrator."
- (52) TAC--Texas Administrative Code.
- (53) TREC--Texas Real Estate Commission.

§20.4. Eligible Single Family Activities.

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (9) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include:

- (1) acquisition or acquisition with rehabilitation including accessibility modifications to single family housing units. The rehabilitation, or New Construction of Single Family Housing Units;
- (2) rehabilitation or reconstruction of existing housing on the same site;
- (3) new construction of site-built housing on the same site to replace an existing owner-occupied Manufactured Housing Unit (MHU);
- (4) replacement of existing owner-occupied housing with an MHU;
- (5) new construction of site-built housing on another site;
- (6) if housing unit is uninhabitable as a result of disaster or condemnation by local government, the Household is eligible for the New Construction of site-built housing or an MHU under this section provided the assisted Household documents that the Single Family Housing Unit was previously their Principal Residence through evidence of a homestead exemption from the local taxing jurisdiction and Household certification;
- (7) the refinance of an existing mortgage;
- (8) tenant-based rental assistance; and
- (9) any other Single Family Activity as determined by the Department.

(c) Rehabilitation of an MHU is not an eligible Activity.

§20.5. Funding Notices.

(a) The Department will make funds available for eligible Administrators for single family activities through NOFAs, requests for qualifications (RFQs), request for proposals (RFPs) or other methods for the release of funding describing the submission and eligibility guidelines.

(b) Funds may be allocated through contract awards or by providing authority to submit Reservations.

(c) Funds may be subject to regional allocation in accordance with Chapter 2306.

(d) The Department will develop and publish application materials for participation in the contract system and/or reservation systems. Eligible Applicants must comply with the provisions of the application materials and NOFA and are responsible for the accuracy and timely completion and submission of all Applications.

§20.6.Applicant Eligibility.

(a) Eligible Applicants may include entities such as units of local governments, nonprofit corporations, or other entities as further provided in the Program Rules and/or NOFA.

(b) Applicants shall be in good standing with the Texas Office of the Secretary of State and Texas Comptroller of Public Accounts, as applicable.

(c) Applicants shall comply with all applicable state and federal rules, statutes, or regulations.

(d) Resolutions must be provided in accordance with the applicable Program Rule or NOFA.

(e) The violations described in paragraphs (1) - (5) of this subsection may cause an Applicant and any Applications they have submitted, to be ineligible:

(1) Applicant did not satisfy all eligibility requirements described in the Program Rules and NOFA to which they are responding;

(2) Applicant failed to make timely payment on fee commitments or on debts to the Department and for which the Department has initiated formal collection or enforcement actions;

(3) Applicant failed to comply with any other provisions of debt instruments held by the Department including, but not limited to, such provisions as timely payment of property taxes and proper placement and maintenance of insurance;

(4) Applicant is debarred by HUD or the Department; or

(5) current or previous noncompliance. Each Applicant will be reviewed for compliance history by the Department. Applications submitted by Applicants found to be in material noncompliance or otherwise violating the Compliance Rules of the Department may be terminated and/or not recommended for funding.

(f) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.

(g) The Department may decline to fund any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.

§20.7. Household Eligibility Requirements.

- (a) The method used to determine Annual Income will be provided in the Program Rules or NOFA.
- (b) Households must occupy the Single Family Housing Unit as their Principal Residence for a period of time as established by the Program Rules or NOFA.

§20.8. Single Family Housing Unit Eligibility Requirements.

- (a) Unless otherwise provided in the NOFA, the Single Family Housing Unit must be located in the state of Texas, and must have good and marketable title.
- (b) Real property taxes assessed on an owner-occupied Single Family Housing Units must be current (including prior years) or the Household must be successfully participating in an approved payment plan with the taxing authority.
- (c) An owner occupied Single Family Housing Unit must not be encumbered with any liens which impair the good and marketable nature of the title. The Department will require the owner to be current on any existing mortgage loans or home equity loans prior to assistance.

§20.9. General Administration and Program Requirements.

- (a) Costs incurred by Administrator for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the U.S. General Services Administration (GSA) per diem rates at: <http://www.gsa.gov/portal/category/21287>.
- (b) Administrators must comply with all applicable local, state, and federal laws, regulations, and ordinances for procurement with single family program funds.
- (c) Administrators may not retain any Program Income generated through the operation of a single family program or Activity.

§20.10. Inspection Requirements for Construction Activities.

- (a) Initial Inspections.
 - (1) An initial inspection report must be provided to both the Department and the homeowner or homebuyer for all construction projects. A rehabilitation project is eligible for Reconstruction if the initial inspection report estimates that the cost to rehabilitate exceeds the rehabilitation threshold, which shall be \$40,000, or the pre-rehabilitation value of the structure to be rehabilitated, whichever is less.

(2) All deficiencies identified in the initial inspection report shall be addressed in the work write-up for rehabilitation projects.

(b) Construction Completion Requirements and Final Inspections.

(1) Compliance with Accessibility Requirements--Applicant must submit one of the documents described in subparagraph (A) or (B) of this paragraph to ensure that requirements of Texas Government Code §2306.514 and other Program Rules are met.

(A) A copy of the proposed plans and specifications for Reconstruction and New Construction of Single Family Units. All plans submitted must be prepared and executed by an architect licensed by the state of Texas; or

(B) A certification of compliance which includes the seal of the architect.

(2) Final inspections are required for all rehabilitation, reconstruction or new construction activities and must ensure that the construction on the Single Family Housing Unit is complete and meets all applicable state and local codes, and have no observed deficiencies related to health and safety standards.

(3) A copy of the final inspection report must be provided to the Department and the Household for rehabilitation, reconstruction and new construction activities.

(4) A Certificate of occupancy shall be issued prior to final payment for construction, as applicable. If no certificate of occupancy is available from an incorporated area, a document from the local government entity showing that the Single Family Housing Unit has passed all required building codes must be obtained and provided to the Department.

(5) Any deficiencies noted on the certificate of occupancy or the inspector's report must be corrected prior to the final Draw.

(6) Cosmetic issues such as paint, wall texture, etc. will not be required to be corrected if utilizing a self-help construction program.

(c) Requirements for Use of professional inspectors or qualified inspection individuals.

(1) Professional home inspectors or qualified inspection individuals shall conduct all initial and final inspections for new construction, reconstruction and rehabilitation activities utilizing the Department's single family program funds.

(2) Municipal code officials, as applicable, shall conduct inspections inside of city limits and extraterritorial jurisdictions.

(3) Professional home inspector requirements.

(A) Inspections may be conducted by a professional home inspector as evidence by the Administrator to ensure inspections are performed by a person who has received current and comprehensive training to enable them to conduct effective inspections. Completion of the training required to be a licensed TREC inspector would be acceptable evidence of such training.
licensed Texas Real Estate Commission (TREC) Inspector.

(B) The ~~TREC~~ professional home inspector may be a staff member of the Administrator.

(4) Qualified inspection individual Requirements.

(A) Inspections may be conducted by a qualified inspection individual if certified by the Administrator that the individual has professional certifications, relevant education or minimum five (5) years experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical, plumbing and

electrical systems found in Single Family Housing Units, as evidenced by inspection logs, certifications, training courses or other documentation.

(B) Inspections may be performed by qualified inspection individuals if allowed by the Program Rules or NOFA.

(C) Qualified inspection individuals may be a staff member of the Administrator.

~~(D) Qualified inspection individuals will not be permitted to be utilized after September 1, 2014.~~

(d) Other inspection requirements.

(1) All inspectors shall inspect properties utilizing applicable construction standards prescribed by the Department; and

(2) All inspectors shall utilize Department approved and prescribed inspection forms/checklists for applicable inspections.

(e) Single Family Housing Units receiving only utility connections under the Colonia Self Help Center Program are exempt from inspection requirements.

§20.11. Survey Requirements.

When assistance is provided in the form of an acquisition mortgage loan:

(1) a Category 1A (Texas Society of Professional Surveyors) land title survey is required for single family acquisition where:

(A) the Department is the first lien holder and the rehabilitation activity funds are used for construction because:

(i) the Rehabilitation project is enlarging the footprint; or

(ii) the project is Reconstruction or New Construction; and

(D) if allowed by the Program Rules or NOFA, existing surveys for acquisition only activities may be used if the Household certifies that no changes were made to the footprint of any building or structure, or to any improvement on the Single Family Housing Unit;

(2) the Department reserves the right to determine the survey requirements on a per project basis if additional survey requirements would, at the sole discretion of the Department, benefit the project.

§20.12. Insurance Requirements for Acquisition Activities.

(a) Title Insurance requirements. A Mortgagee's Title Insurance Policy is required for all non-conforming Department mortgage loans as required by the Program Rules or NOFA, exclusive of loans financed with mortgage revenue bonds or through the Taxable Mortgage Program. The title insurance must be written by a title insurer licensed or authorized to do business in the jurisdiction where the Single Family Housing Unit is located. The policy must be in the amount of the loan. The Mortgagee named shall be: "Texas Department of Housing and Community Affairs."

(b) Title Reports.

(1) Title reports may be provided in lieu of title insurance only for grants if title insurance is not available. Title reports shall be required when the grant funds exceed \$20,000.

- (2) The preliminary title report may not be older than allowed by the Program Rules or NOFA.
- (3) Liens, or any other restriction or encumbrances that impair the good and marketable nature of the title must be cleared on or before closing of the Department's transaction.

(c) Builder's Risk (non-reporting form only) is required where construction of the Single Family Housing Unit is being financed by the Department in an amount not less than the cost of construction. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(d) Hazard Insurance.

(1) The hazard insurance provisions are not applicable to HOME Program activities unless required in the Program Rule.

(2) If Department funds are provided in the form of a loan, then:

(A) the Department requires property insurance for fire and extended coverage;

(B) Homeowner's policies or package policies that provide property and liability coverage are acceptable. All risk policies are acceptable;

(C) the amount of hazard insurance coverage at the time the mortgage loan is funded should be no less than 100 percent of the current insurable value of improvements; and

(D) the Department should be named as a loss payee and mortgagee on the hazard insurance policy.

(e) Flood insurance must be maintained for all structures located in special flood hazard areas where the U.S. Federal Emergency Management Agency (FEMA) has mandated flood insurance coverage.

(1) A Household may elect to obtain flood insurance even though flood insurance is not required. However, the Household may not be coerced into obtaining flood insurance unless it is required in accordance with this section.

(2) Evidence of insurance, as required in this chapter, must be obtained prior to mortgage loan funding. Insurance premiums for at least twelve (12) months and up to two (2) months of reserves may be collected at loan closing. The Department must be named as loss payee on the policy.

§20.13.Loan, Lien and Mortgage Requirements for Acquisition Activities Only.

(a) The requirements in this section shall apply to non-conforming mortgage loans, unless otherwise provided in the Program Rules, NOFA or program guidelines.

(b) The fee requirements described in paragraphs (1) - (3) of this subsection apply to non-Conforming Mortgage Loans:

(1) Allowable expenses are restricted to reasonable third party fees.

(2) Fees charged by third party mortgage lenders are limited to the greater of 2 percent of the mortgage loan amount or \$3,500, including but not limited to origination, Application, and/or underwriting fees.

(3) Fees paid to other parties that are supported by an invoice and reflected on the HUD-1 will not be included in the limit.

(c) Maximum Debt Ratio. The total debt-to-income ratio may not exceed 45 percent. A borrower's spouse who does not apply for the mortgage loan will be required to execute the information disclosure form and the deed of trust as a "non-purchasing" spouse. The "non-purchasing" spouse will not be required to execute the note. For credit underwriting purposes the non-purchasing spouse's income, debts, and obligations will be considered in the borrower's total debt-to-income ratio.

(d) The Department reserves the right to deny assistance in the event that the senior lien conditions are not to the satisfaction of the Department, as outlined in the Program Rules or NOFA.

(e) Lien position requirements.

(1) A mortgage loan made by the Department shall be secured by a first (1st) lien on the real property if the Department's loan is the largest mortgage loan secured by the real property; or

(2) The Department may accept a Parity Lien position if the original principal amount of the leveraged mortgage loan is equal to or greater than the Department's loan; or

(3) The Department may accept a subordinate lien position if the original principal amount of the leveraged mortgage loan is at least \$1,000 or greater than the Department's loan. However liens related to other subsidized funds provided in the form of grants and non-amortizing loans, such as deferred payment or Forgivable Loans, must be subordinate to the Department's loan.

(4) A subordinate mortgage loan may be re-subordinated, at the discretion of the Department, and as provided in the Program Rules or NOFA.

(f) Escrow Accounts.

(1) An escrow account must be established if:

(A) the Department holds a first lien mortgage loan which is due and payable on a monthly basis to the Department; or

(B) the Department holds a subordinate mortgage loan and the first lien lender does not require an escrow account, the Department may require an escrow account to be established.

(2) If an escrow account held by the Department is required under one of the provisions described in this subsection, then the provisions described in subparagraphs (A) - (F) of this paragraph are applicable:

(A) The borrower must contribute monthly payments to cover the anticipated costs of real estate taxes, hazard and flood insurance premiums, and other related costs as applicable;

(B) Escrow reserves shall be calculated based on land and completed improvement values;

(C) The Department may require up to two (2) months of reserves for hazard and/or flood insurance and property taxes to be collected at the time of closing to establish the required Escrow account;

(D) In addition, the Department may also require that the property taxes be prorated at the time of closing and those funds be deposited with the Department;

(E) The borrower will be required to deposit monthly funds to an escrow account with the mortgage loan servicer in order to pay the taxes and insurance. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due; and

(F) These funds are included in the borrower's monthly payment to the Department or to the servicer. The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) if applicable.

§20.14. Amendments and Modifications to Written Agreements and Contracts.

(a) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver amendments to any written Agreement or contract provided that the requirements of this section are met.

(b) Time extensions. The Director or his/her designee may grant up to a cumulative twelve (12) months extension to the end date of any contract unless otherwise indicated in the Program Rules. Any additional time extension granted by the Director shall include a statement by the Director identifying the unusual, non-foreseeable or extenuating circumstances justifying the extension. If more than a cumulative twelve (12) months of extension is requested and the Department determines there are no unusual, non-foreseeable, or extenuating circumstances, it will be presented to the Board for approval, approval with modifications, or denial of the requested extension.

(c) Award or Contract Reductions. The Department may decrease an award for any good cause including but not limited to the request of the Administrator, insufficient eligible costs to support the award, or failure to meet deadlines or benchmarks.

(d) Changes in beneficiaries. Reductions in contractual deliverables and beneficiaries shall require a contract amendment. Increases in contractual deliverables and beneficiaries that do not shift funds, or cumulatively shift less than 10 percent of total award or contract funds, shall be completed through a contract modification.

(e) Award and Contract Increases.

(1) Up to a cumulative 25 percent or \$50,000 (whichever is greater) increase in specific single family program's contract may be added to the funding originally awarded by the Department.

(2) Requests for increases in funding will be evaluated by the Department on a first-come, first-served basis to assess the capacity to manage additional funding, the demonstrated need for additional funding and the ability to expend the increase in funding within the contract period.

(3) The requirements to approve an increase in funding shall include, at a minimum, Administrator's ability to continue to meet existing deadlines, benchmarks and reporting requirements.

(4) Funding may come from program funds, deobligated funds or program income.

(5) Qualifying requests will be recommended to the Executive Director for approval.

(6) The Board must approve requests in excess of the cumulative 25 percent or \$50,000 threshold.

(f) The Executive Director may approve contract budget changes or amendments that do not significantly decrease the benefits to be received by the Department.

(g) The single family program's Director may approve contract budget modifications provided the guidelines described in paragraphs (1) - (4) of this subsection are met:

(1) funds must be available in a budget line item;

(2) the budget change(s) are less than 10 percent of the total Activity budget;

(3) if units or activities are desired to be increased, but funds must be shifted from another budget line item in which units or activities from that budget line item have been completed, a contract amendment will only be necessary if the cumulative budget changes exceed 10 percent of the contract amount; and

(4) the cumulative total of all contract budget modifications cannot exceed 10 percent of the total contract's budget amount.

(5) If these guidelines are not met, a contract amendment will be required.

(h) The Department may terminate a contract in whole or in part if the Administrator does not achieve performance benchmarks as outlined in the Contract or NOFA.

(i) In all instances noted in this section, where an expected loan transaction is involved, loan instruments will be modified accordingly at the expense of the Administrator/borrower.

§20.15.Sanctions and Deobligation.

The sanctions (except debarment) and deobligation remedies identified under other provisions of this title apply to all single family program activities.

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BOARD ACTION REQUEST
OFFICE OF COLONIA INITIATIVES (OCI)
OCTOBER 9, 2012

Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 2, §§2.1 – 2.13 concerning the Texas Bootstrap Loan Program Rule and an order adopting a new 10 TAC Chapter 24, §§24.1 – 24.13 concerning the Texas Bootstrap Loan Program Rule and directing their publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, at the Board meeting of July 26, 2012, the proposed repeal of the current Texas Bootstrap Loan Program Rule and the proposed new Texas Bootstrap Loan Program Rule were approved for publication in the *Texas Register* for public comment and the public comment period has ended

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the repeal of 10 TAC Chapter 2, §§2.1 – 2.13 concerning the Texas Bootstrap Loan Program Rule and the new 10 TAC Chapter 24, §§24.1 – 24.13 concerning the Texas Bootstrap Loan Program Rule to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

BACKGROUND

The proposed repeal and new chapter were approved for publication at the Board meeting of July 26, 2012 and were published in the August 10, 2012 issue of the *Texas Register* to allow for public comment. The public comment period closed on September 10, 2012.

No comments were received.

Attachment A: Preamble and New Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the new 10 TAC Chapter 24, §§24.1 – 24.13 concerning the Texas Bootstrap Loan Program Rule. Sections 24.3, 24.4, 24.7-24.9, and 24.12 are adopted with non-substantive corrections to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859). Sections 24.1, 24.2, 24.5, 24.6, 24.10, and 24.11 are adopted without change and will not be republished.

REASONED JUSTIFICATION: Recently the Department reorganized and restructured all of its housing and community affairs programs. Part of the purpose of the reorganization was to separate single and multi-family housing program delivery and to standardize much of the single family housing program procedures. These changes were implemented for the purpose of improving the delivery of housing solutions to Texans. This rule accomplishes those goals by better aligning the Texas Bootstrap Loan Program with the new 10 TAC Chapter 20, concerning the Single Family Programs Umbrella Rule.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the new section(s) were accepted in writing and by fax. No comments were received concerning the repeal or new chapter.

The Board approved the final order adopting the new sections, as well as other non-substantive corrections, on October 9, 2012.

STATUTORY AUTHORITY: The new section is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules. Additionally, the new sections are proposed pursuant to Texas Government Code, Chapter 2306, Subchapter FF, which specifically authorizes the Department to administer the Texas Bootstrap Loan Program.

§24.1.Purpose.

(a) This chapter clarifies the administration of the Texas Department of Housing and Community Affairs' (the "Department") Texas Bootstrap Loan Program, also known as the Owner-Builder Loan Program. The Texas Bootstrap Loan Program provides assistance to income-eligible individuals, families and households to purchase or refinance real property, on which to build new residential housing or improve existing residential housing. The Program is administered in accordance with Texas Government Code, Chapter 2306, Subchapter FF and Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

(b) The Texas Bootstrap Loan Program is a self-help construction Program that is designed to provide very low-income families an opportunity to help themselves attain homeownership or repair their existing homes through sweat equity. All Owner-Builder applicants under this Program are required to provide through personal labor at least 65 percent of labor necessary to build or rehabilitate the home. All applicable building codes and housing standards are adhered to under this Program. In addition, nonprofit organizations can combine these funds with other sources of funds. The total amount of Amortized repayable loans made by the Department and other entities to an Owner-Builder may not exceed \$90,000 per housing unit.

§24.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306 or Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

(1) Loan Origination Agreement--A written agreement, including all amendments thereto between the Department and the Nonprofit Owner-Builder Housing Provider (NOHP) that authorizes the NOHP to originate certain loans under the Texas Bootstrap Loan Program.

(2) NOHP--Nonprofit Owner-Builder Housing Provider.

(3) Owner-Builder--A person, other than a person who owns or operates a construction business and who owns or purchases a piece of real property through a warranty deed and deed of trust; or is purchasing a piece of real property under a contract for deed entered into before January 1, 1999; and who undertakes to make improvements to that property.

(4) Participant--An organization which submits an application to the Department to be certified as an NOHP.

(5) Program--Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program.

(6) Self-Help Housing Construction--The self-help housing process enables Owner-Builders to rehabilitate, reconstruct or construct their own homes, usually working together in groups on other eligible Owner-Builder's houses at the same time. Owner-Builders use their own "sweat equity" to reduce the cost of their homes.

§24.3. Allocation of Funds.

(a) The Department administers all Texas Bootstrap Loan Program funds provided to the Department in accordance with Texas Government Code, Chapter 2306, Subchapter FF. The Department shall solicit gifts and grants to make loans under this chapter.

(b) The Department may also make loans under this chapter from:

- (1) available funds in the housing trust fund established under Texas Government Code, §2306.201;
- (2) federal block grants that may be used for the purposes of this chapter; and
- (3) the Owner-Builder revolving loan fund established under Texas Government Code, §2306.7581.

(c) The Department shall establish an Owner-Builder revolving loan fund for the sole purpose of funding loans pursuant to Texas Government Code, §2306.7581.

(d) The Department shall deposit money received in repayment of a loan to the Owner-Builder revolving loan fund pursuant to Texas Government Code, §2306.7581.

(e) Each state fiscal year the Department shall transfer at least \$3 million to the Texas Bootstrap Loan Program revolving fund from money received under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§12701, et seq.), from money in the housing trust fund; or from money appropriated by the legislature to the Department pursuant to Texas Government Code §2306.7581.

(f) In a state fiscal year the Department may use not more than 10 percent of the revenue available to enhance the ability of tax-exempt organizations described by Texas Government Code, §2306.755(a) to enhance the number of such organizations that are able to implement the Program. The Department shall use that available revenue to provide financial assistance, technical training and management support.

§24.4. Participant Requirements.

(a) Eligible Participants. The following organizations or entities are eligible to participate in the Texas Bootstrap Loan Program:

- (1) Colonia Self Help Centers established under Texas Government Code, Chapter 2306, Subchapter Z; or
- (2) Nonprofit Owner-Builder Housing Provider (NOHP) certified by the Department pursuant to Texas Government Code, §2306.755.

(b) Eligibility requirements. Participant must be certified as an NOHP or must be a Colonia Self-Help Center and must have entered into a Loan Origination Agreement with the Department in order to be eligible to participate in the Texas Bootstrap Loan Program. The Participant must have the capacity to administer and manage resources as evidenced by previous experience of managing state and/or federal programs.

§24.5. Program Activities.

Texas Bootstrap Loan Program funds may be used to finance affordable housing and promote homeownership through acquisition, new construction, reconstruction, or rehabilitation of residential housing. All eligible Participants that satisfy the requirements of this chapter may reserve funds and submit a loan application on behalf of an Owner-Builder applicant for the Texas Bootstrap Loan Program.

§24.6. Prohibited Activities.

The activities described in paragraphs (1) - (7) of this section are prohibited in relation to the origination of a Texas Bootstrap Loan Program loan, but may be charged as an allowable cost by a third (3rd) party lender for the origination of all other loans originated in connection with a Texas Bootstrap Loan Program loan:

- (1) payment of delinquent property taxes or related fees or charges on properties to be assisted with Texas Bootstrap Loan Program funds;
- (2) Loan Origination Fees;
- (3) Application fee;
- (4) discount fees;
- (5) underwriter fee;
- (6) loan processing fees; and
- (7) other fees not approved by the Department in writing prior to expenditure.

§24.7. Distribution of Funds.

(a) Set-Asides. In accordance with Texas Government Code, §2306.753(d), at least two-thirds (2/3) of the dollar amount of loans made under this chapter in each fiscal year must be made to Owner-Builders whose property is located in a census tract that has a median household income

that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available.

(b) Balance of State. The remaining one-third (1/3) of the dollar amount of loans may be made to Owner-Builders statewide.

(c) Once a Reservation has been awarded, the Department may grant one forty-five (45) day extension of required benchmarks due to extenuating circumstances that were beyond the Owner-Builder's and/or the NOHPs control. If the NOHP cannot meet the required benchmarks after the forty-five (45) day extension, the Reservation will be cancelled. If funds are available the NOHP may receive another Reservation on the same Owner-Builder applicant and the NOHP must submit an updated application to ensure the Owner-Builder applicant still meets all guidelines and requirements under Texas Bootstrap Loan Program Rule and Program Manual.

§24.8. Criteria for Funding.

(a) The Department will distribute the funds in accordance with the Housing Trust Fund (HTF) Plan in effect at the time. The Department will publish an announcement for a Notice of Funding Availability (NOFA) in the *Texas Register* and post the NOFA on the Department's website. The NOFA will establish and define the terms and conditions for the submission of Reservations and/or applications. The Department may also set a deadline for receiving Reservations and/or applications. The NOFA will also indicate the approximate amount of available funds. The Department may increase funds in the NOFA from time to time without republishing the NOFA in the *Texas Register* and Department's website.

(b) A nonprofit organization must have been certified by the Department as a Nonprofit Owner-Builder Housing Provider (NOHP) and must have executed a Loan Origination Agreement to be eligible to submit a Reservation on behalf of an Owner-Builder applicant. A Reservation containing false information will be disqualified. The Department will review and process all Owner-Builder applications in the order received. The NOHP will be notified in writing of the Department's determination.

(c) Reservations received by the Department in response to a NOFA will be handled as described in paragraphs (1) - (6) of this subsection.

(1) The Department will accept Reservations until all funds under the NOFA have been committed. The Department may limit the eligibility of Reservations in the NOFA.

(2) Each Reservation will be assigned a "received date" based on the date and time the Reservation was entered into the Texas Bootstrap Loan Program Reservation system. Each Reservation will be reviewed in accordance with the Program rules.

(3) Reservations and/or applications submitted on behalf of an Owner-Builder applicant must comply with all applicable Texas Bootstrap Loan Program requirements or regulations established in this chapter. Reservations and/or applications submitted on behalf of an Owner-Builder applicant that do not comply with such requirements may be disqualified. The NOHP will be notified in writing of any cancelled and/or disqualified Reservations and/or applications submitted on behalf of an Owner-Builder applicant.

(4) If a Reservation contains administrative deficiencies which, in the determination of the Department, require clarification or correction of information submitted at the time of the Reservation, the Department may request clarification or correction of such Administrative Deficiencies. The Department may request clarification or correction in a deficiency notice in the form of an email, facsimile or a telephone call to the NOHP advising that such a request has been transmitted.

(5) Prior to issuing an applicant eligibility letter the Department may decline to fund any Reservation entered into the Reservation system if the proposed housing activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Reservation which are entered, and may decide it is in the Department's best interest to refrain from committing the funds. If the Department has issued an applicant eligibility letter to the Owner-Builder applicant, but the NOHP and/or Owner-Builder applicant has not complied with all the Program rules and guidelines, the Department may suspend funding until the NOHP and/or Owner-Builder applicant has satisfied all requirements of the Program. If the NOHP is unable to cure any deficiencies within fifteen (15) days, the Department may provide a one-time fifteen (15) day extension or decline to fund the Reservation.

(6) The Department will give priority to Reservations to Owner-Builders with an annual income of less than \$17,500 and Reservations to Owner-Builders who will reside in counties and municipalities that agree in writing to waive the capital recovery fees, building permit fee or other fees related to the building of the houses to be built with the loan proceeds.

§24.9. Program Administration.

(a) Per household assistance from the Department for any Texas Bootstrap Loan Program loans may not exceed \$45,000 per-household pursuant to Texas Government Code, §2306.754(b). The Owner-Builder must obtain the amount necessary that exceeds \$45,000 from other sources of funds including other Department funds with the exception of funds being utilized to implement the Texas Bootstrap Loan Program. The total amount of Amortized repayable loans made by the Department and other entities to an Owner-Builder under the Program may not exceed \$90,000 pursuant to Texas Government Code, §2306.754(b).

(b) The Department, through a Nonprofit Owner-Builder Housing Provider (NOHP), shall make loans for Owner-Builder applicants to enable them to:

- (1) purchase or refinance real property on which to build new residential housing;
- (2) build new residential housing; or
- (3) improve existing residential housing.

(c) The NOHP will be granted a 6 percent administration fee upon completion of the house and closing of each mortgage loan.

(d) Upon approval by the Department, the nonprofit organization certified as an NOHP or Colonia Self-Help Centers shall enter into, execute, and deliver to the Department the Loan Origination Agreement.

(e) In the event the Department has additional funds in the same funding cycle, the Department, with Board approval, will distribute funds in accordance with this chapter.

(f) The Department may terminate the Loan Origination Agreement in whole or in part. If the NOHP has not achieved performance benchmarks as outlined in the NOFA, Loan Origination Agreement, and/or Program Manual. If the Owner-Builder applicant qualifies for the Program, the Department will issue an applicant eligibility letter (approval letter) which reserves the funds (up to \$45,000 per Reservation) for twelve (12) months from the date of the applicant eligibility letter. Owner-Builder applicant will not be required to re-qualify for the Program if the Owner-Builder applicant closes on the loan on or before the expiration date stated on the applicant eligibility letter issued by the Department. If the Owner-Builder fails to close on the loan on or before the expiration date stated on the applicant eligibility letter, the Owner-Builder applicant will be required to re-qualify for the Program.

(g) Roles and responsibilities for administering the Program contract. NOHPs are required to:

- (1) qualify potential Owner-Builders for loans;
- (2) provide Owner-Builder homeownership education classes;
- (3) supervise and assist Owner-Builders in building and/or rehabilitate housing;
- (4) facilitate loans made or purchased by the Department under the Program; and
- (5) implement and administer the Program on behalf of the Department.

(h) Loan Servicing Agreement. If the NOHP wishes to service the loans originated on behalf of the Department it must enter into a Loan Servicing Agreement with the Department. The

Department may grant the request upon reviewing the NOHP capacity to implement those specific functions.

(i) First Year Consultation Agreement. The NOHP agrees that if notified by the Department that Owner-Builder has failed to make a scheduled payment due under the Program loan, or other payments due under the Program loan documents issued under the Program, within the first twelve (12) months of funding, the NOHP will be required to meet with the Owner-Builder and provide counseling and assistance until the payments are made current. After consultation and in the event that the Department and NOHP are not able to reach a consensus about NOHPs effort to bring the Program loan current as required under this chapter, the Department in accordance with its administrative rules may apply appropriate graduated sanctions leading up to, but not limited to deobligation of funds and future debarment from participation in the Program.

(j) Administrative Fee. The NOHP may request their administrative fee upon completion of the house and closing of each mortgage loan.

(k) Blueprints. If NOHP's activity is interim or residential construction, NOHP must provide an original copy of the proposed blueprints to be approved by the Department prior to accepting applications. Blueprints must include the required construction requirements pursuant to Texas Government Code, §2306.514. All blueprints submitted for approval must be prepared and executed by an architect or engineer licensed by the state of Texas.

(l) Work Write-up. The NOHP must submit a work write-up for all rehabilitation projects. Work write-ups must be reviewed and approved by the Department, before rehabilitation is started.

(m) Loan Program requirements. The Department may purchase or originate loans that conform to the lending parameters and the specific loan Program requirements as described in paragraphs (1) - (13) of this subsection:

(1) maximum Loan amount not to exceed \$45,000. If it is not possible for the Owner-Builder to purchase necessary real property and build adequate housing for \$45,000, the NOHP must obtain additional funding from other sources of funds;

(2) minimum Loan amount is \$1,000;

(3) the total amount of all Amortized repayable loans under the Program may not exceed \$90,000. Deferred forgivable loans are not included in these total loan calculations;

(4) may not exceed a term of thirty (30) years;

(5) minimum loan term of five (5) years;

(6) zero percent (0 percent) non-interest loans;

(7) when refinancing a contract for deed, the Department will not disburse any portion of the Department's loan until the Owner-Builder receives a deed to the property;

(8) Owner-Builder(s) must have resided in this state for the preceding six (6) months prior to the date of loan application;

(9) Credit Qualifications. Owner-Builder applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. In order for the Department to make a reasonable determination, the Department will obtain a tri-merge credit report on all Owner-Builder applicants submitted to the Department for approval;

(10) unacceptable credit includes, but is not limited to:

(A) payments on any open consumer, retail and/or installment account (i.e. auto loans, signature loans, payday loans, credit cards or any other type of retail and/or installment loan) which has been delinquent for more than thirty (30) days on three (3) or more occasions within the last twelve (12) months, unless the Owner-Builder applicant has been current for the four (4) months immediately preceding the application date. For purposes of this subparagraph, the credit history of an Owner-Builder who is a Domestic Farm Laborer and receives a substantial portion of his/her income from the production or handling of agriculture or aquacultural products will not apply. However, Owner-Builder must still demonstrate the ability and willingness to meet debt obligations;

(B) a foreclosure which has been completed within the last twelve (12) months prior to the date of loan application;

(C) an outstanding Internal Revenue Service tax lien or any other outstanding tax liens where Owner-Builder applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of loan application;

(D) a court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding must be paid off. The Department may consider this account in good standing if the Owner-Builder applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of loan application;

(E) any account (with the exception of a medical account) that has been placed for "collection," "profit and loss" or "charged off" within the last twelve (12) months prior to the date of loan application, unless the account has been or will be paid in full after receiving notice from the Department. If there are other, unpaid or unresolved accounts that were placed for "collection," "profit and loss," or "charged off" prior to the last twelve (12) months prior to the date of loan application then. Owner-Builder applicant must also have re-established at least one line of credit that must be in good standing with no delinquencies for at least six (6) months prior to the date of loan application. Type of debts that will be taken into consideration may include, but are not limited to the following: rental history, cell phone, utility, child care, auto insurance, etc.;

(F) any delinquency on any government debt unless the Owner-Builder applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of loan application;

(G) a bankruptcy that has been filed within the past twelve (12) months prior to the date of loan application;

(H) any delinquency on child support unless the Owner-Builder applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of loan application;

(11) subparagraphs (A) - (C) of this paragraph will not be considered indicators of unacceptable credit:

(A) a bankruptcy in which debts were discharged more than twelve (12) months prior to the date of loan application. Owner-Builder applicant must also have re-established at least one line of credit that must be in good standing with no delinquencies for at least six (6) months prior to the date of loan application. In addition the Owner-Builder applicant must submit to the Department a letter of explanation regarding the circumstances that led to the bankruptcy which is acceptable to the Department;

(B) where an Owner-Builder applicant has successfully completed a debt restructuring plan and has demonstrated a willingness to meet obligations when due for the six (6) months prior to the date of loan application. If an Owner-Builder applicant is currently participating in a debt management plan, the trustee or assignee must provide a letter to the Department stating that they are aware and agree with the Owner-Builder applicant applying for a mortgage loan. In addition Owner-Builder applicant must have successfully completed at least six (6) months of the debt management plan with no delinquent payments;

(C) medical accounts that are delinquent or that have been placed for collection;

(12) the Owner-Builder applicant's liabilities include all revolving charge accounts, real estate loans, alimony, child support, installment loans, and all other debts of a continuing nature with more than ten (10) monthly payments remaining. Debts for which the Owner-Builder applicant is a co-signer will be included in the total monthly obligations unless the other party to the debt provides evidence showing that the Owner-Builder applicant has not been making payments on the co-signed loans for the previous twelve (12) months. There may be no late payments within the past twelve (12) months or the debt will be included. Payments on installment debts which are paid off prior to funding are not included for qualification purposes. Payments on all revolving debts (e.g. credit cards, payday loans, lines of credit, unsecured loans) and certain types of installment loans that appear to be recurring in nature will be included in debt ratio calculation, even if the Owner-Builder applicant intends to pay off the accounts, since the Owner-Builder applicant can reuse those credit sources, unless the account is paid off and closed. Payments on any type of loan that have been deferred must be deferred for at least eighteen (18)

months from the date of loan application in order for the debt not to be included in the debt ratio calculation; and

(13) the residence must be occupied as the Principal Residence of the Owner-Builder within thirty (30) days of the later of the end of the construction period or the closing of the loan. Any additional habitable structures must be removed from the property prior to closing. Portion of the former structure may be utilized as storage upon the Department's written approval prior to closing.

(n) Loan Assumption. A Program loan is assumable if the Department determines that the Owner-Builder applicant complies with all Program requirements in effect at the time of the assumption.

§24.10.Owner-Builder Qualifications.

The Owner-Builder must:

- (1) own or be purchasing a piece of real property through a warranty deed or Contract for Deed;
- (2) not have an annual household income that exceeds 60 percent of the greater of the state or local area median family income as determined by HUD's income table;
- (3) demonstrate the willingness and ability to repay the loan;
- (4) execute a Self-Help Agreement committing to provide through personal labor at least 65 percent of the labor necessary to build or rehabilitate the proposed housing working through a state-certified NOHP; or provide an amount of labor equivalent to 65 percent in connection with building or rehabilitating housing for others through a state certified NOHP; provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state certified NOHP or if due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor of friends, family or volunteers at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state certified NOHP;
- (5) not have cash assets in excess of \$25,000 (excluding retirement and/or 401K accounts);
- (6) successfully complete an Owner-Builder homeownership education class prior to loan funding;
- (7) be given priority for loans if the Owner-Builder has an income of less than \$17,500 annually; and
- (8) not have any outstanding judgments and/or liens on the property.

§24.11.Types of Funding Transactions.

All mortgage loans will be evidenced by a promissory note and will be secured by a lien on the subject property. The following transaction types are permitted by the Department under the Program.

(1) Purchase Money. In a purchase money transaction, all proceeds are used to finance the purchase of a single-family dwelling unit and/or a piece of real property which will be the Owner-Builders primary residence within thirty (30) days of closing the loan. In this instance, a permanent loan is made and the Owner-Builder's repayment obligation begins immediately. In certain situations, eligible closing costs may be financed by the loan proceeds.

(2) Residential Construction (One Time Closing with Owner-Builder). An interim construction loan, also known as a residential construction loan, this transaction is treated as a purchase, because it is a one-time closing with the Owner-Builder. Construction period may be up to twelve (12) months.

(3) Interim Construction (Closing with NOHP). Interim construction is a commercial transaction between the NOHP and the Department. The construction period may be up to twelve (12) months; once the construction of the home is completed the closing with the Owner-Builder will take place as a purchase money transaction.

(4) Purchase of Mortgage Loans. The Department may purchase and take assignments from mortgage lenders of notes and other obligations evidencing loans or interest in loans for purchase money transactions as described in paragraph (1) of this section or for residential construction transactions as described in paragraph (2) of this section.

§24.12.Property Guidelines and Related Issues.

(a) If the Nonprofit Owner-Builder Housing Provider (NOHP) is utilizing Program funds to construct the home they must conform to Texas Government Code, §2306.514 and execute a Construction Loan Agreement.

(1) If the property is located outside an incorporated area inspections will be required to be completed by a professional inspector licensed by the Texas Real Estate Commission for all new construction and reconstruction projects. For all housing rehabilitation projects an initial and final inspection will be required and completed by a licensed inspector.

(2) The NOHP and/or the Owner-Builder Applicant will be responsible for the selection and/or the fee of a licensed inspector.

(b) Appraisals are required by the Department on each property prior to funding.

(c) Loan to value ratio may not exceed 95 percent of the appraised value, the lien amounts of forgivable loans and/or grants will not be included in the loan-to-value calculation.

(d) Combined loan to value ratio may not exceed 100 percent of the appraised value, the lien amounts of forgivable loans will also be included in the combined loan to value ratio.

(e) Improvement Surveys are required on each property.

(f) Category 1A (Texas Society of Professional Surveyors) ("lot survey") are required for all interim and residential construction loans. Upon Department approval a recorded subdivision plat may be used in lieu of lot surveys for interim construction loans only. Upon completion of construction an improvement survey must also be provided.

(g) Title Commitment. A copy of the preliminary title report including complete legal description, and copies of covenants, conditions and restrictions, easements, and any supplements thereto is required. The preliminary title report should not be more than thirty (30) days old at the time the submission package (Submission or Funding Package) is sent to the Department.

§24.13. Nonprofit Owner-Builder Housing Program (NOHP) Certification.

(a) Definitions and Terms. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Applicant--A nonprofit organization that has submitted a request for certification as a NOHP to the Department. An Applicant for the Texas Bootstrap Loan Program must be a NOHP certified by the Department.

(2) Bylaws--A rule or administrative provision adopted by a corporation for its internal governance. Bylaws are enacted apart from the Certificate of Formation. Bylaws and amendments to bylaws must be formally adopted in the manner prescribed by the organization's certificate of formation or current bylaws by either the organization's board of directors or the organization's members, whoever has the authority to adopt and amend bylaws.

(3) Certificate of Formation--A document that sets forth the basic terms of a corporation's existence and is the official recognition of the corporation's existence. The documents must evidence that they have been filed with the Office of the Secretary of State.

(4) Resolutions--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws.

(b) Application Procedures for Certification or Re-Certification of NOHP. An Applicant requesting certification or re-certification as a NOHP must submit an application for NOHP certification in a form prescribed by the Department. The NOHP application must be submitted prior to submitting an application for Texas Bootstrap Loan Program Reservation system, and must be recertified every three (3) years. The application must include documentation evidencing the requirements of this subsection.

(1) Applicant must have the following legal status at the time of application to apply for certification as a NOHP:

(A) The Applicant must be organized as a nonprofit organization under the Texas Business Code or other state not-for-profit/nonprofit statute as evidenced by Charter or Certificate of Formation.

(B) The Applicant must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the state of Texas.

(C) No part of the nonprofit organization's net earnings may inure to the benefit of any member, founder, contributor, or individual, as evidenced by charter or Certificate of Formation.

(D) The Applicant must have the following tax status:

(i) A current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective while certified as a NOHP; or

(ii) Classification as a subordinate of a central organization non-profit under the Internal Revenue Code §501(c)(3), as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant.

(iii) A nonprofit organization's pending application for §501(c)(3) status cannot be used to comply with the tax status requirement under this subparagraph.

(E) The Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's charter, Certificate of Formation, Resolutions or Bylaws.

(2) An Applicant must have the capacity and experience listed in subparagraphs (A) and (B) of this paragraph.

(A) Conforms to the financial accountability standards of "Standards of Financial Management Systems" as evidenced by a:

(i) notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department; or

(ii) certification from a Certified Public Accountant.

(B) Has a demonstrated capacity of at least one (1) year for carrying out mortgage loan origination and self-housing construction activities, as evidenced by resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with Texas Bootstrap Loan Program funds; or contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with Texas Bootstrap Loan Program funds, to train appropriate key staff of the organization. If applying for re-certification to participate in the Texas Bootstrap Loan Program and the organization is in good standing, the organization will not be required to submit any additional information regarding experience.

(3) An Applicant must submit a current roster of all Board of Directors, including names and mailing addresses.

(4) A local or state government and/or public agency cannot qualify as a NOHP, but may sponsor the creation of a NOHP.

(5) Religious or Faith-based Organizations may sponsor a NOHP if the NOHP meets all the requirements of this section. While the governing board of a NOHP sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the faith-based organization may retain control over appointments to the board. If a NOHP is sponsored by a religious organization, the restrictions described in subparagraphs (A) - (C) of this paragraph also apply:

(A) Housing developed must be made available exclusively for the residential use of Program beneficiaries and must be made available to all persons regardless of religious affiliations or beliefs;

(B) A religious organization that participates in the Texas Bootstrap Loan Program may not use Texas Bootstrap Loan Program funds to support any inherently religious activities such as worship, religious instruction, or proselytizing; and

(C) Compliance with subparagraphs (A) and (B) of this paragraph may be evidenced by the Organizations Bylaws, Charter or Certificate of Formation. If an organization is applying for re-certification and no updates have been made to their Bylaws and/or Certificate of Formation, the organization will not be required to submit any additional information regarding their Bylaws and/or their Certificate of Formation, but must submit a sworn statement attesting to the fact that no changes have been made to either their Bylaws and/or Certificate of Formation.

(6) A Colonia Self-Help Center as defined under Texas Government Code, Chapter 2306, Subchapter Z is not required to complete the NOHP Certification process as long as it provides a letter from the appropriate funding entity demonstrating a good standing performance and/or certification standing.

(c) Program Design. Organizations must provide written evidence on how the Owner-Builder will meet the 65 percent sweat equity requirement.

(d) Applicant must provide details, such as number of houses they are proposing to build, type of proposed financing structure and construction timeliness in order to show evidence of its ability to carry out the Texas Bootstrap Loan Program.

(e) Applicant must provide copies of Program guidelines used to qualify Owner-Builders and homebuyer course curriculum in order to show evidence of its experience in qualifying potential Owner-Builders; providing education classes, counseling and training.

(f) Applicant must submit any past due audit to the Department in a satisfactory format on or before the Application deadline.

(g) Applicants must be in compliance in any existing or prior contracts awarded by the Department.

(h) The Department may certify NOHPs meeting all of the criteria in subsection (b) of this section operated by a tax-exempt organization listed under §501(c)(3), Internal Revenue Code of 1986 to:

- (1) qualify potential Owner-Builders for loans under this chapter;
- (2) provide Owner-Builder education classes;
- (3) assist Owner-Builders in building or rehabilitating housing; and
- (4) originate and/or service loans.

Attachment B: Preamble and Repealed Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 2, §§2.1 - 2.13, concerning the Texas Bootstrap Loan Program Rule without change to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859) and will not be republished.

REASONED JUSTIFICATION: This repeal is necessary to allow for the adoption of a new Bootstrap Loan Program rule.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on October 9, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053, which authorizes the Department to adopt rules and Texas Government Code, Chapter 2306, Subchapter FF, which specifically authorizes the Department to administer the Texas Bootstrap Loan Program.

§2.1.Purpose.

§2.2.Definitions.

§2.3.Allocation of Funds.

§2.4.Participant Requirements.

§2.5.Program Activities.

§2.6.Prohibited Activities.

§2.7.Distribution of Funds.

§2.8.Criteria for Funding.

§2.9.Program Administration.

§2.10.Owner-Builder Qualifications.

§2.11.Types of Funding Transactions.

§2.12.Property Guidelines and Related Issues.

§2.13.Nonprofit Owner-Builder Housing Program (NOHP) Certification.

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BOARD ACTION REQUEST
OFFICE OF COLONIA INITIATIVES (OCI)
OCTOBER 9, 2012

Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 3, §§3.1 – 3.9, concerning the Colonia Self-Help Center Program Rule and an order adopting new 10 TAC Chapter 25, §§25.1 – 25.9, concerning the Colonia Self-Help Center Program Rule and directing their publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, at the Board meeting of July 26, 2012, the proposed repeal of the current Colonia Self-Help Center Program Rule and proposed new Colonia Self-Help Center Program Rule were approved for publication in the *Texas Register* for public comment and the public comment period has ended

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the repeal of 10 TAC Chapter 3, §§3.1 – 3.9 concerning the Colonia Self-Help Center Program Rule and the new 10 TAC Chapter 25, §§25.1 – 25.9 concerning the Colonia Self-Help Center Program Rule to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

BACKGROUND

The proposed repeal and new chapter were approved for publication at the Board meeting of July 26, 2012 and were published in the August 10, 2012 issue of the *Texas Register* to allow for public comment. The public comment period closed on September 10, 2012.

The attached preamble includes a summary of public comments received and staff responses.

Attachment A: Preamble and Adoption of 10 TAC Chapter 25, §§25.1 – 25.9, concerning the Colonia Self-Help Center Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the new 10 TAC Chapter 25, §§25.1 – 25.9 concerning the Colonia Self-Help Center Program Rule. Section 25.4 is adopted with non-substantive changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859). Sections 25.1-25.3 and 25.5-25.7 are adopted without change and will not be republished.

REASONED JUSTIFICATION: Recently the Department reorganized and restructured all of its housing and community affairs programs. Part of the purpose of the reorganization was to separate single and multi-family housing program delivery and to standardize much of the single family housing program procedures. These changes were implemented in order to improve the delivery of housing solutions to Texans. This rule accomplishes those goals by better aligning the Colonia Self-Help Center Program Rule with the new 10 TAC Chapter 20, Single Family Umbrella Programs Rule.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the new section(s) were accepted in writing and by fax. Comments were received from Ann Williams Cass, ED, Chair, Equal Voice Housing Coalition.

§25.3. Eligible and Ineligible Activities.

COMMENT SUMMARY. §25.3(a). Commenter asked if the Department is purposely leaving out extremely low income families in this section.

STAFF RESPONSE: Texas Government Code, §2306.586 states that “the purpose of a self-help center is to assist individuals and families of low income and very low income...” Extremely low income families are eligible. No changes to the rule are recommended.

COMMENT SUMMARY. §25.3(a)(5). Commenter asked whether infrastructure is needed besides water, wastewater disposal, etc. The rule should include street lights, sidewalks, and recreational areas so we can have healthy sustainable communities.

STAFF RESPONSE: Activities are limited by Texas Government Code, §2306.586. The proposed additions of allowable activities are not indicated in statute. Therefore, no changes to the rule are recommended.

COMMENT SUMMARY. §25.3(a)(12). Commenter stated that providing monthly programs to educate individuals and families on their rights and responsibilities as property owners is good and asked which materials will be used and who will provide them.

STAFF RESPONSE: The Department does not intend to develop and distribute materials for classes. It is explicitly up to the county, nonprofit organization, or procured vendor to develop applicable materials. No changes to the rule are recommended.

§25.4(b)(2). Colonia Self-Help Centers Establishment.

COMMENT SUMMARY: Commenter stated that five Colonias in each service area are proposed to receive concentrated attention and requested that the rule be changed to three to five to better concentrate funds.

STAFF RESPONSE: The designation of five Colonias is required by Texas Government Code, §2306.583. No changes to the rule are recommended.

§25.5(c). Allocation and the Colonia Self-Help Center Application Requirements.

COMMENT SUMMARY: This section of the rule refers to situations in which violations are beyond the control of the contract administrator, they may request of the Board that the individual violation be waived for the purpose of future funding. Commenter stated that this rule is good because it allows for weather conditions beyond the control of the contract administrator. (See §20.14(b) time extension).

STAFF RESPONSE: Staff agrees with this comment. No changes to the rule are recommended.

§25.6. Colonia Residents Advisory Committee (C-RAC) Duties and Award of Contracts.

COMMENT SUMMARY: Commenter stated that C-RAC process needs to be re-thought and that staff should consider public hearings in the Colonias.

STAFF RESPONSE: The Colonia Resident Advisory Committee (C-RAC) duties and award of contracts is required by Texas Government Code, §2306.585 . The members of the C-RAC are Colonias residents in the targeted Colonias that represent the needs of the Colonias and the meetings are open to the public. No changes to the rule are recommended.

§25.7(h)(1). Colonia Self-Help Center Contract Operation and Implementation.

COMMENT SUMMARY: Commenter requested a time extension beyond the four year contract.

STAFF RESPONSE: The four-year time period is required by Texas Government Code, §2306.587. No changes to the rule are recommended.

§25.8. Administrative Threshold.

COMMENT SUMMARY: Commenter stated that the timeline for thresholds should not start until the contract is signed.

STAFF RESPONSE: The contract start date is the day the Department's board approves an award. On that date, eligible administrative costs may begin to be incurred and reimbursed once a fully executed contract is in place. The first threshold requires the submission of the environmental assessment within 6 months of the start date; environmental clearance is required to begin before any construction activities. No changes to the rule are recommended.

The Board approved the final order adopting the new sections on October 9, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§25.1.Purpose and Services.

The purpose of this chapter is to establish the requirements governing Colonia Self-Help Centers, created pursuant to Texas Government Code, Chapter 2306, Subchapter Z and its funding including the use and administration of all funds provided to the Texas Department of Housing and Community Affairs (the "Department") by the legislature of the annual Texas Community Development Block Grant allocation from the U.S. Department of Housing and Urban Development. Colonia Self-Help Centers are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home in the colonias' designated service area or in another area the Department has determined is suitable.

§25.2.Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 20 of this title (relating to Single Family Programs Umbrella Rule). Common definitions used under the Community Development Block Grant (CDBG) Program are incorporated herein by reference.

- (1) Beneficiary--A person or family benefiting from the activities of a Self-Help Center Contract.
- (2) Colonia Residents Advisory Committee (CRAC)--Advises the Department's Governing Board and evaluates the needs of colonia residents, reviews programs and activities that are proposed or operated through the Colonia Self-Help Centers to better serve the needs of colonia residents.
- (3) Colonia Self-Help Center Provider--An organization with which the Contract Administrator has an executed Contract to administer Colonia Self-Help Center activities.
- (4) Community Action Agency--A political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. §9902.
- (5) Contract Budget--An exhibit in the Contract which specifies in detail the Contract funds by budget category, which is used in the drawdown processes. The budget also includes all other funds involved that are necessary to complete the Performance Statement specifics of the Contract.

(6) Direct Delivery Costs--Soft costs related to and identified with a specific housing unit or public service other than construction costs. Eligible Direct Delivery Costs include:

(A) preparation of work write-ups, work specifications, and cost estimates;

(B) architectural, engineering, or professional services required to prepare plans, drawings or specifications directly attributable to a particular housing unit or public service;

(C) home inspections, inspections for lead-based paint, asbestos, termites, and interim inspections; and

(D) other costs as approved in writing by the Department.

(7) Implementation Manual--A set of guidelines designed to be an implementation tool for the Administrator and Colonia Self-Help Center Providers that have been awarded Community Development Block Grant Funds and allows the Administrator to search for terms, regulations, procedures, forms and attachments.

(8) Income Eligible Families--

(A) Low-income families--families whose annual incomes do not exceed 80 percent of the median income of the area as determined by HUD and published by the Department, with adjustments for family size;

(B) Very low-income families--families whose annual incomes do not exceed 60 percent of the median family income for the area, as determined by HUD and published by the Department, with adjustments for family size; and

(C) Extremely low-income families--families whose annual incomes do not exceed 30 percent of the median family income for the area, as determined by HUD and published by the Department, with adjustments for family size.

(9) New Construction--A housing unit that is built on a previously vacant lot that will be occupied by a low-to-moderate income colonia resident.

(10) Performance Statement--An exhibit in the Contract which specifies in detail the scope of work to be performed.

(11) Unit of General Local Government (UGLG)--A city, town, county, or other general purpose political subdivision of the state; a consortium of such subdivisions recognized by HUD in accordance with 24 CFR §92.101 and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction. A county is considered a unit of general local government under the Colonia Self-Help Center Program.

§25.3. Eligible and Ineligible Activities.

(a) A Colonia Self-Help Center may serve individuals and families of low-income and very low-income by:

- (1) providing assistance in obtaining loans or grants to build, rehabilitate, repair or reconstruct a home;
- (2) teaching construction skills necessary to repair or build a home;
- (3) providing model home plans;
- (4) operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in colonias who are building or repairing a residence or installing necessary residential infrastructure;
- (5) helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a colonia, including potable water, wastewater disposal, drainage, streets, and utilities;
- (6) surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;
- (7) providing credit and debt counseling related to home purchase and finance;
- (8) applying for grants and loans to provide housing and other needed community improvements;
- (9) providing other services that the Colonia Self-Help Center, with the approval of the Department, determines are necessary to assist colonia residents in improving their physical living conditions, including help in obtaining suitable alternative housing outside of a colonia's area;
- (10) providing assistance in obtaining loans or grants to enable an individual or a family to acquire fee simple title to property that originally was purchased under a contract for a deed, contract for sale, or other executory contract;
- (11) providing access to computers, the internet and computer training pursuant to the General Appropriations Act; and
- (12) providing monthly programs to educate individuals and families on their rights and responsibilities as property owners.

(b) Through a Colonia Self-Help Center, a colonia resident may apply for any direct loan or grant program operated by the Department.

(c) Ineligible activities. Any type of activity not allowed by the Housing and Community Development Act of 1974 (42 U.S.C. §§5301, et seq.) is ineligible for funding.

(d) A Colonia Self-Help Center may not provide grants, financing, or mortgage loan services to purchase, build, rehabilitate, or finance construction or improvements to a home in a colonia if water service and suitable wastewater disposal are not available.

(e) Chapter 20 of this title (relating to Single Family Programs Umbrella Rule) will apply to all Single Family activities, including Single Family development involving rental or ownership.

§25.4.Colonia Self-Help Centers Establishment.

(a) Pursuant to Texas Government Code, §2306.582, the Department has established Colonia Self-Help Centers in El Paso, Hidalgo, Starr, Webb, Cameron (also serves Willacy), Maverick, and Val Verde Counties.

(b) The Department shall designate:

(1) appropriate staff in the Department to act as liaison to the Colonia Self-Help Centers to assist the centers in obtaining funding to enable the centers to carry out the center's programs;

(2) five (5) colonias in each service area to receive concentrated attention from the Colonia Self-Help Centers in consultation with the CRAC and the appropriate unit of local government; and

(3) a geographic area for the services provided by each Colonia Self-Help Center.

(c) The Department shall make a reasonable effort to secure:

(1) contributions, services, facilities, or operating support from the county commissioner's court of the county in which a Colonia Self-Help Centers is located which it serves to support the operation of that Colonia Self-Help Center; and

(2) an adequate level of funding to provide each Colonia Self-Help Center with funds for low interest mortgage financing, grants for self-help programs, revolving loan fund for septic tanks, a tool lending program, and other activities the Department determines are necessary.

(d) The El Paso Colonia Self-Help Center shall establish a technology center to provide internet access to colonia residents pursuant to the General Appropriations Act.

§25.5.Allocation and the Colonia Self-Help Center Application Requirements.

(a) The Department distributes Colonia Self-Help Center funds to Unit of General Local Governments (UGLGs) from the 2.5 percent set-aside of the annual Community Development Block Grant (CDBG) allocation to the state of Texas.

(b) The Department shall allocate no more than \$1 million per Colonia Self-Help Center award except as provided by this chapter. If there are insufficient funds available from any specific program year to fully fund an Application, the awarded Contract Administrator may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the CDBG set-aside allocation from the next program year.

(c) With a baseline award beginning at \$500,000, the Department will add an additional \$100,000 for each expenditure threshold, as defined in §25.8 of this chapter (relating to Administrative Thresholds), met on the current Colonia Self-Help Center Contract, and an additional \$100,000 for an accepted Application submitted by the deadline. If a Contract Administrator can demonstrate that any violation of an Expenditure Threshold was beyond the control of the Contract Administrator, it may request of the Board that an individual violation be waived for the purpose of future funding. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the expenditure threshold requirements if the Board finds the waiver is appropriate to fulfill the purposes or policies of the Texas Government Code, or for other good cause as determined by the Board.

(d) The Contract Administrator shall submit its Application no later than three (3) months before the expiration of its current Contract, or when 90 percent of the funds under the current Contract have been expended, whichever comes first. If this requirement is not met, the Department will apply the options outlined in subsection (c) of this section which will result in lost and delayed funding.

(e) Application reviews are conducted on a first-come first-served basis until all Self-Help Center funds for the current program year and deobligated Self-Help Center funds are committed. Each complete Application will be assigned a "received date" based on the date and time it is received by the Department.

(f) In order to be accepted, each Application must include:

- (1) evidence of the submission of the Contract Administrator's current annual single audit;
- (2) a Colonia Identification form for each colonia to be served, including all required back-up documentation as identified on the form, executed by the county judge;
- (3) a boundary map for each of the five colonias;
- (4) a description of the method of implementation. For each colonia to be served by the Colonia Self-Help Center, the Contract Administrator shall describe the services and activities to be delivered. The Application must identify:
 - (A) the percentage (15 percent minimum) and scope of work that will be performed using self-help methodologies;

- (B) the estimated percentage of services that will be contracted to the Colonia Self-Help Center Provider; and
- (C) the activities that the Contract Administrator will be administering;
- (5) the proposed performance statement. The Contract Administrator must include the number of colonia residents to be assisted from each activity, the activities to be performed (including all sub-activities under each budget line item), and corresponding budget;
- (6) the proposed Contract Budget must address:
 - (A) the Administration line item may not exceed 15 percent of the total budget;
 - (B) the Public Service line item may not exceed 7.5 percent of the total budget;
 - (C) the Application must identify at least 15 percent of the budget that will be allocated for direct Self-Help activities;
 - (D) the amount of leveraged funding, if applicable; and
 - (E) Direct Delivery Costs for all contractual activities, exclusive of Rehabilitation, cannot exceed 10 percent of each budget line item. Direct Delivery Costs for Rehabilitating are limited to 15 percent of each budget line item;
- (7) proposed housing guidelines (includes small repair, Rehabilitation, Reconstruction, New Construction and all other housing activities);
- (8) evidence of model subdivision rules adopted by the Contract Administrator;
- (9) written policies and procedures, as applicable, for:
 - (A) solid waste removal;
 - (B) construction skill classes;
 - (C) homeownership classes;
 - (D) technology access;
 - (E) homeownership assistance; and/or
 - (F) tool lending library. All Colonia Self-Help Centers are required to operate a tool lending library;
- (10) authorized signatory form and direct deposit authorization;
- (11) UGLG resolution authorizing the submission of the Application and appointing the primary signator for all Contract documents;
- (12) acquisition report (even if there is no acquisition activity);
- (13) certification of exemption for HUD funded projects; and
- (14) initial disclosure report.

(g) Upon receipt of the Application, the Department will perform an initial review to determine whether the Application is complete and that each activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. §5304(b)(3)).

(h) The Department may reduce the funding amount requested in the Application in accordance to subsection (c) of this section. Should this occur, the Department shall notify the appropriate Contract Administrator before the Application is submitted to C-RAC for review, comments and approval. The Department and the Contract Administrator will work together to jointly agree on the performance measures and proposed funding amounts for each activity.

(i) The Department shall execute a four (4) year Contract with Contract Administrator. No Contract extensions will be allowed. If the Contract Administrator requirements are completed prior to the end of the four (4) year contract period, the Contract Administrator may submit a new Application.

(j) The Department may decline to fund any Application if the activities do not, in the Department's sole determination, represent a prudent use of Colonia Self-Help Center funds. The Department is not obligated to proceed with any action pertaining to any Application which is received, and may decide it is in the Department's best interest to refrain from pursuing any selection process.

§25.6.Colonia Residents Advisory Committee Duties and Award of Contracts.

(a) The Board shall appoint not fewer than five (5) persons who are residents of colonias to serve on the CRAC. The members of the CRAC shall be selected from lists of candidates submitted to the Department by local nonprofit organizations and the commissioner's court of a county in which a Colonia Self-Help Center is located.

(b) The CRAC members' terms will expire every four (4) years. CRAC members may be reappointed by the Board; however, the Board shall review and approve all members at least every four (4) years.

(c) The Board shall appoint one committee member to represent each of the counties in which a Colonia Self-Help Center is located. Each committee member:

(1) must be a resident of a colonia in the county the member represents; and

(2) may not be a board member, contractor, or employee of or have any ownership interest in an entity that is awarded a Contract under this chapter and cannot be in default on any Department obligation.

(3) The Department will conduct a compliance check on all members.

(d) The Department may also select to have an alternate member from the list for each county in the event that the primary member is unable to attend meetings.

(e) The Colonia Resident Advisory Committee shall advise the Board regarding:

(1) the housing needs of colonia residents;

(2) appropriate and effective programs that are proposed or are operated through the Colonia Self-Help Centers; and

(3) activities that might be undertaken through the Colonia Self-Help Centers to serve the needs of colonia residents.

(f) The CRAC shall advise the colonia initiatives coordinator as provided by Texas Government Code, §775.005.

(g) Award of Contracts.

(1) Upon reaching an agreement with the Contract Administrator, the Department will set the date for the CRAC meeting. The CRAC shall meet before the 30th calendar day preceding the date on which a contract is scheduled to be awarded by the Board for the operation of a Colonia Self-Help Center and may meet at other times.

(2) The Contract Administrator shall be present at the CRAC if its Application is being considered to answer questions that CRAC may have.

(3) After the CRAC makes a recommendation on an Application, the recommendation will undergo the Department's award process.

(h) Reimbursement of CRAC members for their reasonable travel expenses in the manner provided by §25.8(1) of this chapter (relating to Administrative Thresholds) is allowable and shall be paid by the Contract Administrator.

§25.7. Colonia Self-Help Center Contract Operation and Implementation.

(a) The Department shall contract with a UGLG for the operation of a Colonia Self-Help Center. The UGLG shall subcontract with a local nonprofit organization, local community action agency, or local housing authority that has demonstrated the ability to carry out all or part of the functions of a Colonia Self-Help Center. The contracted Colonia Self-Help Center provider selected by the UGLG shall have the capacity to administer and manage financial resources and

provided documentation and auditable programmatic compliance, as evidenced by previous experience as described in paragraphs (1) - (7) of this subsection:

- (1) implementation of a CDBG contract;
- (2) affordable housing, including new construction; and housing rehabilitation, reconstruction, small repair; and experience in homebuyer and down payment assistance programs;
- (3) grantsmanship, project planning and development in housing and infrastructure, and project management;
- (4) home ownership counseling, home loan processing and coordinating with private financial institutions;
- (5) property development, including experience in processes related to surveying, platting, and recording of property records;
- (6) self-help programs related to housing or infrastructure, including operation of a tool library; and
- (7) managing state/federally funded projects or projects funded under private foundations and not have major outstanding monitoring or audit issues.

(b) Upon award of Colonia Self-Help Center funds by the Board, the Department shall deliver a Contract based on the scope of work to be performed within thirty (30) days of the award date, unless extenuating circumstances do not allow for delivery. Any activity funded under the Colonia Self-Help Center Program will be governed by a written Contract that identifies the terms and conditions related to the awarded funds. The Contract will not be effective until executed by all parties to the Contract.

(c) Contractors are required to complete their environmental reviews in accordance with 24 CFR Part 58 and receive the Authority to Use Grant Funds from the Department before:

- (1) any commitment of Community Development Block Grant (CDBG) funds (i.e., execution of a legally binding agreement and expenditure of CDBG funds) for activities other than those that are specifically exempt from environmental review.
- (2) any commitment of non-CDBG funds associated with the scope of work in the Contract that would have an adverse environmental impact (i.e., demolition, excavating, etc.) or limit the choice of alternatives (i.e., acquisition of real property, rehabilitation of buildings or structures, etc.).

(d) Request for Payments. The Contract Administrator shall submit a properly completed request for reimbursement, as specified by the Department, at a minimum on a quarterly basis; however the Department reserves the right to request more frequent reimbursement requests as it deems appropriate. The Department shall determine the reasonableness of each amount requested and

shall not make disbursement of any such payment request until the Department has reviewed and approved such request. Payments under the Contract are contingent upon the Contract Administrator's full and satisfactory performance of its obligations under the Contract.

(1) \$2,500 is the minimum amount for a draw to be processed, unless it is the final draw request.

(2) Draw requests will be reviewed to comply with all applicable laws, rules and regulations. The Contract Administrator is responsible for maintaining a complete record of all costs incurred in carrying out the activities of the Contract.

(3) Draw requests for all housing activities will only be reimbursed upon satisfactory completion of types of activities (i.e., all plumbing completed, entire roof is completed, etc.), consistent with the construction contract.

(4) The Contract Administrator will be the principal contact responsible for reporting to the Department and submitting draw requests.

(e) Reporting. The Contract Administrator shall submit to the Department reports on the operation and performance of the Contract on forms as prescribed by the Department. Quarterly Reports shall be due no later than the tenth (10th) calendar day of the month after the end of each calendar quarter. The Contract Administrator shall maintain and submit to the Department up-to-date accomplishments in quarterly reports identifying quantity and cumulative data including the expended funds, activities completed and total number of Beneficiaries.

(f) The Department will only reimburse for two inspection reports for housing rehabilitation and reconstruction, and one inspection report for new construction and small home repair.

(g) Cosmetic issues such as paint, wall texture, etc. identified as deficiencies on final inspection reports will not be required to be corrected if self-help construction is utilized.

(h) Amendments. The Department's executive director or its designee, may authorize, execute, and deliver amendments to any Contract.

(1) Contract Time Extensions beyond the four (4) year contract period will not be allowed for Self-Help Center contracts.

(2) Changes in beneficiaries. Reductions in contractual deliverables and beneficiaries shall require a contract amendment. Increases in contractual deliverables and beneficiaries that do not shift funds, or cumulatively shift less than 10 percent of total contract funds, shall be completed through a contract modification rather than a contract amendment.

(3) The Department, at its discretion and in coordination with a Contract Administrator, may increase a contract budget amount and the number of activities and beneficiaries based on the availability of Self-Help Center funds, the exemplary performance in the implementation of a

Contract Administrator's current contract, and the time available in the four (4) year contract period. Upon Board approval, the cap on the maximum contract amount may be exceeded if the terms of this paragraph are met by a Contract Administrator.

(i) Every new construction and reconstruction, and any rehabilitation construction costs exceeding \$30,000 in hard costs shall have a lien placed on the property secured by a deferred forgivable loan not shorter than five (5) years.

(j) The Contract Administrator's initial and any revised housing Activity guidelines shall be approved by commissioners' court and the Department prior to implementation.

(k) Access to all public service activities identified in the contract shall be provided at least two (2) Saturdays a month during hours preferable to colonia residents. In addition, access shall be provided at least one day during the workweek after hours for a period long enough to allow colonia residents to utilize the services.

(l) The purchase of new tools, new computers and computer equipment shall only occur within the first thirty-six (36) months of the contract period. Any purchases of these items after thirty-six (36) months shall be approved by the Department prior to purchase.

§25.8. Administrative Thresholds.

Administrative draw request. Administrative draw requests are funded out of the portion of the Contract budget specified for administrative cost (Administration Line Item of the Contract Budget). These costs are not directly associated with an Activity. The administration line item will be disbursed as described in paragraphs (1) - (8) of this section:

(1) Threshold 1. The initial administrative draw request allows up to 10 percent of the administration line item to be drawn down prior to the start of any project activity included in the Performance Statement of the Contract (provided that all pre-draw requirements, as described in the Contract, for administration have been met). Subsequent administrative funds will be reimbursed in proportion to the percentage of the work that has been completed as identified in paragraphs (2) - (8) of this section.

(2) Threshold 2. Allows up to an additional 15 percent (25 percent of the total) of the administration line item to be drawn down after a start of project activity has been demonstrated. For the purposes of this threshold, if Davis-Bacon labor standards are required for a given program activity, "start of project activity" is evidenced by the submission of a start of construction form. If labor standards are not required on a given project activity that has commenced (and for which reimbursement is being sought), the submission of a drawdown request that includes sufficient back-up documentation for expenses of non-administrative

project activities evidences a start of project activity. Direct delivery/soft costs charges will not constitute a start of project activity.

(3) Threshold 3. Allows up to an additional 25 percent (50 percent of the total) of the administration line item to be drawn down after compliance with the eighteen (18) month threshold requirement has been demonstrated as described in §25.9 of this chapter (relating to Expenditure Thresholds and Closeout Requirements).

(4) Threshold 4. Allows up to an additional 25 percent (75 percent of the total) of the administration line item to be drawn down after compliance with the thirty (30) month threshold requirement has been demonstrated as described in this chapter.

(5) Threshold 5. Allows up to an additional 15 percent (90 percent of the total) of the administration line item to be drawn down after compliance with the forty-two (42) month threshold requirement has been demonstrated as described in this chapter.

(6) Threshold 6. Allows an additional 5 percent (95 percent of the total) of the administration line item to be drawn down upon receipt of all required close-out documentation.

(7) Threshold 7. Allows the final 5 percent (100 percent of the total), less any administrative funds reserved for audit costs as noted on the Project Completion Report of the administration line item to be drawn down following receipt of the programmatic close-out letter issued by Department.

(8) Threshold 8. Any funds reserved for audit costs will be released upon completion and submission of an acceptable audit. Only the portion of audit expenses reasonably attributable to the Contract are eligible.

§25.9.Expenditure Thresholds and Closeout Requirements.

(a) Contract Administrators must meet the expenditure threshold requirements described in paragraphs (1) - (4) of this subsection:

(1) Six-Month Threshold. An Environmental Assessment that meets the requirements outlined in the environmental clearance requirements of the Contract must be submitted to the Department within six (6) months from the start date of the Contract;

(2) Eighteen-Month Threshold. To meet this requirement the Contract Administrator must have expended and submitted for reimbursement to the Department at least 30 percent of the total Colonia Self-Help Center funds awarded within eighteen (18) months from the start date of the Contract;

(3) Thirty-Month Threshold. To meet this requirement the Contract Administrator must have expended and submitted for reimbursement to the Department at least 60 percent of the total Colonia Self-Help Center funds awarded within thirty (30) months from the start date of the Contract; and

(4) Forty-two-Month Threshold. To meet this requirement the Contract Administrator must have expended and submitted for reimbursement to the Department at least 90 percent of the total Colonia Self-Help Center funds awarded within forty-two (42) months from the start date of the Contract.

(b) For purposes of meeting a threshold, "expended and submitted" means that a draw request was received by the Department, is complete, and all costs needed to meet a threshold are adequately supported. The Department will not be liable for a threshold violation if a draw request is not received by the threshold date.

(c) The final draw request and complete closeout documents must be submitted no later than sixty (60) days after the Contract end date. If closeout documents are late, the remaining Contract balance may be subject to deobligation as the Department's liability for such costs will have expired. If a Contract Administrator has reserved funds in the project completion report for a final draw request, the Contract Administrator has ninety (90) days after the Contract end date to submit the final draw request, with the exception of audit costs which may be reimbursed upon submission of the final single audit.

Attachment B: Preamble and Repealed Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC 3, §§3.1 - 3.8, concerning the Colonia Self-Help Center Program Rule without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859) and will not be republished.

REASONED JUSTIFICATION: This repeal is necessary to allow for the adoption of a new 10 TAC Chapter 25, Colonia Self-Help Center Program Rule.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on October 9, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

§3.1.Purpose and Services.

§3.2.Definitions.

§3.3.Colonia Self-Help Centers Establishment.

§3.4.Allocation and the Colonia Self Help Center Proposal Requirements.

§3.5.Colonia Residents Advisory Committee Duties and Awarding Contracts.

§3.6.Colonia Self-Help Center Contract Operation and Implementation.

§3.7.Administrative Thresholds.

§3.8.Expenditure Thresholds and Closeout Requirements.

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BOARD ACTION REQUEST

HOUSING TRUST FUND

OCTOBER 9, 2012

Presentation, Discussion, and Possible Adoption of an order repealing of 10 TAC Chapter 51, §§51.1 – 51.11, concerning the Texas Housing Trust Fund Rule, and an order adopting new 10 TAC Chapter 26, §§26.1 – 26.7 concerning the Texas Housing Trust Fund Rule and directing their publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, at the Board meeting of July 26, 2012, the proposed repeal of the current Texas Housing Trust Fund Rule and proposed new Texas Housing Trust Fund Rule were approved for publication in the *Texas Register* for public comment and the public comment period has ended

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the repeal of 10 TAC Chapter 51, §§51.1 – 51.11 concerning the Housing Trust Fund Rule and new 10 TAC Chapter 26, §§26.1 – 26.7 concerning the Texas Housing Trust Fund Rule to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

BACKGROUND

The proposed repeal and new chapter were approved for publication at the Board meeting of July 26, 2012 and were published in the August 10, 2012 issue of the *Texas Register* to allow for public comment. The public comment period closed on September 10, 2012.

The attached preamble includes a summary of public comments received and staff responses.

Attachment A: Preamble and New 10 TAC Chapter 26, §§26.1 – 26.7, concerning the Texas Housing Trust Fund Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 26, §§26.1 – 26.7 concerning the Texas Housing Trust Fund Rule. Sections 26.3 and 26.5 are adopted with non-substantive corrections to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859). Sections 26.1, 26.2, 26.4, 26.6 and 26.7 are adopted without change and will not be republished.

REASONED JUSTIFICATION: Recently the Department reorganized and restructured all of its housing and community affairs programs. Part of the purpose of the reorganization was to separate single and multi-family housing program delivery and to standardize much of the single family housing program procedures. These changes were implemented for the purpose of improving the delivery of housing solutions to Texans. The Department finds that the new sections align the Housing Trust Fund Program with the new 10 TAC Chapter 20, Single Family Umbrella Programs Rule.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the new sections were accepted in writing and by fax. Comments were received from Charles Cloutman, Meals on Wheels and More.

Chapter 26 - General - No specific part of the proposed rule was referenced in comment.

COMMENT SUMMARY: Commenter suggested that the project limit should be raised to \$30,000 with a minimum of 51% used for accessibility issues and the remaining 49% used for structural or life safety issues at the home.

STAFF RESPONSE: Depending on funding availability, the recommendations concerning eligible activities will be taken into account in the next Amy Young Barrier Removal Program NOFA. No changes are required to be made to the rule to effectuate this change in the future.

§26.3.Allocation of Funds.

COMMENT SUMMARY: Commenter requested the inclusion of a statutory mandate for funding of the Amy Young Barrier Removal Program, similar to the Department's Bootstrap Program, because a mandate would allow program administrators to build necessary staff by having the knowledge that funding will be available across the state to serve the low-income persons with disabilities.

STAFF RESPONSE: Only the Texas Legislature has the authority to enact statutes. The Department's authority is limited to implementing those statutes through rulemaking. No changes are recommended based on this comment.

The Board approved the final order adopting the new sections as well as non-substantive technical corrections, on October 9, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules and pursuant to

Texas Government Code, §2306.141, which specifically authorizes the Department to promulgate rules to implement its housing programs.

§26.1.Purpose.

This chapter clarifies the administration of the Texas Single Family Housing Trust Fund Program (HTF). The HTF provides loans, grants or other comparable forms of assistance to income-eligible individuals, families and households. The HTF is administered in accordance with Texas Government Code, Chapter 2306 and Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

§26.2.Definitions.

Definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), unless the context or the Notice of Funding Availability (NOFA) indicates otherwise.

§26.3.Allocation of Funds.

(a) The Department administers all HTF funds provided to the Department in accordance with Texas Government Code, Chapter 2306 ~~of the Texas Government Code~~. The Department may solicit gifts and grants to endow the fund.

(b) Pursuant to Texas Government Code, §2306.202(b), use of the HTF is limited to providing:

- (1) assistance for individuals and families of low and very low income;
- (2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;
- (3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and
- (4) subject to the limitations in Texas Government Code, §2306.251, the Department may also use the fund to acquire property to endow the fund.

(c) Regional Allocation. Funds shall be allocated to achieve broad geographic dispersion by awarding funds in accordance with Texas Government Code, §2306.111(d) and (g).

(d) Set-Asides. In accordance with Texas Government Code, §2306.202(a) and program guidelines:

- (1) in each biennium, the first \$2.6 million available through the HTF for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for Local Units of Government, Public Housing Authorities, and Nonprofit Organizations;
- (2) any additional funds may also be made available to for-profit organizations provided that at least 45 percent of available funds, as determined on September 1 of each state fiscal year, in excess of the first \$2.6 million shall be made available to Nonprofit Organizations; and
- (3) the remaining portion shall be distributed to Nonprofit Organizations, for-profit organizations, and other eligible entities, pursuant to Texas Government Code, §2306.202.

§26.4. Use of Funds.

(a) Use of additional or Deobligated Funds. In the event the Department receives additional funds, such as loan repayments, donations and interest earnings, the Department will redistribute the funds in accordance with the HTF plan in effect at the time the additional funds become available.

(b) Reprogramming of Funds. If funding for a program is undersubscribed or funds not utilized, within a timeframe as determined by the Department, remaining funds may be reprogrammed at the discretion of the Department consistent with the HTF plan in effect at the time.

§26.5. Prohibited Activities.

(a) The activities described in paragraphs (1) - (7) of this subsection are prohibited in relation to the origination of a HTF loan, but may be charged as an allowable cost by a third (3rd) party lender for the origination of all other loans originated in connection with an HTF loan:

- (1) payment of delinquent property taxes or related fees or charges on properties to be assisted with HTF funds;
- (2) loan origination fees;
- (3) application fees;
- (4) discount fees;
- (5) underwriter fees;
- (6) loan processing fees; and
- (7) other fees not approved by the Department in writing prior to expenditure.

(b) Persons receiving or benefiting from HTF funds, as determined by the Department, may not be currently in delinquency or in default with child support and/or government loans.

§26.6. Administrator Eligibility and Requirements.

(a) Administrator must enter into an agreement with the Department in order to be eligible as more fully described in the NOFA.

(b) Determination of annual income. The method used to determine annual income will be provided in the NOFA or program manual.

§26.7. Waiver.

The Board, in its discretion and within the limits of the law, may waive any one or more of the requirements of this chapter if the Board finds that waiver is appropriate to fulfill the purposes or policies, Texas Government Code, Chapter 2306, or for good cause, as determined by the Board.

Attachment B: Preamble and Repealed Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC 51, §§51.1 - 51.11 concerning the Housing Trust Fund Rule without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859) and will not be republished.

REASONED JUSTIFICATION: This repeal will allow the Department to adopt a new Housing Trust Fund Rule that is consistent with 10 TAC Chapter 20, Single Family Programs Umbrella Rule.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning this repeal.

The Board approved the final order adopting the repeal on October 9, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules. Additionally, the repeal is proposed pursuant to Texas Government Code, §2306.141, which specifically authorizes the Department to promulgate rules to administer its housing programs.

§51.1.Purpose.

§51.2.Definitions.

§51.3.Allocation of Funds.

§51.4.Use of Funds.

§51.5.Prohibited Activities.

§51.6.Administrator Eligibility and Requirements.

§51.7.General Application Procedures and Requirements.

§51.8.Criteria for Reservation System Funding.

§51.9.Loan, Lien and Mortgage Requirements.

§51.10.Property Guidelines and Related Issues.

§51.11.Waiver.

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BOARD ACTION REQUEST

TEXAS NEIGHBORHOOD STABILIZATION PROGRAM

OCTOBER 9, 2012

Presentation, Discussion, and Possible Adoption of an order amending 10 TAC Chapter 9, §9.1 and §9.2; and order adopting a new §9.8, concerning the Texas Neighborhood Stabilization Program Rule; and an order adopting new 10 TAC Chapter 29, §§29.1 - 29.8, concerning the Texas Single Family Neighborhood Stabilization Program Rule, for publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, the current NSP rule, at 10 TAC Chapter 9, is being amended to apply only to multifamily NSP projects, and a new NSP rule at 10 TAC Chapter 9, is proposed for adoption covering only single family NSP projects,

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the amended sections and new §9.8 of 10 TAC Chapter 9 and the new 10 TAC Chapter 29, §§29.1 - 29.8, concerning the Texas Neighborhood Stabilization Program Rule, in the forms presented to this meeting, to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

BACKGROUND

The proposed amendments and new section to Chapter 9 and new Chapter 29 were approved for publication on July 26, 2012, by the Board and were published in the August 10, 2012, issue of the *Texas Register* to allow for public comment. The public comment period closed on September 10, 2012.

No comments were received.

Attachment A: Preamble and Amended Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC Chapter 9, §9.1 and §9.2; and new §9.8, concerning the Texas Neighborhood Stabilization Program (NSP) Rule, without changes to the proposed text as published in the August 10, 2012, issue of the *Texas Register* (37 TexReg 5859) and will not be republished.

REASONED JUSTIFICATION: The amendments and new section separate requirements for multi-family NSP projects from the requirements for single family NSP projects, which will be located in new 10 TAC Chapter 29, concerning the Texas Single Family Neighborhood Stabilization Program Rule. The adoption of new 10 TAC, Chapter 29 is published concurrently with this rule in this issue of the Texas Register. Recently the Department reorganized and restructured all of its housing and community affairs programs. Part of the purpose of the reorganization was to separate single and multi-family program delivery and to standardize much of the single family housing program procedures. These changes were implemented for the purpose of improving the delivery of housing solutions to Texans. This rule will help accomplish those goals by better aligning this new Neighborhood Stabilization Program Rule with the new Single Family Umbrella Programs Rule (10 TAC 20)

The Department accepted public comments between August 10, 2012, and September 10, 2012. Comments regarding the new section(s) were accepted in writing and by fax. No comments were received concerning the amendments or new section.

The Board approved the final order adopting the amendments and new section on October 9, 2012.

STATUTORY AUTHORITY: The amendments and new section are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules. The amendments and new section implement Texas Government Code, Chapter 2306,

§9.1.Purpose.

This chapter clarifies the administration of the Texas Neighborhood Stabilization Program (Texas NSP). Texas NSP funds are administered by the Texas Department of Housing and Community Affairs (the "Department"). The Texas NSP awards funding to Subgrantees to acquire foreclosed, abandoned, or vacant property in order to redevelop that property to prevent it from otherwise becoming a source of blight and a contributor to declining property values.

§9.2.Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) clearly indicates otherwise. Lack of capitalization of a term or word in this chapter does not indicate that the term is undefined. Other definitions may be found in Texas Government Code Chapter 2306 and Chapter 1 of this title (relating to Administration).

(1) Developer--A nonprofit entity that receives NSP assistance for the purpose of:

(A) acquiring homes and residential properties to rehabilitate for use for residential purposes; and

(B) constructing new housing in connection with the redevelopment of demolished or vacant properties.

(2) Expended--For the purposes of contract milestones and thresholds, "Expended" means that a complete drawdown request is submitted with back-up documentation adequate to process a draw; it is not necessary for staff to have processed a draw to meet a benchmark. For all other purposes, "Expended" means that an eligible cost was incurred and staff has processed a draw to reimburse the expense with Texas NSP funds.

(3) Land Bank--A governmental or nongovernmental nonprofit organization established, at least in part, to assemble, temporarily manage and dispose of vacant land for the purposes of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property.

(4) NOFA--Notice of Funding Availability.

(5) Obligated--When NSP funding has been encumbered through contracts for goods, services or acquisition of property or other forms of similar transactions requiring payment that have been determined by the Department to meet NSP requirements.

(6) Subgrantee--A Subrecipient or a Developer.

(7) Subrecipient--Units of General Local Government and nonprofit organizations with whom the Department contracts and provides funding in order to undertake activities eligible for such assistance.

(8) Texas NSP--Texas Neighborhood Stabilization Program.

§9.8.Applicability

(a) This chapter only applies to the Department's multifamily activities, as defined by the Governing Board of the Department or Executive Director.

(b) Chapter 20 of this title (relating to Single Family Programs Umbrella Rule) will apply to all Single Family activities, including Single Family development involving rental or ownership.

Attachment B: Preamble and new 10 TAC Chapter 29, §§29.1 - 29.5, concerning the Texas Single Family Neighborhood Stabilization Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 29, §§29.1 - 29.5, concerning the Texas Single Family Neighborhood Stabilization Program Rule, without changes to the proposed text as published in the August 10, 2012, issue of the *Texas Register* (37 TexReg 5859) and will not be republished.

REASONED JUSTIFICATION: The purpose of the new chapter is to set forth policies and procedures governing the administration of the Department's Texas Single Family Neighborhood Stabilization Program. Recently the Department reorganized and restructured all of its housing and community affairs programs. Part of the purpose of the reorganization was to separate single and multi-family program delivery and to standardize much of the single family housing program procedures. These changes were implemented for the purpose of improving the delivery of housing solutions to Texans. This rule will help accomplish those goals by better aligning this new Neighborhood Stabilization Program Rule with the new Single Family Umbrella Programs Rule (10 TAC 20)

The Department accepted public comments between August 10, 2012, and September 10, 2012. Comments regarding the new sections were accepted in writing and by fax. No comments were received concerning the new sections.

The Board approved the final order adopting the new sections on October 9, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§29.1.Purpose.

This chapter clarifies the administration of the Texas Single Family Neighborhood Stabilization Program (Texas SFNSP). Texas SFNSP funds are administered by the Department. The Texas SFNSP awards funding to Subgrantees to acquire foreclosed, abandoned, or vacant property in order to redevelop that property to prevent it from otherwise becoming a source of blight and a contributor to declining property values.

§29.2.Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Lack of capitalization of a term or word in this chapter does not indicate that the term is undefined. Other definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title

(relating to Administration); and Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

(1) Developer--A nonprofit entity that receives Texas SFNSP assistance for the purpose of:

(A) acquiring homes and residential properties to rehabilitate for use for residential purposes; and

(B) constructing new housing in connection with the redevelopment of demolished or vacant properties.

(2) Expended--For the purposes of contract milestones and thresholds, "Expended" means that a complete drawdown request is submitted with back-up documentation adequate to process a draw; it is not necessary for staff to have processed a draw to meet a benchmark. For all other purposes, "Expended" means that an eligible cost was incurred and staff has processed a draw to reimburse the expense with Texas SFNSP funds.

(3) Land Bank--A governmental or nongovernmental nonprofit organization established, at least in part, to assemble, temporarily manage and dispose of vacant land for the purposes of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property.

(4) Obligated--When Texas SFNSP funding has been encumbered through contracts for goods, services or acquisition of property or other forms of similar transactions requiring payment that have been determined by the Department to meet Texas SFNSP requirements.

(5) Subgrantee--A Subrecipient or a Developer.

(6) Subrecipient--Units of General Local Government and nonprofit organizations with whom the Department contracts and provides funding in order to undertake activities eligible for such assistance.

(7) Texas SFNSP--Texas Single Family Neighborhood Stabilization Program.

§29.3.General Provisions.

(a) All assisted properties must be located in eligible areas as defined by HUD and by the applicable NOFA.

(b) The Contract term is based upon varying types of activities included in the Contract between the Department and the Department's Subgrantee. Exhibit C, Project Implementation Schedule, of the contract, provides an outline of specific timelines, milestones and thresholds. Performance under the contract will be evaluated according to the benchmarks described in each Contract.

(c) Administrative Threshold. Administrative draw requests are funded from the administration or developer fee line item in Exhibit B, Budget, of the Contract. Reimbursement of eligible administrative expenses is regulated as described in paragraphs (1) - (5) of this subsection:

(1) Threshold 1. Cumulative administrative draw requests may allow up to 10 percent of the administration or developer fee line item to be drawn down prior to the start of any project activity included in the performance statement of the contract (provided that all pre-draw requirements, as described in the Contract, for administration have been met). This draw may be limited by NOFA, underwriting report, or by Contract. Subsequent administrative expenditures will be reimbursed in the percentage amounts indicated, provided that all Contract benchmark requirements have been met, as identified in subsection (b) of this section;

(2) Threshold 2. Subsequent administrative draw requests are allowed in proportion to the direct project funds drawn on the contract; up to 90 percent of the total administration or developer fee line item. The cumulative total percentage of administrative funds requested may not exceed the cumulative total percentage of project funds expended for hard and/or soft costs directly attributable to activities under the Contract;

(3) Threshold 3. The final 10 percent of the administration or developer fee line item is the administrative retainage. Half of the retainage or, in other words, an additional 5 percent (95 percent of the total), may be drawn down after submission of complete Contract close-out documents;

(4) Threshold 4. The final 5 percent (100 percent of the total), less any administrative funds reserved for audit costs as noted on the project completion report, may be drawn down following receipt of the programmatic Contract close-out letter issued by the Department; and

(5) Threshold 5. Any funds reserved for audit costs will be released upon completion and submission of an acceptable audit and a documented drawdown request for the expenses. Only the portion of audit expenses reasonably attributable to the contract is eligible.

(d) Forbearances. Contract expenditure thresholds and milestones are included in Exhibit C, Project Implementation Schedule, of the contract; violations of which will subject the Subgrantee to the requirements found in this chapter. At the Department's discretion, forbearances of thresholds and milestones may be granted upon request and documentation of extenuating circumstances.

(e) Waivers. Program administrative regulations set forth in any Texas SFNSP NOFA by the Department's Governing Board or terms in the contract may be waived by the Department, acting by and through its Executive Director or his/her designee, up to the limits of Texas SFNSP regulations and guidance as previously established, periodically updated, or updated in the future by HUD. The Executive Director or his/her designee may waive the Texas SFNSP purchase

discount to the limits of the purchase discount as allowed by the NSP Bridge Notice. The Texas NSP NOFA and the NSP *Federal Register* Notice (Docket No. FR-5255-N-01) published in the *Federal Register* (73 FR 58330), require a minimum discount of 5 percent for any individual property and 15 percent for a portfolio of properties to be acquired utilizing Texas SFNSP funds. (If only acquiring one property, the one property constitutes a portfolio.) The NSP Bridge Notice allows for up to a 1 percent discount for individual properties and portfolios.

§29.4.Reassignment of Funds.

(a) Funds deobligated may either be reassigned utilizing the amendment procedure or be subject to redistribution through a methodology to be approved by the Board.

(b) If the Texas SFNSP Program Income Reservation System has a fund balance of \$1,000,000 for more than thirty (30) days, the Executive Director may lower the target score required for funding of a project to twelve, if the project fulfills a local at-risk priority as identified on the Department's website.

§29.5.Compliance and Monitoring.

(a) All properties will be monitored using the procedures outlined in Chapter 60 of this title (relating to Compliance Administration).

(b) All owners will be required to file reports with the Department as outlined in Chapter 60 of this title.

(c) Owners of rental properties will be required to pay the monitoring and compliance fees established by the Department from time to time, as assessed, in this title, by NOFA, or by Contract.

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**BOARD ACTION REQUEST
HOME PROGRAM
OCTOBER 9, 2012**

Presentation, Discussion, and Possible adoption of orders repealing 10 TAC Chapter 53, Subchapter C, concerning Homeowner Rehabilitation Assistance Program Activity; Subchapter D concerning Homebuyer Assistance Program Activity; Subchapter E concerning Contract for Deed Conversion Program Activity; Subchapter F concerning Tenant Based Rental Assistance Program Activity, and Subchapter G concerning Single Family Development Program Activity; and order adopting new 10 TAC Chapter 23, concerning HOME Single Family Program, and directing their publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, proposed changes to the HOME rule were approved in draft form at the TDHCA July 26, 2012, meeting and published for public comment in the *Texas Register*; and,

WHEREAS, public comment was received and the Department has carefully considered the public comment and made changes in response to public comment; and

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the adoption, and repeal of these rules in the forms presented to this meeting and published in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The purpose of the repeal of HOME Program Rules: Subchapter C concerning Homeowner Rehabilitation Assistance Program Activity; Subchapter D concerning Homebuyer Assistance Program Activity; Subchapter E concerning Contract for Deed Conversion Program Activity; Subchapter F concerning Tenant-Based Rental Assistance Program Activity; and Subchapter G concerning Single Family Development Program Activity is to move Single Family Activity from the existing rule into a new Chapter 23, concerning HOME Single Family Program. HOME Multifamily Program rules remain in effect under the current 10 TAC Chapter 53 until a proposed new Multifamily Program Umbrella rule has been adopted.

Adoption of the new 10 TAC Chapter 23, which will govern HOME Single Family Programs, will ensure consistency and coherence among all of the Department's Single Family Programs.

Comments regarding the draft rules were accepted in writing and by email from August 10, 2012 to September 10, 2012 and are summarized as follows:

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS:

Comments were received from: (1) Langford Community Management Services Inc., (2) GrantWorks Inc., (3) Midland Habitat for Humanity, (4) Texas Manufactured Housing Association, (5) Resource Management and Consulting, Co., (6) City of Midland, (7) Hunter and Hunter Consultants Co., (8) AACOG, (9) TACDC, (10) DAW, (11) Easter Seals, (12) Equal Voice Network Housing Coalition.

Chapter 23 - General. No specific part of the proposed rule referenced in comment. (10) (11)

COMMENT SUMMARY: Commenter's (10) and (11) suggested that flexibility should be incorporated into the HOME rules to allow the Director the ability to waive rules or approve modifications to the rules whenever necessary.

STAFF RESPONSE: Delegation of authority to the HOME Director to waive the HOME rules is beyond the legal authority of the Board. Staff does not recommend any changes based on these comments.

§23.21(a) and (b). Availability of Funds and Regional Allocation Formula.

Staff made non-substantive amendments.

§23.22(a) and (c). Contract Award Application Review Process.

Staff made non-substantive amendments.

§23.24(4). General Threshold and Selection Criteria.

Staff made non-substantive amendments.

§23.25(a). Project Fund Limits. (2)

COMMENT SUMMARY: Commenter (2) recommends increasing the contract cap from \$500,000 to \$510,000 to allow an even number of units to be assisted with the proposed maximum cap per dwelling of \$85,000.

STAFF RESPONSE: Staff agrees and recommends increasing the contract cap from \$500,000 to \$510,000.

§23.25(a), (d), and (e). Project Fund Limits.

Staff made non-substantive amendments.

§23.26(b). Limits on Numbers of Reservations. (5)

COMMENT SUMMARY: Commenter (5) recommends eliminating the limitation of working Homeowner Rehabilitation, Homebuyer Assistance or Single Family Development reservations for an RSP to five per county and thirty of Tenant-Based Rental Assistance reservations within the RSP's Service Area at any given time.

STAFF RESPONSE: The restriction is in place to control the number of incomplete reservations promoting more active use of funds. The restriction only applies to those in the status of Pending Approval. An additional reservation activity may be entered into the system once the process is complete and the status transfers from Pending Approval to Active. Staff does not recommend any changes based on these comments.

§23.26(e). Construction Completion. (5)

COMMENT SUMMARY: Commenter (5) indicates nine months is not enough time to complete construction and recommends completion of construction be extended to twelve months of the commitment of funds under the RSP agreement.

STAFF RESPONSE: Staff agrees that the time necessary to execute grant documents and demolition can delay the start of construction and through, the RSP agreement, TDHCA allows for one three month extension to allow for any delays prior to start of construction. Staff does not recommend any changes based on these comments.

§23.28.General Administrative Requirements.

Staff made non-substantive amendments.

§23.28(12). Deficiency Cure Period. (2)

COMMENT SUMMARY: Commenter (2) requests additional time to resolve deficiencies, beyond the 10 business days allowed, if the Administrator can demonstrate they are proactively working on resolution.

STAFF RESPONSE: The Single Family Loan Process has recently been restructured to improve consistency, reduce delays and improve processes and response times for all single family programs and activities. The intent of the process and the requirement is to reduce the time it takes to process applications for assistance and loan closings. Applicants for HOME activities are allowed to be re-submitted for approval when the deficiency is corrected if it takes longer than 10 business days to correct. Staff does not recommend any changes based on these comments.

§23.28(15). Project Completion Reports. (1) (7)

COMMENT SUMMARY: Commenter's (1) and (7) requested the Project Completion Report be submitted within 60 days after completion of the dwelling rather than 30 days to accommodate dating of lien waivers and other documentation.

STAFF RESPONSE: Staff agrees with Commenter and recommends an amendment to the submission date from 30 days to the recommended 60 days after the completion date of the unit. Failure to submit completion reports within 120 days of completion of the project will result in HUD restricting the Department from setting up new activities or committing HOME funds.

§23.29.Resale and Recapture Provisions.

Staff made non-substantive corrections.

§23.29(d). Homeowner Affordability Period. (1) (2)

COMMENT SUMMARY: Commenter's (1) and (2) suggested forgiveness of the loan/grant upon death of a homeowner assisted with HOME Homeowner Rehabilitation Program when no federal affordability period is required.

STAFF RESPONSE: These resale and recapture provisions are the same provisions as provided in the Action Plan that has been approved by HUD. Staff does not recommend any changes based on these comments.

§23.30. Homeowner Rehabilitation Assistance (HRA) Program Threshold and Selection Criteria.

Staff made non-substantive corrections, including amended language in paragraph (1) to clarify provision, by deleting the word "waived" and adding "not effective":

(1) The requirements of this section are not effective until December 31, 2013.

§23.30(1)(A) – (C). Match. (1) (2)

COMMENT SUMMARY: Commenter’s (1) and (2) suggested more generous match levels for Cities and Counties when match is required.

For Cities:	
1-5,000 population	Zero Match
5,001+ population	1% percent Match for every 1,000 in population to a max of 12% percent match
For Counties:	
1-25,000 unincorporated population	Zero Match
25,000+ unincorporated population	1% percent match for every 10,000 in population to a max of 12% percent match

STAFF RESPONSE: Match is waived for all HOME activities until December 31, 2013, unless Match is counted towards application threshold points. Staff agreed with the commenters and recommends the match levels to be reduced as recommended.

§23.31.Homeowner Rehabilitation Assistance (HRA) Program Requirements.

Staff made non-substantive corrections.

§23.31(b)(3) and (h). Homeowner Rehabilitation Assistance (HRA) Program Requirements; and Figure (j) Re-payable loans. (1)(2)

COMMENT SUMMARY: Commenter’s (1) and (2) recommend elimination of the requirement to repay HOME assistance for homeowners when HOME funds take out the first lien or when the homeowner’s income is greater than 60 percent of Area Median Income.

STAFF RESPONSE: Rider 5 of the General Appropriations Act requires the Department to adopt a goal of no less than \$30 million dollars of the funds available from HOME, Housing Trust Funds, Section 8 and the Housing Tax Credit Program’s total funds towards housing assistance for households with income less than 30 percent of Area Median Income (AMI). No less than 20 percent of funds available shall be spent on individuals between 31 and 60 percent of AMI. Allowing assistance in the form of a grant allows the funds to be targeted to lower income households to assist in meeting the Rider 5 requirements. Staff does not recommend any changes based on these comments.

§23.31(d). Direct Project Costs. (4)(6)

COMMENT SUMMARY: The proposed rules increase the direct project cost for stick built construction from \$80,000 to \$85,000. The cost for a replacement MHU stayed constant at \$65,000. Commenter (4) recommended the MHU replacement maximum should be equal to the direct project cost for stick built replacements to allow greater owner choice and comparison of options. Commenter (6) proposes that Direct Project Costs of stick built homes be increased to \$100,000 or \$85/square foot and the cost of demolition be excluded from the costs.

STAFF RESPONSE: In response to Commenter (4), the MHU replacement cap provides a comparable sized unit to a stick built unit and, thus, staff recommends no change based on this comment. In response to Commenter (6), staff is aware of increased construction costs in certain areas of the state, but due to a current lack of a generally accepted standard in these areas regarding building costs per square foot, we do not recommend increasing the construction cap at this time. Staff recommends no change, based on this comment at this time, but will conduct more research in this area for future consideration. Staff made non-substantive corrections to this section.

§23.31(e). Allowance for Accessibility Site Work. (6)

COMMENT SUMMARY: Up to an additional \$5,000 is allowed to provide additional site work related to accessibility features necessary if the house is located more than 50 feet from a paved street or if the house is elevated. Commenter (6) suggested the increase be limited to \$30 per linear foot rather than up to \$5,000.

STAFF RESPONSE: Staff agrees that the cost of sidewalks can vary greatly, however these funds may be used for other items such as pads and ramps. Staff does not recommend any changes based on these comments.

§23.31(f)(2). Soft Cost for MHUs. (4)

COMMENT SUMMARY: The proposed rules increase the soft cost for stick built construction from \$7,000 to \$9,000 per housing unit. The soft cost for MHU replacement remained constant at \$3,500 per housing unit. Commenter (4) recommends the soft costs for MHU replacement are increased equal to the soft costs allowed under stick built construction to allow greater consumer option and benefit.

STAFF RESPONSE: The contract management activities of a replacement MHU are not as extensive and do not require the same level of oversight expense as required of a stick built dwelling, therefore, Staff does not recommend any changes based on these comments.

§23.32(a)(7). Demolition costs. (1)

COMMENT SUMMARY: Commenter (1) questioned whether or not HOME funds could be used for the cost of demolition for all HOME activities or just when relocation is involved with Homeowner Rehabilitation Assistance.

STAFF RESPONSE: Staff recommended a few technical corrections to the proposed rule posted in the July 26 board book, and were read into the record at the July 26, 2012 Board Meeting. These corrections were included in the official publication of the rules published in the *Texas Register* on August 10, 2012. The official copy of the rules clarifies that HOME funds can be used for the cost of demolition for all HOME activities, not just when relocation is involved with Homeowner Rehabilitation Assistance. Therefore, staff does not recommend any changes based on this comment.

§23.32(a)(14) Real Estate Appraisals. (1)(2)

COMMENT SUMMARY: Commenter's (1) and (2) state that Real Estate appraisals to establish after-rehabilitation value are costly and real estate appraisers are limited in rural areas. Commenter (2) suggests adding the actual construction bid to the lot value from the appraisal district to establish the after-rehabilitation value for the after-rehabilitation property.

STAFF RESPONSE: The after-rehabilitation value is required to satisfy federal requirements. Staff agrees there are several methods to establish the after-rehabilitation value and recommends an amendment to the language as follows:

(14) appraisal or other valuation method approved by TDHCA which establishes the post rehabilitation or reconstruction value of improvements for Projects involving construction; and

§23.32(c)(6). Certified copies of documents. (2)

COMMENT SUMMARY: Originals of the Grant Agreement and other loan document must be provided to the Department to disperse funds. Commenter (2) requested the Department allow dispersal of funds with certified copies of the documents.

STAFF RESPONSE: §23.32(c) states that the paragraphs (1) - (11) may be required when a request for disbursement is made. The language allows for flexibility in extenuating circumstances. Staff does not recommend any changes based on these comments.

§23.40(1). Match Requirements. (7)

COMMENT SUMMARY: Commenter (7) recommends the match requirement be permanently removed from the HBA program due to the difficulty Administrators have in identifying sources of match funds under the HBA program.

STAFF RESPONSE: Match is a federal requirement under the HOME program. The Department currently has match in excess of the amount necessary to meet the federal requirements and has the ability to waive the match requirements. The Match requirement should periodically be reviewed and annualized and a permanent waiver is not recommended. Staff does not recommend any changes based on these comments.

§23.41(c)(4). First Lien Purchase Loans. (7)

COMMENT SUMMARY: Commenter (7) recommends deletion of this paragraph because the language conflicts with other provisions of the section.

STAFF RESPONSE: Staff agrees that this language appears to conflict with other provisions in this section and recommends removal of this provision.

§23.41(c)(5). Debt to income ratios. (7)

COMMENT SUMMARY: The total debt to income ratios or back end ratios for non-conforming mortgage loans cannot exceed 45 percent. Commenter (7) recommends the back end ratio to equal the FHA approved debt to income ratio:

STAFF RESPONSE: HUD requires the Department to establish underwriting standards and criteria for HOME programs. This section applies only to non-conforming first lien mortgages. The adoption of a standard 45 percent back end ratio for non-conforming loans protects program funds and complies with HUD requirements. Staff does not recommend any changes based on these comments.

§23.41(c)(5) Fees Charged to First Lien Mortgage Lenders (7)

COMMENT SUMMARY: Commenter (7) suggested the following modified language to replace the existing proposed language of this subsection of the rule.

(5) Fees charged by third party mortgage lenders are limited to the greater of 2 percent of the mortgage loan amount of \$3,500, including but not limited to origination, application, and /or underwriting fees. Fees associated with the origination of Single Family Mortgage Revenue Bond and Mortgage Credit Certificate programs will not be included in the limit. Fees paid to parties other than the first lien lender and reflected on the HUD-1 will not be included in the limit. Fees collected by the first lien lender at closing to be paid to other parties by the first lien lender that are supported by an invoice and reflected on the HUD-1 will not be included in the limit.

STAFF RESPONSE: Staff agreed with commenter and recommends the modified language as suggested.

§23.41(d)(1) and §23.71(i)(2). Front End Ratios. (3)(5)(7)(9)(10)(11)

COMMENT SUMMARY: The amount of down payment assistance provided under the home buyer assistance program is restricted to the amount necessary such that the total housing payment is at least 20 percent of the applicant's gross income. Commenter (3) recommends eliminating or reducing the

front end ratio to 15 percent of the gross income of applicants requesting down payment assistance. Commenter (5), (7), and (9) recommend elimination or reduction of the ratio of income to total house payment (front end ratio) or allow the FHA approved debt ratios or the first lien lender to determine both the front and back end ratios according to their lending requirements. Commenter's (5) and (9) suggest the ratio be reduced from 20 percent to 15 percent. Commenter (11) recommended elimination of the front end ratio altogether. Commenter (7) recommended an alternative suggestion that HOME down payment assistance is offered equal to 20 percent of the sales price up to a maximum of \$20,000. In addition it is suggested that the HOME assistance be calculated prior to the addition of other down payment assistance or forgiveness of loans. Commenter (10) requested a waiver of the front end ratio to accommodate very low income households.

STAFF RESPONSE: The front end ratio was established in the 2010 HOME Rules at 25 percent of gross monthly income to satisfy HUD's requirement in 24 C.F.R. §92.250 that HOME funds are used prudently and do not result in more subsidy than necessary to make the unit affordable to the homebuyer. The HOME rule which was published for comment and which is presented for final adoption reduced the required front-end ratio to from 25 percent to 20 percent of gross monthly income in response to comments received by administrators prior to the rule making process. Staff does not recommend further reduction of the front-end ratio. No support documentation was provided by Commenter (3) to indicate that a reduction of the front end ratio to 15 percent is reasonable and necessary to assist low income homebuyers. Staff does not recommend that assistance be based on a percentage of the purchase price of the unit because that method does not account for individual circumstances and loan terms. Staff does not recommend waivers of the front end ratio for very low income households when the 20 percent front end ratio is lower than the standard established in the rental industry of 30 percent. HUD has determined that it is reasonable and affordable in rental housing programs which target very low and extremely low income households, such as the Section 8 Housing Choice Voucher Program for households to pay 30 percent of their income towards rent. Staff does not recommend any changes based on these comments.

§23.41(e)(1). Soft Costs. (7)

COMMENT SUMMARY: The closing costs associated with the Home Buyer Assistance Program are limited to \$1,500. Commenter (7) suggested the soft costs be increased to \$1,800.

STAFF RESPONSE: The Commenter recommended increasing soft cost which will increase fees charged by consultants and Contract Administrators but offered no reasons to support the increase. Staff does not recommend any changes based on these comments.

§23.42.Homebuyer Assistance (HBA) Administrative Requirements.

Staff made non-substantive corrections.

§23.51.Contract for Deed Conversion (CFDC) Program Requirements.

Staff made non-substantive corrections.

§23.61(e)(1). Rental subsidy limitations. (10)

COMMENT SUMMARY: HOME Tenant Based Rental Assistance (TBRA) is provided for no more than a twenty-four month period per household. An additional twelve month period is permitted for a total of thirty-six months if the household is participating under the Reservation System. Commenter (10) as an Administrator of the program states many households receiving HOME rental assistance are

awaiting Section 8 vouchers which may take five or more years. The Commenter recommends extending HOME rental assistance beyond thirty-six months to those on long Section 8 waiting lists.

STAFF RESPONSE: Staff agrees that in cases where the household will likely require continued rental assistance through the Section 8 Housing Choice Voucher (HCV) Program, and is unable to secure a Section 8 HCV in the 36 month time frame outlined in the HOME rule due to exceedingly long wait times for available vouchers, a gap in assistance could occur. TBRA is not intended to be permanent assistance, therefore an indefinite time period is not in keeping with the intent of the program. Staff recommends that the rule be amended to allow an extension of assistance, on an annual basis, for up to sixty (60) months for households who have applied for a Section 8 Housing Choice Voucher, have not been removed from the Section 8 HCV waiting list due to failure to respond to required notices or for any other reason, have not been denied assistance under the Section 8 HCV Program during their tenure on TBRA, and did not refuse to participate in the Section 8 HCV Program when a voucher was made available.

§23.70. Single Family Development (SFD) Threshold and Selection Criteria.

Staff made non-substantive corrections.

§23.70(3)(C). Single Family Development (SFD) Threshold and Selection Criteria. (12)

COMMENT SUMMARY: Commenter (12) requested that garbage collection services be removed from the list of utilities that must be documented as available in single family developments.

STAFF RESPONSE: TDHCA requires garbage collection services to be provided to single family developments funded with HOME funds. Staff does not recommend any changes based on these comments.

§23.71(d)(2). Single Family Development Unit Amenities. (12)

COMMENT SUMMARY: Commenter (12) recommended elimination of the requirement to provide blinds or window coverings for all windows as one of the required amenities in units constructed with HOME single family development funds because some families do not want window coverings or blinds.

STAFF RESPONSE: The list of amenities required for single family development is designed to construct an energy efficient dwelling ready for occupancy. Staff does not recommend any changes based on these comments.

§23.80. Application Procedures for Certification of Community Housing Development Organization (CHDO).

Staff made non-substantive corrections.

Attachment A: Preamble and adoption of repeal of 10 TAC Chapter 53, SUBCHAPTER C. HOMEOWNER REHABILITATION ASSISTANCE (HRA) PROGRAM ACTIVITY.

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 53, Subchapter C, §§53.30 – 53.33, concerning Homeowner Rehabilitation Assistance (HRA) Program Activity, without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5952) and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on October 6, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§53.30. Homeowner Rehabilitation Assistance (HRA) Program Threshold and Selection Criteria.

§53.31. Homeowner Rehabilitation Assistance (HRA) Program Requirements.

§53.32. Homeowner Rehabilitation Assistance (HRA) Administrative Requirements.

Attachment B: Preamble and adoption of repeal of 10 TAC Chapter 53, SUBCHAPTER D. HOMEBUYER ASSISTANCE (HBA) PROGRAM ACTIVITY.

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 53, Subchapter D, §§53.40 – 53.42, concerning Homebuyer Assistance (HBA) Program Activity, without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5952) and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on October 6, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§53.40. Homebuyer Assistance (HBA) Threshold and Selection Criteria.

§53.41. Homebuyer Assistance (HBA) Program Requirements.

§53.42. Homebuyer Assistance (HBA) Administrative Requirements.

Attachment C: Preamble and adoption of repeal of 10 TAC Chapter 53, SUBCHAPTER E. CONTRACT FOR DEED CONVERSION (CFDC) PROGRAM ACTIVITY

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 53, Subchapter E, §§53.50 – 50.52, concerning Contract for Deed Conversion (CFDC) Program Activity, without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (39 TexReg 5953) and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on October 6, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§53.50. Contract for Deed Conversion (CFDC) Threshold and Selection Criteria.

§53.51. Contract for Deed Conversion (CFDC) Program Requirements.

§53.52. Contract for Deed Conversion (CFDC) Administrative Requirements.

Attachment D: Preamble and adoption of repeal of 10 TAC Chapter 53, SUBCHAPTER F. TENANT-BASED RENTAL ASSISTANCE (TBRA) PROGRAM ACTIVITY

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 53, Subchapter F, §§53.60 – 53.62, concerning Tenant-Based Rental Assistance (TBRA) Program Activity, without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5953) and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on October 6, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§53.60. Tenant-Based Rental Assistance (TBRA) Threshold and Selection Criteria.

§53.61. Tenant-Based Rental Assistance (TBRA) Program Requirements.

§53.62. Tenant-Based Rental Assistance (TBRA) Administrative Requirements.

Attachment E: Preamble and adoption of repeal of 10 TAC Chapter 53, SUBCHAPTER G. SINGLE FAMILY DEVELOPMENT (SFD) PROGRAM ACTIVITY

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 53, Subchapter G, §§53.70 – 53.72, concerning Single Family Development Program Activity, without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5954) and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on October 6, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§53.70. Single Family Development (SFD) Threshold and Selection Criteria.

§53.71. Single Family Development (SFD) Program Requirements.

§53.72. Single Family Development (SFD) Administrative Requirements.

Attachment F: Preamble and adoption of new 10 TAC Chapter 23, Subchapter A, concerning General Guidance

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 23, Subchapter A, §§23.1 – 23.2, concerning General Guidance, with non-substantive corrections to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5912).

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the new sections were accepted in writing and by fax. No comments were received concerning the new sections. Staff recommends the approval of minor clerical corrections to references and punctuation.

The Board approved the final order adopting the new sections, including non-substantive technical corrections, on October 6, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§23.1. Purpose.

This chapter governs the administration of HOME Single Family contracts and activities. This chapter clarifies the use and administration of all funds provided to the Texas Department of Housing and Community Affairs (the "Department") by the U.S. Department of Housing and Urban Development (HUD) pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 USC §§12701 - 12839) and HUD regulations at 24 CFR, Part 92. Chapter 20 of this title (relating to Single Family Programs Umbrella Rule) will apply to all Single Family activities, including Single Family development involving rental or ownership. All provisions of this chapter apply to any Application received on or after the date of adoption of this chapter. Existing Contracts executed within the preceding twelve (12) months from the date of adoption of this chapter or current pending Applications may be amended in writing at the request of the Contract Administrator (CA) or Applicant, and with Department approval, to subject the Contract or Application to all provisions of this chapter. Amendments proposing only partial adoption of this chapter are prohibited and no amendment adopting this chapter shall be granted if, in the discretion of the Department, any of the provisions of this chapter conflict with the Notice of Funding Availability (NOFA) under which the existing Contract was awarded or Application was submitted. All CAs with an active Contract may become Reservation System Participants (RSPs), at the written request of the CA without the submission of an Application,

and with Department approval, subject to all applicable provisions of this chapter. The State's HOME Program is designed to:

- (1) focus on the areas with the greatest housing need described in the State Consolidated Plan;
- (2) provide funds for home ownership and rental housing through acquisition, new construction, rehabilitation, and tenant-based rental assistance;
- (3) promote partnerships among all levels of government and the private sector, including non-profit and for-profit organizations; and
- (4) provide low, very low, and extremely low income families with affordable, decent, safe, and sanitary housing.

§23.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306 or 10 TAC Chapter 20 of this title (relating to the Single Family Programs Umbrella Rule).

- (1) Affiliated Party--A Person with a contractual relationship with the Contract Administrator on a Contract with the Department.
- (2) Application Submission Procedures Manual (ASPM)--The manual that sets forth the procedures, forms, and instructions for the completion and submission of an Application to the Department.
- (3) CFR--Code of Federal Regulations.
- (4) Commitment of Funds--Occurs when the Activity or a Project is approved by the Department and set up in the disbursement and information system established by U.S. Department of Housing and Urban Development (HUD).
- (5) Control--The possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person, whether through the ownership or voting securities, by contract or otherwise, including ownership of more than 50 percent of the General Partner interest in a limited partnership, or designation as a managing member of a limited liability company or managing General Partner of a limited partnership or any similar member.
- (6) Development Site--The area, or if scattered site, areas on which the Development is proposed to be located.
- (7) Direct Project Costs--The total of hard construction costs, demolition costs, aerobic septic systems, refinancing costs (as applicable), acquisition and closing costs, rental and utility subsidy and deposits, and Match funds.
- (8) General Requirements--An allowance for the General Contractor's on-site overhead expenses. General Requirements shall be limited as prescribed in ~~§1.32 of this title~~ Chapter 10, Subchapter D of this title (relating to Underwriting ~~Rules and Guidelines~~ and Loan Policy) and must follow the standards published by the Construction Specifications Institute.
- (9) HOME Final Rule--The regulations with amendments promulgated at 24 CFR, Part 92 as published by HUD for the HOME Investment Partnerships Program at 42 USC §§12701 - 12839.
- (10) Match--Funds contributed to a Project that meet the requirements of 24 CFR §§92.218 - 92.220. Match contributed to a Project or Activity does not include mortgage revenue bonds, HOME-match eligible projects, and cannot include any other sources of Department funding unless otherwise approved in writing by the Department.
- (11) Person--Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character.

(12) Persons with Special Needs--Individuals or categories of individuals determined by the Department to have unmet housing needs consistent with 42 USC §§12701, et seq. and as provided in the Consolidated Plan and may include any Households composed of one or more persons with alcohol and/or drug addictions, Colonia residents, Persons with Disabilities, elderly, victims of domestic violence, persons with HIV/AIDS, homeless populations, migrant farm workers, and public housing residents.

(13) Predevelopment Costs--Costs related to a specific eligible Project including:

(A) Predevelopment housing project costs that the Department determines to be customary and reasonable, including but not limited to consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, and site control;

(B) Pre-construction housing project costs that the Department determines to be customary and reasonable, including but not limited to, the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees; and

(C) Predevelopment costs do not include general operational or administrative costs.

(14) Principal--A Person, or 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 ten percent or more interest in the corporation; and

(C) Limited liability companies: Principals include all managing members, members having a ten percent or more interest in the limited liability company or any officer authorized to act on behalf of the limited liability company.

(15) Project--A single housing unit with a unique physical address. A Project may also refer to an individual Project, Development, or site.

(16) Reservation System Participant (RSP)--Administrator whose executed written agreement allows for participation in the Reservation System.

(17) Service Area--The city(ies), county(ies) and/or place(s) identified in the Application and/or Contract that the CA or RSP will serve.

(18) Texas Minimum Construction Standard (TMCS)--The program standard used to determine the minimum acceptable housing condition for the purposes of rehabilitation, new construction, and acquisition.

(19) Third Party--A Person who is not:

(A) an Applicant, CA, RSP, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(B) an Affiliate, Affiliated Party to the Applicant, CA, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(C) a Person receiving any portion of the administration, contractor fee, or developer fee.

Attachment G: Preamble and adoption of new 10 TAC Chapter 23, Subchapter B, Single Family HOME Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter Subchapter B, §§23.20 – 23.29, concerning Availability of Funds, Application Requirements, and Review and Award Procedures, General Administrative Requirements and Resale and Recapture of funds. Sections 23.21, 23.22, 23.24, 23.25, and 23.27 - 23.29 are adopted with change to the proposed text as published in the August 10, 2012, issue of the *Texas Register* (37 TexReg 5914). Sections 23.20, 23.23, and 23.26 are adopted without change and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS:

Comments were accepted from August 10, 2012 through September 10, 2012, with comments received from: (1) Langford Community Management Services, Inc; (2) GrantWorks, Inc.; (5) Resource Management and Consulting Co; (7) Hunter and Hunter Consultants, Inc., (10) Disability Advisory Workgroup; and (11) Easter Seals.

The comments and responses include both administrative clarifications and corrections to the rule recommended by Staff and substantive comments on the rule and the corresponding Departmental responses. If comment resulted in recommended language changes to the draft rule as presented to the Board in July, such changes are indicated.

Chapter 23 - General. No specific part of the proposed rule referenced in comment. (10) (11)

COMMENT SUMMARY: Commenter's (10) and (11) suggested that flexibility should be incorporated into the HOME rules to allow the Director the ability to waive rules or approve modifications to the rules whenever necessary.

STAFF RESPONSE: Delegation of authority to the HOME Director to waive the HOME rules is beyond the legal authority of the Board. Staff does not recommend any changes based on these comments.

§23.21(a) and (b). Availability of Funds and Regional Allocation Formula.

Staff made non-substantive amendments.

§23.22(a) and (c). Contract Award Application Review Process.

Staff made non-substantive amendments.

§23.24(4). General Threshold and Selection Criteria.

Staff made non-substantive amendments.

§23.25(a). Project Fund Limits. (2)

COMMENT SUMMARY: Commenter (2) recommends increasing the contract cap from \$500,000 to \$510,000 to allow an even number of units to be assisted with the proposed maximum cap per dwelling of \$85,000.

STAFF RESPONSE: Staff agrees and recommends increasing the contract cap from \$500,000 to \$510,000.

§23.25(a), (d), and (e). Project Fund Limits.

Staff made non-substantive amendments.

§23.26(b). Limits on Numbers of Reservations. (5)

COMMENT SUMMARY: Commenter (5) recommends eliminating the limitation of working Homeowner Rehabilitation, Homebuyer Assistance or Single Family Development reservations for an RSP to five per county and thirty of Tenant-Based Rental Assistance reservations within the RSP's Service Area at any given time.

STAFF RESPONSE: The restriction is in place to control the number of incomplete reservations promoting more active use of funds. The restriction only applies to those in the status of Pending Approval. An additional reservation activity may be entered into the system once the process is complete and the status transfers from Pending Approval to Active. Staff does not recommend any changes based on these comments.

§23.26(e). Construction Completion. (5)

COMMENT SUMMARY: Commenter (5) indicates nine months is not enough time to complete construction and recommends completion of construction be extended to twelve months of the commitment of funds under the RSP agreement.

STAFF RESPONSE: Staff agrees that the time necessary to execute grant documents and demolition can delay the start of construction and through, the RSP agreement, TDHCA allows for one three month extension to allow for any delays prior to start of construction. Staff does not recommend any changes based on these comments.

§23.28.General Administrative Requirements.

Staff made non-substantive amendments.

§23.28(12). Deficiency Cure Period. (2)

COMMENT SUMMARY: Commenter (2) requests additional time to resolve deficiencies, beyond the 10 business days allowed, if the Administrator can demonstrate they are proactively working on resolution.

STAFF RESPONSE: The Single Family Loan Process has recently been restructured to improve consistency, reduce delays and improve processes and response times for all single family programs and activities. The intent of the process and the requirement is to reduce the time it takes to process applications for assistance and loan closings. Applicants for HOME activities are allowed to be re-submitted for approval when the deficiency is corrected if it takes longer than 10 business days to correct. Staff does not recommend any changes based on these comments.

§23.28(15). Project Completion Reports. (1) (7)

COMMENT SUMMARY: Commenter's (1) and (7) requested the Project Completion Report be submitted within 60 days after completion of the dwelling rather than 30 days to accommodate dating of lien waivers and other documentation.

STAFF RESPONSE: Staff agrees with Commenter and recommends an amendment to the submission date from 30 days to the recommended 60 days after the completion date of the unit. Failure to submit completion reports within 120 days of completion of the project will result in HUD restricting the Department from setting up new activities or committing HOME funds.

§23.29. Resale and Recapture Provisions.

Staff made non-substantive corrections.

§23.29(d). Homeowner Affordability Period. (1) (2)

COMMENT SUMMARY: Commenter's (1) and (2) suggested forgiveness of the loan/grant upon death of a homeowner assisted with HOME Homeowner Rehabilitation Program when no federal affordability period is required.

STAFF RESPONSE: These resale and recapture provisions are the same provisions as provided in the Action Plan that has been approved by HUD. Staff does not recommend any changes based on these comments.

The Board approved the final order adopting the new sections including non-substantive technical corrections, on October 6, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§23.20. Availability of Funds and Regional Allocation Formula.

Funds subject to regional allocation shall be made available as described in paragraphs (1) - (3) of this section:

(1) Applicants applying in response to a Competitive Application Cycle will be ranked highest to lowest by subregion. Funding that remains available after awarding all available eligible Applications in each subregion shall collapse and be directed to the next Application in the most underserved subregion. If funding is made available to multiple Activities under one NOFA, the funds remaining after awarding all eligible Applications by Activity shall collapse and be directed to the next Application in the most underserved subregion regardless of Activity;

(2) Funds made available through an Open Application Cycle and subject to regional allocation shall be made available to each subregion for a time period to be specified in the applicable NOFA, after which the funds remaining shall collapse and be made available statewide; and

(3) In the event of a tie between two or more Applicants, the Department reserves the right to determine which Application will receive a recommendation for funding, or as otherwise specified in the NOFA. Tied Applicants may also receive a partial recommendation for funding.

§23.21. Application Forms and Materials and Deadlines.

(a) The Department will develop and publish an Application, which if completed by an eligible Applicant, would satisfy the requirements for requesting funds from the Department. The Department

will also issue an Application Submission Procedures Manual (ASPM) ASPM to provide guidance on proper completion of the Application.

(b) Applicants must submit an Application for a Contract award by the deadline date specified in the NOFA. All Applications must be received during business hours, Monday through Friday, 8 a.m. – 5 p.m. on any day in which the Department is open for business.

§23.22.Contract Award Application Review Process.

(a) An Application received by the Department in response to an Open Application Cycle NOFA will be assigned a "Received Date" based on the date it is received by the Division. An Application will be prioritized for review based on its "Received Date." An Application with outstanding Administrative Deficiencies may be held from further review until all Administrative Deficiencies have been cured. Applications that have completed the review process may be presented to the Board for approval with priority over Applications that continue to have Administrative Deficiencies at the time Board materials are prepared, regardless of "Received Date." If all funds available under a NOFA are awarded, all remaining Applicants will be notified and the remaining Applications will not be processed.

(b) For Applications received by the Department in response to a Competitive Application Cycle NOFA, the Department will accept Applications on an ongoing basis during the application acceptance period as specified in the NOFA. Applications will be prioritized for review based upon the score of the Application.

(c) An Administrative Deficiency may not be cured if it would require substantially changing an Application or if the Applicant provides ~~esing~~ any new unrequested information to cure the Deficiency. An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, and may not add any set-asides, increase the award request amount, or revise the unit mix (both income levels and bedroom mixes), except in response to a direct request from the Department to remedy an Administrative Deficiency as further described in this chapter or by amendment of an Application after the Board approval of a HOME award. The curative time periods allowable for Administrative Deficiencies are: for Applications received under an Open Application Cycle NOFA, Administrative Deficiencies not cured within five (5) business days will be terminated. Applicants that have been terminated may reapply for funds; or for Applications received under a Competitive Application Cycle NOFA, if Administrative Deficiencies are not cured to the satisfaction of the Department within five (5) business days of the deficiency notice date, then five (5) points shall be deducted from the selection score for each additional day the Administrative Deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected within seven (7) business days from the deficiency notice date, then the Application shall be terminated. An Applicant may not adjust the self-score without a request from the Department as a result of an Administrative Deficiency.

§23.23.Reservation System Participant Review Process.

(a) In order for an Applicant to participate in the Reservation System, the Department must review and approve an Application to become a Reservation System Participant (RSP). Applications will be reviewed and, if the Application is not terminated in accordance with subsection (c) of this section, a

Reservation System Participation Agreement will be drafted and presented to the Executive Director for approval in the order in which they are received.

(b) Applications for recertification may be submitted ninety (90) days prior to the end of the RSP agreement term and will be required to demonstrate that all Application requirements are met.

(c) Administrative Deficiencies must be cured within ten (10) business days of the date of the deficiency notice. If Administrative Deficiencies are not clarified or corrected within ten business days from the deficiency notice date, the Application may be terminated.

§23.24. General Threshold and Selection Criteria.

All Applicants and Applications must submit or comply with:

(1) an Applicant certification of compliance with state and federal laws, rules and guidance governing the HOME Program;

(2) a resolution signed and dated within the six (6) months preceding the Application submission date from the Applicant's direct governing body which includes:

(A) authorization of the submission of the Application;

(B) commitment and amount of cash reserves, if applicable, for use during the Contract or RSP agreement term;

(C) source of funds for Match obligation and Match dollar amount, if applicable;

(D) name and title of the person authorized to represent the organization; and

(E) signature authority to execute a contract;

(3) any Applicant requesting \$25,000 or more must be registered in the federal Central Contractor Registration (CCR) and have a current Data Universal Numbering System (DUNS) number. Applicants requesting funds for multifamily housing development and that are "to-be-formed" are not required to submit a CCR or DUNS number until after award but prior to Contract execution. If the property will be owned by a partnership, the partnership must be the registrant. If a partnership will be receiving funds under the CHDO set-aside, the partnership and the CHDO must both be registered;

(4) an Application fee, to be defined in the NOFA, ~~which is sufficient to discourage the submission of partial or incomplete Applications except as otherwise allowed by state statute;~~

(5) to be eligible for a new Contract award, an Applicant must have committed funds to at least 80 percent of the total number of contractually required Households or has committed at least 80 percent of the total Project funds on their current Contract for the same Activity. This provision shall not apply to Applications submitted for disaster relief funding or those with an exclusively different Service Area;

(6) an Application must be substantially complete when received by the Department. An Application will be terminated if an entire volume of the Application is missing; has excessive omissions of documentation from the threshold or selection criteria or uniform Application documentation; or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department. Such Application will be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the Department's termination will be included in the notification sent to the Applicant but, because of the suspended review, may not include an all inclusive list of deficiencies in the Application; and

(7) the Department may incentivize or provide preference to Applicants targeting very low and extremely low income Households or to Applicants that have successfully executed a previous HOME

Contract with the Department. Such incentives may be established in the form of threshold or selection criteria in the NOFA and may be different for each Activity.

§23.25. Contract Award Limitations.

(a) Project Funds Limits. Project funds for Contract awards are limited to \$~~500~~510,000 per Contract Administrator for Homeowner Rehabilitation and Contract for Deed Conversion Activity Applicants and \$300,000 per Contract Administrator for Homebuyer Assistance and Tenant-Based Rental Assistance Activity Applicants. The Contract award limits for Project funds for Single Family Development Activity Applicants will be established in the NOFA for these Activities.

(b) Contract Award Terms. With the exception of Tenant-Based Rental Assistance, all Activity Contract awards will have a Contract term of twenty-four (24) months exclusive of any applicable affordability period or loan term. Tenant-Based Rental Assistance Activity Contract awards will have a Contract term of thirty-six (36) months.

(c) Contract Award Benchmarks. All Contract Administrators must submit to the Department complete Project setup information for the Commitment of Funds of all contractually required Households in accordance with the requirements herein within twelve (12) months from the effective date of the Contract. All remaining funds will be automatically deobligated and returned to the Department unless an amendment has been requested in writing prior to this date and is approved.

(d) Voluntary deobligation. The Contract Administrator may fully deobligate funds in the form of a written request signed by the signatory, or successor thereto~~executor~~ of the Contract. The Contract Administrator may partially deobligate funds under a Contract in the form of a written request from the signatory~~executor~~ if the letter also deobligates the associated number of targeted Households, funds for Administrative costs, and Match and the partial deobligation would not have impacted the award of the Contract.

(e) The Department may request information regarding the performance or status under a Contract prior to a Contract benchmark or at various times during the term of a Contract. Contract Administrator must respond within the time limit stated in the request~~a timely manner to such requests from the Department~~. Prolonged or repeated failure to respond may result an Administrative Deficiency and ultimately in termination of the Contract by the Department.

(f) Pre-Award Costs. Before the effective date of the HOME Contract, the Contract Administrator may incur and be reimbursed for travel costs, as provided for with Administrative funds, related to mandatory training required by the Department as a condition of receiving a HOME award and Contract. Department authorized pre-award costs for predevelopment costs, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and market study fees, may be paid if incurred before the effective date of the Contract if the costs are in accordance with 24 CFR §92.212 and at the sole discretion of the Department.

§23.26. Reservation System Participant (RSP) Agreements.

(a) Terms of agreement. RSP agreements will have a twenty-four (24) month term for all Activities. Execution of an RSP agreement does not guarantee the availability of funds under a reservation system.

(b) Limits on Number of Reservations. The number of Homeowner Rehabilitation, Homebuyer Assistance or Single Family Development reservations for an RSP is limited to five (5) per county within the RSP's Service Area at any given time. The number of Tenant-Based Rental Assistance reservations for an RSP is limited to thirty (30) at any given time.

(c) Extremely Low-Income Households. Except for Households served with disaster relief, homebuyer assistance or single family development funds, each RSP will be required to serve at least one Household at or below 30 percent of area median family income (AMFI) out of every four Households submitted and approved for assistance.

(d) Match. The requirements of this subsection are waived until December 31, 2013. Any Projects submitted to the Department under a Reservation Agreement prior to December 31, 2013 will not be required to provide Match as outlined in this section, except for Match that is proposed to meet Application threshold criteria. An RSP must meet the tiered Match requirements per Activity for at least every fourth Household submitted and approved for assistance. For example, if Match is not provided for the first three Households assisted by an RSP, the Match provided to the fourth Household must meet the Match requirement for all four Households.

(e) Completion of Construction. For Projects involving construction, an RSP must complete construction and submit all requests for disbursement within nine (9) months from the Commitment of Funds for the Project.

(f) Extensions. The Executive Director or his/her designee may approve one three (3) month time extension to the Commitment of Funds to allow for the completion of construction and submission of requests for disbursement.

(g) An RSP must remain in good standing with the Department, the state of Texas, and HUD. If an RSP is not in good standing, participation in the reservation system will be suspended and may result in termination of the RSP agreement.

§23.27. Procurement of Contractor.

The Department may procure a contractor or contractors to provide services for the administration of the HOME Program ~~through a Request for Proposals (RFP)~~. A contractor must provide services and/or administer HOME funds in accordance with state and federal rules and the program requirements of this chapter for the applicable Activity.

§23.28. General Administrative Requirements.

Unless otherwise provided in this chapter, the CA, RSP, or Development Owner, must comply with the requirements described in paragraphs (1) - (178) of this section, for the administration and use of HOME funds:

(1) complete training, as applicable;

- (2) provide all applicable Department Housing Contract System access request information and documentation requirements;
- (3) establish and maintain sufficient records at its regular place of business and make available for examination by the Department, HUD, the State Auditor ~~of the~~ of Texas, the U.S. General Accounting Office, the Comptroller of Public Accounts of the State of Texas, and the U.S. Comptroller, or any of their duly authorized representatives;
- (4) for non-development Activities, develop and establish written procurement procedures that comply with federal, state, and local procurement requirements including:
- (A) develop and comply with written procurement selection criteria and committees;
 - (B) develop and comply with a written code of conduct governing employees, officers, or agents engaged in administering HOME funds and appoint a procurement officer to manage any bid process;
 - (C) ensure consultant or any procured service provider does not participate in or direct the process of procurement for professional services. ~~In other words, A~~ consultant cannot assist in ~~its~~their own procurement before or after an award is made;
 - (D) ensure that procedures established for procurement of building construction contractors may do not include requirements for the provision of general liability insurance coverage in for an amount to exceed the value of the contract;
 - (E) ensure that building construction contractors ~~are must be~~ procured using a formal sealed bid procedure for single family New Construction, Reconstruction or Rehabilitation Projects;
 - (F) ensure that professional service providers (consultants) ~~must are be~~ procured using an open competitive procedure and are may not be procured based solely on the lowest priced bid; and
 - (G) ensure that any Request for Proposals or Invitation for Bid must include:
 - (i) an equal opportunity disclosure and a notice that list the requirement that bidders are subject to search for listing on the Excluded Parties List;
 - (ii) bidders' protest rights and an outline of the procedures bidders must take to address procurement related disputes;
 - (iii) a conflict of interest disclosure;
 - (iv) a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description must include complete, adequate, and realistic specifications;
 - (v) for sealed bid procedures, disclose the date, time and location for public opening of bids and indicate a fixed-price contract; and
 - (vi) for competitive proposals, disclose the specific selection/evaluation criteria-;
- (5) In instances where potential conflict of interest exists, follow procedures to submit a request to the Department to grant an exception to any conflicts prohibited by 24 CFR §92.356. The request submitted to the Department must include a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict by newspaper publication and a description of how the public disclosure was made. No HOME funds will be committed to or reserved to assist a Household until HUD has granted an exception to the conflict of interest provisions;
- (6) Perform environmental clearance procedures, as required, before acquiring any Property or before performing any construction activities, including demolition, or before the occurrence of the loan closing, if applicable;
- (7) Develop and comply with written applicant intake and selection criteria for ~~and ensure~~ program eligibility and promote and comply with Fair Housing requirements;
- (8) Complete applicant intake and applicant selection. Notify each applicant Household in writing of either acceptance or denial of HOME assistance within sixty (60) days following receipt of the intake

application. For Homeowner Rehabilitation Assistance and Contract for Deed Conversion the CA or RSP must:

(A) provide Rehabilitation as an available option to Households, provide Households with a general cost estimate, and to the extent that Rehabilitation would not meet the program requirements, explain these program requirements;

(B) unless not allowed by local code, provide replacement of an existing housing unit with a new MHU as an available option; and

(C) explain relocation as an available option to any Households located within the 100-year floodplain and present the costs associated with flood insurance;

(9) Determine the income eligibility of a Household using the "Annual Income" as defined at 24 CFR §5.609;

(10) Except for Single Family Development, complete an updated income eligibility determination of a Household if more than six (6) months has elapsed from the date of certification and the date the HOME assistance is provided to the Household. For Single Family Development, complete income eligibility determination of a Household if more than six (6) months has elapsed from the date of certification and the date the contract to purchase the housing unit is executed with the Household;

(11) For single family Activities involving construction, perform initial inspection in accordance with Chapter 20 of this title (relating to Single Family Programs Umbrella Rule) and at least four (4) progress inspections. Property inspections must include photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms. The inspection must be signed and dated by the inspector and CA or RSP;

(12) Submit requests for the Commitment or Reservation of Funds, loan closing preparation, and disbursements and all required information and verification documentation in the Housing Contract System. A request will not be reviewed by the Department until the CA, RSP, or Development Owner has submitted all required documentation. If, during review, the Department identifies Administrative Deficiencies, the Department will allow a cure period of ten (10) business days beginning at the start of the first business day following the date the CA, RSP or Development Owner is notified of the deficiency. If any Administrative Deficiency remains after the cure period, the Department, in its sole discretion, shall disapprove the request. Disapproved requests will not be considered sufficient to meet the performance benchmark and shall not constitute a Reservation of Funds;

(13) Not proceed or allow a contractor to proceed with construction, including demolition, on any Project or Development without first completing the required environmental clearance procedures, preconstruction conference and receiving notice to proceed, if applicable, and execution of grant agreement or loan closing with the Department, whichever is applicable;

(14) Submit any Program Income received by the CA, RSP or Development Owner to the Department within ten (10) business days of receipt. Return any refunds to the Department's accounting division and include a written explanation of the return of funds, the Contract number, name of CA, RSP, or Development Owner, Project address and Project number referenced on the check;

(15) Submit required documentation, for project completion reports no later than ~~sixty (60) thirty (30)~~ days after the completion of the Project;

(16) For Contract awards, submit certificate of Contract Completion within ten (10) business days of the Department's request; ~~and~~

(17) Submit to the Department reports or information regarding the operations related to HOME funds provided by the Department; ~~and-~~

(18) If required by state or federal law, place the appropriate bonding requirement in any contract or subcontract entered into by the CA, RSP, or Development Owner Administrator in connection with a HOME award.

§23.29. Resale and Recapture Provisions.

(a) The Department has elected to utilize the recapture provision under 24 CFR §92.254(a)(5)(ii) as its primary method of recapturing HOME funds.

(b) The Department has established the recapture provisions described in paragraphs (1) - (4) of this subsection to ensure affordability as defined in 24 CFR §92.254(a)(5)(ii).

(1) In the event that a federal affordability period is required and the assisted property is rented or leased, or otherwise ceases to be the Principal Residence of the Household, the forgiveness of the Loan, if applicable, will cease and the entire HOME investment is subject to recapture.

(2) In the event that a federal affordability period is required and the unit is sold, including through a short sale or foreclosure, prior to the end of the affordability period, the Department will recapture the shared net proceeds available based on the requirements of 24 CFR §92.254 and as outlined in the State's Consolidated Plan.

(3) The Household can sell the unit to any willing buyer at any price.

(4) If there are no net proceeds from the sale, no repayment will be required of the Household and the balance of the loan shall be forgiven as outlined in the State's applicable Consolidated Plan.

(c) The Department has established the resale provisions described in paragraphs (1) - (7) of this subsection, in the event that the Department must impose the resale provisions of 24 CFR §92.254(a)(i).

(1) Resale is defined as the continuation of the affordability period upon the sale or transfer, rental or lease, refinancing, or the initial Household is no longer occupying the property as their Principal Residence.

(2) In the event that a federal affordability period is required and the assisted property is rented or leased, or is otherwise ceases to be the Principal Residence of the initial Household, the entire HOME investment must be repaid.

(3) In the event that a federal affordability period is required and the assisted property is sold, foreclosed, or transferred in lieu of foreclosure to a qualified low income buyer at an affordable price, the HOME loan balance shall be transferred to the subsequent qualified buyer and the affordability period shall remain in force to the extent allowed by law.

(4) The resale provisions shall remain in force from the date of the legal documents are executed at loan closing until the expiration of the required affordability period.

(5) The Household is required to sell the home at an affordable price to a reasonable range of low income homebuyers that will occupy the home as their Primary Residence.

(A) The seller will be afforded a fair return on investment defined as the sum of down payment and closing costs paid from the initial seller's cash at purchase, closing costs paid by the seller at sale, the principal payments only made by the initial homebuyer in excess of the amount required by the loan, and any documented capital improvements in excess of \$500.

(B) Fair return on investment is paid to the seller at sale once first mortgage debt is paid and all other conditions of the initial written agreement are met. In the event there are no funds for fair return, then fair return does not exist. In the event there are partial funds for fair return, then the appropriate partial fair return shall remain in force.

(6) The appreciated value is the affordable sales price less first mortgage debt less fair return.

(A) If appreciated value is zero, or less than zero, then no appreciated value exists.

(B) The initial homebuyer's initial investment of down payment and closing costs divided by the Department's HOME investment equals the percentage of appreciated value that shall be paid to the initial homebuyer. The balance of appreciated value shall be paid to the Department.

(7) The property purchased by the initial homebuyer will be encumbered with a deed restriction for the full affordability period.

(d) In the event that a federal affordability period is not required and the housing unit transfers by devise, descent, or operation of law upon the death of the assisted homeowner, forgiveness of installment payments under the loan may continue until maturity or the grant amount under the conditional grant agreement may be forgiven, if the heir or remainderman Household qualifies for assistance in accordance with this chapter.

(e) Forgiveness of installment payments under the loan may continue until maturity or the grant amount under conditional grant agreement may be forgiven if the housing unit is sold by the decedent's estate to a purchasing Household that qualifies for assistance in accordance with this chapter.

Attachment H: Preamble and adoption of new 10 TAC Chapter 23, Subchapter C, Single Family HOME Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter Subchapter C, §§23.30 – 23.32, concerning administration of the Homeowner Rehabilitation Assistance Program Activity are adopted with change to the proposed text as published in the August 10, 2012, issue of the *Texas Register* (37 TexReg 5919).

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS:

Comments were accepted from August 10, 2012 through September 10, 2012, with comments received from: (1) Langford Community Management Services, Inc; (2) GrantWorks, Inc.; (4) Texas Manufactured Housing Association; and (6) City of Midland.

The comments and responses include both administrative clarifications and corrections to the rule recommended by Staff and substantive comments on the rule and the corresponding Departmental responses. After each comment title, numbers are shown in parentheses. These numbers refer to the person or entity that made the comment as reflected in the Addendum. If comment resulted in recommended language changes to the draft rule as presented to the Board in July, such changes are indicated.

§23.30. Homeowner Rehabilitation Assistance (HRA) Program Threshold and Selection Criteria.

Staff made non-substantive corrections, including amended language in paragraph (1) to clarify provision, by deleting the word “waived” and adding “not effective”:

(1) The requirements of this section are not effective until December 31, 2013.

§23.30(1)(A) – (C). Match. (1) (2)

COMMENT SUMMARY: Commenter’s (1) and (2) suggested more generous match levels for Cities and Counties when match is required.

For Cities: 1-5,000 population - Zero Match; 5,001+ population - 1 percent Match for every 1,000 in population to a max of 12 percent match. For Counties: 1-25,000 unincorporated population - Zero Match; 25,000+ unincorporated population - 1 percent match for every 10,000 in population to a max of 12 percent match.

STAFF RESPONSE: Match is waived for all HOME activities until December 31, 2013, unless Match is counted towards application threshold points. Staff agreed with the commenters and recommends the match levels to be reduced as recommended.

§23.31.Homeowner Rehabilitation Assistance (HRA) Program Requirements.

Staff made non-substantive corrections.

§23.31(b)(3) and (h). Homeowner Rehabilitation Assistance (HRA) Program Requirements; and Figure (j) Re-payable loans. (1)(2)

COMMENT SUMMARY: Commenter's (1) and (2) recommend elimination of the requirement to repay HOME assistance for homeowners when HOME funds take out the first lien or when the homeowner's income is greater than 60 percent of Area Median Income.

STAFF RESPONSE: Rider 5 of the General Appropriations Act requires the Department to adopt a goal of no less than \$30 million dollars of the funds available from HOME, Housing Trust Funds, Section 8 and the Housing Tax Credit Program's total funds towards housing assistance for households with income less than 30 percent of Area Median Income (AMI). No less than 20 percent of funds available shall be spent on individuals between 31 and 60 percent of AMI. Allowing assistance in the form of a grant allows the funds to be targeted to lower income households to assist in meeting the Rider 5 requirements. Staff does not recommend any changes based on these comments.

§23.31(d). Direct Project Costs. (4)(6)

COMMENT SUMMARY: The proposed rules increase the direct project cost for stick built construction from \$80,000 to \$85,000. The cost for a replacement MHU stayed constant at \$65,000. Commenter (4) recommended the MHU replacement maximum should be equal to the direct project cost for stick built replacements to allow greater owner choice and comparison of options. Commenter (6) proposes that Direct Project Costs of stick built homes be increased to \$100,000 or \$85/square foot and the cost of demolition be excluded from the costs.

STAFF RESPONSE: In response to Commenter (4), the MHU replacement cap provides a comparable sized unit to a stick built unit and, thus, staff recommends no change based on this comment. In response to Commenter (6), staff is aware of increased construction costs in certain areas of the state, but due to a current lack of a generally accepted standard in these areas regarding building costs per square foot, we do not recommend increasing the construction cap at this time. Staff recommends no change, based on this comment at this time, but will conduct more research in this area for future consideration. Staff made non-substantive corrections to this section.

§23.31(e). Allowance for Accessibility Site Work. (6)

COMMENT SUMMARY: Up to an additional \$5,000 is allowed to provide additional site work related to accessibility features necessary if the house is located more than 50 feet from a paved street or if the house is elevated. Commenter (6) suggested the increase be limited to \$30 per linear foot rather than up to \$5,000.

STAFF RESPONSE: Staff agrees that the cost of sidewalks can vary greatly, however these funds may be used for other items such as pads and ramps. Staff does not recommend any changes based on these comments.

§23.31(f)(2). Soft Cost for MHUs. (4)

COMMENT SUMMARY: The proposed rules increase the soft cost for stick built construction from \$7,000 to \$9,000 per housing unit. The soft cost for MHU replacement remained constant at \$3,500 per housing unit. Commenter (4) recommends the soft costs for MHU replacement are increased equal to the soft costs allowed under stick built construction to allow greater consumer option and benefit.

STAFF RESPONSE: The contract management activities of a replacement MHU are not as extensive and do not require the same level of oversight expense as required of a stick built dwelling, therefore, Staff does not recommend any changes based on these comments.

§23.32(a)(7). Demolition costs. (1)

COMMENT SUMMARY: Commenter (1) questioned whether or not HOME funds could be used for the cost of demolition for all HOME activities or just when relocation is involved with Homeowner Rehabilitation Assistance.

STAFF RESPONSE: Staff recommended a few technical corrections to the proposed rule posted in the July 26 board book, and were read into the record at the July 26, 2012 Board Meeting. These corrections were included in the official publication of the rules published in the *Texas Register* on August 10, 2012. The official copy of the rules clarifies that HOME funds can be used for the cost of demolition for all HOME activities, not just when relocation is involved with Homeowner Rehabilitation Assistance. Therefore, staff does not recommend any changes based on this comment.

§23.32(a)(14) Real Estate Appraisals. (1)(2)

COMMENT SUMMARY: Commenter's (1) and (2) state that Real Estate appraisals to establish after-rehabilitation value are costly and real estate appraisers are limited in rural areas. Commenter (2) suggests adding the actual construction bid to the lot value from the appraisal district to establish the after-rehabilitation value for the after-rehabilitation property.

STAFF RESPONSE: The after-rehabilitation value is required to satisfy federal requirements. Staff agrees there are several methods to establish the after-rehabilitation value and recommends an amendment to the language as follows:

(14) appraisal or other valuation method approved by TDHCA which establishes the post rehabilitation or reconstruction value of improvements for Projects involving construction; and

§23.32(c)(6). Certified copies of documents. (2)

COMMENT SUMMARY: Originals of the Grant Agreement and other loan document must be provided to the Department to disperse funds. Commenter (2) requested the Department allow dispersal of funds with certified copies of the documents.

STAFF RESPONSE: §23.32(c) states that the paragraphs (1) - (11) may be required when a request for disbursement is made. The language allows for flexibility in extenuating circumstances. Staff does not recommend any changes based on these comments.

The Board approved the final order adopting the new sections including non-substantive technical corrections, on October 6, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§23.30.Homeowner Rehabilitation Assistance (HRA) Program Threshold and Selection Criteria.

All Applicants and Applications must submit or comply with this section.

(1) The requirements of this section are ~~not effective~~waived_ until December 31, 2013. Any Projects submitted to the Department under a Reservation Agreement or Contract awarded prior to December 31, 2013 will not be required to provide Match as outlined in this section, except for Match that is proposed to meet Application threshold criteria. An itemized schedule of the proposed Match and evidence to

support the Applicant's ability to provide the required Match is required at the time of submission. For Applications submitted to become an RSP, the Department may withhold disbursements if after every four reservations sufficient Match documentation has not been provided. The Department shall use population figures from the most recently available U.S. Census to determine the applicable tier for an Application. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established in the form of a threshold or selection criteria and may be different for each Activity. Except for Applications for disaster relief, Match shall be required based on the tiers described in subparagraphs (A) - (C) of this paragraph:

- (A) zero percent of Project funds is required as match if serving a city of less than ~~5,000~~ 3,000 Persons or an unincorporated area of a county whose population in the total unincorporated area of the county is with less than ~~25,000~~ 20,000 Persons;
- (B) one percent Match for every 1,000 in population to a maximum of 12 percent match for projects in or contracts serving cities with a population greater than 5,000; and ten percent of Project funds if serving a city of between 3,001 and 5,000 Persons or an unincorporated area of a county of between than 20,001 and 75,000 Persons; and
- (C) one percent Match for every 10,000 in population in the total unincorporated area of the county to a maximum of 12 percent match for projects in or contracts serving the unincorporated area of a county. twelve and one-half percent of Project funds for all other applications.

(2) Documentation of a commitment of at least \$80,000 or for a Contract award 80 percent of the award amount, whichever is less, in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

- (A) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or
- (B) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in subparagraph (A) of this paragraph; or
- (C) the Certified Public Accountant (CPA) opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

(3) Housing construction plans must meet the requirements of Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

- (A) The Department will reimburse only for the first time a set of architectural plans are used, unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and
- (B) A Notice of funding Availability (NOFA) may include incentives or otherwise require architectural plans to incorporate "green building" elements.

§23.31.Homeowner Rehabilitation Assistance (HRA) Program Requirements.

(a) Eligible Projects are limited to:

- (1) the Rehabilitation or Reconstruction of existing owner-occupied housing on the same site. The Rehabilitation of a Manufactured Housing Unit (MHU) is not an eligible Project;

(2) the New Construction of site-built housing on the same site to replace an existing owner-occupied MHU;

(3) the replacement of existing owner-occupied housing with an MHU or New Construction of site-built housing on another site contingent upon written approval of the Department;

(4) if housing unit is uninhabitable as a result of disaster or condemnation by local government, the Household is eligible for the New Construction of site-built housing or an MHU under this section provided the assisted Household documents that the housing unit was previously their Principal Residence through evidence of a homestead exemption from the local taxing jurisdiction and Household certification; or

(5) if allowable under the NOFA, the refinance of an existing mortgage meeting the federal requirements at 24 CFR §92.206(b) and any additional requirements in the Notice of Funding Availability (NOFA).

(b) If a housing unit has an existing mortgage loan and Department funds are provided in the form of a loan, the Department will require a first lien if the loan has an outstanding balance that is less than the investment of HOME funds and any of the statements described in paragraphs (1) - (3) of this subsection are true:

(1) a federal affordability period is required; or

(2) any existing mortgage has been in place for less three (3) years from the date the Household applies for assistance; or

(3) the HOME loan is structured as a repayable loan.

(c) The Household must be current on any existing mortgage loans or home equity loans. If the Department's assistance is provided in the form of a loan, the property cannot have any existing home equity loan liens.

(d) Direct Project Costs, exclusive of Match funds, and are limited to:

(1) Reconstruction and New Construction of site-built housing: ~~The the~~ lesser of \$78 per square foot or \$85,000, or for Households of six or more Persons the lesser of \$78 per square foot or \$90,000;

(2) replacement with an MHU: \$65,000;

(3) rehabilitation that is not Reconstruction: \$40,000; and

(4) refinancing of existing mortgages: in addition to the costs limited under paragraphs (1) - (3) of this subsection, the cost to refinance an existing mortgage is limited to \$35,000. To qualify, a Household's current total housing payment must be greater than 30 percent of their monthly gross income or their total monthly recurring debt payments must be greater than 45 percent of their gross monthly income.

(e) In addition to the Direct Project Costs allowable under subsection (d) of this section, up to \$5,000 will be allowed in Direct Project Costs for additional sitework related to accessibility features if the house will be located more than 50 feet from the nearest paved roadway or if the house is being elevated above the floodplain.

(f) Project soft costs are limited to:

(1) Reconstruction or New Construction: no more than \$9,000 per housing unit;

(2) replacement with an MHU: no more than \$3,500 per housing unit;

(3) rehabilitation that is not Reconstruction: \$5,000 per housing unit. This limit may be exceeded for lead-based paint remediation and only upon prior approval of the Division Director. The costs of testing

and assessments for lead-based paint are not eligible Project soft costs for housing units that are Reconstructed or if the existing housing unit was built after December 31, 1977; and

(4) third-party Project soft costs related to loan closing requirements, such as appraisals, title reports or insurance, tax certificates, recording fees, and surveys are not subject to a maximum per Project.

(g) Funds for Administrative costs are limited to no more than 4 percent of the Direct Project Costs, exclusive of Match funds.

(h) In the instances described in paragraphs (1) - (4) of this subsection, the assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Project Costs excluding Match funds. If the Household is at or below 60 percent area median family income (AMFI), the loan will be at zero percent interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254. If the Household is above 60 percent AMFI but at or below 80 percent AMFI, the assistance to the Household will be a zero percent interest repayable with a 30-year term.

- (1) An MHU being replaced with newly constructed housing (site-built) on the same site;
- (2) Any housing unit being replaced on an another site;
- (3) Any housing unit that is being relocated out of the floodplain or replaced due to uninhabitability as allowed under subsection (a)(4) of this section; and
- (4) Any Project that requires a federal affordability period.

(i) For any Project involving refinancing described in subsection (d)(4) of this section, the HOME funds used for refinancing shall be structured as a fully amortizing, repayable loan at zero percent interest. The loan term shall be calculated by setting the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance), equal to 20 percent of the Household's gross monthly income. The term shall not exceed thirty (30) years. Total debt service (back-end ratio) may not exceed 45 percent. Any Direct Project Costs, exclusive of refinancing costs and Match funds, shall be structured as a deferred, forgivable loan with a 15-year term.

(j) In all other instances not described in subsections (h) and (i) of this section, the assistance to an eligible Household may be in the form of a loan or grant agreement in the amount of the Direct Project Costs exclusive of Match funds with an affordability term based on the Household's AMFI as reflected in Figure: 10 TAC §23.31(j).

Figure: 10 TAC §23.31(j)

AMFI	Form of Assistance
<30 percent AMFI	zero percent interest, 5-year deferred, forgivable loan, or grant agreement.
>30 percent and 50 percent AMFI	zero percent interest, 10-year deferred, forgivable loan, or grant agreement.
>50 percent and 60 percent AMFI	zero percent interest, 15-year deferred, forgivable loan, or grant agreement.
>60 percent and 80 percent AMFI	zero percent interest, 15-year affordability period, 30-year term repayable loan term

(k) To ensure affordability, the Department will impose resale and recapture provisions established in this chapter.

(l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000 International Residential Code and all applicable local codes and standards. In addition, housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with this chapter.

§23.32. Homeowner Rehabilitation Assistance (HRA) Administrative Requirements.

(a) Commitment or Reservation of Funds. The Contract Administrator (CA) or Reservation System Participant (RSP) must submit the true and complete information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (15) of this subsection:

- (1) head of Household name and address of housing unit for which assistance is being requested;
- (2) a budget that includes the amount of Project funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Direct Project Cost and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;
- (3) verification of environmental clearance;
- (4) a copy of the Household's intake application on a form prescribed by the Department;
- (5) certification of the income eligibility of the Household signed by the CA or RSP and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;
- (6) provide written consent from all Persons who have a valid lien or ownership interest in the Property for the rehabilitation or reconstruction Projects;
- (7) in the instance of relocation and in accordance with §23.31(a)(3) of this chapter (relating to Homeowner Rehabilitation Assistance (HRA) Program Requirements), the Household must document Homeownership of the existing unit to be replaced and must establish Homeownership of the lot on which the replacement housing unit will be constructed. The Household must agree to the demolition of the existing housing unit. HOME Project funds cannot be used for the demolition of the existing unit and any funding used for the demolition is not eligible Match; however, solely for a Project under this paragraph, the CA or RSP Match obligation may be reduced by the cost of such demolition without any Contract amendment;
- (8) identification of any Lead-Based Paint (LBP);
- (9) for housing units located within the 100-year floodplain, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;
- (10) consent to demolish from any existing mortgage lien holders and consent to subordinate to the Department's Loan, if applicable;
- (11) if applicable, documentation to address or resolve any potential conflict of interest, identity of interest, duplication of benefit, or floodplain mitigation;
- (12) a title commitment or policy or a down date endorsement to an existing title policy, and the actual documents, or legible copies thereof, establishing the Household's ownership, such as a warranty deed or ninety-nine (99) year leasehold. For assistance provided in the form of a grant agreement, a title report may be submitted in lieu of a title commitment or policy. In instances of an MHU, a Statement of

Ownership and Location (SOL) must be submitted. Together, these documents must evidence the definition of Homeownership is met;

(13) tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current;

(14) appraisal or other valuation method approved by TDHCA which establishes the ~~includes~~ post rehabilitation or reconstruction value of improvements for Projects involving construction; and

(15) any other documentation necessary to evidence that the Project meets the program requirements.

(b) Loan closing or grant agreement. The CA or RSP must comply with or submit the documents described in paragraphs (1) - (3) of this subsection, with a request for the preparation of loan closing or grant agreement as applicable, with the request for the Commitment or Reservation of Funds:

(1) a title commitment or title policy that expires prior to execution of closing must be updated at closing and must not have any adverse changes in order to close. An updated title report is not required for grant agreements;

(2) in the instances of replacement with an MHU, information necessary to draft loan documents or grant agreements to issue SOL; and

(3) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship.

(c) Disbursement of funds. The CA or RSP must comply with all of the requirements described in paragraphs (1) - (11) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with requirements described in paragraphs (1) - (11) of this subsection, may be required with a request for disbursement:

(1) for construction costs associated with a loan, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least thirty (30) days after the date of construction completion;

(2) for construction costs associated with a grant agreement, an interim lien waiver or final lien waiver. For release of retainage the final lien waiver must be dated at least thirty (30) days after the date of construction completion;

(3) if applicable, up to 50 percent of Project funds for a Project may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(4) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA or RSP;

(5) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(6) the executed grant agreement or original, executed, legally enforceable loan documents and statement of location, if applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have

been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official.

(7) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all Program Rules;

(8) the request for funds for Administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;

(9) include the withholding of ten percent of hard construction costs for retainage. Retainage will be held until at least thirty (30) days after completion of construction;

(10) for final disbursement requests, submission of documentation required for Project completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot occurred for Newly Constructed or Rehabilitated housing unit, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot for which ownership was established and on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation; and

(11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Attachment I: Preamble and adoption of new 10 TAC Chapter 23, Subchapter D, Single Family HOME Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter Subchapter D, §§23.40 – 23.42, concerning administration of the Homebuyer Assistance Program Activity, with changes to the proposed text as published in the August 10, 2012, issue of the *Texas Register* (37 TexReg 5922).

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS:

Comments were accepted from August 10, 2012 through September 10, 2012, with comments received from (3) Midland Habitat for Humanity; (5) Resource Management and Consulting Co; (7) Hunter and Hunter Consultants, Inc.; (9) Texas Associations of Community Development Corporations; (10) Disability Advisory Workgroup; and (11) Easter Seals.

The comments and responses include both administrative clarifications and corrections to the rule recommended by Staff and substantive comments on the rule and the corresponding Departmental responses. After each comment title, numbers are shown in parentheses. These numbers refer to the person or entity that made the comment as reflected in the Addendum. If comment resulted in recommended language changes to the draft rule as presented to the Board in July, such changes are indicated.

§23.40(1). Match Requirements. (7)

COMMENT SUMMARY: Commenter (7) recommends the match requirement be permanently removed from the HBA program due to the difficulty Administrators have in identifying sources of match funds under the HBA program.

STAFF RESPONSE: Match is a federal requirement under the HOME program. The Department currently has match in excess of the amount necessary to meet the federal requirements and has the ability to waive the match requirements. The Match requirement should periodically be reviewed and annualized and a permanent waiver is not recommended. Staff does not recommend any changes based on these comments.

§23.41(c)(4). First Lien Purchase Loans. (7)

COMMENT SUMMARY: Commenter (7) recommends deletion of this paragraph because the language conflicts with other provisions of the section.

STAFF RESPONSE: Staff agrees that this language appears to conflict with other provisions in this section and recommends removal of this provision.

§23.41(c)(5). Debt to income ratios. (7)

COMMENT SUMMARY: The total debt to income ratios or back end ratios for non-conforming mortgage loans cannot exceed 45 percent. Commenter (7) recommends the back end ratio to equal the FHA approved debt to income ratio:

STAFF RESPONSE: HUD requires the Department to establish underwriting standards and criteria for HOME programs. This section applies only to non-conforming first lien mortgages. The adoption of a standard 45 percent back end ratio for non-conforming loans protects program funds and complies with HUD requirements. Staff does not recommend any changes based on these comments.

§23.41(c)(5) Fees Charged to First Lien Mortgage Lenders (7)

COMMENT SUMMARY: Commenter (7) suggested the following modified language to replace the existing proposed language of this subsection of the rule.

(5) Fees charged by third party mortgage lenders are limited to the greater of 2 percent of the mortgage loan amount of \$3,500, including but not limited to origination, application, and /or underwriting fees. Fees associated with the origination of Single Family Mortgage Revenue Bond and Mortgage Credit Certificate programs will not be included in the limit. Fees paid to parties other than the first lien lender and reflected on the HUD-1 will not be included in the limit. Fees collected by the first lien lender at closing to be paid to other parties by the first lien lender that are supported by an invoice and reflected on the HUD-1 will not be included in the limit.

STAFF RESPONSE: Staff agreed with commenter and recommends the modified language as suggested.

§23.41(d)(1) and §23.71(i)(2). Front End Ratios. (3)(5)(7)(9)(10)(11)

COMMENT SUMMARY: The amount of down payment assistance provided under the home buyer assistance program is restricted to the amount necessary such that the total housing payment is at least 20 percent of the applicant's gross income. Commenter (3) recommends eliminating or reducing the front end ratio to 15 percent of the gross income of applicants requesting down payment assistance. Commenter (5), (7), and (9) recommend elimination or reduction of the ratio of income to total house payment (front end ratio) or allow the FHA approved debt ratios or the first lien lender to determine both the front and back end ratios according to their lending requirements. Commenter's (5) and (9) suggest the ratio be reduced from 20 percent to 15 percent. Commenter (11) recommended elimination of the front end ratio altogether. Commenter (7) recommended an alternative suggestion that HOME down payment assistance is offered equal to 20 percent of the sales price up to a maximum of \$20,000. In addition it is suggested that the HOME assistance be calculated prior to the addition of other down payment assistance or forgiveness of loans. Commenter (10) requested a waiver of the front end ratio to accommodate very low income households.

STAFF RESPONSE: The front end ratio was established in the 2010 HOME Rules at 25 percent of gross monthly income to satisfy HUD's requirement in 24 C.F.R. §92.250 that HOME funds are used prudently and do not result in more subsidy than necessary to make the unit affordable to the homebuyer. The HOME rule which was published for comment and which is presented for final adoption reduced the required front-end ratio to from 25 percent to 20 percent of gross monthly income in response to comments received by administrators prior to the rule making process. Staff does not recommend further reduction of the front-end ratio. No support documentation was provided by Commenter (3) to indicate that a reduction of the front end ratio to 15 percent is reasonable and necessary to assist low income homebuyers. Staff does not recommend that assistance be based on a percentage of the purchase price of the unit because that method does not account for individual

circumstances and loan terms. Staff does not recommend waivers of the front end ratio for very low income households when the 20 percent front end ratio is lower than the standard established in the rental industry of 30 percent. HUD has determined that it is reasonable and affordable in rental housing programs which target very low and extremely low income households, such as the Section 8 Housing Choice Voucher Program for households to pay 30 percent of their income towards rent. Staff does not recommend any changes based on these comments.

§23.41(e)(1). Soft Costs. (7)

COMMENT SUMMARY: The closing costs associated with the Home Buyer Assistance Program are limited to \$1,500. Commenter (7) suggested the soft costs be increased to \$1,800.

STAFF RESPONSE: The Commenter recommended increasing soft cost which will increase fees charged by consultants and Contract Administrators but offered no reasons to support the increase. Staff does not recommend any changes based on these comments.

§23.42. Homebuyer Assistance (HBA) Administrative Requirements.

Staff made non-substantive corrections.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§23.40. Homebuyer Assistance (HBA) Threshold and Selection Criteria.

All Applicants and Applications must submit or comply with this section.

(1) The requirements of this section are waived until August 31, 2013. Any Projects submitted to the Department under a Reservation Agreement or Contract awarded prior to December 31, 2013 will not be required to provide Match as outlined in this section, except for Match that is proposed to meet Application threshold criteria. An itemized schedule of the proposed Match and evidence to support the Applicant's ability to provide the required Match must be submitted. The Department may not require such support at the time an Application is submitted when the funds are made available under a reservation system. Except for Applications for disaster relief and Persons with Disabilities set-asides, the amount of Match required must be at least 5 percent of Project funds requested. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established in the form of a threshold or selection criteria and may be different for each Activity.

(2) Documentation of a commitment of at least \$80,000 or for a Contract award, 100 percent of the award amount, whichever is less, in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(A) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(B) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in subparagraph (A) of this paragraph; or

(C) the Certified Public Accountant (CPA) opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant

has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

§23.41.Homebuyer Assistance (HBA) Program Requirements.

(a) Eligible activities are limited to the acquisition or acquisition and Rehabilitation for accessibility modifications of single family housing units.

(b) The Household must complete a homebuyer counseling program/class.

(c) First lien purchase loans must comply with the requirements described in paragraphs (1) - (8) of this subsection:

(1) No adjustable rate mortgage loans or temporary interest rate buy-down loans are allowed;

(2) No first lien mortgage loans with a total loan to value equal to or greater than 100 percent are allowed;

(3) No Subprime Mortgage Loans are allowed;

(4) ~~Other than reimbursed to third parties and fees allowed for the origination of single family mortgage revenue bond and mortgage credit certificate programs, fees charged by the lender in connection with mortgage loans may not exceed \$2,500;~~ For Nonconforming Mortgage Loans, the debt to income ratio (back-end ratio) may not exceed 45 percent;

~~(5)(6) Fees charged by third party mortgage lenders are limited to the greater of 2 percent of the mortgage loan amount of \$3,500, including but not limited to origination, application, and /or underwriting fees. Fees associated with the origination of Single Family Mortgage Revenue Bond and Mortgage Credit Certificate programs will not be included in the limit. Fees paid to parties other than the first lien lender and reflected on the HUD-1 will not be included in the limit. Fees collected by the first lien lender at closing to be paid to other parties by the first lien lender that are supported by an invoice and reflected on the HUD-1 will not be included in the limit; Fees collected by the first lien lender at closing to be paid to other parties by the first lien lender that are supported by an invoice and reflected on the HUD-1 will not be included in the limit;~~

~~(7)~~ (6) No identity of interest relationship between the lender and the Household is allowed; and

~~(8)~~ (7) If an identity of interest exists between the Household and the seller, the Department may require additional documentation that evidences that the sales price is equal to or less than the appraised value of the property as documented by a Third-Party appraisal ordered by the first lien lender. If an identity of interest exists between the builder and Contract Administrator (CA) or Reservation System Participant (RSP), the CA or RSP must provide documentation that evidences that the sales price does not provide for a profit of more than 15 percent of the total hard construction costs and does not exceed the current appraised value as documented by a Third-Party appraisal ordered by the first lien lender.

(d) Direct Project Costs, exclusive of Match funds, are limited to:

(1) acquisition and closing costs: the lesser of \$20,000 or the amount necessary as determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 20 percent of the Household's gross monthly income based on a thirty (30) year amortization schedule. If the estimated housing payment will be less than 20 percent, the Department shall reduce the amount of downpayment assistance to the homebuyer such that the total estimated housing payment is no less than 20 percent of the homebuyer's gross income; and

(2) rehabilitation for accessibility modifications: \$20,000; and
(3) the amount necessary to acquire the home and make accessibility modifications (funds may not be disbursed to the Household at closing).

(e) Project soft costs are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit; and
(2) rehabilitation for accessibility modifications: \$5,000 per housing unit.

(f) Funds for Administrative costs are limited to no more than 4 percent of the Direct Project Costs, exclusive of Match funds.

(g) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Project Costs, excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(h) Any forgiveness of the Loan occurs upon the anniversary date of the Household's continuous occupancy as its Principal Residence and continues on an annual pro-rata basis until maturity of the Loan.

(i) To ensure affordability, the Department will impose the recapture provisions established in this chapter.

(j) Housing units that will be rehabilitated with HOME funds must meet or exceed the Texas Minimum Construction Standard (TMCS), as applicable and all applicable codes and standards. In addition, housing that is Rehabilitated under this chapter must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

§23.42.Homebuyer Assistance (HBA) Administrative Requirements.

(a) Commitment or Reservation of Funds. The CA or RSP must submit true and complete information, certified as such, with a request for the Commitment or Reservation of Funds, as described in paragraphs (1) - (11) of this subsection:

- (1) Head of Household name and address of housing unit for which assistance is being requested;
- (2) A budget that includes the amount of Project funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested. A maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;
- (3) Verification of environmental clearance;
- (4) A copy of the Household's intake application on a form prescribed by the Department;
- (5) Certification of the income eligibility of the Household signed by the CA or RSP, and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the

total Household income is within \$3,000 of the 80 percent area median family income, all documentation used to determine the income of the Household;

(6) Identification of Lead-Based Paint (LBP);

(7) For housing units located within the 100-year floodplain, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(8) Executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(9) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, or duplication of benefit;

(10) Appraisal which includes post rehabilitation or reconstruction improvements for Projects involving construction; and

(11) Any other documentation necessary to evidence that the Project meets the program requirements.

(b) Loan closing. The CA or RSP must submit the documents described in paragraphs (1) and (2) of this subsection, with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanics or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close; and

(2) A good faith estimate that is, or letter from the lender confirming that the loan terms and closing costs will be consistent with the executed sales contract, the first lien mortgage loan requirements, and the requirements of this chapter.

(c) Disbursement of funds. The CA or RSP must comply all of the requirements described in paragraphs (1) - (10) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with requirements described in paragraphs (1) - (10) of this subsection, may be required with a request for disbursement:

(1) For construction costs that are a part of a loan subject to the requirements of this subsection, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least thirty (30) days after the date of construction completion;

(2) If applicable, up to 50 percent of Project funds for a Project may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) The property inspection must be signed and dated by the inspector and CA, RSP, or Development Owner;

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which

the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing;

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all program requirements;

(7) The request for funds for Administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;

(8) Table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing;

(9) For Activities involving Rehabilitation, include the withholding of ten percent of hard construction costs for retainage. Retainage will be held until at least thirty (30) days after completion of construction and until submission of documentation required for Project completion reports; and

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Attachment J: Preamble and adoption of new 10 TAC Chapter 23, Subchapter E, Single Family HOME Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the new 10 TAC Chapter 23, Subchapter E, §§23.50 – 23.52, concerning administration of the Contract for Deed Conversion Program Activity. Section 23.51 is adopted with change to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5924). Sections 23.50 and 23.52 are adopted without changes and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the new sections were accepted in writing and by fax. No comments were received concerning the new sections, however, non-substantive corrections were made to §23.51(e)(2) by Staff.

The Board approved the final order adopting the new sections as well as non-substantive corrections, on October 6, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§23.50. Contract for Deed Conversion (CFDC) Threshold and Selection Criteria.

All Applicants and Applications must submit or comply with this section.

(1) Documentation of a commitment of at least \$80,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(A) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(B) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in subparagraph (A) of this paragraph; or

(C) the CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

(2) Housing construction plans must meet the requirements in Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

- (A) The Department will reimburse only for the first time a set of architectural plans are used unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and
- (B) A NOFA may include incentives or otherwise require architectural plans to incorporate "green building" elements.

§23.51. Contract for Deed Conversion (CFDC) Program Requirements.

(a) Eligible activities are limited to the acquisition or acquisition and Rehabilitation, Reconstruction, or New Construction of single family housing units.

(b) A new Manufactured Housing Unit (MHU) is an eligible property type for acquisition only. An MHU is not an eligible property type for Rehabilitation.

(c) The Household's income must not exceed 60 percent area median family income (AMFI) and the Household must complete a homebuyer counseling program/class.

(d) The Department will require a first lien position.

(e) Direct Project Costs, exclusive of Match funds, are limited to:

(1) acquisition and closing costs: \$35,000. In the case of a contract for deed conversion housing unit that involves the acquisition of a loan on an existing MHU and/or the loan for the associated land, the Executive Director may grant an exception to exceed this amount, however, the Executive Director will not grant an exception to exceed \$40,000 of assistance;

(2) Reconstruction and New Construction of site-built housing: ~~The~~ the lesser of \$78 per square foot or \$85,000, or for Households of six or more Persons the lesser of \$78 per square foot or \$90,000;

(3) replacement with an MHU: \$65,000; and

(4) rehabilitation that is not Reconstruction: \$40,000.

(f) In addition to the Direct Project Costs allowable under subsection (e) of this section, up to \$5,000 will be allowed in Direct Project Costs for additional sitework related to accessibility features if the house will be located more than 50 feet from the nearest paved roadway or if the house is being elevated above the floodplain.

(g) Project soft costs are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit;

(2) Reconstruction or New Construction: no more than \$9,000 per housing unit;

(3) replacement with and MHU: no more than \$3,500 per housing unit; and

(4) rehabilitation that is not Reconstruction: \$5,000 per housing unit. This limit may be exceeded for lead-based remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Project soft costs for housing units that are reconstructed or if the existing housing unit was built after December 31, 1977.

(h) Funds for administrative costs are limited to no more than 4 percent of the Direct Project Costs, exclusive of Match funds.

(i) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Project Costs excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(j) Any forgiveness of the Loan occurs upon the anniversary date of the Household's continuous occupancy as its Principal Residence and continues on an annual pro-rata basis until maturity of the Loan.

(k) To ensure affordability, the Department will impose resale and recapture provisions established in this chapter.

(l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000 International Residential Code and all applicable local codes and standards. In addition, housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

§23.52.Contract for Deed Conversion (CFDC) Administrative Requirements.

(a) Commitment or Reservation of Funds. The Contract Administrator (CA) or Reservation System Participant (RSP) must submit true and correct information, certified as such, with a request for the Commitment or Reservation of Funds:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Project funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the CA or RSP and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) identification of Lead-Based Paint (LBP);

(7) for housing units located within the 100-year floodplain, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(8) if applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, duplication of benefit, or floodplain mitigation;

(9) appraisal which includes post rehabilitation or reconstruction improvements for Projects involving construction; and

(10) any other documentation necessary to evidence that the Project meets the program requirements.

(b) Loan closing. The CA or RSP must submit the documents described in paragraphs (1) - (4) of this subsection, with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) a title commitment to issue a title policy not older than ninety (90) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(2) in the instances of replacement with an MHU, information necessary to draft loan documents and issue Statement of Ownership and Location (SOL);

(3) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship; and

(4) A copy of the recorded contract for deed and a current payoff statement.

(c) Disbursement of funds. The CA or RSP must comply all of the requirements described in paragraphs (1) - (11) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with requirements described in paragraphs (1) - (11) of this subsection may be required with a request for disbursement:

(1) for construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least thirty (30) days after the date of construction completion;

(2) if applicable, up to 50 percent of Project funds for a Project may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA or RSP;

(4) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) original, executed, legally enforceable loan documents, and statement of location, as applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA, RSP, or Development Owner to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all program requirements;

- (7) the request for funds for Administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;
- (8) table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing;
- (9) include the withholding of ten percent of hard construction costs for retainage. Retainage will be held until at least thirty (30) days after completion of construction;
- (10) for final disbursement requests, submission of documentation required for Project completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation; and
- (11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Attachment K: Preamble and adoption of new 10 TAC Chapter 23, Subchapter F, Single Family HOME Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts a new 10 TAC Chapter Subchapter F, §§23.60 – 23.62, concerning administration of the Tenant-Based Rental Assistance Program Activity. Section 23.61 is adopted with change to the proposed text as published in the August 10, 2012, issue of the *Texas Register* (37 TexReg 5927). Sections 23.60 and 23.62 are adopted without change and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS:

Comments were accepted from August 10, 2012 through September 10, 2012, with comments received from: (10) Disability Advisory Workgroup.

The comments and responses include both administrative clarifications and corrections to the rule recommended by Staff and substantive comments on the rule and the corresponding Departmental responses. After each comment title, numbers are shown in parentheses. These numbers refer to the person or entity that made the comment as reflected in the Addendum. If comment resulted in recommended language changes to the draft rule as presented to the Board in July, such changes are indicated.

§23.61(e)(1). Rental subsidy limitations. (10)

COMMENT SUMMARY: HOME Tenant Based Rental Assistance (TBRA) is provided for no more than a twenty-four month period per household. An additional twelve month period is permitted for a total of thirty-six months if the household is participating under the Reservation System. Commenter (10) as an Administrator of the program states many households receiving HOME rental assistance are awaiting Section 8 vouchers which may take five or more years. The Commenter recommends extending HOME rental assistance beyond thirty-six months to those on long Section 8 waiting lists.

STAFF RESPONSE: Staff agrees that in cases where the household will likely require continued rental assistance through the Section 8 Housing Choice Voucher (HCV) Program, and is unable to secure a Section 8 HCV in the 36 month time frame outlined in the HOME rule due to exceedingly long wait times for available vouchers, a gap in assistance could occur. TBRA is not intended to be permanent assistance, therefore an indefinite time period is not in keeping with the intent of the program. Staff recommends that the rule be amended to allow an extension of assistance, on an annual basis, for up to sixty (60) months for households who have applied for a Section 8 Housing Choice Voucher, have not been removed from the Section 8 HCV waiting list due to failure to respond to required notices or for any other reason, have not been denied assistance under the Section 8 HCV Program during their tenure

on TBRA, and did not refuse to participate in the Section 8 HCV Program when a voucher was made available.

The Board approved the final order adopting the new sections including non-substantive technical corrections, on October 6, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§23.60. Tenant-Based Rental Assistance (TBRA) Threshold and Selection Criteria.

All Applicants and Applications must submit Documentation of a commitment of at least \$15,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

- (1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or
- (2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in paragraph (1) of this section; or
- (3) the Certified Public Accountant (CPA) opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

§23.61. Tenant-Based Rental Assistance (TBRA) Program Requirements.

- (a) The Household must participate in a self-sufficiency program.
- (b) The amount of assistance will be determined using the Housing Choice Voucher Method.
- (c) Households certifying to zero income must also complete a questionnaire which includes a series of questions regarding how basic hygiene, dietary, transportation, and other living needs are met.
- (d) The minimum Household contribution toward gross monthly rent must be ten percent of the Household's gross monthly income.
- (e) Project funds are limited to:
 - (1) rental subsidy: The rental subsidy term is limited to no more than twenty-four (24) months under a contract award. Households served under a reservation agreement may be granted a twelve (12) month extension, for a period of assistance not to exceed thirty-six (36) month cumulatively. A household may be eligible for an additional twenty-four months of assistance, for a period of assistance not to exceed sixty (60) months cumulatively, if: No more than twenty-four (24) months per Household with an additional twelve (12) months extension available to Households participating in a reservation system (A) the household has applied for a Section 8 Housing Choice Voucher and is placed on a waiting list during their TBRA participation tenure; and

(B) the household has not been removed from the Section 8 Housing Choice Voucher waiting list due to failure to respond to required notices or other ineligibility factors; and

(C) the household has not been denied participation in the Section 8 Housing Choice Voucher program while they were being assisted with HOME TBRA; and

(D) the household did not refuse to participate in the Section 8 Housing Choice Voucher program when a voucher was made available;

(2) security deposit: ~~No~~no more than the amount equal to two (2) month's rent for the unit.

(f) The payment standard must be the current U.S. Department of Housing and Urban Development (HUD) "Fair Market Rent for the Housing Choice Voucher Program" at the time the household is income certified (or the rental coupon is executed). In instances where the area rents exceed the established Fair Market Rent, the Contract Administrator (CA) or Reservation System Participant (RSP) may submit a written request to the Department for approval of a higher payment standard. The request must be evidenced by a market study. For HOME-assisted units, the payment standard must be the current HOME rent applicable for the unit.

(g) The lease agreement start date must correspond to the date of the TBRA rental coupon contract. The dates may be different only upon prior approval of the Executive Director or his/her designee.

(h) Funds for Administrative costs are limited to 8 percent of Direct Project Costs, excluding Match funds. Funds for Administrative costs may be increased an additional 1 percent of Direct Project Costs if Match is provided in an amount equal to 5 percent or more of Direct Project Costs.

(i) Rental units must be inspected prior to occupancy, annually upon Household recertification, and must comply with Housing Quality Standards established by HUD.

§23.62.Tenant-Based Rental Assistance (TBRA) Administrative Requirements.

(a) Commitment or Reservation of Funds. The CA or RSP must submit the documents described in paragraphs (1) - (8) of this subsection, with a request for the Commitment or Reservation of Funds:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Direct Project Costs and Administrative costs requested, Match to be provided, evidence that Direct Project Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the CA or RSP, and all Household members age 18 or over, and including the date of the income eligibility determination. CA or RSP must submit documentation used to determine the income and rental subsidy of the Household;

(6) identification of Lead-Based Paint (LBP);

(7) if applicable, documentation to address or resolve any potential conflict of interest or duplication of benefit; and

(8) any other documentation necessary to evidence that the Project meets the Program Rules.

(b) Disbursement of funds. The CA or RSP must comply all of the requirements described in paragraphs

(1) - (8) of this subsection for a request for disbursement of funds. Submission of documentation related

to the CA's or RSP's compliance with requirements described in paragraphs (1) - (8) of this subsection may be required with a request for disbursement.

(1) If required or applicable, up to 50 percent of Direct Project Costs for a Project may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Direct Project Costs disbursed;

(2) The property inspection must be signed and dated by the inspector and CA or RSP;

(3) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(4) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA, RSP, or Development Owner as may be necessary or advisable for compliance with all Program Requirements;

(5) With the exception of up to 25 percent of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;

(6) Requests may come in up to ten (10) days in advance of the first day of the following month;

(7) For final disbursement requests, submission of documentation required for Project completion reports; and

(8) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Attachment L: Preamble and adoption of new 10 TAC Chapter 23, Subchapter G, Single Family HOME Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the new 10 TAC Chapter 23, Subchapter G, §§23.70 – 23.72, concerning administration of the Single Family Development Program Activity. Sections 23.70 and 23.71 are adopted with change to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5928). Section 23.72 is adopted without change and will not be republished.

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS:

The Department accepted public comments between August 10, 2012 and September 10, 2012 with comments received from (12) Equal Voice Network Housing Coalition.

The comments and responses include both administrative clarifications and corrections to the rule recommended by Staff and substantive comments on the rule and the corresponding Departmental responses. After each comment title, numbers are shown in parentheses. These numbers refer to the person or entity that made the comment as reflected in the Addendum. If comment resulted in recommended language changes to the draft rule as presented to the Board in July, such changes are indicated.

§23.70(3)(C). Single Family Development (SFD) Threshold and Selection Criteria. (12)

COMMENT SUMMARY: Commenter (12) requested that garbage collection services be removed from the list of utilities that must be documented as available in single family developments.

STAFF RESPONSE: TDHCA requires garbage collection services to be provided to single family developments funded with HOME funds. Staff does not recommend any changes based on these comments.

§23.71(d)(2). Single Family Development Unit Amenities. (12)

COMMENT SUMMARY: Commenter (12) recommended elimination of the requirement to provide blinds or window coverings for all windows as one of the required amenities in units constructed with HOME single family development funds because some families do not want window coverings or blinds.

STAFF RESPONSE: The list of amenities required for single family development is designed to construct an energy efficient dwelling ready for occupancy. Staff does not recommend any changes based on these comments.

§23.41(d)(1) and §23.71(i)(2). Front End Ratios. (3)(5)(7)(9)(10)(11)

COMMENT SUMMARY: The amount of down payment assistance provided under the home buyer assistance program is restricted to the amount necessary such that the total housing payment is at least 20 percent of the applicant's gross income. Commenter (3) recommends eliminating or reducing the front end ratio to 15 percent of the gross income of applicants requesting down payment assistance. Commenter (5), (7), and (9) recommend elimination or reduction of the ratio of income to total house payment (front end ratio) or allow the FHA approved debt ratios or the first lien lender to determine both the front and back end ratios according to their lending requirements. Commenter's (5) and (9) suggest the ratio be reduced from 20 percent to 15 percent. Commenter (11) recommended elimination of the front end ratio altogether. Commenter (7) recommended an alternative suggestion that HOME down payment assistance is offered equal to 20 percent of the sales price up to a maximum of \$20,000. In addition it is suggested that the HOME assistance be calculated prior to the addition of other down payment assistance or forgiveness of loans. Commenter (10) requested a waiver of the front end ratio to accommodate very low income households.

STAFF RESPONSE: The front end ratio was established in the 2010 HOME Rules at 25 percent of gross monthly income to satisfy HUD's requirement in 24 C.F.R. §92.250 that HOME funds are used prudently and do not result in more subsidy than necessary to make the unit affordable to the homebuyer. The HOME rule which was published for comment and which is presented for final adoption reduced the required front-end ratio to from 25 percent to 20 percent of gross monthly income in response to comments received by administrators prior to the rule making process. Staff does not recommend further reduction of the front-end ratio. No support documentation was provided by Commenter (3) to indicate that a reduction of the front end ratio to 15 percent is reasonable and necessary to assist low income homebuyers. Staff does not recommend that assistance be based on a percentage of the purchase price of the unit because that method does not account for individual circumstances and loan terms. Staff does not recommend waivers of the front end ratio for very low income households when the 20 percent front end ratio is lower than the standard established in the rental industry of 30 percent. HUD has determined that it is reasonable and affordable in rental housing programs which target very low and extremely low income households, such as the Section 8 Housing Choice Voucher Program for households to pay 30 percent of their income towards rent. Staff does not recommend any changes based on these comments.

The Board approved the final order adopting the new sections including non-substantive technical corrections, on October 6, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§23.70. Single Family Development (SFD) Threshold and Selection Criteria.

All Applicants and Applications must submit or comply with this section.

- (1) An Application for Community Housing Development Organization (CHDO) certification.
- (2) If the total of Department loans equals more than 50 percent of the total development cost, except for developments also financed with U.S. Department of Agriculture (USDA) funds, the Applicant must provide:
 - (A) evidence of a line of credit or equivalent tool equal to at least ~~ten~~10 percent of the total development cost from a financial institution that is available for use during the proposed development activities; or

(B) a letter from a third party Certified Public Accountant (CPA) verifying the capacity of the owner or developer to provide at least ten percent of the total development cost as a short term loan for development; and

(C) a letter from the developer's or owner's bank(s) confirming funds amounting to ten percent of the total development cost are available.

(3) A proposed development plan that is consistent with the requirements of this chapter, all other federal and state rules, and includes:

(A) a floor plan and front exterior elevation for each proposed unit which reflects the exterior building composition;

(B) a FEMA Issued Flood Map that identifies the location of the proposed site(s);

(C) letters from local utility providers, on company letterhead, confirming each site has access to the following services: water and wastewater, sewer, electricity, garbage disposal and natural gas, if applicable;

(D) documentation of site control of each proposed lot: A recorded warranty deed with corresponding executed settlement statement; or a contract or option for the purchase of the proposed lots that is valid for at least one hundred-twenty (120) days from the date of application submission; and

(E) an "as vacant" appraisal of at least one of the proposed lots if: The Applicant has an Identity of Interest with the seller or current owner of the property; or any of the proposed property is part of a newly developed or under-development subdivision in which at least three other third-party sales cannot be evidenced. The purchase price of any lot in which the current owner has an identity of interest must comply with the identity of interest transfer requirements in [§1.32 Chapter 10, Subchapter D](#) of this title (relating to Underwriting [Rules and Guidelines and Loan Policy](#)).

(4) The Department may prioritize Applications or otherwise incentivize Applications that partner with other lenders to provide permanent purchase money financing for the purchase of units developed with funds provided under this subchapter.

§23.71. Single Family Development (SFD) Program Requirements.

(a) Eligible activities include the acquisition and New Construction or acquisition and Rehabilitation of single family housing. Single family housing units assisted with HOME funds must comply with the required affordability requirements as defined at 24 CFR §92.254.

(b) This Activity is a CHDO-eligible activity.

(c) The Household's income must not exceed 80 percent area median family income (AMFI) and the Household must complete a homebuyer counseling program/class.

(d) Each unit must meet the design and quality requirements described in paragraphs (1) - (5) of this subsection:

(1) for New Construction and Reconstruction, current applicable International Residential Code, local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the 24 CFR §92.251(a);

(2) include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Disposal and Energy-Star or equivalently rated dishwasher (must only be provided as an option to each Household); Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated

lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans; and Paved off-street parking for each unit to accommodate at least one mid-sized car and access to on-street parking for a second car;

(3) contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(4) each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and

(5) be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(e) The total hard construction costs are limited as described in paragraphs (1) and (2) of this subsection:

(1) Reconstruction and New Construction of site-built housing: The hard construction costs are limited to \$78 per square foot and \$85,000 or for Households of 6 or more Persons \$90,000; and

(2) Rehabilitation that is not Reconstruction: \$40,000.

(f) Developer fees (including consulting fees) are limited to 15 percent of the total hard construction costs.

(g) Construction period financing for each unit shall be structured as a 0 percent interest loan with a six (6) month term. The maximum construction loan amount may not exceed the total sales price less developer fees/profit, homebuyer closing costs, and other ineligible Project costs. Prior to construction loan closing, a sales contract must be executed with a qualified homebuyer.

(h) In the instance that the Combined Loan to Value equals more than 100 percent of the appraised value, the portion of the sales price that exceeds 100 percent of the appraised value will be granted to the developer to buy down the purchase price if the homebuyer is receiving downpayment assistance or a first lien mortgage from the Department.

(i) The HOME assistance to the homebuyer shall be structured as a first and/or second lien loan(s):

(1) the downpayment assistance is limited to \$20,000 and shall be structured as a fifteen (15) year deferred, forgivable loan with a subordinate lien; and

(2) a first lien conventional mortgage not provided by the Department must meet the mortgage financing requirements applicable to §23.41 of this chapter (relating to Homebuyer Assistance (HBA) Program Requirements). If the Department is providing the first lien mortgage with HOME financing, the loan will be fully amortizing with a thirty (30) year term. The Department will require a debt to income ratio (back-end ratio) not to exceed 45 percent. The total estimated housing payment (including principal, interest, property taxes, and insurance) shall be no less than 20 percent and no greater than 30 percent of the Household's gross monthly income. Should the estimated housing payment be less than 20 percent of the Household's gross income, the Department shall reduce the amount of downpayment assistance and/or charge an interest rate to the homebuyer such that the total estimated housing payment is no less than 20 percent of the homebuyer's gross income. In no instance shall the interest rate charged to the

homebuyer exceed 5 percent. The Department shall use to the Household's income certification to make this determination.

(j) Earnest money is limited to no more than \$500, which will be credited to the homebuyer at closing. HOME funds may be used to pay other reasonable and customary closing costs that are HOME eligible costs.

(k) If a Household should become ineligible or otherwise cease participation and a replacement Household is not located within ninety (90) days of the end of the construction period, all additional funding closings and draws on the award will cease and the Department will require the Applicant to repay any outstanding construction debt in full.

(l) The Division Director may approve the use of alternative floorplans or lots from those included in the approved Application, provided the requirements of this section can still be met and such changes do not materially affect the total budget.

(m) To ensure affordability, the Department will impose resale or recapture provisions established in this chapter.

§23.72. Single Family Development (SFD) Administrative Requirements.

(a) Commitment or Reservation of Funds. The Contract Administrator (CA) or Reservation System Participant (RSP) must submit the documents described in paragraphs (1) - (10) of this subsection, with a request for the Commitment or Reservation of Funds:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Project funds specifying the acquisition cost, construction costs, developer fees. A maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the CA or RSP and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) identification of Lead-Based Paint (LBP);

(7) executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(8) if applicable, documentation to address or resolve any potential conflict of interest, identity of interest, duplication of benefit, or floodplain mitigation;

(9) appraisal, which includes post rehabilitation or reconstruction improvements for Projects involving construction; and

(10) any other documentation necessary to evidence that the Project meets the Program Rules.

(b) Loan closing. The CA, RSP, or Development Owner must submit the documents described in paragraphs (1) - (3) of this subsection, with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) a title commitment to issue a title policy not older than ninety (90) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(2) within ninety (90) days after the loan closing date, the Contract Administrator or Development Owner must submit to the Department the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within ninety (90) days after the Loan closing date will result in the Department withholding payment for disbursement requests; and

(3) a draft settlement statement that is consistent with the executed sales contract, the first lien mortgage loan requirements (as applicable), and the terms of this Contract will be provided to Department.

(c) Disbursement of funds. The CA or RSP must comply with the requirements described in paragraphs (1) - (10) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with requirements described in paragraphs (1) - (10) of this subsection may be required with a request for disbursement:

(1) for construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least thirty (30) days after the date of construction completion;

(2) if required or applicable, up to 50 percent of Direct Project Costs for a Project may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA, RSP, or Development Owner;

(4) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) original, executed, legally enforceable loan documents containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA, RSP, or Development Owner to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA, RSP, or Development Owner as may be necessary or advisable for compliance with all Program Requirements;

(7) table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing;

(8) include the withholding of ten percent of hard construction costs for retainage. Retainage will be held until at least thirty (30) days after completion of construction;

(9) for final disbursement requests, submission of documentation required for Project completion reports; and

(10) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Attachment M: Preamble and adoption of new 10 TAC Chapter 23, Subchapter H, Single Family HOME Program Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts the new 10 TAC Chapter 23, Subchapter H, §23.80, concerning application and certification of Community Housing Development Organizations, with change to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5931).

REASONED JUSTIFICATION: The Department recently underwent a reorganization which separated the HOME Division into single family and multifamily areas. The 2010 HOME rule at 10 TAC Chapter 53 did not allow for the single family and multifamily areas to effectively administer their activities with autonomy. Additionally, the Single Family HOME rules required updates which aligned more closely with the other Single Family programs, and the new 10 TAC Chapter 20 specifically. Therefore, a repeal of the portions of the HOME Rule at 10 TAC Chapter 53 and a proposed new Single Family HOME Rule at 10 TAC Chapter 23 was necessary. The proposed repeal of 10 TAC Chapter 53, Subchapters C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on July 26, 2012.

The Department accepted public comments between August 10, 2012 and September 10, 2012. Comments regarding the new section were accepted in writing and by fax. No comments were received concerning the new section, however, Staff made non-substantive corrections to §23.80(A)(8) and (b).

The Board approved the final order adopting the new sections including non-substantive technical corrections, on October 6, 2012.

STATUTORY AUTHORITY: The new section is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§23.80.Application Procedures for Certification of Community Housing Development Organization (CHDO).

(a) An Applicant requesting certification as a CHDO must submit an application for CHDO certification in a form prescribed by the Department. The CHDO Application must be submitted with an Application for HOME funding under the CHDO Set-Aside and the CHDO must be a sponsor, developer, or owner of the Development within the meaning ascribed by U.S. Department of Housing and Urban Development (HUD) for the Activity being performed. An Applicant shall not receive more than one award of CHDO operating funds during the same fiscal year of the Department regardless of the number of Applications submitted. Any such award is limited to \$50,000. The Application must include documentation evidencing the requirements of 24 CFR Part 92 and this subsection:

(1) all Applications shall include the documents described in subparagraphs (A) - (C) of this paragraph, as applicable which shall be reviewed for compliance with federal and state requirements:

(A) Bylaws with date of board approval;

(B) Charter; and

(C) Certificate of Formation;

(2) the Applicant must be organized as a private nonprofit organization under the Texas Business Code or other state not-for-profit/nonprofit statute as evidenced by the documents required under paragraph (1) of this subsection;

(3) the Applicant must be registered with the Office of the Secretary of State to do business in the State of Texas;

(4) the Applicant must have the tax status described in subparagraphs (A) and (B) of this paragraph:

(A) a current tax exemption ruling from the Internal Revenue Service Code (IRS) under §501(c)(3), a charitable, nonprofit corporation, or under IRS §501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as a CHDO; or

(B) classification as a subordinate of a central organization nonprofit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and a private nonprofit organization's pending application for IRS §501(c)(3) or (4) status cannot be used to comply with the tax status requirement under this subparagraph;

(5) the Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by the documents required in paragraph (1) of this subsection or a business plan which outlines the CHDO's plans for developing affordable housing, providing services to each of the areas included within the service area, and internal operations;

(6) the Applicant must have a clearly defined service area that may encompass an entire "community" as defined in 24 CFR §92.2 under Community Housing Development Organization. The service area must be delineated in the entity's organizational documents;

(7) an Applicant must have the capacity and experience described in subparagraphs (A) - (C) of this paragraph:

(A) conforms to the financial accountability standards of 24 CFR §84.21, "Standards of Financial Management Systems" as evidenced by:

(i) a notarized statement by the Chief Executive Officer or Chief Financial Officer of the organization in a form prescribed by the Department;

(ii) a certification from a Certified Public Accountant; or

(iii) a HUD-approved audit summary; and

(iv) a written narrative describing internal controls used to create financial duties and safe guard corporate assets; and

(v) a written narrative describing the conflict of interest policy governing employees and development activities and procurement; and

(vi) a written narrative describing the current corporation's financial structure can support housing development activities; and

(vii) a written narrative describing the organization's ability to manage additional rental development activities, if applicable;

(B) demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by:

(i) documentation that describes the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds; or

(ii) Contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with HOME funds, to train appropriate key staff of the organization;

(C) has a history of serving the low income residents of the city or county in which housing to be assisted with HOME funds is to be located as evidenced by:

(i) documentation of at least one year of experience providing services; or

(ii) for newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year providing services; and

(iii) the documentation provided in clause (i) or (ii) of this subparagraph must document and describe the organization's history (or its parent organization's history) of serving the city or county, such as, developing new housing, rehabilitating existing housing stock and managing housing stock, or delivering non-housing services that have had lasting benefits for those receiving services, such as counseling, food relief, or childcare facilities. The statement in the submission package must be signed by the president or other official of the organization;

(8) an Applicant must have an organizational structure that meets the federal requirements in 24 CFR §92.2. Compliance with this paragraph shall be evidenced by:

(A) a written provision or statement in the organizations Bylaws, Charter, or Certificate of Formation;

(B) an affidavit signed by the organization's Chief Executive Officer ~~and notarized~~; and

(C) a current roster of all Board of Directors, including names and mailing addresses. The required one-third low-income residents or elected representatives must be marked on list as such;

(9) the Applicant must provide a formal process for low-income individuals, including potential program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of affordable housing projects. The formal process should include a system for community involvement in parts of the private nonprofit organization's service areas where housing will be developed, but which are not represented on its boards. Input from the low-income community is not met solely by having low-income representation on the board. The formal process must be in writing and approved or adopted by the private nonprofit organization, as evidenced by:

(A) an organization's Bylaws; or

(B) A written statement of operating procedures approved by the governing body. Statement must be original letterhead, signed by the Chief Executive Officer and evidence date of board approval; and

(C) a Resolution with evidence of date of board approval;

(10) if the CHDO's creation was sponsored by a for-profit organization the for-profit entity's primary purpose cannot include the development or management of housing, as evidenced in the for-profit organization's Bylaws. If an Applicant is associated or has a relationship with a for-profit entity or entities, the CHDO must prove it is not controlled, nor receives directions from individuals, or entities seeking profit as evidenced by the documentation required in paragraph (1) of this subsection or a memorandum of understanding or similar agreement; and

(11) CHDOs that are in partnership agreements associated with the Development must maintain effective Control and decision making control over the Development. All legally binding ownership and/or partnership agreements must clearly state the CHDO's role in the Development, as evidenced by an affidavit from the CHDO and any other developer, general partner, or special limited partner (except for entities related to a tax credit investor limited partner) that the CHDO will maintain effective Control and decision making control over the Development. In addition, the CHDO or entity wholly owned by the CHDO must receive at least 50 percent of the cashflow from the property (for multifamily developments) or 50 percent of the developer fee which must also be evidenced by the affidavit.

(b) An Application for CHDO Certification will only be accepted if submitted with an Application to the Department for HOME funds. If all requirements under this section are met, the Applicant will be certified as a CHDO upon the award of HOME funds by the Department. A new Application for CHDO certification must be submitted to the Department with each new Application for HOME funds under the CHDO Set-Aside.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Action proposing amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter A, General Provisions, §§5.2 - 5.5, 5.7, 5.9 - 5.14, 5.16, 5.17, 5.19 - 5.22 and proposing a new §5.23 concerning Protected Health Information and directing that they be published for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Chapter 2306 of the Texas Government Code, the Department is authorized to adopt rules governing the administration of the Department and its programs, and

WHEREAS, proposed amendments to 10 TAC §§5.2 - 5.5, 5.7, 5.9 - 5.14, 5.16, 5.17, 5.19 - 5.22 propose clarify cost principles and administrative requirements, strengthen the requirements for procurement standards and modified cost reimbursement, require that Subrecipient board authorizes the Subrecipient executive director to enter into contracts with the Department, revise monitoring of Subrecipients, update income guidelines related to Social Security income and contact information requirements, affect grammatical and capitalization matters, and establish requirements for the protection of personal health information,

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter A, General Provisions, §§5.2 - 5.5, 5.7, 5.9 - 5.14, 5.16, 5.17, 5.19 - 5.22 and proposing a new §5.23 concerning Protected Health Information, in the form presented to this meeting, to be published in the *Texas Register* for review and public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The purpose of the amendments is to enhance the Department's administration of all Community Affairs programs by 1) adding a definition for modified cost reimbursement and renumbering §5.2, 2) adding clarification to cost principles and administrative requirements to maintain adequate separation of duties at Subrecipient agencies, 3) moving lobbying prohibitions to the appropriate section, 4) adding detail to procurement standards, specifically small purchase procurement, 5) capitalizing the terms Subrecipient, Subcontractors, Household, and Eligible Entity for consistency, 6) adding a requirement that the Subrecipient Board authorize the

Executive Director or his/her designee authority to enter into contracts, 7) generalizing §5.16 concerning Monitoring of Subrecipients because these duties are now performed by the Department's Compliance Division, 8) strengthening requirements applicable to Subrecipients placed on modified cost reimbursement by the Department, 9) updating income guidelines related to Social Security Income, and 10) updating contact information requirements.

The purpose of the proposed new section is to protect individually identifiable health information of individuals who apply for and receive benefits from Community Affairs programs in accordance with Subtitle I, Chapter 181 Subchapter A of the Texas Health and Safety Code.

Attachment A: Preamble and proposed amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter A, General Provisions, §§5.2 - 5.5, 5.7, 5.9 - 5.14, 5.16, 5.17, 5.19 - 5.22 and proposing a new §5.23 concerning Protected Health Information.

The Texas Department of Housing and Community Affairs (the “Department”) proposes amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, General Provisions, §§5.2 - 5.5, 5.7, 5.9 - 5.14, 5.16, 5.17, 5.19 - 5.22 and new §5.23 concerning Protected Health Information.

The purpose of the amendments is to enhance the Department’s administration of all Community Affairs programs by adding a definition for modified cost reimbursement and renumbering §5.2, adding clarification to cost principles and administrative requirements to maintain adequate separation of duties at Subrecipient agencies, moving lobbying prohibitions to the appropriate section, adding detail to procurement standards, specifically small purchase procurement, capitalizing the terms Subrecipient, Subcontractors, Household, and Eligible Entity for consistency, adding a requirement that the Subrecipient Board authorize the Executive Director or his/her designee authority to enter into contracts, generalizing §5.16 concerning Monitoring of Subrecipients because these duties are now performed by the Department’s Compliance Division, strengthening requirements applicable to Subrecipients placed on modified cost reimbursement by the Department, updating income guidelines related to Social Security Income, and updating contact information requirements.

The purpose of the proposed new section is to protect individually identifiable health information of individuals who apply for and receive benefits from Community Affairs programs in accordance with Texas Health and Safety Code, Subtitle I, Chapter 181, Subchapter A.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments and new section are in effect, enforcing or administering the amendments and new section does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments and new section are in effect, the public benefit anticipated as a result of the amendments and new section will be the more clarity and simplification of the administration of the Department’s Community Affairs programs. There will not be any economic cost to any individuals required to comply with the amendments and new section.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 26, 2012, to November 26, 2012, to receive input on the amendments and new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: cadrulecomments@tdhca.state.tx.us, or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M.NOVEMBER 26, 2012.

STATUTORY AUTHORITY. The amendments and new section are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules, and Chapter 2306, Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed amendments and new section affects no other code, article, or statute.

§5.2.Definitions.

(a) To ensure a clear understanding of the terminology used in the context of the Community Affairs Programs, a list of terms and definitions has been compiled as a reference.

(b) The ~~[following]~~ words and terms in this chapter shall have the ~~[following]~~ meaning described in this subsection unless the context clearly indicates otherwise.

(1) CAA--Community Action Agency.

(2) CFR--Code of Federal Regulations.

(3) Children--Household dependents not exceeding eighteen (18) years of age.

(4) Collaborative Application--An application from two or more organizations to provide services to the target population. If a unit of general local government applies for only one organization, this will not be considered a Collaborative Application. Partners in the Collaborative Application must coordinate services and prevent duplication of services.

(5) Community Action Agencies (CAAs)--Local private and public non-profit organizations that carry out the Community Action Program (CAP), which was established~~[founded]~~ by the 1964 Economic Opportunity Act to fight poverty by empowering the poor in the United States. Each CAA must have a board consisting of at least one-third elected public officials, not fewer than one-third representatives of low-income individuals and families, chosen in accordance with democratic selection procedures, and the remainder are members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community.

(6) Community Action Plan--A plan required by the Community Services Block Grant (CSBG) Act which describes the local (Subrecipient) service delivery system, how coordination will be developed to fill identified gaps in services, how funds will be coordinated with other public and private resources and how the local entity will use the funds to support innovative community and neighborhood based initiatives related to the grant.

(7) Community Affairs Division (CAD)--The Division at the Department that administers CEAP, CSBG, ESGP, ESG, HHSP, Section 8 Housing Choice Voucher Program, and WAP.

(8) The Community Services Block Grant (CSBG)--A grant which provides U.S. federal funding for CAAs and other Eligible Entities~~[eligible entities]~~ that seek to address poverty at the community level. Like other block grants, CSBG funds are allocated to the states and other jurisdictions through a formula.

(9) CSBG Act--The CSBG Act is a law passed by Congress authorizing the Community Services Block Grant. The CSBG Act was amended by the Community Services Block Grant Amendments of 1994 and the Coats Human Services Reauthorization Act of 1998 under 42 U.S.C. §§9901, et seq. The CSBG Act~~[act]~~ authorized establishing a community services block grant program to make grants available through the program to states to ameliorate the causes of poverty in communities within the states.

- (10) Cooling--Modifications including, but not limited to, the repair or replacement of air conditioning units, evaporative coolers, and refrigerators.
- (11) CSBG Subrecipient--Includes CSBG Eligible Entities~~[eligible entities]~~ and other organizations that are awarded CSBG funds.
- (12) Department--The Texas Department of Housing and Community Affairs.
- (13) Discretionary Funds--Those CSBG funds maintained in reserve by a state~~[State]~~, at its discretion, for CSBG allowable uses as authorized by §675C of the CSBG Act, and not designated for distribution on a statewide basis to CSBG Eligible Entities~~[eligible entities]~~ and not held in reserve for state administrative purposes.
- (14) DOE--The United States Department of Energy.
- (15) DOE WAP Rules--10 CFR Part 440 describes the Weatherization Assistance for Low Income Persons as administered through the Department of Energy.
- (16) Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters. This definition does not apply to the ESG or HHSP.
- (17) Equipment--A tangible non-expendable personal property including exempt property, charged directly to the award, having a useful life of more than one year, and an acquisition cost of \$5,000 or more per unit. For CSBG, CEAP, and WAP, if the unit acquisition cost exceeds \$5,000, approval from the Department's Community Affairs Division must be obtained before the purchase takes place. For ESGP, if the unit acquisition cost exceeds \$500, approval from the Department's Community Affairs Division must be obtained before the purchase is made.
- (18) Elderly Person--A person who is sixty (60) years of age or older.
- (19) Electric Base-Load Measure--Weatherization measures which address the energy efficiency and energy usage of lighting and appliances.
- (20) Eligible Entity--Those local organizations in existence and designated by the federal government to administer programs created under the federal Economic Opportunity Act of 1964. This includes community action agencies, limited-purpose agencies, and units of local government. The CSBG Act defines an eligible entity as an organization that was an eligible entity on the day before the enactment of the Coats Human Services Reauthorization Act of 1998 (October 27, 1998), or is designated by the Governor to serve a given area of the state~~[State]~~ and that has a tripartite board or other mechanism specified by the state for local governance.
- (21) Emergency--Defined by the LIHEAP Act of 1981 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. §8622):
- (A) natural disaster;
 - (B) a significant home energy supply shortage or disruption;
 - (C) significant increase in the cost of home energy, as determined by the Secretary;
 - (D) a significant increase in home energy disconnections reported by a utility, a state~~[State]~~ regulatory agency, or another agency with necessary data;
 - (E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. §§2011, et seq.), the national program to provide supplemental security income carried out under Title XVI of the Social Security Act (42 U.S.C. §§1381, et seq.) or the state~~[State]~~ temporary assistance for needy families program carried out under Part A of Title IV of the Social Security Act (42 U.S.C. §§601, et seq.), as determined by the head of the appropriate federal agency;

- (F) a significant increase in unemployment, layoffs, or the number of Households[households] with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or
- (G) an event meeting such criteria as the Secretary, at the discretion of the Secretary, may determine to be appropriate.
- (H) This definition does not apply to ESGP, ESG, or HHSP.
- (22) Emergency Shelter Grants Program (ESGP)--A federal grant program established by the Homeless Housing Act of 1986 and incorporated into Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. §§11371 - 11378) and funded through HUD.
- (23) Emergency Solutions Grants (ESG)--A federal grant program authorized in Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. §§11371 - 11378), as amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH Act). ESG is funded through HUD.
- (24) Energy Audit--The energy audit software and procedures used to determine the cost effectiveness of weatherization measures to be installed in a dwelling unit.
- (25) Energy Repairs--~~Weaterization-related~~[Weatherization-related] repairs necessary to protect or complete regular weatherization energy efficiency measures.
- (26) Families with Young Children--A family that includes a child age five (5) or younger.
- (27) High Energy Burden--Determined by dividing a Household's[household's] annual home energy costs by the Household's[household's] annual gross income. The percentage at which energy burden is considered high is defined by data gathered from the State Data Center.
- (28) High Energy Consumption--Household energy expenditures exceeding the median of low-income home energy expenditures expressed in the data collected from the State Data Center.
- (29) Homeless or homeless individual--An individual as defined by 42 U.S.C. §§11371 - 11378 and 24 CFR §576.2.
- (30) Homeless and Housing Services Program (HHSP)--A state funded program established by the State Legislature during the 81st Legislative session with the purpose of providing funds to local programs to prevent and eliminate homelessness in municipalities with a population of 285,500 or more.
- (31) Household--Any individual or group of individuals who are living together as one economic unit. For energy programs, these persons customarily purchase residential energy in common or make undesignated payments for energy.
- (32) Inverse Ratio of Population Density Factor--The number of square miles of a county divided by the number of poverty Households[households] of that county.
- (33) Local Units of Government--City, county, council of governments, and housing authorities.
- (34) Low Income--Income in relation to family size:
- (A) For DOE WAP, at or below 200% of the Income guidelines;
 - (B) For CEAP, CSBG, and LIHEAP WAP at or below 125% of the Income guidelines;
 - (C) For ESGP, at or below 100% of the poverty level, determined in accordance with criteria established by the Director of the Office of Management and Budget;
 - (D) For ESG, 30% of the Area Median Income (AMI) as defined by HUD for persons receiving prevention assistance; and
 - (E) For HHSP, 50% of the AMI as defined by HUD for persons receiving emergency essential services, essential services, and emergency intervention assistance.

(35) Low Income Home Energy Assistance Program (LIHEAP)--A federally funded block grant program that is implemented to serve low income Households~~[households]~~ who seek assistance for their home energy bills and/or weatherization services.

(36) Migrant Farm worker--An individual or family that is employed in agricultural labor or related industry and is required to be absent overnight from their permanent place of residence.

(37) Modified Cost Reimbursement—A contract sanction whereby reimbursement of costs incurred by the Subrecipient is made only after the Department has reviewed and approved backup documentation provided by the Subrecipient to support such costs.

(38)~~(37)~~ Multifamily Dwelling Unit--A structure containing more than one dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

(39)~~(38)~~ National Performance Indicator--An individual measure of performance within the Department's reporting system for measuring performance and results of Subrecipients of funds. There are currently twelve indicators of performance which measure self-sufficiency, family stability, and community revitalization.

(40)~~(39)~~ Needs Assessment--An assessment of community needs in the areas to be served with CSBG funds. The assessment is a required part of the Community Action Plan per Assurance 11 of the CSBG Act.

(41)~~(40)~~ OMB--Office of Management and Budget, a federal agency.

(42)~~(41)~~ OMB Circulars--OMB circulars set forth principles and standards for determining costs for federal awards and establishes consistency in the management of grants for federal funds. Cost principles for local governments are set forth in Office of Management and Budget (OMB) Circular A-87, and for non-profit organizations in OMB Circular A-122. Uniform administrative requirements for local governments are set forth in OMB Circular A-102, and for non-profits in OMB Circular A-110. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," provides audit standards for governmental organizations and other organizations expending federal funds. The single audit requirements are set forth under OMB Circular A-133.

(43)~~(42)~~ Outreach--The method that attempts to identify clients who are in need of services, alerts these clients to service provisions and benefits, and helps them use the services that are available. Outreach is utilized to locate, contact and engage potential clients.

(44)~~(43)~~ Performance Statement--A document which identifies the services to be provided by a CSBG Subrecipient. The document is an attachment to the CSBG contract entered into by the Department and the CSBG Subrecipient.

(45)~~(44)~~ Persons with Disabilities--Any individual who is:

(A) a handicapped individual as defined in §7(9) of the Rehabilitation Act of 1973;

(B) under a disability as defined in §1614(a)(3)(A) or §223(d)(1) of the Social Security Act or in §102(7) of the Developmental Disabilities Services and Facilities Construction Act; or

(C) receiving benefits under 38 U.S.C. Chapter 11 or 15.

(46)~~(45)~~ Population Density--The number of persons residing within a given geographic area of the state.

(47)~~(46)~~ Poverty Income Guidelines--The official poverty income guidelines as issued by the U.S. Department of Health and Human Services annually.

(48)~~(47)~~ Private Nonprofit Organization--An organization described in §501(c) of the Internal Revenue Code (the "Code") of 1986 and which is exempt from taxation under subtitle A of the Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance~~[which has status as a §501(e) tax exempt entity]~~. Private nonprofit

organizations applying for ESGP, ESG and HHSP funds must be established for charitable purposes and have activities that include, but are not limited to, the promotion of social welfare and the prevention or elimination of homelessness. The entity's net earnings may not inure to the benefit of any individual(s).

~~(49)~~~~(48)~~ Public Organization--A unit of local government, as established by the Legislature of the State of Texas. Includes, but may not be limited to, cities, counties, and councils of governments.

~~(50)~~~~(49)~~ Referral--The process of providing information to a client Household~~[household]~~ about an agency, program, or professional person that can provide the service(s) needed by the client.

~~(51)~~~~(50)~~ Rental Unit--A dwelling unit occupied by a person who pays rent for the use of the dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

~~(52)~~~~(51)~~ Renter--A person who pays rent for the use of the dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

~~(53)~~~~(52)~~ Seasonal Farm Worker--An individual or family that is employed in seasonal or temporary agricultural labor or related industry and is not required to be absent overnight from their permanent place of residence. In addition, at least 20% of the Household~~[household]~~ annualized income must be derived from the agricultural labor or related industry.

~~(54)~~~~(53)~~ Secretary--Chief Executive of the U.S. Department of Health and Human Services.

~~(55)~~~~(54)~~ Service--The provision of work or labor that does not produce a tangible commodity.

~~(56)~~~~(55)~~ Shelter--Defined by the Department as a dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

~~(57)~~~~(56)~~ Single Family Dwelling Unit--A structure containing no more than one dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

~~(58)~~~~(57)~~ Social Security Act--42 U.S.C. §§601, et seq., CSBG works with activities carried out under Title IV Part A to assist families to transition off of state programs.

~~(59)~~~~(58)~~ State--The State of Texas or the Texas Department of Housing and Community Affairs.

~~(60)~~~~(59)~~ Subcontractor--A person or an~~[An]~~ organization with whom the Subrecipient contracts with to administer programs.

~~(61)~~~~(60)~~ Subrecipient--Generally, an organization~~[According to each program subchapter, Subrecipient may be defined as organizations]~~ with whom the Department contracts ~~[with]~~ and provides CSBG, ESGP, CEAP, ESG, HHSP, DOE WAP, or LIHEAP funds. (Refer to Subchapters B, C, D – G, J, and K of this chapter for program specific definitions.)

~~(62)~~~~(61)~~ Supplies--All personal property excluding equipment, intangible property, and debt instruments, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (subject inventions), as defined in 37 CFR Part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

~~(63)~~~~(62)~~ TAC--Texas Administrative Code.

~~(64)~~~~(63)~~ Targeting--Focusing assistance to Households~~[households]~~ with the highest program applicable needs.

~~(65)~~~~(64)~~ Terms and Conditions--Binding provisions provided by a funding organization to grantees accepting a grant award for a specified amount of time.

~~(66)~~~~(65)~~ Treatment as a State or Local Agency--For purposes of 5 U.S.C. Chapter 15, any entity that assumes responsibility for planning, developing, and coordinating activities under the CSBG Act and receives assistance under CSBG Act shall be deemed to be a state or local agency.

~~(67)~~~~(66)~~ Units of General Local Government--A unit of local government which has, among other responsibilities, the authority to assess and collect local taxes and to provide general governmental services.

~~(68)~~~~(67)~~ U.S.C.--United States Code.

~~(69)~~~~(68)~~ USDHHS/HHS--U.S. Department of Health and Human Services.

~~(70)~~~~(69)~~ USHUD/HUD--U.S. Department of Housing and Urban Development.

~~(71)~~~~(70)~~ Vendor Agreement--An agreement between the Subrecipient and energy vendors that contains assurance as to fair billing practices, delivery procedures, and pricing for business transactions involving LIHEAP beneficiaries.

~~(72)~~~~(71)~~ WAP--Weatherization Assistance Program.

~~(73)~~~~(72)~~ WAP PAC--Weatherization Assistance Program Policy Advisory Council. The WAP PAC was established by the Department in accordance with 10 CFR §440.17 to provide advisory services in regards to the WAP program.

~~(74)~~~~(73)~~ Weatherization Material--The material listed in Appendix A of 10 CFR Part 440.

~~(75)~~~~(74)~~ Weatherization Project--A project conducted in a single geographical area which undertakes to reduce heating and cooling demand of dwelling units that are energy inefficient.

§5.3. Cost Principles and Administrative Requirements.

(a) Except as expressly modified by the terms of a contract, Subrecipients shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards, 34 TAC §§20.421, et seq. (the "Uniform Grant Management Standards") provided, however, that all references therein to "local government" shall be construed to mean Subrecipient. Non-profit Subrecipients of ESGP, ESG, and DOE WAP do not have to comply with UGMS unless otherwise required by NOFA or contract. For federal funds, Subrecipients will follow OMB Circulars as interpreted by the federal funding agency.

(b) In order to maintain adequate separation of duties, no more than two of the functions described in paragraphs (1) – (5) of this subsection are to be performed by a single individual:

(1) Requisition authorization;

(2) Encumbrance into software;

(3) Check creation and/or automated payment disbursement;

(4) Authorized signature/electronic signature; and,

(5) Distribution of paper check.

§5.4. Prohibitions.

~~[(a) Pursuant to the Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations," specifically §25 titled "Lobbying," costs associated with lobbying are unallowable.]~~

~~[(b) Section 678(F)(b)(2) of the Community Services Block Grant (CSBG) Act prohibits the use of program funds for political activity, voter registration activity or voter registration. The Hatch Act, 5 U.S.C. Chapter 15 and the amendments to the Hatch Act and the repeal of §675(e) and §675(C)(6) of the CSBG Act do not affect the prohibition of §678(F)(b)(2).]~~

~~(a)[(e)]~~ Knowingly hiring an undocumented worker is prohibited pursuant to 8 U.S.C. §1324a.

~~(b)[(d)]~~ Discrimination is prohibited.

(1) Civil Rights Act of 1964 (42 U.S.C. §§2000, et seq.), Age Discrimination Act of 1975 (42 U.S.C. §§6101, et seq.), Rehabilitation Act of 1973 (29 U.S.C. §794), and Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§12131, et seq.) shall apply to all programs or activities administered by Subrecipients including the nondiscrimination provisions of the CSBG (42 U.S.C. §§9901, et seq.).

(2) All Subrecipients receiving federal funds must be equal opportunity employers and render services without regard to race, color, religion, sex, familial status, national origin, age, disability, political affiliation or belief. Information on equal opportunity and nondiscrimination shall be made available to participants, employees, Subcontractors~~[subcontractors]~~, and interested parties.

§5.5. Lobbying Activities [~~Certificate and Disclosure Regarding~~].

(a) Subrecipients of federal funding, including those who receive federal funds through the Department, are subject to the anti-lobbying provisions commonly referred to as "the Byrd Amendments" (31 U.S.C. §1352). The legislation imposes certain requirements for disclosure and certification on recipients of federal contracts, grants, cooperative agreements, and loans, including the requirement that each recipient of a federal contract in excess of \$100,000 must complete the Standard Form-LLL "Disclosure of Lobbying Activities" form.

(b) A §501(c)(3) nonprofit organization which pays any person funds from any source (even non-federal funds) to lobby Congress or which pays an employee of any federal agency in connection with this grant, must complete the "Disclosure of Lobbying Activities" form available on the U.S. Department of Health and Human Services (USDHHS) website. A completed form must be submitted to the Department prior to engaging in lobbying activities. The Subrecipient~~[subrecipient]~~ must also file quarterly updates about its employment of lobbyists if material changes occur in the organization's use of lobbyists.

(c) For each contract, grant, cooperative agreement, or loan in excess of \$100,000, the Subrecipient~~[subrecipient]~~ must complete the "Certification Regarding Lobbying" form and return it to the Department. This form is located on the USDHHS website. By completing the certification, the Subrecipient~~[subrecipient]~~ verifies that no federally appropriated funds have been used to lobby the United States Congress in connection with the awarding or modifying of a federal contract, loan, cooperative agreement or grant.

(d) Pursuant to the 1996 Simpson-Craig Amendment to the Lobbying Disclosure Act, 2 U.S.C. §1611, §501(c)(4) non-profit organizations, typically civic leagues or employee associations, may not receive any federal funding if such organizations engage in lobbying. The law

establishes civil penalties for noncompliance, with possible penalties ranging from \$10,000 to \$100,000.

(e) Pursuant to the Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations," specifically §25 titled "Lobbying," costs associated with lobbying are unallowable.

§5.7. Fidelity Bond Requirements.

The Department is required to assure that fiscal control and accounting procedures for federally funded entities will be established to assure the proper disbursement and accounting for the federal funds paid to the state (A-110 "Administrative Requirements for Grants to Non-Profits"). In compliance with that assurance the Department requires program Subrecipients[subrecipients] to maintain adequate fidelity bond coverage. A fidelity bond is a bond indemnifying the Subrecipient[subrecipient] against losses resulting from the fraud or lack of integrity, honesty or fidelity of one or more of its employees, officers, or other persons holding a position of trust.

(1) In administering program contracts, Subrecipients[subrecipients] shall observe their regular requirements and practices with respect to bonding and insurance. In addition, the Department may impose bonding and insurance requirements by contract.

(2) If a Subrecipient[subrecipient] is a non-governmental organization, the Department requires an adequate fidelity bond. If the amount of the fidelity bond is not prescribed in the contract, the fidelity bond must be for a minimum of \$10,000 or an amount equal to the contract if less than \$10,000. The bond must be obtained from a company holding a certificate of authority to issue such bonds in the State of Texas.

(3) The fidelity bond coverage must include all persons authorized to sign or counter-sign checks or to disburse sizable amounts of cash. Persons who handle only petty cash (amounts of less than \$250) need not be bonded, nor is it necessary to bond officials who are authorized to sign payment vouchers, but are not authorized to sign or counter-sign checks or to disburse cash.

(4) The Department must receive written assurance from the Subrecipient[subrecipient] that the required fidelity bond has been established. The assurance letter must be received from the bonding company or agency stating the type of bond, the amount and period of coverage, the positions covered, and the annual cost of the bond. Compliance must be continuously maintained thereafter. A copy of the actual policy shall remain on file with the Subrecipient[subrecipient] and shall be subject to monitoring by the Department.

(5) Subrecipients are responsible for filing claims against the fidelity bond when a covered loss is discovered. The Department may take any one or more of the [following] actions described in subparagraphs (A) – (D) of this paragraph for noncompliance.

(A) Deny Subrecipient's[subrecipient's] requests for advances and place the Subrecipient[subrecipient] on a Modified Cost Reimbursement[~~cost reimbursement~~] plan until written assurance of compliance is received by the Department.

(B) Withhold Subrecipient[subrecipient] payments (either reimbursement or advance) until written assurance of compliance is received by the Department.

(C) Suspend performance of the contract until written assurance of compliance is received by the Department.

(D) Contract termination.

§5.9. Travel.

The governing body~~[board]~~ of each Subrecipient~~[subrecipient]~~ must adopt and submit to the Department approved travel policies that adhere to Office of Management and Budget (OMB) Circulars A-87, A-110, A-122, for cost allowability. The Subrecipient~~[subrecipient]~~ must follow either the federal travel regulations or State of Texas travel rules and regulations found on the Comptroller of Public Accounts website at www.cpa.state.tx.us. If the travel policy and procedures are revised they must be submitted to the Department.

§5.10. Procurement Standards.

(a) In addition to the requirements described in §5.3 of this chapter (relating to Cost Principles and Administrative Requirements), CSBG, HHSP, and LIHEAP Subrecipients~~[entities]~~ must follow the requirements in Texas Government Code, Chapter 783.

(b) Additional Department requirements are:

(1) Small purchase procedures:

(A) This procedure may be used only on those services, supplies, or equipment costing in the aggregate of \$25,000 or less. For Emergency Shelter Grant Program (ESGP), Emergency Solutions Grant (ESG), and the Homeless Housing and Services Program (HHSP), the threshold is \$500 or less~~[and more per unit]~~;

(B) Subrecipient must establish a clear, accurate description of the specifications for the technical requirements of the material, equipment, or services to be procured; ~~[and]~~

(C) Subrecipient must obtain a written price or documented rate quotation from an adequate number of qualified sources. An adequate number is, at a minimum, three different sources; and [.]

(D) For a CEAP, CSBG, or WAP small purchase procurement that exceeds \$500 in the aggregate, and for any single item purchase for any program that exceeds \$250, Subrecipients must obtain three written quotes that contain a clear and accurate description of the material product or services to be provided. For any procurement that does not exceed these stated amounts, written documentation of phone quotes is acceptable.

(2) For Sealed bids:

(A) Subrecipient must formally advertise, for a minimum of three (3) days, in newspapers or through notices posted in public buildings throughout the service area. Advertising beyond the Subrecipient's service area is allowable and recommended by the Department. The advertisement should include, at a minimum, a response time of fourteen (14) days prior to the closing date of the bid request. A Government Entity must comply with the statutorily imposed publication requirements in addition to those requirements stated herein; and

(B) When advertising for material or labor services, Subrecipient shall indicate a period for which the materials or services are sought (e.g. for a one-year contract with an option to renew for an additional four (4) years). This advertised time period shall determine the length of time which may elapse before re-advertising for material or labor services, except that advertising for labor services must occur at least every five (5) years.

(3) For Competitive proposals:

(A) The Request for Proposal (RFP) or Request for Qualification (RFQ) must be publicized. The preferred method of advertising is the local service area newspapers. This advertisement should,

at a minimum, allow fourteen (14) days before the RFP or RFQ is due. The due date must be stated in the advertisement; and

(B) The time period for services shall be one year, plus four (4) additional years at a maximum.

(4) Non-competitive proposals may be used only if:

(A) The service, supply, or equipment is available only from a single source;

(B) A public emergency exists preventing the time required for competitive solicitation; ~~or~~~~and~~

(C) After solicitation of a number of sources, competition is determined inadequate.

(5) ~~Contract~~~~Required contract~~ provisions, including subcontracts shall include the ~~following contract~~ provisions or conditions ~~in procurement contracts or subcontracts~~ described in subparagraphs (A) – (G) of this paragraph:

(A) Contracts in excess of \$25,000 shall include ~~contractual~~ provisions or conditions that allow for administrative, contractual, or legal remedies in instances where Subcontractors ~~subcontractors~~ violate or breach the contract terms, and provide for such remedial actions as may be appropriate;

(B) All contracts in excess of \$25,000 shall include suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the Subrecipient;

(C) Contracts shall include a provision with regard to independent Subcontractor~~subcontractor~~ status, and a provision to hold harmless and indemnify the Subrecipient from and against any and all claims, demands and course of action asserted by any third party arising out of or in connection with the services to be performed under contract;

(D) Contracts shall include a provision regarding conflicts~~conflict~~ of interest. Subrecipient's employees, officers, and/or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from Subcontractors~~subcontractors~~, or potential Subcontractors~~subcontractors~~; and

(E) Contracts shall include a provision prohibiting and requiring the reporting of~~to prevent~~ fraud, waste, and abuse.

(i) Subrecipient shall establish, maintain, and utilize internal control systems and procedures sufficient to prevent, detect, and correct incidents of waste, fraud, and abuse in all Department funded programs and to provide for the proper and effective management of all program and fiscal activities funded by this contract. Subrecipient's internal control systems and all transactions and other significant events must be clearly documented and the documentation made readily available for review by Department.

(ii) Subrecipient shall give Department complete access to all of its records, employees, and agents for the purpose of monitoring or investigating the program. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse. Subrecipient shall immediately notify the Department of any identified instances of waste, fraud, or abuse.

(iii) Department will notify the funding source upon identification of possible instances of waste, fraud, and abuse or other serious deficiencies.

(iv) Subrecipient may not discriminate against any employee or other person who reports a violation of the terms of this contract or of any law or regulation to Department or to any appropriate law enforcement authority, if the report is made in good faith.

(F) Contracts shall include a provision to the effect that any alterations, additions, or deletions to the terms of the contract which are required by changes in federal law and regulations or state statute are automatically incorporated into the contract without written ~~[and administrative code]~~ amendment~~[hereto]~~, and shall become effective on the date designated by such law and or regulation; and any other alterations, additions, or deletions to the terms of the contract shall be amended hereto in writing and executed by both parties to the contract.

(G) Contracts shall include the provisions described in clauses (i) – (iii) of this subparagraph:~~[following provision assuring legal authority to sign the contract.]~~

(i) Subcontractor represents that it possesses ~~[the practical ability and the]~~ legal authority to enter into the contract, receive and manage the funds authorized by the contract, and to perform the services Subcontractor~~[subcontractor]~~ has obligated itself to perform under the contract;~~[-]~~

(ii) The person signing the contract on behalf of the Subcontractor~~[subcontractor]~~ warrants that he/she has been authorized by the Subcontractor~~[subcontractor]~~ to execute the contract on behalf of the Subcontractor~~[subcontractor]~~ and to bind the Subcontractor~~[subcontractor]~~ to all terms set forth in the contract; and[-]

(iii) Department shall have the right to suspend or terminate the contract if there is a dispute as the legal authority of either the Subcontractor~~[subcontractor]~~ or the person signing the contract to enter into the contract or to render performances thereunder. Should such suspension or termination occur, the Subcontractor~~[subcontractor]~~ is liable to the Subrecipient for any money it has received for performance of provisions of the contract.

§5.11. Procurement/Cooperative Purchasing Program.

The State of Texas conducts procurement for many materials, goods, and appliances. The State of Texas procurement process complies with the required procurement provisions. For more detail about how to purchase from the state~~[State]~~ contract, please contact: State of Texas Co-Op Purchasing Program, Texas Comptroller of Public Accounts, Web address: <http://www.window.state.tx.us/procurement/prog/coop/>; e-mail: coop@cpa.state.tx.us; phone number: (512) 463-3368. If Subrecipients~~[subrecipients]~~ choose to use the Cooperative Purchasing Program, ~~[they will need]~~ documentation of annual fee payment is required.

§5.12. Purchases.

Purchases of personal property, equipment, goods or services with a unit acquisition cost of over \$5,000 for CSBG~~[Community Services Block Grant (CSBG)]~~, CEAP~~[Comprehensive Energy Assistance Program (CEAP)]~~, and WAP~~[Weatherization Assistance Program (WAP)]~~ and over \$500~~[or greater]~~ for ESGP, ESG, and HHSP~~[Emergency Shelter Grant Program (ESGP)]~~ require prior written approval from the TDHCA Community Affairs Division before the purchase can take place.

§5.13. Bonding Requirements.

(a) The ~~[following]~~ requirements described in this subsection relate only to construction or facility improvements.

(1) For contracts exceeding \$100,000 the Department may accept the bonding policy and requirements of the Subrecipient, provided the Department has made a written finding that the Department is adequately protected.

(2) For contracts in excess of \$100,000, and for which the Subrecipient cannot make a determination that the Department's interest is adequately protected, a "bid guarantee" from each bidder equivalent to 5% of the bid price shall be requested. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified. A bid bond in the form of ~~any~~all of the documents described in this paragraph~~following~~ may be accepted as~~represent~~ a "bid guarantee."

(A) A performance bond on the part of the Subrecipient for 100% of the contract price. A "performance bond" is one executed in connection with a contract, to secure fulfillment of all Subcontractors'~~subcontractors'~~ obligations under such contract.

(B) A payment bond on the part of the Subcontractor~~subcontractor~~ for 100% of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(C) Where bonds are required, in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR Part 223, "Surety Companies Doing Business with the United States."

(b) A Government Entity must comply with the bond requirements of Texas Civil Statutes, Articles 2252, 2253, and 5160, and Local Government Code, §252.044 and §262.032, as applicable.

§5.14. Subrecipient Contract.

(a) Upon Board approval, the Department~~'s Executive Director~~ and Subrecipient~~subrecipients~~ shall enter into ~~an~~and execute an agreement for the receipt of funds. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver authorized modifications and/or amendments to the contract.

(b) The governing body of the Subrecipient must pass a resolution authorizing its executive director or his/her designee to have signature authority to enter into contracts, sign amendments, and review and approve reports. All contract actions including extensions, amendments or revisions must be ratified by the governing body at the next regularly scheduled meeting. Minutes relating to this resolution must be on file at the Subrecipient level.

~~(c)~~(b) Within sixty (60) days following the conclusion of a contract issued by the Department, the Subrecipient~~subrecipient~~ shall provide a full accounting of funds expended under the terms of the contract.

~~(d)~~(e) Failure of a Subrecipient~~subrecipient~~ to provide an accounting of funds expended under the terms of the contract may be sufficient reason for the Department to deny any future contract to the Subrecipient~~subrecipient~~.

§5.16. Monitoring and Single Audit Requirement[of Subrecipients].

~~(a) The Department or its designee may conduct on and off-site monitoring and evaluation of Subrecipient's compliance with state or federal requirements. The Department's monitoring may include a review of the efficiency, economy, and effectiveness of Subrecipient's performance. The Department will notify Subrecipient in writing of any deficiencies noted during such monitoring. The Department may provide training and technical assistance to Subrecipient in correcting the deficiencies noted. The Department may require corrective action to remedy deficiencies noted in Subrecipient's accounting, personnel, procurement, and management procedures and systems in order to comply with state or federal requirements. [The Department's Compliance Division is responsible for ensuring that the program activities are completed and that the funds are expended in accordance with the contract provisions and applicable State and Federal rules, regulations, policies, and related statutes. In order to ensure such, the Department will conduct monitoring reviews of the Subrecipients to evaluate the effectiveness of the Subrecipient's performance and program compliance through on-site and desk monitoring as described in §5.15 of this chapter (relating to Federal Funding Accountability and Transparency Act (FFATA)) following the requirements of §678B of PL 105-285 Subtitle B, §2605(B)(10) of PL 97-35, as amended, 10 CFR §440.23(d), and 24 CFR §576.61 and §576.57(f) and (g), respectively.~~

~~(1) The Department employs a Subrecipient monitoring procedure that is based upon an assessment of associated risks. The factors may include but are not limited to the status of the most recent monitoring report, timeliness of grant reporting, results of the last on-site monitoring review, number and funding amount of Department funded contracts, final expenditure rate, and single audit status or other factors. Ranking of Subrecipients will determine whether an on-site review or a desk review is completed unless Department management determines an on-site review is needed.~~

~~(2) The Department may conduct unannounced on-site monitoring reviews of a Subrecipient identified as at risk for contract termination, if deficiencies identified from prior monitoring activities persist or remain unresolved for an unreasonable period of time. In the event of reports of fraud and abuse or other extenuating circumstances the Department may make an unannounced on-site monitoring review.~~

~~(3) Follow-up reviews may be performed to ensure implementation of corrective action of Subrecipients that failed to meet the goals, standards, and requirements established by the Department.~~

~~(4) Technical assistance and training will be provided to the Subrecipient to address program deficiencies.~~

~~(5) A monitoring instrument is used to perform monitoring reviews. Support documentation is retained by the Department to verify: the achievement of performance goals; conduct of eligible activities; and compliance with other contractual regulatory provisions and financial accountability. Monitoring reviews of Subrecipients also include reviewing annual financial reports and any related management letters and financial documents.~~

~~(6) Following the onsite monitoring review, a monitoring report is prepared and submitted to the Subrecipient outlining any administrative, program, and financial deficiencies. The monitoring report also includes notes, recommended improvements, corrective actions or a corrective action plan. Subrecipients must respond to the monitoring report within forty-five (45) calendar days~~

from the date of the monitoring report except for WAP Subrecipients whom must respond within thirty (30) calendar days.

(A) ~~Finding~~—The written description of a deficient condition which is significantly substandard according to the monitoring standards. Findings may also be deficiencies found with regard to compliance with program rules, required cost principles, federal, state and/or local laws, and generally accepted accounting procedures or Generally Accepted Accounting Principles. In general, findings require corrective action to create an acceptable level of risk for disbursement of funds. The description of a finding might include the cause and effect of the deficient condition.

(B) ~~Recommended Improvement~~—Suggested best practice(s) to enhance program, operational, financial, or administrative practices.

(C) ~~Note~~—An explanatory tool to further describe and clarify findings or recommended improvements. A note may also be used to include additional information related to the monitoring review but not related to a finding or recommended improvement.

(7) Subrecipients are required to have at a minimum the following documents available, and any other requested documents, for the monitoring review:

(A) Roster of staff (name, title, salary and status);

(B) Current agency organization chart;

(C) List of Board of Directors to include: names, addresses and telephone numbers, tenure on the board, section represented by the board member, list of committees—CSBG, ESGP, ESG, and HHSP;

(D) Board election/selection materials—CSBG;

(E) Board minutes (previous six meetings) and attendance roster—CSBG, ESGP, ESG, and HHSP;

(F) List of neighborhood centers with names of staff—CSBG and CEAP;

(G) Personnel policies;

(H) Bylaws—CSBG, ESGP, ESG, and HHSP;

(I) Travel policies and records;

(J) Chart of accounts;

(K) Accounting records (journals/ledgers) and support documentation;

(L) Amount of Cash on Hand (at time of monitoring);

(M) Bank reconciliation records;

(N) Agency's proof of fidelity bond coverage;

(O) Documentation of match requirements—ESGP, ESG, and when applicable for HHSP;

(P) Closeout data for prior program year—CEAP and WAP;

(Q) Access to client files and documentation of performance;

(R) Income documentation;

(S) Appeals Procedures—CEAP, ESG, ESGP, and WAP;

(T) Subcontract agreements with appropriate procurement packages (if applicable);

(U) Procurement policy;

(V) Documentation of current contract inventory;

(W) Documentation of coordination with other local programs (including contact person and phone numbers)—CSBG;

(X) Copies of most recent monitoring reports and/or performance reviews of all programs administered by the organization;

~~(b)(Y)~~ Copy of the most recent Single Audit Report--Organizations that expend more than the expenditure threshold under OMB Circular A-133 must have a single audit conducted for that year (A-133 Subpart B.200). Organizations that do not exceed the expenditure threshold under OMB Circular A-133 are exempt from the single audit requirements. If an organization is not required to have a single audit performed, the organization must provide the end-of-the-year financial statements (balance sheet, income statement, and statement of cash flow).~~[-and]~~
~~(Z) If applicable, documentation of the most recent Head Start Onsite Monitoring Document review, including results, responses, and current status--CSBG.~~

~~(c) (b)~~ Subrecipients not exempt from the single audit requirements are responsible for submitting their Single Audit Report within thirty (30) days of completion of their audit and no later than nine (9) months after the end of the audit period (fiscal year end) to the Department's Compliance Division~~[as well as to the Community Affairs (CA) Division]~~. Refer to 31 U.S.C. §7502.

~~(e) Monitoring reviews of Subrecipients will include a review of the Subrecipient's annual financial reports and any related management letters and financial documents.]~~

(d) Subrecipient shall make audit report available for public inspection within thirty (30) days after receipt of the audit reports.

(e) Subrecipient shall submit such audit report to the federal clearinghouse designated by OMB in accordance with OMB A-133.

§5.17. Sanctions and Contract Close Out.

(a) Subrecipients that enter~~[have entered]~~ into a contract with the Department to administer programs are required to follow state and federal laws and regulations and rules governing these programs.

(b) If a Subrecipient fails to comply with program requirements, rules, or regulations and in the event monitoring or other reliable sources reveal material deficiencies in performance, or if the Subrecipient fails to correct any deficiency within the time allowed by federal or state law, the Department will apply one or more of the ~~[following]~~ sanctions described in paragraph (1)(A) - (E) of this subsection:

(1) Deny the Subrecipient's requests for advances and place it on a Modified Cost Reimbursement~~[cost reimbursement]~~ method of payment until proof of compliance with the rules and regulations are received by the Department;

(A) Subrecipients placed on a Modified Cost Reimbursement method of payment must comply with the reporting requirements outlined in Subchapter B, §5.211 (relating to CSBG), Subchapter C §5.311 (relating to ESGP), Subchapter D §5.406 (relating to CEAP), Subchapter E §5.506 (relating to WAP General), Subchapter J §5.1006 (relating to HHSP), and Subchapter K §5.2007 (relating to ESG), as applicable;

(B) Subrecipients on a Modified Cost Reimbursement method must provide all supporting documentation to the Department no later than seven (7) days after the reporting due date;

(C) If Subrecipient has not submitted documentation required for cost reimbursement review in accordance with reporting deadlines, Subrecipient will be required to enter a monthly report containing zero amounts and submit documentation required for the review as part of the next's month reporting;

(D) Subrecipients reporting a monthly report containing zero amounts throughout the program year shall submit all required support documentation to the Department for review by the last regular monthly report (before the final report); and/or

(E) The Department will review and assess supporting documentation submitted by Subrecipient no later than the seventh (7th) day of the following month.

(2) Withhold all payments from the Subrecipient (both reimbursements and advances) until proof of compliance with the rules and regulations are received by the Department, reduce the allocation of funds (with the exception of Community Services Block Grant (CSBG) funds to Eligible Entities~~[eligible entities]~~ as described in §5.206 of this chapter (relating to Termination and Reduction of Funding) and as limited for LIHEAP funds as outlined in Texas Government Code, Chapter 2105) or impose sanctions as deemed appropriate by the Department's Executive Director, at any time, if the Department identifies possible instances of fraud, waste, abuse, fiscal mismanagement, or other serious deficiencies in the Subrecipient's performance;

(3) Suspend performance of the contract or reduce funds until proof of compliance with the rules and regulations are received by the Department or a decision is made by the Department to initiate proceedings for contract termination;

(4) Elect not to provide future grant funds to the Subrecipient until appropriate actions are taken to ensure compliance; or

(5) Terminate the contract. Adhering to the requirements governing each specific program administered by the Department, as needed, the Department may determine to proceed with the termination of a contract, in whole or in part, at any time the Department establishes there is good cause for termination. Such cause may include, but is not limited to, fraud, waste, abuse, fiscal mismanagement, or other serious deficiencies in the Subrecipient's performance. For CSBG contract termination procedures, please refer to §5.206 of this chapter.

(c) Contract Close-out. When the Department moves to terminate a contract, the [following] procedures described in paragraphs (1) – (12) of this subsection will be implemented.

(1) The Department will issue a termination letter to the Subrecipient no less than thirty (30) days prior to terminating the contract. The Department may determine to take one of the following actions: suspend funds immediately; establish a Modified Cost Reimbursement~~[cost reimbursement]~~ plan for closeout proceedings; or provide instructions to the Subrecipient to prepare a proposed budget and written plan of action that supports the closeout of the contract. The plan must identify the name and current job titles of staff that will perform the close-out and an estimated dollar amount to be incurred. ~~[The Department will respond within ten (10) working days from receipt of the plan.]~~

(2) If the Department determines that a Modified Cost Reimbursement~~[cost reimbursement]~~ is an appropriate method of providing funds to accomplish closeout, the Subrecipient will submit backup documentation for all current expenditures associated with the closeout. The required documentation will include, but not be limited to, the chart of accounts, detailed general ledger, revenue and expenditure statements, time sheets, payment vouchers and/or receipts, and bank reconciliations.

- (3) No later than thirty (30) days after the contract is terminated, the Subrecipient will take a physical inventory of client files, including case management files, and will submit to the Department an inventory of equipment with a unit acquisition cost of \$5,000 or greater for Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP) and Community Services Block Grant (CSBG) or a unit acquisition cost of \$500 or greater for ESGP, ESG, and HHSP.
- (4) The terminated Subrecipient will have thirty (30) days from the date of the physical inventory to copy all current client files. Client files must be boxed by county of origin. Current and active case management files also must be copied, inventoried, and boxed by county of origin.
- (5) Within thirty (30) days following the Subrecipient's due date for copying and boxing client files, Department staff will retrieve copied client files.
- (6) The terminated Subrecipient will prepare and submit no later than sixty (60) days from the date the contract is terminated, a final report containing a full accounting of all funds expended under the contract.
- (7) A final monthly expenditure report and a final monthly performance report for all remaining expenditures incurred during the close-out period must be received by the Department no later than sixty (60) days from the date the Department determines that the closeout of the program and the period of transition are complete.
- (8) The Subrecipient will submit to the Department no later than sixty (60) days after the termination of the contract, an inventory of the non-expendable personal property acquired in whole or in part with funds received under the contract.
- (9) The Department may transfer title to equipment having a unit acquisition cost (the net invoice unit price of an item of equipment) of:
 - (A) \$5,000 or greater for CEAP, CSBG, and WAP; or
 - (B) \$500 or greater for ESG, ESGP, and HHSP, to the Department or to any other entity receiving funds under the program in question. The Department will make arrangements to remove equipment covered by this paragraph within ninety (90) days following termination of the contract.
- (10) Upon selection of a new service provider, the Department will transfer to the new provider client files and, as appropriate, equipment.
- (11) As required by OMB Circular A-133, a current year single audit must be performed for all agencies that have exceeded the federal expenditure threshold under OMB Circular A-133. The Department will allow a proportionate share of program funds to pay for accrued audit costs, when an audit is required, for a single audit that covers the date up to the closeout of the contract. The terminated Subrecipient must have a binding contract with a CPA firm on or before the termination date of the contract. The actual costs of the single audit and accrued audit costs including support documentation must be submitted to the Department no later than sixty (60) days from the date the Department determines the close-out is complete.
- (12) Subrecipients shall submit within sixty (60) days after the date of the close-out process all financial, performance, and other applicable reports to the Department. The Department may approve extensions when requested by the Subrecipient. However, unless the Department authorizes an extension, the Subrecipient must abide by the sixty (60) day contractual requirement of submitting all referenced reports and documentation to the Department.

§5.19. Client Income Guidelines.

(a) The Department has defined eligibility for program assistance under the poverty income guidelines provided annually by the Secretary of the U.S. Department of Health and Human Services (USDHHS). For ESG ~~and HHSP~~, Subrecipients will adhere to 24 CFR §5.609, subject to the revisions of The Housing and Economic Recovery Act of 2008 (HERA), P.L. 110-289.

(b) For all programs except ESG and HHSP~~[USDHHS funded programs]~~, Subrecipients will use the ~~[following]~~ list of included and excluded income to determine eligibility for all programs, as described in paragraphs (1) and (2) of this subsection.

(1) Included Income:

(A) Temporary Assistance for Needy Families (TANF);

(B) Money, wages and salaries before any deductions;

(C) Net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);

(D) Regular payments from social security, including Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI);

(E) Railroad retirement;

(F) Unemployment compensation;

(G) Strike benefits from union funds;

(H) Worker's compensation;

(I) Training stipends;

(J) Alimony;

(K) Military family allotments;

(L) Private pensions;

(M) Government employee pensions (including military retirement pay);

(N) Regular insurance or annuity payments; and

(O) Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.

(2) Excluded Income:

~~[(A) Social Security Disability Insurance (SSDI) payments;]~~

~~[(B) Supplemental Security Income (SSI) payments;]~~

~~(A)~~~~(C)~~ Capital gains; any assets drawn down as withdrawals from a bank;

~~(B)~~~~(D)~~ The sale of property, a house, or a car;

~~(C)~~~~(E)~~ One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;

~~(D)~~~~(F)~~ Tax refunds, gifts, loans, and lump-sum inheritances;

~~(E)~~~~(G)~~ One-time insurance payments, or compensation for injury;

~~(F)~~~~(H)~~ Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;

~~(G)~~~~(I)~~ Food or housing received in lieu of wages;

~~(H)~~~~(J)~~ The value of food and fuel produced and consumed on farms;

~~(I)~~~~(K)~~ The imputed value of rent from owner-occupied non-farm or farm housing;

~~(J)~~~~(L)~~ Federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches;

~~(K)~~ ~~(M)~~ Housing assistance and combat zone pay to the military;

~~(L)~~ ~~(N)~~ Veterans (VA) Disability Payments;

(M) [~~(O)~~] College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits (GI Bill); and
(N) [~~(P)~~] Child support payments.

§5.20. Determining Income Eligibility.

(a) To determine income eligibility for USDHHS and DOE funded programs, Subrecipients must base annualized eligibility determinations on Household[~~household~~] income from thirty (30) days prior to the date of application for assistance. Each Subrecipient must maintain documentation of income from all sources for all Household[~~household~~] members for the entire thirty (30) day period prior to the date of application and multiply the monthly amount by twelve (12) to annualize income. Income documentation must be collected from all income sources for all Household[~~household~~] members eighteen (18) years and older for the entire thirty (30) day period.

(b) If proof of income is unavailable, the applicant must complete and sign a Department approved declaration of income statement or complete income documentation attestations required by the federal funding source.

§5.21. Subrecipient Contact Information.

(a) Subrecipients will notify the Community Affairs Division (CAD) and provide contact information for [~~of~~] key management staff vacancies and [~~will provide contact information for key management staff~~] new hires within thirty (30) days of such occurrence. Contact information will include, name, title, phone number, and direct email address.

(b) As vacancies exceed the ninety (90) day threshold[~~occur~~] within the organization's board of directors, the CAD will be notified of such vacancies and, if applicable, the sector the board member represented.

(c) Contact information for the board of director's board chair must be provided to CAD and shall include: the board chair's name, mailing address (which must be different from the organization's mailing address), phone number (different from the organization's phone number), fax number (if applicable), and the direct e-mail address for the board chair.

§5.22. Offsite Record Retention.

Client Records. The Department requires Subrecipient[~~subrecipient~~] organizations that administer Community Affairs Programs and serve clients to document client services. Subrecipient organizations must arrange for the security of all program-related computer files through a remote, online, or managed backup service. Confidential client files must be maintained in a manner to protect the privacy of each client and to maintain the same for future reference. Subrecipient organizations must store physical client files in a secure space in a manner that ensures confidentiality and in accordance with Subrecipient organization policies and procedures. To the extent that it is financially feasible, archived client files should be stored

offsite from Subrecipient headquarters, in a secure space in a manner that ensures confidentiality and in accordance with organization policies and procedures.

§5.23. Protected Health Information.

Subrecipients are prohibited and shall not collect or maintain protected health information from any applicant as defined in the Texas Health and Safety Code, Subtitle I, Chapter 181.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Action proposing amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter B, Community Services Block Grant (CSBG) §§5.201, 5.203 – 5.207 and 5.210 - 5.217, and directing that they be published for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Texas Government Code, Chapter 2306, the Department is authorized to adopt rules governing the administration of the Department and its programs, and

WHEREAS, proposed amendments to 10 TAC §§5.201, 5.203 – 5.207 and 5.210 - 5.217 propose the addition of a prohibition on the use of CSBG funds for political activity, revise the hearing process on termination or reduction of CSBG funds, remove a deadline for Subrecipient CSBG Needs Assessments and Community Action Plans and require that Board training records be maintained at the Subrecipient level and other grammatical and capitalization matters,

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter B, Community Services Block Grant (CSBG), in the form presented to this meeting, to be published in the *Texas Register* for review and public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The purpose of the amended sections is to 1) add a reference to the prohibition of the use of CSBG funds for political and/or voter activity, 2) revise the hearing process on termination or reduction of CSBG funds, 3) remove a specific deadline for Subrecipient CSBG Needs Assessments and Community Action Plans, 4) add the requirement of maintaining Board training records at the Subrecipient level, and 5) capitalize the terms Subrecipient and Eligible Entity for consistency.

Attachment A: Preamble and proposed amendments to 10 TAC Chapter 5, Subchapter B, Community Services Block Grant (CSBG), §§5.201, 5.203 – 5.207, 5.210 - 5.217.

The Texas Department of Housing and Community Affairs (the “Department”) proposes amendments to 10 TAC Chapter 5, §§5.201, 5.203 – 5.207, 5.210 - 5.217, concerning the Community Services Block Grant (CSBG) program. The purpose of the proposed amendments is to add a reference to the prohibition of the use of CSBG funds for political and/or voter activity, to revise the hearing process on termination or reduction of CSBG funds, to remove a specific deadline for CSBG Needs Assessments and Community Action Plans, to add the requirement of maintaining Board training records at the Subrecipient level, and to correct the capitalization of Subrecipient and Eligible Entities throughout the Subchapter.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amendments does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be to administer the CSBG funds more efficiently and in accordance with state and federal law. There will not be any economic cost to any individuals required to comply with the amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 26, 2012, to November 26, 2012, to receive input on the amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: cadrulecomments@tdhca.state.tx.us, or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. NOVEMBER 26, 2012.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules, and Chapter Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed amendments affect no other code, article, or statute.

§5.201. Background.

(a) In addition to the following rules for the Community Services Block Grant (CSBG) program, the rules established in Subchapter A of this chapter also apply to the CSBG program, except those that relate to the suspension, reduction, withholding or termination of funding. The CSBG Act was amended by the "Community Services Block Grant Amendments of 1994" and the Coats Human Services Reauthorization Act of 1998. The Secretary is authorized to establish a community services block grant program and make grants available through the program to states to ameliorate the causes of poverty in communities within the states.

(b) The Texas Legislature designated the Department as the lead agency for the administration of the CSBG program pursuant to Texas Government Code, §2306.092. CSBG funds will be made available to Eligible Entities~~[eligible entities]~~ to carry out the purposes of the CSBG program.

§5.203. Distribution of CSBG Funds.

(a) The CSBG Act requires that no less than 90% of the state's allocation be allocated to Eligible Entities~~[eligible entities]~~. The Department currently utilizes a multi-factor fund distribution formula to equitably provide CSBG funds throughout the state's 254 counties to the CSBG Eligible Entities~~[eligible entities]~~. Revisions to the formula shall be considered on a biennial basis including the release of decennial census figures. Changes to the formula shall be presented to the Department's Governing Board for approval.

(b) Five percent of the Department's annual allocation of CSBG funds and any funds not spent as identified in subsection (c) of this section, may be expended for activities as per 42 U.S.C. §9907(b)(A) - (H) and activities that may include:

- (1) the provision of training and technical assistance to CSBG Eligible Entities~~[eligible entities]~~;
- (2) services to low-income migrant seasonal farm worker and Native American populations;
- (3) assisting CSBG Eligible Entities~~[eligible entities]~~ in responding to natural or man-made disasters;
- (4) funding for innovative and demonstration projects that assist CSBG target population groups to overcome at least one of the barriers to attaining self-sufficiency; and
- (5) other projects/initiatives, including state conference expenses. The Department may provide monetary awards to Subrecipients~~[subrecipients]~~ for outstanding performance. To ensure consistent and comparable results, the process for monetary awards to CSBG Subrecipients~~[subrecipients]~~ will be standardized.

(c) Up to 5% of the Department's annual allocation of CSBG funds will be used for administrative purposes consistent with state and federal law.

§5.204. Use of Funds.

(a) CSBG funds distributed to Eligible Entities~~[eligible entities]~~ for a fiscal year may be available for obligation during that fiscal year and the succeeding fiscal year. Eligible Entities~~[entities]~~ may use the funds for administrative support and/or for direct services such as: education, employment, housing, health care, nutrition, transportation, linkages with other service providers, youth programs, emergency services, i.e., utilities, rent, food, shelter, clothing etc. For additional requirements reference 42 U.S.C. §9908(b)(A)(i-vii) and Office of Management and Budget (OMB) Circulars A-122 and A-87.

(b) Utility and rent deposit refunds from vendors must be reimbursed to the Subrecipient~~[subrecipient]~~ and not the client. Funds should be treated as program income.

§5.205. Limitations on Use of Funds.

(a) Construction of Facilities. CSBG funds may not be used for the purchase, construction or improvement of land, or facilities as described in (42 U.S.C. §9918(a)).

(b) Section 678(F)(b)(2) of the Community Services Block Grant (CSBG) Act prohibits the use of program funds for political activity, voter registration activity, or voter registration. The Hatch Act, 5 U.S.C. Chapter 15, amendments to the Hatch Act, and the repeal of §675(e) and §675(C)(6) of the CSBG Act do not affect the prohibition of §678(F)(b)(2).

§5.206. Termination and Reduction of Funding.

(a) If the Department determines, on the basis of a final decision in a review pursuant to the CSBG Act, that an Eligible Entity~~[eligible entity]~~ fails to comply with the terms of an agreement or the state plan, to provide services under the CSBG Act or to meet appropriate standards, goals, and other requirements established by the Department (including performance objectives), the Department shall:

- (1) inform the entity of the deficiency to be corrected;
- (2) require the entity to correct the deficiency;
- (3) offer training and technical assistance, if appropriate, to help correct the deficiency, and, as appropriate, prepare and submit to the Secretary a report describing the training and technical assistance offered; or if the Department determines that such training and technical assistance are not appropriate, prepare and submit to the Secretary a report stating the reasons for the determination and the reasons for proceeding with termination proceedings;
- (4) At the discretion of the Department (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), the Department shall allow the entity to develop and implement, within sixty (60) days after being informed of the deficiency, a Quality Improvement Plan (QIP) to correct such deficiency within a reasonable period of time, as determined by the Department. No later than thirty (30) days after receiving from an eligible entity a proposed QIP, the Department shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved;

(5) If the Department does not accept the QIP, the Department, after providing adequate notice of impending termination proceedings and an opportunity for a hearing, may initiate proceedings to terminate or reduce the funding of a Subrecipient[~~subrecipient~~]; and

(6) If the Department has implemented sanctions against a Subrecipient[~~subrecipient~~] and the Subrecipient[~~subrecipient~~] has failed to comply with the QIP or a corrective action plan, the Department may request of the Subrecipient's[~~subrecipient's~~] Board of Directors the voluntary relinquishment of the CSBG program and their designation as a CSBG Eligible Entity[~~eligible entity~~]. If the Subrecipient[~~subrecipient~~] accepts to voluntarily relinquish the CSBG program, the Department will commence contract termination proceedings. If the Subrecipient[~~subrecipient~~] rejects voluntarily relinquishment of the CSBG program or the Department does not accept the Subrecipient's[~~subrecipient's~~] QIP, the Department will initiate procedures for a hearing.

(A) Pursuant to the CSBG Act, the Department will provide notice and an opportunity for a hearing.

(B) The Department will refer a hearing under this section to the State Office of Administrative Hearings (SOAH)[~~select an Administrative Law Judge (ALJ) to oversee the proceedings of the hearing~~]. The Department and Subrecipient will coordinate establishing a date, time and hearing location with SOAH[~~the ALJ~~] and will provide adequate notice to the Subrecipient[~~subrecipient~~]. SOAH will issue a proposal for decision to the TDHCA's Board recommending[~~The ALJ will determine~~] whether there is cause, as defined by the CSBG Act, U.S.C. §9908(c), to terminate or reduce funding to the Subrecipient[~~subrecipient~~]. [~~The ALJ will issue a proposal for decision on the facts and a recommendation will be presented to the Department's Governing Board for final review.~~] The TDHCA Board will review the proposal for decision and issue its final order in the matter.

(C) If the TDHCA Board[~~ALJ~~] determines that there is cause to terminate or reduce funding, pursuant to 42 U.S.C. §9915, the Department will notify the Subrecipient[~~subrecipient~~] that it has the right under 42 U.S.C. §9915 to seek review of the decision by the USDHHS. If the USDHHS does not overturn the decision, or if the Subrecipient[~~subrecipient~~] does not seek USDHHS review, the Department will initiate proceedings to terminate and close-out the contract.

(b) Any right or remedy given to the Department by this chapter does not preclude the existence of any other right or remedy, nor shall any action or lack of action by the Department in the exercise of any right or remedy be deemed a waiver of any other right or remedy.

§5.207. Subrecipient Performance.

(a) Budgets. CSBG Eligible Entities[~~eligible entities~~] and any other funded organizations shall submit a budget to facilitate the contract execution process. A certification of board approval of CSBG budget form issued by the Department must also be submitted with planned budgets.

(b) Unexpended Funds. The Department reserves the right to deobligate funds.

(1) The U.S. Department of Health and Human Services Administration for Children and Families issues terms and conditions for receipt of funds under the CSBG. Subrecipients of CSBG funds will comply with the requirements of the terms and conditions of the CSBG award. [~~Services must be provided on or before September 30th of the subsequent year and funds must be fully expended.~~]

(2) The Coats Human Services Reauthorization Act of 1998, allows states to recapture unexpended CSBG funds in excess of 20% of the CSBG funds obligated to an Eligible Entity[~~eligible entity~~]. This may be superseded by Congressional action in the appropriation process or by the terms and conditions issued by U.S. Department of Health and Human Services in the CSBG award letter.

(c) Services to Poverty Population. Subrecipients[~~The subrecipient organizations~~] administering services to clients in one or more CSBG service area counties shall ensure that such services are rendered reasonably and in an equitable manner to ensure fairness among all potential applicants eligible for services. Services rendered must reflect the poverty population ratios in the service area and services should be distributed based on the proportionate representation of the poverty population within a county. A variance of greater than plus or minus 20% may constitute a finding. Subrecipients with a service area of a single county shall demonstrate marketing and outreach efforts to render direct services to a reasonable percentage of the county's eligible population based on the most recent decennial census. Services should also be distributed based on the proportionate representation of the poverty population within a county.

§5.210. CSBG Needs Assessment and Community Action Plan.

(a) In accordance with the CSBG Act and §676 of the Act, the Department is required to secure a Community Action Plan on an annual basis from each CSBG Eligible Entity[~~eligible entity due on October 31st~~].

(b) Every five (5) years, the CSBG Community Action Plan will include a community needs assessment from every CSBG Eligible Entity.

(c) The Community Action Plan shall at a minimum include a description of the delivery of services for the case management system in accordance with the National Performance Indicators and shall include a performance statement that describes the services, programs and activities to be administered by the organization.

(d) Hearing. A board certification that a public hearing was conducted on the proposed use of funds for the Community Action Plan must be submitted to the Department with the plan.

(e) Intake Form. To fulfill the requirements of 42 U.S.C. §9917, CSBG Subrecipients[~~subrecipients~~] must complete an intake form which includes the demographic and

household characteristic data required for the monthly performance and expenditure report, referenced in Subchapter A of this chapter, for all Households~~[households]~~ receiving a community action service. A new CSBG intake form or a centralized intake form must be completed on an annual basis to coincide with the CSBG program year of January 1st through December 31st.

(f) Case Management.

(1) In keeping with the regulations issued under Title II, §676(b) State Application and Plan, the Department requires CSBG Subrecipients~~[subrecipients]~~ to incorporate integrated case management systems in the administration of their CSBG program (Title II, §676(b)). Incorporating case management in the service delivery system and providing assistance that has a long-term impact on the client, such as enabling the client to move from poverty to self-sufficiency, to maintain stable families, and to revitalize the community, supports the requirements of Title II, §676(b). An integrated case management system improves the overall provision of assistance and improves each Subrecipient's~~[subrecipient's]~~ ability to transition persons from poverty to self-sufficiency.

(2) Subrecipients must have in operation a case management program that has the following components:

(A) Intake Form;

(B) Pre-assessment to determine service needs, to determine the need for case management, and to determine which individuals/families to consider enrolling in case management program;

(C) Integrated assessment of individual/family service needs of those accepted into case management program;

(D) Development of case management service plan to meet goals and become self-sufficient;

(E) Provision of services and coordination of services to meet needs and achieve self-sufficiency;

(F) Monitoring and follow-up of participant's progress;

(G) Case closure, once individual has become self-sufficient; and

(H) Evaluation process to determine effectiveness of case management system.

(3) As required by 42 U.S.C. §678G(b)(1-2), CSBG Subrecipients~~[subrecipients]~~ shall inform custodial parents in single-parent families that participate in programs, activities, or services about the services available through the Texas Attorney General's Office with respect to the collection of child support payments and/or refer eligible parents to the Texas Attorney General's Office of Child Support Services Division.

(g) Non-CSBG Eligible Entities~~[eligible entities]~~ receiving state discretionary funds under §5.203(b) of this subchapter (relating to Distribution of CSBG Funds) are not required to submit a Community Action Plan. All CSBG Subrecipients~~[subrecipients]~~ must develop a performance statement which identifies the services, programs, and activities to be administered by the organization.

(h) Subrecipient Requirements for Appeals Process for CSBG Applicants/Clients. Subrecipients shall establish a CSBG denial of service complaint~~[grievance]~~ procedure to address written complaints from program applicants/clients. At a minimum, the following procedures shall be included:

(1) Subrecipients shall provide a written denial of assistance notice to applicant/client within ten (10) business days of the adverse determination. This notification shall include written notice of the right to a hearing~~[instructions of the appeals process]~~ and specific reasons for the denial by component. The applicant wishing to appeal a decision must provide written notice to Subrecipient~~[subrecipient]~~ within twenty (20)~~[ten (10) business]~~ days of receipt of the denial notice;

(2) Subrecipient~~[The subrecipient]~~ who receives an appeal or client complaint shall establish an appeal~~[a hearing]~~ committee composed of at least three persons. Subrecipient shall maintain documentation of appeals/complaints in their client files;

(3) Subrecipient~~[The subrecipient]~~ shall hold the hearing within twenty (20) [business]~~[business]~~ days after the Subrecipient~~[subrecipient]~~ received the appeal/complaint request from the applicant/client;

(4) Subrecipient~~[The subrecipient]~~ shall record the hearing;

(5) The hearing shall allow time for a statement by Subrecipient~~[subrecipient]~~ staff with knowledge of the case;

(6) The hearing shall allow the applicant/client at least equal time, if requested, to present relevant information contesting the decision;

(7) Subrecipient shall notify applicant/client of the decision in writing. The Subrecipient~~[subrecipient]~~ shall mail the notification by close of business on the business day~~[on the fifth business day]~~ following the decision (1-day~~[5-day]~~ turnaround);

(8) If the denial is solely based on income eligibility, the previous provisions in paragraphs (2) - (7) of this subsection, do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing and no further appeal is afforded to the applicant.

(b)~~(8)~~ If the applicant~~[client]~~ is not satisfied, the applicant~~[they]~~ may further appeal the decision in writing to the Department within ten (10) [business]~~[business]~~ days of notification of an adverse decision;

(c) Affected persons who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws or without reasonable basis in law or fact may request a contested hearing under Texas Government Code, Chapter 2001.

(d) The hearing shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient.

(e)[(4)] If client appeals to the Department, the funds should remain encumbered until the Department completes its decision.

~~[(9) The Department may review the recording of the hearing, the committee's decision, and any other relevant information necessary;]~~

~~[(10) Pursuant to §1.7 of this title (relating to Staff Appeals Process), Department staff shall review the case and forward the recommendation to the Division Director for final concurrence; and-]~~

~~[(11) The Department will notify all parties in writing of its decision within thirty (30) days of receipt of the appeal.]~~

~~[(12) If the denial is solely based on income eligibility, the previous provisions in paragraphs (2) –(7) of this subsection, do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing and no further appeal is afforded to the applicant.]~~

§5.211. Subrecipient Reporting Requirements.

(a) Monthly Performance and Expenditure Report. CSBG Subrecipients~~[subrecipients]~~ must submit a monthly performance and expenditure report. Subrecipients shall submit the Monthly Expenditure Report and Monthly Performance Report no later than the fifteenth (15th) day of the month after each month of the contract period. Even if a fund reimbursement is not being requested, an Expenditure Report must be submitted electronically on or before the fifteenth (15th) day of each month of the grant period. A final Expenditure Report must be submitted within sixty (60) days after the CSBG contract ends. The "Community Affairs Contract User Guide System" may be accessed through the TDHCA website, www.tdhca.state.tx.us.

(b) Reporting. Federal requirements mandate all states to participate in the preparation of an annual performance measurement report (also referred to as the CSBG National Survey). To comply with the requirements of §678E of the CSBG Act, all CSBG Eligible Entities~~[eligible entities]~~ and other organizations receiving CSBG funds are required to participate.

§5.212. CSBG Board of Directors Membership and Meeting Requirements for CSBG Eligible Entity's Tripartite Boards.

(a) General Board Requirements:

(1) The Coats Human Services Reauthorization Act (Public Law 105-285) addresses the CSBG program and requires that Eligible Entities~~[eligible entities]~~ administer the CSBG program through a tripartite board. The Act requires that governing boards or a governing body be involved in the development, planning, implementation, and evaluation of the programs serving the low-income sector. Also, the Texas Legislature, through §551.001(3) of the Texas Government Code, addresses specific requirements regarding meetings, meeting notices, and open meeting records through the Open Meetings Act (Texas Government Code, §§551.001, et seq.) and the Public Information Act (Texas Government Code, §§552, et seq.). State legislation has also defined as a governmental body, nonprofit corporation boards that are eligible to receive funds under the federal CSBG program and that are authorized by the state to serve a geographic area of the state.

(2) Federal requirements for establishing a tripartite board require board oversight responsibilities for public entities, which differ from requirements for private organizations. Where differences occur between private and public organizations, requirements for each entity have been noted in related sections of the rule.

(b) Each CSBG Eligible Entity~~[eligible entity]~~ shall comply with the provisions of this rule and if necessary, the Eligible Entity's~~[eligible entity's]~~ by-laws shall be amended to reflect compliance with these requirements.

§5.213. Board Structure.

(a) Private nonprofit entities, shall administer the CSBG program through a tripartite board that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities. Some of the members of the board shall be selected by the private nonprofit entity and others through a democratic process; the board shall be composed so as to assure that the requirements of §676B(a)(2) of the CSBG Act are followed and are composed as follows:

(1) One-third of the members of the board shall be elected public officials, holding office on the date of the selection, or their representatives. In the event that there are not enough elected public officials reasonably available and willing to serve on the board, the entity may select appointive public officials to serve on the board. The public officials selected to serve on the board may each choose one permanent representative or designate an alternate to serve on the board. Appointive public officials or their representatives or alternates may be counted in meeting the 1/3 requirement. Refer to subsection (d)(1)(B) of this section entitled "Permanent Representatives and Alternates" for related information;

(2) not fewer than 1/3 of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and each representative of low-income individuals and families selected to represent a specific neighborhood within a community under subsection (b)(1)(B) of this section, resides in the neighborhood represented by the member;

(3) the remainder are members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

(b) For public organizations to be considered to be an eligible entity for purposes of the CSBG Act, §676B(b), the entity shall administer the CSBG grant through tripartite boards as follows:

(1) A tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than 1/3 of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members:

(A) are representative of low-income individuals and families in the neighborhood served;

(B) reside in the neighborhood served; and

(C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this chapter; or

(D) If conditions in subparagraphs (A) - (C) of this paragraph are not utilized, then another mechanism specified by the state which meets the tripartite requirements may be used. Public organizations that choose to utilize another mechanism must submit to the Department, for review and approval, a description of the mechanism to be utilized to select low-income representatives. The mechanism must assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this chapter.

(2) One-third of the members of the board shall be elected public officials, holding office on the date of the selection, or their representatives. In the event that there are not enough elected public officials reasonably available and willing to serve on the board, the entity may select appointive public officials to serve on the board. The public officials selected to serve on the board may each choose one permanent representative or designate an alternate to serve on the board. Refer to subsection (d)(1)(B) of this section, entitled "Permanent Representatives and Alternates" for related information.

(3) The remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

(c) Eligible Entities~~[entities]~~ administering the Head Start Program must comply with, the Head Start Act (42 U.S.C. §9837) that requires the governing body membership to comply with the requirements of §642(c)(1) of the Head Start Act. Exceptions shall be made to the requirements of clauses (i) - (iv) of §642(c)(1) of the Head Start Act for members of a governing body when those members oversee a public entity and are selected to their positions with the public entity by public election or political appointment.

(d) Selection. Pursuant to §676B of the CSBG Act, Private nonprofit entities and public organizations have the responsibility for selection and composition of the board.

(1) Public Officials:

(A) Elected public officials or appointed public officials, selected to serve on the board, shall have either general governmental responsibilities or responsibilities which require them to deal with poverty-related issues; and

(B) Permanent Representatives and Alternates. The public officials selected to serve on the board may each choose one permanent representative or designate an alternate to serve on the board.

(i) Permanent Representatives. The public officials selected by a private nonprofit entity or public organization to serve on the board may each choose one permanent representative to serve on the board in a full-time capacity. The public officials of the public organization may choose a representative to serve on the board or other governmental body. The representative need not be a public official but shall have full authority to act for the public official at meetings of the board. Permanent representatives may hold an officer position on the board. If a permanent representative is not chosen, then an alternate may be designated by the public official selected to serve on the board. Alternates may not hold an officer position on the board.

(ii) Alternate Representatives. If the private nonprofit entity or public organization board chooses to allow alternates, the alternates for low-income representatives shall be elected at the same time and in the same manner as the board representative is elected to serve on the board. Alternates for representatives of private sector organizations may be designated to serve on the board and should be selected at the same time the board representative is selected. In the event that the board member or alternate ceases to be a member of the organization represented, he/she shall no longer be eligible to serve on the board. Alternates may not hold an officer position on the board.

(2) Low-Income Representatives:

(A) An essential objective of community action is participation by low-income individuals in the programs which affect their lives; therefore, the CSBG Act and its amendments require representation of low-income individuals on boards or state-specified governing bodies. The CSBG statute requires that not fewer than one-third of the members shall be representatives of low-income individuals and families and that they shall be chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhoods served; and that each representative of low-income individuals and families selected to represent a specific neighborhood within a community resides in the neighborhood represented by the member; or

(B) Board members representing low-income individuals and families must be selected in accordance with a democratic procedure. This procedure, as detailed in subparagraph (D) of this paragraph, may be either directly through election, public forum, or, if not possible, through a similar democratic process such as election to a position of responsibility in another significant service or community organization such as a school PTA, a faith-based organization leadership group; or an advisory board/governing council to another low-income service provider;

(C) Every effort should be made by the nonprofit entity or public organization to assure that low-income representatives are truly representative of current residents of the geographic area to be served, including racial and ethnic composition, as determined by periodic selection or

reselection by the community. "Current" should be defined by the recent or annual demographic changes as documented in the needs/community assessment. This does not preclude extended service of low-income community representatives on boards, but it does suggest that continued board participation of longer term members be revalidated and kept current through some form of democratic process; and

(D) The procedure used to select the low-income representative must be documented to demonstrate that a democratic selection process was used. Among the selection processes that may be utilized, either alone or in combination, are:

(i) Selection and elections, either within neighborhoods or within the community as a whole; at a meeting or conference, to which all neighborhood residents, and especially those who are poor, are openly invited;

(ii) Selection of representatives to a community-wide board by members of neighborhood or sub-area boards who are themselves selected by neighborhood or area residents;

(iii) Selection, on a small area basis (such as a city block); or

(iv) Selection of representatives by existing organizations whose membership is predominately composed of poor persons.

(3) Representatives of Private Groups and Interests:

(A) The private nonprofit entity or public organization shall select the remainder of persons to represent the private sector on the board or it may select private sector organizations from which representatives of the private sector organization would be chosen to serve on the board; and

(B) The individuals and/or organizations representing the private sector shall be selected in such a manner as to assure that the board will benefit from broad community involvement. The board composition for the private sector shall draw from officials or members of business, industry, labor, religious, law enforcement, education, school districts, representatives of education districts and other major groups and interests in the community served.

§5.214. Board Administrative Requirements.

(a) Powers of the Board for Private Nonprofit Entities. The board is responsible for abiding by the terms of contracts and shall determine the policies of the agency to assure accountability for public funding. The board shall function as the organization's governing body with the same legal powers and responsibilities as the board of directors of any nonprofit corporation.

(b) Powers of the Board for Public Organizations. The powers, duties, and responsibilities of the board shall be determined by the governing officials of the public organization. The governing officials may establish:

(1) an advisory board, in which case the authority given to the advisory board depends on the powers delegated to it by the governing officials of the political subdivision; or

(2) a governing board, empowering the board of directors with substantive decision-making authority and delegating the powers, duties, and responsibilities to carry out its CSBG-supported contract and functions.

(c) Compensation. Board members are not entitled to compensation for their service on the board. Reimbursement of reasonable and necessary expenses incurred by a board member in carrying out his/her duties is allowed.

(d) Conflict of Interest. No board member may participate in the selection, award, or administration of a subcontract supported by CSBG funds if:

(1) the board member;

(2) any member of his/her immediate family (as defined in the CSBG contract);

(3) the board member's partner; or

(4) any organization which employs or is about to employ any of the above, has a financial interest in the firm or person selected to perform a subcontract. No employee of the local CSBG Subrecipient~~[subrecipient]~~ or of the Department~~[Texas Department of Housing and Community Affairs]~~ may serve on the board.

§5.215. Board Size.

(a) Board Service Limitations for Private Nonprofit Entities and Public Organizations
Subrecipients boards may establish bylaws which allow for term limits and/or procedures for the removal of board members.

(b) Vacancies/Removal of Board Members.

(1) Vacancies. In no event shall the board allow 25% or more of either the public, private, or poverty sector board positions to remain vacant for more than ninety (90) days. CSBG Subrecipients~~[subrecipients]~~ shall report the number of board vacancies by sector in their monthly performance reports. Compliance with the CSBG Act requirements for board membership is a condition for Eligible Entities~~[eligible entities]~~ to receive CSBG funding. There is no provision in the Act for a waiver or exception to these requirements.

(2) Removal of Board Members/Private Nonprofit Entities. Public officials or their representatives, may be removed from the board either by the board or by the entity that appointed them to serve on the board. Other members of the board may be removed by the board or pursuant to any procedure provided in the private nonprofit's by-laws.

(3) Removal of Board Members/Public Organizations. Board members may be removed from the board by the public organization or by the board if the board is so empowered by the public organization. The board may petition the public organization to remove a board member or the public organization may delegate the power of removal to the board.

§5.216. Board Responsibility.

(a) Tripartite boards have a fiduciary responsibility for the overall operation of the private nonprofit entity. Members are expected to carry out their duties as any reasonably prudent person would do.

(b) At a minimum, board members are expected to:

- (1) Maintain regular attendance of board and committee meetings;
- (2) Develop thorough familiarity with core agency information, such as the agency's bylaws, as appropriate, articles of incorporation, sources of funding, agency goals and programs, federal and state CSBG statutes;
- (3) Exercise careful review of materials provided to the board;
- (4) Make decisions based on sufficient information;
- (5) Ensure that proper fiscal systems and controls, as well as a legal compliance system, are in place;
- (6) Maintain knowledge of all major actions taken by the agency; and
- (7) Receive regular reports that includes:
 - (A) Review and approval of all funding requests (including budgets);
 - (B) Review of reports on the organization's financial situation;
 - (C) Regular reports on the progress of goals specified in the performance statement or program proposal;
 - (D) Regular reports addressing the rate of expenditures as compared to those projected in the budget;
 - (E) Updated modifications to policies and procedures concerning employee's and fiscal operations; and
 - (F) Updated information on community conditions that affect the programs and services of the organization.

(c) Individuals that agree to participate on a tripartite governing board, accept the responsibility to assure that the agency they represent continues to:

- (1) assess and respond to the causes and conditions of poverty in their community;
- (2) achieve anticipated family and community outcomes; and
- (3) remains administratively and fiscally sound. Excessive absenteeism of board members compromises the mission and intent of the program.

(d) Residence Requirement:

- (1) All board members shall reside within the Subrecipient's~~[subrecipient's]~~ CSBG service area designated by the CSBG contract. Board members should be selected so as to provide representation for all geographic areas within the designated service area; however, greater representation may be given on the board to areas with greater poverty population. Low-income representatives must reside in the area that they represent; and
- (2) Subrecipients may request a waiver of the residency requirement to the Director of the Community Affairs Division for review for consideration and/or approval.

(e) Improperly Constituted Board. If the Department determines that a board of an Eligible Entity~~[eligible entity]~~ is improperly constituted, the Department shall prescribe the necessary remedial action, a timeline for implementation and possible sanctions which may include:

- (1) cost reimbursement method of payment;
- (2) withholding of funds;
- (3) contract suspension; ~~or~~~~[and]~~
- (4) termination of funding.

§5.217. Board Meeting Requirements.

(a) The Board must follow the Texas Open Meetings Act, meet at least once per calendar quarter and at a minimum five (5) times per year and, must give each member a notice of meeting five (5) days in advance of the meeting.

(b) Open Meetings Training.

(1) ~~[Effective January 1, 2006, the 79th Texas Legislature established a state law §] Section 551.005 of the Texas Government Code requires~~ ~~[requiring]~~ elected and appointed officials to receive training in Texas Open Government laws. ~~[The state law is in accordance to Texas Government Code, Title 5, §551.005 and §552.012.]~~ This mandate applies to the board of directors for CSBG Eligible Entities~~[eligible entities]~~ public sector local officials and requires that training is received within ninety (90) days of becoming a board member. As part of this requirement, the Office of the Attorney General has established and made available formal training to ensure government officials have a good command of open records and open meeting laws. To fulfill this requirement, the Office of the Attorney General offers free training videos which may be requested by accessing their website at www.oag.state.tx.us/open/og_training.shtml~~[www.oag.state.tx.us/opinopen/og_training.shtml]~~ or by calling 1-800-252-8011.

(2) Legislation requires open meetings training for public sector local officials; however, the Department recommends this training for all board members. Boards shall ensure that all members serving on the Board of Directors shall receive this training according to the deadlines described in this subsection.

(3) A copy of the attendance roster for all Board trainings shall be maintained at the Subrecipient level~~[The organization shall maintain a copy of the board training certificate issued to participants upon completion of the training]~~.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Action regarding proposed amendments to 10 TAC Chapter 5 Community Affairs Programs, Subchapter D, Comprehensive Energy Assistance Program (CEAP) §§5.401 – 5.408, 5.421 – 5.423, and 5.430 – 5.432, proposed repeal of §§5.424 and 5.425, and proposed new §5.424 concerning Utility Assistance Component, and directing that they be published for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Chapter 2306 of the Texas Government Code, the Department is authorized to adopt and repeal rules governing the administration of the Department and its programs; and

WHEREAS, the proposed amendments to §§5.401 – 5.408, 5.421 – 5.423, and 5.430 – 5.432, proposed repeal of §§5.424 and 5.425, and proposed new §5.424, concerning Utility Assistance Component will clarify and simplify rules with regards to allowable expenditures, the priority to certain households, reporting requirements, and reallocation of funds;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed amendments, repeal and the proposed new sections, in the form presented to this meeting, to be published in the *Texas Register* for review and public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

This rule relates to the Comprehensive Energy Assistance Program (CEAP), funded through the Low-Income Home Energy Assistance Program (LIHEAP) from the U.S. Department of Health and Human Services (USDHHS). The purpose of these amendments is to remove Direct Service Support as an allowable expenditure and to remove any related reference to the repealed sections described below, as recommended by USDHHS.

Further, the amendments emphasize the requirement that priority be given to Households with the presence of a "vulnerable" individual, such as a child age 5 and younger, disabled person, or an elderly individual. Maximum allowable annual Household benefits have been amended to reflect the FFY 2013 LIHEAP State Plan as approved by the Board and submitted to HHS.

Appeals process has been revised in accordance with state laws. Closeout reporting requirements for subrecipients have been redrafted to allow the Department to reallocate any unexpended program funds more efficiently.

The purpose of the repealed sections and proposed new section is to consolidate the Co-Payment and Elderly and Disabled components into a more effective component under the CEAP program.

Attachment A: Preamble and proposed amendments to 10 TAC Chapter 5, Subchapter D, §§5.401 – 5.408, 5.421 - 5.423, and 5.430 – 5.432.

The Texas Department of Housing and Community Affairs (the “Department”) proposes amendments to 10 TAC Chapter 5, §§5.401 - 5.408, 5.421 - 5.423, and 5.430 – 5.432, concerning the Comprehensive Energy Assistance Program (CEAP). The purpose of the proposed amendments are to remove Direct Service Support as an allowable expenditure, to remove any related reference to the sections proposed for repeal, as recommended by the U.S. Department of Health and Human Services (USDHHS), emphasize the priority given to Households with a child age 5 or younger, disabled or elderly individual, revise the maximum allowable benefits to be consistent with the FFY 2013 Low-Income Home Energy Assistance Program (LIHEAP) Plan, and revise reporting requirements to reallocate CEAP funds more efficiently.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be the more efficient administration of the CEAP funds and greater consistency with the 2013 LIHEAP State Plan. There will not be any economic cost to any individuals required to comply with the amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 26, 2012 to November 26, 2012, to receive input on the amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: cadrulecomments@tdhca.state.tx.us, or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. NOVEMBER 26, 2012.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules, and Chapter Subchapter E, which authorizes the Department to administer its Community Affairs programs.

The proposed amendments affect no other code, article, or statute.

§5.401. Background.

The Comprehensive Energy Assistance Program (CEAP) is funded through the Low Income Home Energy Assistance Act of 1981 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended). LIHEAP has been in existence since 1982. LIHEAP is a federally funded block grant program that is implemented to serve low income Households~~[households]~~ who seek assistance for their home energy bills.

§5.402. Purpose and Goals.

The purpose of CEAP is to assist low-income Households~~[households]~~, particularly those with the lowest incomes, that pay a high proportion of Household~~[household]~~ income for home energy, primarily in meeting their immediate home energy needs. The program requires~~[encourages]~~ priority be given to those with the highest home energy needs, meaning low income Households~~[households]~~ with high residential energy use, a high energy burden and/or the presence of a "vulnerable" individual in the Household~~[household]~~, such as a child age 5 and younger, disabled person, or an elderly individual. CEAP services include: energy education, needs assessment, budget counseling (as it pertains to energy needs), utility payment assistance, ~~[crisis-related]~~ repair of existing heating and cooling units, and crisis-related purchase of portable heating and cooling units.

§5.403. Distribution of CEAP Funds.

(a) The Department distributes funds to Subrecipients~~[subrecipients]~~ by an allocation formula.

(b) The formula allocates funds based on the number of low-income Households~~[households]~~ in a service area and takes into account the special needs of individual service areas. The need for energy assistance in an area is addressed through a weather factor (based on heating and cooling degree days). The extra expense in delivering services in sparsely populated areas is addressed by an inverse population density factor. The lack of additional services available in very poor counties is addressed by a county median income factor. Finally, the elderly are given priority by giving greater weight to this population. The five factors used in the formula are calculated as follows:

(1) County Non-elderly Poverty Household~~[household]~~ Factor (weight of 40%) is defined by the Department as the number of Non-elderly Poverty Households in the County divided by the number of Non-elderly Poverty Households in the State;

(2) County Elderly Poverty Household Factor (weight of 40%) is defined by the Department as the number of Elderly Poverty Households in the County divided by the number of Elderly Poverty Households in the State; and

(3) County Inverse Poverty Household Density Factor (weight of 5%) is defined by the Department as:

(A) The number of Square Miles of the County divided by the number of Poverty Households of the County (equals the Inverse Poverty Household Density of the County); and

(B) Inverse Poverty Household Density of the County divided by the Sum of Inverse Household Densities.

(4) County Median Income Variance Factor (weight of 5%) is defined by the Department as:

(A) State Median Income minus the County Median Income (equals County Variance); and

(B) County Variance divided by sum of the State County Variances.

(5) County Weather Factor (weight of 10%) is defined by the Department as:

(A) County Heating Degree Days plus the County Cooling Degree Days, multiplied by the Poverty Households, divided by the sum of County Heating & Cooling Degree Days of Counties (equals County Weather); and

(B) County Weather divided by the total sum of the State County Weather.

(C) All demographic factors are based on the decennial U.S. Census.

(D) Total sum of subsection (b)(1) - (5) of this section multiplied by total funds allocation equals the County's allocation of funds. The sum of the county allocations within each Subrecipient[subrecipient] service area equals the Subrecipient's[subrecipient's] total allocation of funds.

§5.404. Subrecipient Eligibility.

(a) The Department shall ensure that: to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of Title 42 U.S.C. §§8621, et seq; give special consideration to any local public or private nonprofit agency which was receiving Federal funds.

(1) The Department shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the Department; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Department shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

(b) The Department administers the program through the existing Subrecipients[subrecipients] that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981 as amended (42 U.S.C. §§8621, et seq.), and the Department rules. If Subrecipients[subrecipients] are successfully administering the program, the Department may offer to renew the contract.

(c) When the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if Subrecipient[subrecipient] fails to administer the program correctly, the Department reassigns

the service area or a portion to another existing Subrecipient~~[subrecipient]~~ or conducts solicitation or selection of a new Subrecipient~~[subrecipient]~~ in accordance with the Low-Income Home Energy Assistance Act of 1981. The affected Subrecipient may request a hearing in accordance with the Texas Government Code, Chapter 2105.204.

§5.405. Subrecipient Requirements for Appeals Process for Applicants.

(a) Subrecipient shall establish a denial of service complaint procedure to address written complaints from program applicants/clients. At a minimum, the following procedures shall be included:

(1)~~(a)~~ Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) days of the adverse determination. This notification shall include written notice of the right of a hearing~~[instructions of the appeals process]~~ and specific reasons for the denial by component. The applicant wishing to appeal a decision must provide written notice to Subrecipient~~[subrecipient]~~ within twenty (20)~~(ten (10))~~ days of receipt of the denial notice.

(2)~~(b)~~ Subrecipient~~[The subrecipient]~~ who receives an appeal shall establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their client files.

(3)~~(c)~~ Subrecipients~~[The subrecipients]~~subrecipient shall hold the appeal hearing within ten (10) business days after the subrecipient received the appeal request from the applicant.

(4)~~(d)~~ Subrecipient~~[The subrecipient]~~ shall record the hearing.

(5)~~(e)~~ The hearing shall allow time for a statement by Subrecipient~~[subrecipient]~~ staff with knowledge of the case.

(6)~~(f)~~ The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7)~~(g)~~ Subrecipient shall notify applicant of the decision in writing. The Subrecipient~~[subrecipient]~~ shall mail the notification by close of business on the business day following the decision (1 day turn-around).

(8) If the denial is solely based on income eligibility, the previous provisions in paragraphs (2) - (7) of this subsection, do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the

person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing and no further appeal is afforded to the applicant.

~~(b)(h)~~ If the applicant is not satisfied, the applicant[they] may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision.

(c) Affected persons who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws or without reasonable basis in law or fact may request a contested hearing under Texas Government Code, Chapter 2001.

(d) The hearing shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient.

~~(e)(i)~~ If client appeals to the Department, the funds should remain encumbered until the Department completes its decision.

~~[(j) The Department may review the recording of the hearing committee's decision and any other relevant information necessary.]~~

~~[(k) The Department appeals committee shall decide the case and forward their recommendation to the Community Affairs Division Director for final concurrence.]~~

~~[(l) The Department will notify all parties in writing of its decision within thirty (30) days of receipt of the appeal.]~~

§5.406. Subrecipient Reporting Requirements.

(a) Subrecipient[The subrecipient] shall electronically submit to the Department a monthly expenditure report[Monthly Expenditure Report] of all expenditure of funds, request for advance or reimbursement, and a monthly performance report[Monthly Performance Report] no later than fifteen (15) days after the end of each month.

(b) Subrecipient[The subrecipient] shall provide Direct Services to clients [~~under the Household Crisis, Elderly Disabled or the Co-Payment program components~~] within sixty (60) days of receipt of contract funds.

(c) Subrecipient[The subrecipient] shall electronically submit to the Department no later than forty-five (45)[sixty (60)] days after the end of the Subrecipient[subrecipient] contract term a final expenditure or reimbursement and programmatic report utilizing the expenditure report[Expenditure Report] and the performance report[Performance Report].

(d) Subrecipient~~[The subrecipient]~~ shall submit to the Department no later than forty-five (45)~~[sixty (60)]~~ days after the end of the contract term an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000 or more and a useful life of more than one year, if purchased in whole or in part with CEAP funds.

(e) Subrecipient~~[The subrecipient]~~ shall submit other reports, data, and information on the performance of the CEAP program activities as required by the Department.

§5.407. Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria.

(a) Subrecipients~~[The subrecipients]~~ shall set the client income eligibility level at or below 125% of the federal poverty level in effect at the time the client makes an application for services.

(b) Subrecipient shall determine client income. Income inclusions and exclusions to be used to determine total Household~~[household]~~ income are those noted in §5.19 of this chapter (relating to Client Income Guidelines).

(c) Subrecipients shall base annualized eligibility determinations on Household~~[household]~~ income from the thirty (30) day period prior to the date of application for assistance. Each Subrecipient~~[subrecipient]~~ shall document and retain proof of income from all sources for all Household~~[household]~~ members eighteen (18) years and older for the entire thirty (30) day period prior to the date of application and multiply by twelve (12) to annualize income.

(d) In the case of migrant, or seasonal workers, or similarly situated workers, a longer period than thirty (30) days may be used for annualizing income.

(e) If proof of income is unobtainable~~[unavailable]~~, the applicant must complete and sign a Declaration of Income Statement (DIS). In order to use the DIS form, each Subrecipient~~[subrecipient]~~ shall develop and implement a written policy and procedure on the use of the DIS form, including policies requiring a client statement of efforts to obtain documentation of income with a notarized client signature. In developing the policy and procedure, Subrecipients~~[subrecipients]~~ shall limit ~~[give consideration to limiting]~~ the use of the DIS form to cases where there are serious extenuating circumstances that justify the use of the form. Such circumstances might include crisis situations such as applicants that are affected by natural disaster which prevents the applicant from obtaining income documentation, applicants that flee a home due to physical abuse, applicants who are unable to locate income documentation of a recently deceased spouse, or whose work is migratory, part-time, temporary, self-employed or seasonal in nature. To ensure limited use, the Department will review the

written policy and its use, as well as client-provided descriptions of the circumstances requiring use of the form, during on-site monitoring visits.

(f) Social security numbers are not required for applicants for CEAP.

(g) Subrecipients~~[The subrecipients]~~ shall establish priority criteria to serve persons in Households~~[households]~~ who are particularly vulnerable such as the elderly, persons with disabilities, families with young children, high residential energy users, and Households~~[households]~~ with high energy burden. High residential energy users and Households~~[households]~~ with high energy burden are defined as follows:

(1) Households with Energy Burden which exceeds the median energy burden of income-eligible Households~~[households]~~ characterized by the Department as experiencing high energy burden. The Department calculates energy burden by dividing home energy costs by the Household's~~[household's]~~ gross income.

(2) Households with annual energy expenditures which exceed the median home expenditures for income-eligible Households~~[households]~~ are characterized by the Department as high residential energy users~~[consumers]~~.

(h) Homeowners and renters will be treated equitably under all programs funded in whole or in part from LIHEAP funds. For those renters who pay heating and/or cooling bills as part of their rent, the Subrecipient~~[subrecipient]~~ shall make special efforts to determine the portion of the rent that constitutes the fuel heating and/or cooling payment. If "sub metering" is not available, the Subrecipient~~[subrecipient]~~ shall exercise care when negotiating with the landlords so the cost of utilities quoted is in line with the consumption for similar residents of the community. If the Subrecipient~~[subrecipient]~~ pays the landlord, then the landlord shall furnish evidence that he/she has paid the bill and the amount of assistance must be deducted from the rent, if the utility payment is not stated separately from the rent. An agreement stating the terms of the payment negotiations must be signed by the landlord.

(i) A Household~~[household]~~ unit cannot be served if the meter is utilized by another Household~~[household]~~.

§5.408. Service Delivery Plan.

Subrecipients are required to submit on an annual basis a Department formatted Service Delivery Plan (SDP), which includes information on how they plan to implement CEAP in their service area. ~~[Format for the Service Delivery Plan, may change between program years.]~~ The Department will notify CEAP Subrecipients when the SDP template and the annual updated forms are~~[format changes are made and when updates will be]~~ posted on the Department's website.

§5.421. Client Education.

Subrecipients~~[The subrecipients]~~ must provide an energy-related needs assessment and referrals, budget counseling, and energy conservation education to each CEAP client. Subrecipients may provide education to identify energy waste, manage Household~~[household]~~ energy use, and strategies to promote energy savings. Subrecipients are encouraged to use oral, written, and visual educational materials.

§5.422. General Assistance and Benefit Levels.

(a) Subrecipients shall not discourage anyone from applying for CEAP assistance. Subrecipients shall provide all potential clients with opportunity to apply for LIHEAP programs.

(b) CEAP provides assistance to targeted beneficiaries, with priority given to the elderly, persons with disabilities, families with young children; Households~~[households]~~ with the highest energy costs or needs in relation to income, and Households~~[households]~~ with high energy consumption.

(c) CEAP includes activities, as defined in Assurances 1-16 in Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), as amended; such as education; and financial assistance to help very low- and extremely low-income consumers reduce their utility bills to an affordable level. CEAP services include energy education, needs assessment, budget counseling (as it pertains to energy needs), utility payment assistance; ~~[crisis-related]~~ repair of existing heating and cooling units, and crisis-related purchase of portable heating and cooling units.

(d) Sliding scale benefit for all CEAP components:

(1) Benefit determinations are based on the Household's~~[household's]~~ income, the Household~~[household]~~ size, the energy cost and/or the need of the Household~~[household]~~, and the availability of funds;

(2) Energy assistance benefit determinations will use the following sliding scale:

(A) Households~~[households]~~ with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed \$1,000 ~~[\$1,200]~~;

(B) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed \$900~~[\$1,100]~~; and

(C) Households with Incomes of 76% to at or below 125% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed \$800~~[\$1,000]~~; and

(3) A Household~~[household]~~ may receive ~~[crisis-related]~~ repair of existing heating and cooling units~~[-, and/or crisis-related purchase of portable heating and cooling units]~~ not to exceed \$2,500. Households that include at least one member that is elderly, disabled or a child age 5 or younger

may receive either repair of existing heating and cooling units or crisis-related purchase of portable heating and cooling units not to exceed \$2,500.

(e) Subrecipient shall not establish lower local limits of assistance for any component.

(f) Total maximum possible annual Household~~[household]~~ benefit (all allowable benefits~~[components]~~ combined) equals \$4,500~~[\$6,100]~~.

(g) Subrecipient shall determine client eligibility for utility payments and/or retrofit based on the agency's Household~~[household]~~ priority rating system and Household's~~[household's]~~ income as a percent of poverty.

(h) Subrecipients shall provide only the following types of assistance with funds from CEAP:

(1) Payment to vendors and suppliers of fuel/utilities, goods, and other services, such as ~~[electrical wiring, propane or butane tanks, and lines, etc. for]~~ past due or current bills related to the procurement of energy for heating and cooling needs of the residence, not to include security lights and other items unrelated to energy assistance;

(2) Payment to vendors--only one energy bill payment per month~~[- as required by component]~~;

(3) Needs assessment and energy conservation tips, coordination of resources, and referrals to other programs;

~~[(4) Energy assistance to low income elderly and disabled individuals most vulnerable to high cost of energy for heating and cooling needs of the residence;]~~

~~(4)~~~~[(5)]~~ Payment of water bills only when such costs include expenses from operating an evaporative water cooler unit or when the water bill is an inseparable part of a utility bill. As a part of the intake process, outreach, and coordination, the Subrecipient~~[subrecipient]~~ shall confirm that a client owns an operational evaporative cooler and has used it to cool the dwelling within sixty (60) days prior to application. Payment of other utility charges such as wastewater and waste removal are allowable only if these charges are an inseparable part of a utility bill. Documentation from vendor is required. Whenever possible, Subrecipient~~[subrecipient]~~ shall negotiate with the utility providers to pay only the "home energy"--heating and cooling--portion of the bill;

~~(5)~~~~[(6)]~~ Energy bills already paid ~~[by householders]~~ may not be reimbursed by the program;

~~(6)~~~~[(7)]~~ Payment of reconnection fees in line with the registered tariff filed with the Public Utility Commission and/or Texas Railroad Commission. Payment cannot exceed that stated tariff cost. Subrecipient shall negotiate to reduce the costs to cover the actual labor and material and to ensure that the utility does not assess a penalty for delinquency in payments;

~~(7)~~~~[(8)]~~ Payment of security deposits only when state law requires such a payment, or if the Public Utility Commission or Texas Railroad Commission has listed such a payment as an approved cost, and where required by law, tariff, regulation, or a deferred payment agreement

includes such a payment. Subrecipients shall not pay such security deposits that the energy provider will eventually return to the client;

~~(8)~~~~(9)~~ While rates and repair charges may vary from vendor to vendor, Subrecipient shall negotiate for the lowest possible payment. Prior to making any payments to an energy vendor a Subrecipient shall have a signed vendor agreement on file from the energy vendor receiving direct LIHEAP payments from the Subrecipient;

~~(9)~~~~(10)~~ Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating Household~~[household]~~ of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of client is deducted from client's rent; and

~~(10)~~~~(11)~~ In lieu of deposit required by an energy vendor, Subrecipient may make advance payments. The Department does not allow LIHEAP expenditures to pay deposits, except as noted in paragraph ~~(6)~~~~(7)~~ of this subsection. Advance payments may not exceed an estimated two months' billings. ~~[Funds for the Texas CEAP shall not be used to weatherize dwelling units, for medicine, food, transportation assistance (i.e., vehicle fuel), income assistance, or to pay for penalties or fines assessed to clients.]~~

(11) Funds for the Texas CEAP shall not be used to weatherize dwelling units, for medicine, food, transportation assistance (i.e., vehicle fuel), income assistance, or to pay for penalties or fines assessed to clients.

§5.423. Household Crisis Component.

(a) A bona fide Household~~[household]~~ crisis exists when extraordinary events or situations resulting from extreme weather conditions and/or fuel supply shortages or a terrorist attack have depleted or will deplete Household~~[household]~~ financial resources and/or have created problems in meeting basic Household~~[household]~~ expenses, particularly bills for energy so as to constitute a threat to the well-being of the Household~~[household]~~, particularly the elderly, the disabled, or children age 5 and younger.

(b) A utility disconnection notice may constitute a Household~~[household]~~ crisis. Assistance provided to households based on a utility disconnection notice is limited to two (2) payments per year. Weather criteria is not required to provide assistance due to a disconnection notice.

(c) Crisis assistance for one Household~~[household]~~ cannot exceed the maximum allowable benefit level in one year. Crisis assistance payments cannot exceed the minimum amount needed to resolve the crisis. If the client's crisis requires more than the Household~~[household]~~ limit to resolve, it exceeds the scope of this program. If the crisis exceeds the Household ~~[household]~~ limit, Subrecipient~~[subrecipient]~~ may pay up to the Household~~[household]~~ limit but the rest of

the bill will have to be paid from other funds to resolve the crisis. Payments may not exceed client's actual utility bill. The assistance must result in resolution of the crisis.

(d) Where necessary to prevent undue hardships from a qualified crisis, Subrecipients~~[subrecipients]~~ may directly issue vouchers to provide:

(1) Temporary shelter not to exceed the annual Household~~[household]~~ expenditure limit for the duration of the contract period in the limited instances that supply of power to the dwelling is disrupted--causing temporary evacuation;

(2) Emergency deliveries of fuel up to 250 gallons per crisis per Household~~[household]~~, at the prevailing price. This benefit may include coverage for tank pressure testing~~[safety precautions, including propane or butane tank repair or replacement up to the maximum household benefit]~~;

(3) Service and repair of existing heating and cooling units ~~[or purchase of portable heating/cooling units (portable electric heaters are allowable only as a last resort)]~~not to exceed \$2,500 during the contract period. Documentation of service/repair and related warranty must be included in the client file~~[- Portable air conditioning and heating units may be purchased for households that include at least one member that is elderly, disabled, or a child aged 5 or younger when Subrecipient has met local weather crisis criteria]~~;

(4) Portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort) may be purchased for households that include at least one member that is elderly, disabled, or a child age 5 or younger when Subrecipient has met local weather crisis criteria;

(5)~~(4)~~ Purchase of more than two portable heating/cooling units per Household~~[household]~~ ~~requires~~[will require] prior written approval from the Department;

(6) Purchase of portable heating/cooling units which voltage exceeds 110 volt requires prior written approval from the Department;

(7)~~(5)~~ Replacement of central systems and combustion heating units is not an approved use of crisis funds; and

(8)~~(6)~~ Portable heating/cooling units must be Energy Star® and compliant with the~~[or]~~ International Residential Code (IRC)~~[compliant]~~.

(e) Crisis funds, whether for emergency fuel deliveries, repair of existing heating and cooling units, purchase of portable heating/cooling units, or temporary shelter, shall be considered part of the total maximum Household~~[household]~~ allowable assistance.

(f) When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures for the following:

(1) Costs to temporarily shelter or house individuals in hotels, apartments or other living situations in which homes have been destroyed or damaged, i.e., placing people in settings to preserve health and safety and to move them away from the crisis situation;

- (2) Costs for transportation (such as cars, shuttles, buses) to move individuals away from the crisis area to shelters, when health and safety is endangered by loss of access to heating or cooling;
- (3) Utility reconnection costs;
- (4) Blankets, as tangible benefits to keep individuals warm;
- (5) Crisis payments for utilities and utility deposits; and
- (6) Purchase of fans, air conditioners and generators. The number, type, size and cost of these items may not exceed the minimum needed to resolve the crisis.

(g) Time Limits for Assistance--Subrecipients shall ensure that for clients who have already lost service or are in immediate danger of losing service, some form of assistance to resolve the crisis shall be provided within a 48-hour time limit (18 hours in life-threatening situations). The time limit commences upon completion of the application process. The application process is considered to be complete when an agency representative accepts an application and completes the eligibility process. ~~[For applications for assistance received from these clients on Fridays after 12:00 p.m. local time, the application process must be completed prior to 12:00 p.m. local time on the following Monday.]~~

(h) Subrecipient~~[Subrecipients]~~ must maintain written documentation in client files showing crises resolved within appropriate timeframes. The Department may disallow improperly documented expenditures.

§5.430. Allowable Subrecipient Administrative and~~[,]~~ Assurance 16 Activities~~[, and Direct Services Support]~~ Expenditures.

(a) Allowable Administrative Costs for administrative activities may include planning, budgeting and accounting; client intake, establishing and directing policies, goals, and objectives, not unique to the mission and goals of LIHEAP. Subrecipients earn administrative budget share based on expenditure of direct services funds. The Department calculates funds available for Subrecipient~~[subrecipient]~~ administrative activities as a percentage of Direct Services expenditures.

(b) Allowable Assurance 16 Activities costs may include services that encourage and enable Households~~[households]~~ to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors.

~~[(c) Allowable Expenditures under Direct Services Support may include client intake, salaries, fringe benefits, and travel expenditures of staff when conducting outreach to eligible households material and printing costs associated with outreach and targeting to eligible households].~~

~~(c)~~~~(d)~~ ~~[Direct Services Support and]~~ Assurance 16 Activities do not include computer purchases and related costs. These belong to Administration. Time/Expenditure allocation~~[Allocation]~~ for Subrecipients~~[subrecipients]~~ shall demonstrate and document that they separately allocated the appropriate share of ~~[Direct Services Support/]~~ Assurance 16 Activities time and expenditures to both outreach and targeting.

~~(e)~~ ~~The Department and its Subrecipients~~~~[subrecipients]~~ use the Uniform Grant Management Standards, OMB Circular A 87 for local governments or OMB Circular A 122 for non profits for determination of allowable and allocable costs.

~~(d)~~~~(f)~~ To ensure fiscal compliance for this program, the Department may at the minimum use the following fiscal controls:

- (1) review annual audits;
- (2) monitor fiscal records; and
- (3) review Monthly Expenditure and Performance Reports.

~~(e)~~~~(g)~~ The Department staff may monitor LIHEAP programs through monthly performance reports and periodic on-site visits using a standard monitoring instrument ~~[(copy available on the Department's website)]~~ for each program, designed to identify the agency's strengths and weaknesses. A risk assessment process will guide scheduling of visits to ensure that agencies ranking highest in risk will be monitored first.

~~(f)~~~~(h)~~ The Department and its Subrecipients~~[subrecipients]~~ shall cooperate in all audits and maintain records in acceptable format for audit purposes and will cooperate with any state or federal investigations.

§5.431. Payments to Subcontractors and Vendors.

(a) A Department approved bi-annual vendor agreement is required to be implemented by the Subrecipient~~[subrecipient]~~ and shall contain assurances as to fair billing practices, delivery procedures, and pricing procedures for business transactions involving LIHEAP beneficiaries~~[recipients]~~. These agreements are subject to monitoring procedures performed by the Department staff.

(b) Subrecipient shall maintain proof of payment to subcontractors and vendors as required by OMB Circulars.

(c) Subrecipient~~[The subrecipient]~~ shall notify each participating Household~~[household]~~ of the amount of assistance paid on its behalf. Subrecipient shall document this notification.

(d) Subrecipients shall use the~~The~~ vendor payment method [will be used by ~~subrecipients~~] for CEAP components. Subrecipient shall not make cash payments directly to eligible Household~~household~~ for any of the CEAP components.

(e) Payments to vendors for which a valid vendor agreement is not in place may be subject to disallowed costs unless prior written approval is obtained from the Department.

§5.432. Outreach, Accessibility, and Coordination.

(a) The Department may continue to develop interagency collaborations with other low-income program offices and energy providers to perform outreach to targeted groups.

(b) Subrecipients shall conduct outreach activities.

~~[(e) Subrecipients shall accept applications at sites that are geographically accessible to all households requesting assistance.]~~

~~(c)~~~~(d)~~ Outreach activities may include:

(1) providing information through home visits, site visits, group meetings, or by telephone for disabled low-income persons;

(2) distributing posters/flyers and other informational materials at local and county social service agencies, offices of aging, Social Security offices, etc.;

(3) providing information on the program and eligibility criteria in articles in local newspapers or broadcast media announcements;

(4) coordinating with other low-income services to provide LIHEAP information in conjunction with other programs;

(5) providing information on one-to-one basis for applicants in need of translation or interpretation assistance;

(6) providing LIHEAP applications, forms, and energy education materials in English and/or Spanish (or other appropriate language);

(7) working with energy vendors in identifying potential applicants;

(8) assisting applicants to gather needed documentation; and

(9) mailing information and applications.

(d) Subrecipients shall accept applications at sites that are geographically and physically accessible to all Households requesting assistance. If Subrecipient's office is not accessible, Subrecipient shall make reasonable accommodations to ensure that all Households can apply for assistance.

(e) Subrecipients shall coordinate with other social service agencies through cooperative agreements to provide services to client Households~~[households]~~. Cooperative agreements must clarify procedures, roles, and responsibilities of all involved entities.

(f) Subrecipients shall coordinate with other energy related programs. Specifically, Subrecipient~~[subrecipient]~~ shall make documented referrals to the local WAP Subrecipient~~[subrecipient]~~.

(g) Subrecipients shall coordinate with local energy vendors to arrange for arrearage reduction, reasonably reduced payment schedules, or cost reductions.

Attachment B: Preamble and proposed repeal of 10 TAC Chapter 5, Subchapter D, §§5.424 and 5.425.

The Texas Department of Housing and Community Affairs (the “Department”) proposes repeal of 10 TAC Chapter 5, Subchapter D, §§5.424 and 5.425, concerning the Comprehensive Energy Assistance Program (CEAP). The purpose of the proposed repealed sections is to remove the Co-Payment and Elderly and Disabled components and consolidate them into a more effective component under the CEAP program. A proposed new §5.424 concerning Utility Assistance Component is published concurrently in this issue of the *Texas Register*.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal sections are in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will be to develop a new rule to increase efficiency with in the CEAP. There will not be any economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 26, 2012, to November 26, 2012, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: cadrulecomments@tdhca.state.tx.us, or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. NOVEMBER 26, 2012.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules.

The proposed repeal affects no other code, article, or statute.

§5.424 Co-Payment Component

§5.425 Elderly and Disabled Component

Attachment C: Preamble and proposed new 10 TAC Chapter 5, Subchapter D, §5.424.

The Texas Department of Housing and Community Affairs (the “Department”) proposes new 10 TAC Chapter 5, §5.424, concerning the Comprehensive Energy Assistance Program (CEAP), Utility Assistance Component. The purpose of the proposed new section is to consolidate the Co-Payment and Elderly and Disabled components into a more effective component under the CEAP program.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be to develop a new rule to increase efficiency with in the CEAP. There will be no economic cost to any individuals required to comply with the new section.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 26, 2012, to November 26, 2012, to receive input on the new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: cadrulecomments@tdhca.state.tx.us, or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. NOVEMBER 26, 2012.

STATUTORY AUTHORITY. The new section is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules.

The proposed new section affects no other code, article, or statute.

§5.424. Utility Assistance Component

(a) Subrecipients may use home energy payments to assist low-income households to reduce their home energy costs. Subrecipients shall combine home energy payments with energy conservation tips, participation by utilities, and coordination with other services in order to assist low-income households to reduce their home energy needs.

(b) Subrecipients must make payments directly to vendors and/or landlords on behalf of eligible households.

(c) Subrecipients may make utility payments on behalf of households based on the previous twelve (12) month's home energy consumption history, including allowances for cost inflation. If a twelve (12) month's home energy consumption history is unavailable, Subrecipient may base payments on current program year's bill. Subrecipients will note such exceptions in client files. Benefit amounts exceeding the actual bill shall be treated as a credit for the client with the utility company.

(d) Households that include at least one member that is elderly, disabled or a child age 5 or younger may receive benefits to cover up to 100% of the eight highest remaining bills within the contract year as long as the cost does not exceed the maximum annual benefit. First payment may include 100% of utility bill including arrears. Elderly households include at least one member age sixty (60) or above. Disabled households include at least one member living with a disability.

(e) Households that do not contain at least one member that is elderly, disabled or a child age 5 or younger may receive benefits to cover up to 100% of the six highest remaining bills within the contract year as long as the cost does not exceed the maximum annual benefit. First payment may include 100% of utility bill including arrears.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Action proposing an amendment to 10 TAC Chapter 5 Community Affairs Programs, Subchapter F, Weatherization Assistance Program Department of Energy, §5.601 concerning DOE Cost Principles and Administrative Requirements, and directing that it be published for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Chapter 2306 of the Texas Government Code, the Department is provided the authority to adopt rules governing the administration of the Department and its programs; and

WHEREAS, 10 TAC §5.601 contains an incorrect reference and needs amending to correct the reference from 10 TAC §5.2 to correctly cite 10 TAC §5.3;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed amendment to 10 TAC Chapter 5 Community Affairs Programs, Subchapter F, Weatherization Assistance Program Department of Energy, §5.601 concerning DOE Cost Principles and Administrative Requirements, in the form presented to this meeting, to be published in the *Texas Register* for review and public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The purpose of the amended section is to correct §5.601 to reference 10 TAC Chapter 5 Community Affairs Programs, Subchapter A, General Provisions §5.3 regarding Cost Principles and Administrative Requirements.

Attachment A: Preamble and proposed amendment to 10 TAC Chapter 5, Subchapter F, §5.601.

The Texas Department of Housing and Community Affairs (the “Department”) proposes an amendment to 10 TAC Chapter 5, §5.601, concerning the Weatherization Assistance Program Department of Energy. The purpose of the proposed amendment is to correct the section reference to 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, General Provisions, §5.3 relating to Cost Principles and Administrative Requirements.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendment is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the amendment will be to correctly reference a section. There will not be any economic cost to any individuals required to comply with the amended section.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 26, 2012, to November 26, 2012, to receive input on the amendment. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: cadrulecomments@tdhca.state.tx.us, or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. NOVEMBER 26, 2012.

STATUTORY AUTHORITY. The amendment is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amended section affects no other code, article, or statute.

§5.601. DOE Cost Principles and Administrative Requirements.

In addition to cost principles and administrative requirements listed in §5.3~~§5.2~~ of this chapter (relating to Cost Principles and Administrative Requirements), Subrecipients administering DOE programs must also adhere to 10 CFR Part 440 or DOE WAP rules, 10 CFR Part 600 and the International Residential Code.

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Action proposing the repeal of 10 TAC Chapter 5 Community Affairs Programs, Subchapter I, concerning Weatherization Assistance Program Department of Energy American Recovery and Reinvestment Act (WAP ARRA), and directing that it be published for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, pursuant to Chapter 2306 of the Texas Government Code, the Department is authorized to adopt and repeal rules governing the administration of the Department's programs; and

WHEREAS, rules previously adopted for the WAP ARRA program are no longer necessary due to the completion of the program;

NOW, therefore, it is hereby

RESOLVED, that the proposed repeal of 10 TAC Chapter 5, Subchapter I, §§5.900 – 5.905 concerning the WAP ARRA program is hereby ordered and approved, together with the preamble presented to this meeting, for publication and public comment in the *Texas Register*; and

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 proposed repeal of the WAP ARRA rules, in the form presented to this meeting, to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

Under the American Recovery and Reinvestment Act of 2009 (ARRA), the Department received funding in the amount of \$326,975,732 from the U.S. Department of Energy (DOE) to administer the WAP ARRA program. The Department contracted with a network of Subrecipients statewide for a multi-year program period and has completed the weatherization of over 55,000 homes. The final Subrecipient contracts ended on June 30, 2012, and the Department is currently in the closeout process during which DOE determines that all applicable administrative actions and required work under the grant award have been completed. Program rules are no longer required for this one time Recovery Act funded program.

Attachment A. Preamble and proposed repeal of 10 TAC Chapter 5, Subchapter I, §§5.900 - 5.905, concerning the WEATHERIZATION ASSISTANCE PROGRAM DEPARTMENT OF ENERGY AMERICAN RECOVERY AND REINVESTMENT ACT (WAP ARRA).

The Texas Department of Housing and Community Affairs (the “Department”) proposes the repeal of 10 TAC Chapter 5, Subchapter I, §§5.900 - 5.905, concerning the Weatherization Assistance Program Department of Energy American Recovery and Reinvestment Act (WAP ARRA). The purpose of the proposed repeal is to reflect the end of the ARRA WAP program in Texas.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal will be in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal will be in effect, the public benefit anticipated as a result of the repeal will be to eliminate rules for non-existent program and effectively close out the WAP ARRA program. There will not be any economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 26, 2012 to November 26, 2012, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attention: Annette Cornier, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: cadrulecomments@tdhca.state.tx.us, or by fax to (512) 475-3935. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. NOVEMBER 26, 2012.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules, and §2306.097, which specifically authorizes the Department to adopt rules to govern the administration of the WAP.

The proposed repeal affects no other code, article, or statute.

§5.900. Deobligation and Reobligation of Funds for Department of Energy Weatherization Assistance Program under the American Recovery and Reinvestment Act.

§5.901. Definitions.

§5.902. Criteria for Deobligation of Fund Award.

§5.903. Notification and Action Plan.

§5.904. Deobligation and Other Mitigating Actions.

§5.905. Reobligation.

R1

BOARD REPORT ITEM

OFFICE OF RECOVERY ACT ACCOUNTABILITY AND OVERSIGHT

OCTOBER 9, 2012

Presentation and Discussion of the Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

Report Item

Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act). This item provides an update on the status of the activity relating to each of the Recovery Act programs as well as a summary of the quarterly Section 1512 jobs reporting submitted for April 1, 2012, through June 30, 2012. The Office of Recovery Act Accountability and Oversight expects final federal 1512 reporting through January of 2013 at which point the Office will no longer exist as a division of the Department.

Recovery Act Program Summary

Program	Activities	Program Status	Total Funding Expended to Date* Percent Expended	Served to Date**	1512 Reported Data Reported Program Expenditures^^ Jobs Created or Retained^	Timeline / Contract Period
Weatherization Assistance Program	Minor home repair to increase energy efficiency, maximum \$6,500 per household. Households at or below 200% of poverty.	<ul style="list-style-type: none"> Contracts executed for 100% of funds, subrecipients drawing funds. All subrecipient contracts are closed. TDHCA is now in the close-out phase of the grant with DOE. 	\$326,975,732 \$324,775,642 99.33%	55,690 households	\$321,322,808 66.8 jobs	<ul style="list-style-type: none"> All program required benchmarks were achieved timely. Federal funding expiration date was June 30, 2012. TDHCA is now within a 90 day close out period that ends September 30, 2012.
Homelessness Prevention and Rapid Re-Housing Program	Rental asst, housing search, credit repair, deposits, moving cost assistance, & case management. Persons at or below 50% AMI.	<ul style="list-style-type: none"> All subrecipient contracts are now closed. Subrecipients and TDHCA are now in the close-out phase of the grant. 	\$41,472,772 \$41,472,772 100%	46,818 persons	\$41,406,690 1.5 jobs	<ul style="list-style-type: none"> All program required benchmarks were achieved timely. All recipients' contracts are now closed. Federal funding expiration date is July 16, 2012, with a 90 day closeout period.

Program	Activities	Program Status	Total Funding Expended to Date* Percent Expended	Served to Date**	1512 Reported Data Reported Program Expenditures^^ Jobs Created or Retained^	Timeline / Contract Period
Community Services Block Grant Program	Assists existing network of Community Action Agencies with services including child care, job training, and poverty-related programs. Persons at or below 200% of poverty.	<ul style="list-style-type: none"> COMPLETE CSBG ARRA funds expired Sept 30, 2010 	\$48,109,133 \$48,108,280 99.92%	99,325 persons	\$48,108,280	<ul style="list-style-type: none"> Recipients were required to expend 100% of funds by Sept 30, 2010. 99.92% of funds were expended. Due to disallowed costs and one subrecipient's inability to fully expend, 0.08% of funds were unspent.
Tax Credit Assistance Program	Provides assistance for 2007, 2008 or 2009 Housing Tax Credit awarded developments. Households at or below 60% AMI.	<ul style="list-style-type: none"> COMPLETE Amount Awarded: \$148,354,769 (100%) Amount Drawn: \$148,354,769 (100%) 	\$148,354,769 \$148,354,769 100%	8,346 households	\$148,354,769	<ul style="list-style-type: none"> Owners were required to expend 100% of funds by February 17, 2012, which was achieved. All earlier program deadlines were also met.
Housing Tax Credit Exchange Program^^	Provides assistance to 2007, 2008 or 2009 Housing Tax Credit awarded developments. Households at or below 60% AMI.	<ul style="list-style-type: none"> COMPLETE Amount Awarded: \$594,091,929 (100%) Amount Closed: \$594,091,929 (100%) 	\$594,091,929 \$592,616,638 99.75%	8,015 households	\$592,616,638 9,351 jobs	<ul style="list-style-type: none"> Owners were required to expend 100% of funds by December 31, 2011. 99.75% of funds were expended. Due to overcommitment and time expiring for two contracts, 0.25% of funds were unspent. All earlier program deadlines were met.
Total			\$1,159,043,273 \$1,155,328,101 99.68%	146,143 persons 72,051 households	\$1,151,809,185 1512: 68.3 jobs this quarter Exchange: 9,351 jobs cumulatively	

*This table includes updated expenditure data as of 9/28/2012.

**Total served data through 12/31/2011 for HPRP and 12/31/2010 for CSBG; 9/28/2012 for WAP, 2/2/2011 for TCAP; and 12/10/2010 for HTC Ex. For TCAP and HTC Ex, households represent closed transactions.

^Jobs created or retained between 4/1/2012 and 6/30/2012. Note that Section 1512 reporting is not required for HTC Exchange and the figure includes total estimated jobs to be created or retained as reported to the U.S. Department of Treasury for 12/31/2010.

^^ Program expenditures reported for each program includes subrecipient and TDHCA administrative expenses. Information is updated quarterly. Data was submitted to Recovery.gov for quarter ending 3/31/2012.

^^^ The Housing Tax Credit Exchange Program is not subject to 1512 reporting requirements.

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**BOARD REPORT ITEM
HOME Division
OCTOBER 9, 2012**

**Status Report on the HOME Program Contracts and Reservation System Participants August
2012 and Year-to-Date**

Activity Type	<u>Funded/Awarded for August</u>		<u>Funded/Awarded for Year</u>		<u>Setups for August</u>		<u>Setups for Year</u>		<u>Draws for August</u>		<u>Draws for Year</u>	
	RSP	Contracts	RSP	Contracts	Amount	Number	Amount	Number	Amount	Number	Amount	Number
CFD	\$0	\$0	\$0	\$0	\$105,950	1	\$105,950	1	\$0	0	\$52,845	2
CHDO Operating	\$0	\$0	\$0	\$50,000	\$0	0	\$0	0	\$0	0	\$31,274	5
Dev SF	\$0	\$0	\$0	\$300,000	\$0	0	\$484,310	5	\$0	0	\$726,114	27
HBA/Rehab	\$295,800	\$0	\$1,809,893	\$334,500	\$360,598	22	\$2,418,238	135	\$330,188	36	\$2,523,374	199
HRA	\$1,525,558	\$0	\$8,494,922	\$16,423,000	\$1,992,208	24	\$17,238,491	212	\$1,266,624	77	\$9,088,162	480
MFD	\$0	\$0	\$0	\$23,751,586	\$0	0	\$11,684,687	12	\$1,318,550	3	\$15,994,680	40
TBRA	\$473,716	\$0	\$2,468,093	\$324,000	\$478,455	45	\$3,126,752	319	\$399,092	461	\$2,437,142	3,335
Sub Totals:	\$2,295,074	\$0	\$12,772,908	\$41,183,086	\$2,937,211	92	\$35,058,428	684	\$3,314,454	577	\$30,853,592	4,088
Totals:	\$2,295,074		\$53,955,994									

CFD - Contract For Deed

CHDO - Community Housing Development Organization

HRA - Homeowner Rehabilitation

HBA/Rehab - Homebuyer Assistance with Rehab

MFD - Rental Housing Development

RSP - Reservation System Participant

TBRA - Tenant Based Rental Assistance

R3

BOARD REPORT ITEM
PROGRAM SERVICES
OCTOBER 9, 2012

Report Item

Update on the Status of the Preparation of the State of Texas Plan for Fair Housing Choice: Analysis of Impediments

Background

BBC Research & Consulting, Inc. (BBC) is the vendor selected to complete the State of Texas Plan for Fair Housing Choice: Analysis of Impediments (AI). Staff submits monthly Board updates on the progress of the AI based on BBC status reports and staff activities.

Highlights of activities in September include:

- BBC and Department staff attended the Fort Worth HUD All Grantee Meeting. BBC and Department staff made a presentation on the current status of the development of the AI and preliminary findings based on the data and outreach, which have been extensive.
- Completion of the analysis of the stakeholder and resident survey.
- Continuation of the in-person focus groups and stakeholder interviews.
- Continued drafting of proposed areas of further inquiry and preliminary impediments, based on quantitative and qualitative findings to date.

R4

BOARD REPORT ITEM
COMMUNITY AFFAIRS DIVISION
OCTOBER 9, 2012

REPORT ITEM

Report on Homeless Housing and Services Program and Emergency Solutions Grants Program Awards through the Community Affairs Division

BACKGROUND

The Community Affairs Division provides this report on awards made for PY 2013 Homeless Housing and Services Program, PY 2011 Second Allocation Emergency Solutions Grants Program, and PY 2012 Emergency Solutions Grants Program.

Homeless Housing and Services Program (HHSP)

The HHSP was established during the 81st Texas Legislature through an appropriations rider and codified during the 82nd Texas Legislature to provide funding in the eight largest cities in support of services to homeless individuals and families including services such as case management and housing placement and retention.

To continue HHSP in PY 2013, the Department has identified funds from the Housing Trust Fund (HTF) and from residual funds primarily from the Mortgage Revenue Bond Program totaling \$5,000,000.

PY 2013 Homeless Housing and Services Program Awards

Name	HTF	Bond	Total Award
City of Arlington	\$169,958.00	\$117,575.00	\$287,533.00
City of Austin	\$293,101.00	\$202,764.00	\$495,865.00
Mother Teresa Shelter, Inc. (Corpus Christi)	\$133,488.00	\$92,345.00	\$225,833.00
City of Dallas	\$441,073.00	\$305,129.00	\$746,202.00
City of El Paso	\$251,433.00	\$173,938.00	\$425,371.00
United Way of Tarrant County (Fort Worth)	\$277,807.00	\$192,184.00	\$469,991.00
City of Houston	\$841,504.00	\$582,142.00	\$1,423,646.00
Haven for Hope of Bexar County (San Antonio)	\$547,089.00	\$378,470.00	\$925,559.00
Total	\$2,955,453.00	\$2,044,547.00	\$5,000,000.00

Emergency Solutions Grants Program (ESG)

The Emergency Solutions Grants program, is a competitive grant that awards funds to private nonprofit organizations, cities, and counties in the State of Texas to provide the services necessary to help persons that are at-risk of homelessness or homeless quickly regain stability in permanent housing. The ESG program is funded by the U.S. Department of Housing and Urban Development (HUD).

PY 2011 Second Allocation Emergency Solutions Grants Program Awards

Agency Name	Award Amount
Bay Area Homeless Services, Inc.	\$99,560.00
Bay Area Turning Point, Inc.	\$65,444.00
Caritas of Austin	\$105,557.00
Child Crisis Center of El Paso	\$63,935.00
City of Amarillo	\$158,780.00
Corpus Christi Hope House, Inc.	\$102,970.00
Covenant House Texas	\$105,265.00
El Paso County	\$105,557.00
El Paso Human Services, Inc.	\$104,547.00
Faith Mission and Help Center, Inc.	\$105,312.00
Fort Bend County Women's Center, Inc.	\$100,391.00
Harmony House, Inc.	\$105,557.00
Harris County Community Services Department	\$105,557.00
Highland Lakes Family Crisis Center, Inc.	\$63,935.00
Houston Area Women's Center	\$105,557.00
Memorial Assistance Ministries, Inc.	\$105,557.00
Opportunity Center for the Homeless	\$105,557.00
Port Cities Rescue Mission Ministries	\$105,557.00
Randy Sams Outreach Shelter, Inc.	\$104,515.00
Sabine Valley Center	\$54,944.00
Safehaven of Tarrant County	\$51,514.00
The Bridge Over Troubled Waters, Inc.	\$82,066.00
The Salvation Army of Kerrville	\$105,553.00
The Salvation Army of Lubbock	\$105,557.00
The Salvation Army of Waco	\$105,557.00
The Women's Home	\$100,510.00
Wellsprings Village, Inc.	\$105,557.00
Williamson-Burnet County Opportunities, Inc.	\$63,935.00
Women's Shelter of South Texas	\$105,552.00
Total	\$2,799,855.00

PY 2012 Emergency Solutions Grants Program Awards

Agency Name	Award Amount
Advocacy Outreach	\$343,236.00
Advocacy Resource Center for Housing (ARCH)	\$150,000.00
Bay Area Homeless Services, Inc.	\$145,685.00
Career and Recovery Resources	\$452,685.00
Catholic Charities Archdiocese of Galveston-Houston	\$149,949.00
City of Amarillo	\$242,248.00
City of Denton	\$472,140.00
Corpus Christi Metro Ministries, Inc.	\$150,000.00
East Texas Crisis Center, Inc	\$114,748.00
Family Abuse Center, Inc.	\$284,143.00
Family Crisis Center, Inc.	\$271,105.00
Family Endeavors, Inc	\$97,653.00
Family in Crisis	\$149,995.00
Family Violence Prevention Services, Inc.	\$150,000.00
Fort Bend County Women's Center, Inc.	\$539,528.00
Friendship of Women, Inc.	\$298,892.00
Grapevine Relief And Community Exchange (GRACE)	\$79,854.00
Grayson County Juveniles Alternatives dba North Texas Youth Connection	\$602,685.00
Houston Area Women's Center	\$150,000.00
Johnson County Family Crisis Center	\$100,000.00
La Posada Providencia	\$280,282.00
Love In the Name of Christ of Nacogdoches	\$150,000.00
Mid-Coast Family Services	\$150,000.00
Opportunity Center for the Homeless	\$260,923.00
Panhandle Crisis Center, Inc.	\$75,102.00
Project Vida	\$153,685.00
SafeHaven of Tarrant County	\$150,000.00
San Antonio Metropolitan Ministries, Inc	\$602,685.00
SEARCH Homeless Services	\$452,685.00
Shelter agencies For Families in East Texas dba SAFE-T	\$149,380.00
The Family Place	\$452,685.00
The Salvation Army - Abilene	\$150,000.00
The Salvation Army - Forth Worth Mabee Center	\$100,000.00
The Salvation Army - McAllen	\$150,000.00
The Salvation Army - Odessa	\$128,490.00
The Salvation Army - Texarkana	\$150,000.00
Women's Shelter of East Texas, Inc. dba Janelle Grum Family Crisis Center of East Texas	\$75,000.00
Youth and Family Alliance dba LifeWorks	\$211,691.00
Total	\$8,787,154.00

R5

TDHCA Outreach Activities, September 2012

A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public

Event	Location	Date	Division	Purpose
Rural Housing Workgroup Meeting	Austin	Sept 4	Housing Resource Center	Participant
Uniform Physical Condition Standards Training	Austin	Sept 5	Compliance	Training
Fair Housing Focus Group	Weslaco	Sept 6	Program Services	Roundtable Hearing
First Thursday Income Eligibility Training	Austin	Sept 6	Compliance	Training
Health Begins At Home: Texas Health Systems and Supportive Housing Conference	Austin	Sept 6-7	Housing Resource Center	Presentations
Council for Advising & Planning for the Prevention and Treatment of Mental and Substance Use Disorders	Austin	Sept 7	Housing Resource Center	Participant
Housing & Health Services Coordination Council (HHSC) Meeting	Austin	Sept 10	Housing Resource Center	Participant
First Thursday Income Eligibility Training	Houston	Sept 11	Compliance	Training
Housing Tax Credit Compliance Training	Houston	Sept 12	Compliance	Training
Emergency Solutions Grant Contract Implementation Workshop	Austin	Sept 13-14	Community Affairs	Training
Neighborhood Stabilization Program/Homebuyer Training	Austin	Sept 13-14	NSP	Training
HUD Fort Worth Grantees Meeting	Fort Worth	Sept 17-18	Executive, Asset Management, Community Affairs	Presentation, Participant
Housing Tax Credit Compliance Training	El Paso	Sept 18	Compliance	Training
Uniform Physical Condition Standards Training	El Paso	Sept 19	Compliance	Training
Fair Housing Focus Group	Tulia	Sept 19	Program Services	Roundtable Hearing
Neighborhood Stabilization Program/Homebuyer Training	Arlington	Sept 19-20	NSP	Training
WREM Literacy Group/HOME HRA Ribbon-Cutting Ceremony	Prairie View	Sept 21	External Affairs	Remarks, Participant
Housing Tax Credit Compliance Training	Lubbock	Sept 25	Compliance	Training
Community Housing Development Organization and Procurement Training	Austin	Sept. 25-26	HOME	Training
Housing Tax Credit – Regional Allocation Formula Roundtable	Austin	Sept 26	Housing Resource Center	Roundtable Hearing
Neighborhood Stabilization Program/Homebuyer Training	McAllen	Sept 26-27	NSP	Training
Texas Homeless Network/Ending Homelessness Conference	Houston	Sept 26-28	Community Affairs	Presentation

Internet Postings of Note, September 2012

A list of new or noteworthy documents posted to the Department's Web site

Draft Opportunity Index Data — detailing median household income data corresponding with the Opportunity Index scoring item in the Housing Tax Credit Program's Draft 2013 Qualified Allocation Plan:

www.tdhca.state.tx.us/multifamily/htc/index.htm

September 6, 2012 Board Supplement — providing supporting material to the Governing Board regarding the Draft 2013 Uniform Multifamily Rule, Draft 2013 QAP, and Draft 2013 Multifamily Bond Rules:

www.tdhca.state.tx.us/multifamily/htc/index.htm

Legislative Appropriations Request FY 2014-15 — outlining the Department's funding requirements for the upcoming biennium and which includes all sources of funds it expects to have available:

www.tdhca.state.tx.us/finan.htm

ESG Contract Implementation Workshop Agenda - 2011 2nd Allocation and 2012 Funds — listing the times, locations, and subject topics for two-day workshop focusing on Emergency Solutions Grants Program:

www.tdhca.state.tx.us/community-affairs/esgp/guidance-solutions.htm

Multifamily Bond Program – Schedule of Fees — associated with the new issuance or refunding of multifamily mortgage revenue bonds:

www.tdhca.state.tx.us/multifamily/bond/applications.htm

HTC Applicable Percentages and Calculation of Underwriting Rates — used to determine the allocation amount of the credits, as defined in Section 42(b) of the Internal Revenue Code:

www.tdhca.state.tx.us/rea/index.htm#tools

Motion to Alter or Amend Judgment or, Alternatively, for New Trial — seeking clarification on specific aspects of the ICP Judgment and Memorandum Opinion and Order Regarding Remedial Plan:

www.tdhca.state.tx.us/multifamily/htc/index.htm

Proposed 2013 Qualified Allocation Plan, Multifamily Housing Revenue Bond, and Uniform Multifamily Rules — outlining proposed rules for comment administering all multifamily activities funded by the Department:

www.tdhca.state.tx.us/multifamily/htc/index.htm

Proposed 2013 Real Estate Analysis Rules and Guidelines — detailed in proposed Uniform Multifamily Rule for comment administering the Department's standards for underwriting, market analyses, appraisals, environmental site assessments, and other underwriting activities:

www.tdhca.state.tx.us/multifamily/htc/index.htm

Proposed 2013 Asset Management Rules — detailed in proposed Uniform Multifamily Rule for comment administering the Department's post award and asset management activities associated with multifamily developments:

www.tdhca.state.tx.us/multifamily/htc/index.htm

Proposed 2013 Previous Participation and Compliance Monitoring Rules — detailed in proposed Uniform Multifamily Rule for comments affecting LURAs providing an incentive for owners to offer a right of first refusal to nonprofit organization, as well as procedures for monitoring for noncompliance with the provisions of the Internal Revenue Code:

www.tdhca.state.tx.us/multifamily/htc/index.htm

Request to Participate in the TDHCA Taxable Mortgage Program — *providing information to and encouraging qualified lenders' participation in the Department's new Taxable Mortgage Program:*
www.tdhca.state.tx.us/homeownership/fthb/lender_documentation.htm

2012 Carryover Package and Manual — *related to Internal Revenue Code requirements for developments that received a 2012 Competitive Housing Tax Credit Commitment Notice but not placed in service prior to December 31, 2012:*
www.tdhca.state.tx.us/multifamily/htc/awardees.htm

2

BOARD ACTION REQUEST
TEXAS HOMEOWNERSHIP DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible adoption of an order and Resolution No. 13-011 adopting new 10 TAC Chapter 28, §§28.1 - 28.9 concerning the Taxable Mortgage Program (TMP) Rule and directing that it be published in the *Texas Register*, and also authorizing payment of a servicing release premium.

RECOMMENDED ACTION

WHEREAS, the proposed TMP Rule was approved for publication in the *Texas Register* for public comment at the July 26, 2012 Board meeting, the proposal was subsequently published in the August 10, 2012 issue of the *Texas Register*, and the public comment period has now ended; and

WHEREAS, on September 6, 2012, the Governing Board adopted Resolution No. 13-003 approving a taxable mortgage purchase program designated as “Program 79” (the “Program”) to fund all or a portion of the Department’s single family loan production; and

WHEREAS, the Department has received no public comment on the TMP Rules and the Governing Board now desires to adopt the TMP Rules in the form published in the *Texas Register*; and

WHEREAS, the Governing Board further desires to authorize payment of a servicing release premium to mortgage lenders under the Program upon the sale by a mortgage lender of a mortgage loan to U.S. Bank National Association, as master servicer (the “Servicer”) under the Program

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause a new 10 TAC Chapter 28, §§28.1 - 28.9 regarding the TMP Rule, in the form presented to this meeting, to be published in the *Texas Register* for final adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles; and,

FURTHER RESOLVED, that the Department is authorized to pay a servicing release premium to mortgage lenders under the Program as described above;

ALL AS EVIDENCED by the adoption of Resolution 13-011.

BACKGROUND

The proposed new rule was approved by the Board for publication on September 6, 2012, and was published on August 10, 2012, in the *Texas Register* to allow for public comment. The public comment period closed on September 10, 2012.

No comments were received.

Attachment A: Preamble and New Rule

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 28, §§28.1 - 28.5 regarding the Taxable Mortgage Program Rule without changes to the proposed text as published in the August 10, 2012 issue of the *Texas Register* (37 TexReg 5859) and will not be republished.

REASONED JUSTIFICATION: The purpose of the new sections is to set forth policies and procedures governing the administration of the Department's Taxable Mortgage Program. Additionally, the Department finds that the new rule aligns the Taxable Mortgage Program with the new 10 TAC Chapter 20, concerning the Single Family Umbrella Programs Rule.

The Department accepted public comments between August 10, 2012, and September 10, 2012. Comments regarding the new sections were accepted in writing and by fax. No comments were received concerning the new sections.

The Board approved the final order adopting the new sections on October 9, 2012.

STATUTORY AUTHORITY: The new sections are adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules. More specifically, Texas Government Code, §2306.141 authorizes the Department to adopt rules governing the administration of its housing programs.

§28.1.Purpose.

The purpose of the Taxable Mortgage Program is to facilitate the origination of single-family mortgage loans and to refinance existing mortgage loans for eligible homebuyers and in both cases to provide down payment and closing cost assistance. Chapter 20 of this title (relating to the Single Family Programs Umbrella Rule) will apply to all Single Family activities, including Single Family development involving rental or ownership.

§28.2.Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

(1) Applicable Median Family Income--The Department's determination, as permitted by Texas Government Code §2306.123, of the median income of a family for an area using the source or methodology acceptable under §143(f) of the Code. Amounts of the Applicable Median Family

Income, as updated from time to time, may be found on the Department's website (www.tdhca.state.tx.us) in the "Combined Income and Purchase Price Limits Table."

(2) Applicant--A person or persons applying for financing or refinancing of a mortgage loan under the Program.

(3) Area of Chronic Economic Distress--Those areas in Texas, whether one or more, designated from time to time as areas of chronic economic distress by the state and approved by the Secretaries of Treasury and Housing and Urban Development, respectively, pursuant to §143(j) of the Code.

(4) Average Area Purchase Price--With respect to a Residence financed under the Program, the average purchase price of single-family residences in the statistical area in which the Residence is located which were purchased during the most recent twelve (12) month period for which statistical information is available, as determined in accordance with §143(e) of the Code.

(5) Code--The Internal Revenue Code of 1986, as amended from time to time.

(6) Department Designated Areas of Special Need--Geographic areas designated by the Department from time to time as areas of special need.

(7) Program--The Taxable Mortgage Program.

(8) Purchase Price Limit--The Purchase Price Limits published and updated from time to time in the "Combined Income and Purchase Price Limits Table" found on the Department's website equal to 90 percent of the Average Area Purchase Price, subject to certain exceptions for Targeted Area Loans.

(9) Regulations--The applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

(10) Residence--A dwelling in Texas in which an Applicant intends to reside as the Applicant's principal dwelling space.

(11) Targeted Area--A qualified census tract, as determined in accordance with §6(a)103A-(2)(b)(4) of the Regulations or any successor regulations thereto, an Area of Chronic Economic Distress or a Department Designated Area of Special Need. Applicants purchasing in Targeted Areas may have higher income and purchase price limits as set forth in the "Combined Income and Purchase Price Limits Table" found on the Department's website.

§28.3.Procedures for Submitting Requests or Inviting Proposals.

The Department will publish requests for proposals as needed for the purchase and sale of mortgage loans or interests in the mortgage loans. Based on published scoring criteria, an organization will be selected and a contract executed with the Department to carry out these responsibilities.

§28.4.Restrictions on Residences Financed and Applicant.

- (a) Type of Residence and Number of Units. To be eligible for assistance under the Program an Applicant must apply with respect to a home that is either a new or existing single family home, new or existing condominium or town home, or manufactured housing that has been converted to real property in accordance with the Texas Occupations Code, Chapter 1201 or FHA guidelines as required by the Department. A duplex may be financed under the Program as long as one unit of the duplex is occupied by the Applicant as his or her Residence and the duplex was first occupied for residential purposes at least five years prior to the closing of the mortgage loan.
- (b) Location of Residence. The Residence being financed must be located in Texas.
- (c) Homebuyer Education. Each Applicant must complete a Department approved pre-purchase homebuyer education course.
- (d) Income Limits. Applicants applying for a mortgage loan must meet Applicable Median Family Income requirements.
- (e) Down Payment Assistance. All Applicants meeting the Income Limit requirements in subsection (d) of this section above may qualify for down payment and closing cost assistance in connection with the mortgage loan on a first come, first served basis, subject to availability of funds.

§28.5.Occupancy and Use Requirements.

- (a) Occupancy requirement. The Applicant must occupy the home within sixty (60) days after the date of closing as his or her Residence. There is no occupancy requirement beyond the sixty (60) days. Borrower's receiving down payment assistance must repay the amount of assistance whenever they sell the property.
- (b) Prohibited uses. Applicants may not use the property, or any part thereof, as an investment property, rental property, vacation or second home, or recreational home.

§28.6.Application Procedure and Requirements for Commitments by Mortgage Lenders.

- (a) Applicants seeking assistance under the Program must first contact a participating mortgage lender. A list of participating mortgage lenders may be obtained on the Department's website or by contacting the Department.
- (b) All Applicants shall complete an application with a participating mortgage lender.
- (c) Application Fees. Fees that may be collected by the mortgage lender from the Applicant relating to a mortgage loan include:
 - (1) an appropriate, as determined by the Department, origination fee and/or buyer/seller points; and

(2) all usual and reasonable settlement or financing costs that are permitted to be so collected by Federal Housing Administration (FHA), Veteran's Administration (VA), Rural Housing Services (RHS), Freddie Mac or Fannie Mae, as applicable, and other applicable laws, but only to the extent such charges do not exceed the usual and reasonable amounts charged in the area in which the home is located. Such usual and reasonable settlement or financing costs shall include an application fee as determined by the Department, the total estimated costs of a credit report on the Applicants and an appraisal of the property to be financed with the mortgage loan, title insurance, survey fees, credit reference fees, legal fees, appraisal fees and expenses, credit report fees, FHA insurance premiums, private mortgage guaranty insurance premiums, VA guaranty fees, VA funding fees, RHS guaranty fees, hazard or flood insurance premiums, abstract fees, tax service fees, recording or registration fees, escrow fees, and file preparation fees.

(d) The Department will determine from time to time, a schedule of fees and charges necessary for expenses and reserves of the housing finance division as set forth in a Board resolution.

(e) The mortgage lender must register the mortgage loan in accordance with the Department's published procedures.

§28.7. Criteria for Approving Participating Mortgage Lenders.

To be approved by the Board for participation in the program, a mortgage lender must meet the requirements to be a qualified mortgage lender as specified by:

- (1) Federal Housing Administration (FHA);
- (2) Veteran's Administration (VA);
- (3) Rural Housing Service's (RHS); and
- (4) be a lender currently participating in the conventional home lending market for loans originated in accordance with Fannie Mae's and/or Freddie Mac's requirements;
- (5) agree to originate mortgage loans and assign those loans and related mortgages and servicing to the Department's master servicer;
- (6) originate, process, underwrite, close and fund originated loans; and
- (7) be an approved seller/servicer with the program's master servicer.

§28.8. Resale of the Residence.

There are no Program restrictions on resale of the Residence. Assumption of a mortgage loan is allowed under the Program if the new owner meets the Program requirements at the time of the sale of the Residence.

§28.9.Waiver.

The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the rules governing this Program if the Board finds that waiver is appropriate to fulfill the purposes or polices of Texas Government Code, Chapter 2306, or for good cause, as determined by the Board.

RESOLUTION NO. 13-011

RESOLUTION ADOPTING TAXABLE MORTGAGE PROGRAM RULES; AUTHORIZING PAYMENT OF SERVICING RELEASE PREMIUM TO MORTGAGE LENDERS UNDER TAXABLE MORTGAGE PROGRAM; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

WHEREAS, the Act, at Tex. Gov't Code, Subchapter M, specifically at §2306.291, authorizes the Department (a) to purchase notes and other obligations evidencing loans or interest in loans for individuals and families of low and very low income and families of moderate income and (b) to sell, at public or private sale, with or without public bidding, a mortgage or other obligation held by the Department; and

WHEREAS, on July 26, 2012, the Governing Board authorized publication in the *Texas Register* for review and public comment of new rules designated as 10 TAC Chapter 28 for the Department's proposed taxable mortgage purchase program (the "TMP Rules"), and on August 10, 2012, the TMP Rules were published in the *Texas Register*; and

WHEREAS, on September 6, 2012, the Governing Board adopted Resolution No. 13-003 approving a taxable mortgage purchase program designated as "Program 79" (the "Program") to fund all or a portion of the Department's single family loan production; and

WHEREAS, the Department has received no public comment on the TMP Rules and the Governing Board now desires to adopt the TMP Rules in the form published in the *Texas Register*; and

WHEREAS, the Governing Board further desires to authorize payment of a servicing release premium to mortgage lenders under the Program upon the sale by a mortgage lender of a mortgage loan to U.S. Bank National Association, as master servicer (the "Servicer") under the Program;

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

ARTICLE 1

APPROVAL OF CERTAIN ACTIONS

Section 1.1 Adoption of TMP Rules. The TMP Rules, in the form published in the *Texas Register*, are hereby ordered to be adopted and approved.

Section 1.2 Payment of Servicing Release Premium. The Authorized Representatives named in this Resolution are hereby authorized to establish the amount of servicing release premium to be paid to a mortgage lender by the servicer upon the purchase of a mortgage loan under the Program. The Authorized Representatives shall establish the servicing release premium paid to the lender in an amount not to exceed 1.0% of the purchased principal amount of the mortgage loan, except that a minimum servicing release

premium may also be established without respect to any such percentage limitation in any amount from \$0 to \$1,000.

Section 1.3 Authorized Representatives. The following persons and each of them are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, any Deputy Executive Director of the Department, the Director of Bond Finance of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Persons is authorized to act individually as set forth in these resolutions; provided, however, that no such authority shall serve to alter or supersede the requirements that staff observe and adhere to the Department's established Standard Operating Procedures, as in effect from time to time, as they may apply to any such actions.

Section 1.4 Ratifying Other Actions. All other actions taken or to be taken by the Executive Director and the Department's staff in connection with the Program are hereby ratified, adopted, and confirmed as the authorized acts and deeds of the Department.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[EXECUTION PAGE FOLLOWS]

PASSED AND APPROVED this 9th day of October, 2012.

Chair, Governing Board

ATTEST:

(Assistant) Secretary to the Governing Board

(SEAL)

3a

BOARD ACTION REQUEST

HOME PROGRAM DIVISION

OCTOBER 9, 2012

Presentation, Discussion, and Possible Action to authorize the issuance of the 2012 HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA) for Homebuyer Assistance, Homeowner Rehabilitation Assistance, and Tenant Based Rental.

RECOMMENDED ACTION

WHEREAS, the Department has approximately \$16,768,903 to make available for HOME Program single family activities; and,

WHEREAS, the Department is experiencing continued interest in funding for HOME Program single family activities under the Reservation System;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to publish a 2012 HOME Single Family Programs Reservation NOFA in the *Texas Register*; and,

FURTHER RESOLVED, that funds in the amount of approximately \$9,374,566 available from the Department's 2012 allocation of HOME funds and approximately \$7,394,337 still available from the release of previous HOME allocations is hereby combined and made available to the 2012 HOME Single Family Programs Reservation System Notice of Funding Availability to be published in the *Texas Register*.

BACKGROUND

The Department has executed its 2012 HOME Grant Agreement with HUD, allowing the availability of HOME funds to be programmed for various uses in accordance with the HUD-approved 2012 Consolidated Plan One-Year Action Plan (OYAP). The 2012 allocation for the HOME Investment Partnerships Program is \$24,284,636, of which \$9,374,566 is available for single family activities, including mandatory set-asides. Staff is proposing to release a HOME Single Family Programs Reservation System Notice of Funding Availability (NOFA) that includes \$9,374,566 of the 2012 HOME allocation and approximately \$7,394,337 of funding available to be reprogrammed from previous HOME allocations. Applications will be accepted on a first come first served basis for Homeowner Rehabilitation Assistance, Homebuyer Assistance, and Tenant Based Rental Assistance. Approval for participation in the Reservation System is not a guarantee of funding availability.

Of the \$16,768,903 that will be released under this NOFA, approximately \$5,346,102 is subject to the Regional Allocation Formula. \$2,000,000 will be set-aside for the Contract for Deed Conversion Program, \$1,214,232 will be set-aside for the Disaster Relief Assistance Program, and \$3,208,569, inclusive of \$2,394,337 of previous year Persons with Disabilities Set-Aside funding, will be set-aside under the Persons with Disabilities Set-Aside, leaving \$7,394,337 that is available for single family activities statewide. These set-asides are not subject to the Regional Allocation Formula. Funds subject to the Regional Allocation Formula will collapse after December 1, 2012.

The availability and use of these funds are subject to the Department's 2012 Single Family Umbrella Rules at 10 TAC Chapter 20, the Department's 2012 HOME Program Rule at 10 TAC Chapter 23, (as these rules are scheduled for adoption at the October 9, 2012 Board Meeting), and the federal regulation governing the HOME Program at 24 CFR Part 92. The 2012 HOME Single Family Programs Reservation System NOFA was developed in accordance with the 2012 Single Family Umbrella and HOME Program Rules. An open application cycle will be utilized to access the funds available under this NOFA. The RAF tables are not included in the NOFA; however, the tables will be available on the Department's website as stated in the NOFA.

3b

BOARD ACTION REQUEST
HOME PROGRAM DIVISION
OCTOBER 9, 2012

Presentation, Discussion, and Possible Action to authorize the issuance of the 2012 HOME Single Family Development (SFD) Activity Notice of Funding Availability.

RECOMMENDED ACTION

WHEREAS, the 2011 HOME Single Family Development (SFD) Program for Community Housing Development Organizations NOFA had an unsubscribed balance of \$2,042,589; and

WHEREAS, under the SFD a balance of \$1,171,294 funds was made available under the reservation system and \$1,171,295 was made available for contract awards; and

WHEREAS, approximately \$1,060,236 of the funds available for contracts was reprogrammed after the application acceptance period ended; and

WHEREAS, the Department has experienced interest in funding being made available for SFD under the reservation system; therefore be it,

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to draft and publish a 2012 HOME Single Family Development (SFD) Activity Notice of Funding Availability in the *Texas Register* accepting applications of HOME funding on a first come first served basis.

FURTHER RESOLVED, that approximately \$1,291,353 of the unsubscribed funds remaining from the 2011 HOME Single Family Development Program for Community Housing Development Organizations Notice of Funding Availability which expired on July 12, 2012, is hereby made available to the 2012 HOME Single Family Development (SFD) Activity Notice of Funding Availability to be published in the *Texas Register*.

BACKGROUND

On September 15, 2011, the Board approved the 2011 Single Family Development Program for Community Housing Development Organizations NOFA, which made \$2,342,589 in funds available for the development of affordable single-family housing. The application acceptance period ended July 12, 2012. The Department received one application for funding in the amount

of \$300,000 and two applications for participation in the reservation system. No reservations for funding have been submitted, leaving an unsubscribed balance of \$2,042,589.

If approved, the 2012 Single Family Development Activity for Community Development Housing Organizations NOFA will make funds available in the amount of approximately \$1,291,353 of the unsubscribed 2011 NOFA balance. The remaining unsubscribed balance of the 2011 NOFA funds was reprogrammed.

The total \$1,291,353 in funds will be made available solely under the Reservation System, on a first come first serve bases. The Reservation System can be accessed by both new applicants and existing system participants. The application acceptance period for applicants requesting to participate in the reservation system ends March 15, 2013. Approval for participation in the reservation system is not a guarantee of funding availability. On August 9, 2012 any funds remaining in the reservation system may be reprogrammed to other CHDO eligible HOME activities.

The availability and use of these funds are subject to and coordinated upon final adoption by the Board of the Department's HOME Program Rule (10 TAC Chapter 23), the Department's Single Family Rule at Title 10 Texas Administrative Code (10 TAC) Chapter 20, as well as the federal regulations governing the HOME Program (24 CFR Part 92), and the Department's Real Estate Analysis Rules and Guidelines (10 TAC §§1.32-1.37). An open application cycle will be used to process applications received in response to this NOFA and the Regional Allocation Formula (RAF) does not apply to funds that are being reprogrammed. The final NOFA is attached behind this action item.

4a

BOARD REPORT ITEM
MULTIFAMILY FINANCE DIVISION
OCTOBER 9, 2012

Presentation and Discussion regarding the status of the 2012 Competitive (9%) Housing Tax Credit Round

REPORT ITEM

To date, the Department has issued Commitment Notices for 45 awards of Competitive Housing Tax Credits, totaling \$48,658,663 in annual tax credit allocation. A log of awarded applications is attached.

At the July 26, 2012 Board meeting, 45 transactions received Housing Tax Credit awards and the remaining active applications were placed on the Waiting List for the 2012 Housing Tax Credit Application Round. These awards were all conditioned upon completion of underwriting, completion of any other program reviews, and compliance with applicable laws and rules which more specifically include meeting the requirements of Commitment. To date, all but one of the awardees returned a commitment package in a timely fashion, and those commitments are currently being reviewed. One awardee, Monarch Meadows (#12125), was unable to meet the requirements of commitment. Staff, in accordance with the rules and with the board action, issued a Commitment Notice to the next application on the approved waiting list, Stonebridge at Kelsey Park (#12269). This award was technically made through the statewide collapse since the requested credits for Stonebridge at Kelsey Park exceeded the original award to Monarch Meadows, although the credits ultimately are being used in the same sub-region. It should be noted that Stonebridge at Kelsey Park was challenged. That challenge was reviewed and resulted in no action.

After the July meeting, staff estimated that the Department had \$498,512 in annual allocation that was not awarded. As a result of the action mentioned above as well as the completion of underwriting reports, the available allocation is now \$488,005. While staff expects that there may be some allocation available from the national pool, it is difficult to predict the amount or whether additional returns will occur prior to the end of the year. Staff expects to have additional information in November, at which time staff will work to utilize any remaining credit.

In addition, at the September 6, 2012 meeting, the Board directed staff to work with the owners of Sunrise Terrace (#12379). This applicant had requested a waiver of a HOME rule because their original financial structure proposed that the Department take a subordinate lien position that was inconsistent with the Department's general requirement not to subordinate to other lenders providing less funding. Department staff and the owners have come to a tentative solution that will preserve most of the affordability of the development while maintaining the financial feasibility without requiring a waiver of any Department rules. There is currently no change in the status of their housing tax credit award, and it has been factored into the figures in the above paragraph.



2012 STATE OF TEXAS, COMPETITIVE HOUSING TAX CREDIT CEILING ACCOUNTING SUMMARY

2012 COMPETITIVE (9%) HOUSING TAX CREDIT FUNDING ALLOCATION

APPLICATION LIMITS

AWARDS SUMMARY BY SUB-REGION

Region	Geography	RAF Percentage	RAF Amount	2012 Forwards made in 2011	RAF Amount after Forwards	Returned during 2012 Calendar Year	RAF Amount adjusted for Returns	Adjustment Needed to Meet Minimum \$500,000 Funding Amount	Funding Reduced so Other Regions Meet Minimum \$500,000 Funding Amount	Final Funding Amount	Allocation %
Rural	1 Lubbock	1.7%	\$ 832,589		\$ 832,589		\$ 832,589	\$ -	\$ 105,220	\$ 727,369	1.76%
	2 Abilene	0.7%	\$ 351,607		\$ 351,607	\$ 11,136	\$ 362,743	\$ 137,257	\$ -	\$ 500,000	1.21%
	3 Dallas/Fort Worth	1.9%	\$ 907,258		\$ 907,258		\$ 907,258	\$ -	\$ 114,656	\$ 792,601	1.92%
	4 Tyler	2.8%	\$ 1,346,352		\$ 1,346,352	\$ 328	\$ 1,346,680	\$ -	\$ 170,148	\$ 1,176,532	2.85%
	5 Beaumont	0.7%	\$ 315,416		\$ 315,416	\$ 8,824	\$ 324,240	\$ 175,760	\$ -	\$ 500,000	1.21%
	6 Houston	1.5%	\$ 738,695		\$ 738,695		\$ 738,695	\$ -	\$ 93,354	\$ 645,341	1.56%
	7 Austin/Round Rock	0.2%	\$ 78,478	\$ 1,254,275	\$ (1,175,797)	\$ 97,849	\$ (1,077,948)	\$ 1,577,948	\$ -	\$ 500,000	1.21%
	8 Waco	0.3%	\$ 153,980		\$ 153,980		\$ 153,980	\$ 346,020	\$ -	\$ 500,000	1.21%
	9 San Antonio	0.5%	\$ 226,503		\$ 226,503		\$ 226,503	\$ 273,497	\$ -	\$ 500,000	1.21%
	10 Corpus Christi	1.0%	\$ 490,181		\$ 490,181		\$ 490,181	\$ 9,819	\$ -	\$ 500,000	1.21%
	11 Brownsville/Harlingen	4.1%	\$ 1,960,395	\$ 1,034,797	\$ 925,598		\$ 925,598	\$ -	\$ 247,749	\$ 677,850	1.64%
	12 San Angelo	0.6%	\$ 271,057		\$ 271,057		\$ 271,057	\$ 228,943	\$ -	\$ 500,000	1.21%
	13 El Paso	0.4%	\$ 204,967		\$ 204,967		\$ 204,967	\$ 295,033	\$ -	\$ 500,000	1.21%

Max Funding Request/Award Limits (150%)
\$ 1,055,095
\$ 750,000
\$ 1,149,718
\$ 1,706,158
\$ 750,000
\$ 936,108
\$ 750,000
\$ 750,000
\$ 750,000
\$ 750,000
\$ 932,106
\$ 750,000
\$ 750,000

Initial Funding	(over)/under	Rural Collapse	(over)/under	SW Collapse	(over)/under	Notes (Related to sub-regions with no awards prior to the rural or statewide collapses)
\$ 591,366.00	18.70%	\$ -	18.70%	\$ -	18.70%	
\$ -	100.00%	\$ 602,610.00	-20.52%	\$ -	-20.52%	
\$ 697,774.00	11.96%	\$ -	11.96%	\$ -	11.96%	
\$ 804,552.00	31.62%	\$ -	31.62%	\$ -	31.62%	
\$ -	100.00%	\$ 665,000.00	-33.00%	\$ -	-33.00%	1 At-Risk Recommended
\$ -	100.00%	\$ 936,100.00	-45.06%	\$ -	-45.06%	1 At-Risk recommended
\$ -	100.00%	\$ -	100.00%	\$ -	100.00%	2 forward commitments / 2 At-Risk recommended
\$ -	100.00%	\$ -	100.00%	\$ 657,176.00	-31.44%	1 At Risk recommended
\$ -	100.00%	\$ 550,000.00	-10.00%	\$ -	-10.00%	
\$ -	100.00%	\$ 750,000.00	-50.00%	\$ -	-50.00%	1 At-Risk recommended
\$ 932,106.00	-37.51%	\$ -	-37.51%	\$ -	-37.51%	
\$ -	100.00%	\$ 620,000.00	-24.00%	\$ -	-24.00%	
\$ -	100.00%	\$ 748,142.00	-49.63%	\$ -	-49.63%	

Urban	1 Lubbock	2.5%	\$ 1,223,203		\$ 1,223,203		\$ 1,223,203	\$ -	\$ 154,585	\$ 1,068,618	2.59%
	2 Abilene	0.9%	\$ 436,513	\$ 698,351	\$ (261,838)		\$ (261,838)	\$ 761,838	\$ -	\$ 500,000	1.21%
	3 Dallas/Fort Worth	19.2%	\$ 9,224,863	\$ 191,228	\$ 9,033,635	\$ 144,386	\$ 9,178,021	\$ -	\$ 1,165,809	\$ 8,012,212	19.40%
	4 Tyler	1.6%	\$ 752,786		\$ 752,786		\$ 752,786	\$ -	\$ 95,135	\$ 657,652	1.59%
	5 Beaumont	0.4%	\$ 170,084		\$ 170,084		\$ 170,084	\$ 329,916	\$ -	\$ 500,000	1.21%
	6 Houston	25.9%	\$ 12,430,257	\$ 989,104	\$ 11,441,153	\$ 425,534	\$ 11,866,687	\$ -	\$ 1,570,897	\$ 10,295,790	24.93%
	7 Austin/Round Rock	7.6%	\$ 3,651,050		\$ 3,651,050		\$ 3,651,050	\$ -	\$ 461,408	\$ 3,189,642	7.72%
	8 Waco	5.6%	\$ 2,672,467		\$ 2,672,467		\$ 2,672,467	\$ -	\$ 337,738	\$ 2,334,729	5.65%
	9 San Antonio	3.6%	\$ 1,728,114	\$ 1,990,794	\$ (262,680)		\$ (262,680)	\$ 762,680	\$ -	\$ 500,000	1.21%
	10 Corpus Christi	3.1%	\$ 1,482,047		\$ 1,482,047		\$ 1,482,047	\$ -	\$ 187,296	\$ 1,294,750	3.14%
	11 Brownsville/Harlingen	9.3%	\$ 4,447,210	\$ 783,316	\$ 3,663,894		\$ 3,663,894	\$ -	\$ 562,024	\$ 3,101,869	7.51%
	12 San Angelo	0.9%	\$ 440,673	\$ 494,376	\$ (53,703)		\$ (53,703)	\$ 553,703	\$ -	\$ 500,000	1.21%
	13 El Paso	3.1%	\$ 1,474,907		\$ 1,474,907	\$ 29,899	\$ 1,504,806	\$ -	\$ 186,394	\$ 1,318,412	3.19%

\$ 1,550,098
\$ 750,000
\$ 2,000,000
\$ 953,965
\$ 750,000
\$ 2,000,000
\$ 2,000,000
\$ 2,000,000
\$ 750,000
\$ 1,878,117
\$ 2,000,000
\$ 750,000
\$ 1,869,069

\$ -	100.00%		100.00%	\$ 1,549,990.00	-45.05%	
\$ -	100.00%		100.00%	\$ 710,000.00	-42.00%	Received 1 forward commitment
\$ 7,832,473.00	2.24%		2.24%	\$ -	2.24%	
\$ -	100.00%		100.00%	\$ 857,000.00	-30.31%	
\$ -	100.00%		100.00%	\$ 748,902.00	-49.78%	
\$ 9,953,575.00	3.32%		3.32%	\$ -	3.32%	
\$ 3,100,000.00	2.81%		2.81%	\$ -	2.81%	
\$ 1,969,194.00	15.66%		15.66%	\$ -	15.66%	
\$ -	100.00%		100.00%	\$ -	100.00%	Received 1 forward commitment
\$ 1,408,944.00	-8.82%		-8.82%	\$ -	-8.82%	
\$ 2,462,888.00	20.60%		20.60%	\$ -	20.60%	
\$ -	100.00%		100.00%	\$ -	100.00%	Received 1 forward commitment
\$ 1,246,056.00	5.49%		5.49%	\$ -	5.49%	
\$ 30,998,928.00		\$ 4,871,852.00		\$ 4,523,068.00		

Rural Total	16%	\$ 7,877,480	\$ 2,289,072	\$ 5,588,408		\$ 3,044,276	\$ 731,127	\$ 8,019,694	19%
Urban Totals	84%	\$ 40,134,174	\$ 5,147,169	\$ 34,987,005		\$ 2,408,137	\$ 4,721,286	\$ 33,273,674	81%

Regional Total	\$ 48,011,653	7,436,241	\$ 40,575,412	\$ 717,956	\$ 41,293,368	\$ 5,452,413	\$ 5,452,413	\$ 41,293,368
At-Risk Total	\$ 8,472,645	940,394	\$ 7,532,251	\$ 321,049	\$ 7,853,300			\$ 7,853,300
USDA (comes from At-Risk)	\$ 2,824,215		\$ 321,049	\$ 3,145,264				\$ 3,145,264
Grand Total	\$ 56,484,298	\$ 8,376,635	\$ 48,107,663	\$ 1,039,005	\$ 49,146,668	\$ 5,452,413	\$ 5,452,413	\$ 49,146,668

Regional Awards	\$ 40,393,848.00	70.22%
USDA Awards	\$ 3,345,513.00	5.82%
At Risk (non-USDA) Awards	\$ 4,919,302.00	8.55%
Total New Awards	\$ 48,658,663.00	84.59%
Forward Commitments	\$ 8,376,635.00	14.56%
Total Awards	\$ 57,035,298.00	99.15%
Nonprofit total	\$ 6,437,242	11.19%
Remaining Funds	\$ 488,005.20	0.85%
Total Funds	\$ 57,523,303.20	100.00%

*One At-Risk forward plus USDA awards brings total At-Risk to 16%.

4b

BOARD REPORT ITEM
MULTIFAMILY FINANCE
OCTOBER 9, 2012

Presentation and Discussion regarding policy issues and receipt of public comment related to 2013 Qualified Allocation Plan. No action is contemplated or recommended at this time but it may be taken based on public comment and Board deliberations at the meeting.

REPORT ITEM

At the September 6, 2012 meeting, the Board approved, for publication in the *Texas Register*, the proposed 2013 Qualified Allocation Plan (QAP) (10 TAC Chapter 11) and the Uniform Multifamily Rules (10 TAC Chapter 10). The Board approved the proposed Uniform Multifamily Rules for publication as posted in the Board materials with the modification to a 10-year look back on any principals whose involvement in an affordable housing transaction was voluntarily or involuntarily terminated. The QAP, however, was approved for publication with modifications based on significant public comment. Currently, the QAP and other multifamily rules are out for official public comment which ends on October 22, 2012. This item is being brought to the Board so that if the Board determined, based on comment received to date or made at this meeting, any portion of the proposed QAP needs to be re-proposed in order to provide for the possibility of final adoption with any material changes from what is currently proposed, the necessary changes can be made at this time.

Following is a brief summary, in a list format and in the order presented in the QAP, of the public comment from the prior meeting specifically related to the QAP.

- Credit Amount (§11.4(a)):
 - Increase from 100% of the amount available in a sub-region to 150% of the amount available in a sub-region;
- Increase in Eligible Basis (30% Boost) (§11.4(c)):
 - Allow the boost for developments using CDBG-DR funds;
- Sponsor Characteristics (§11.9(b)(2)):
 - Remove the criterion allowing HUB ownership to qualify for points;
 - Reduce the overly prescriptive nature of the point requirement for HUB participation;
 - Remove the requirement that experience be in Texas;
 - Maintain the requirement that experience be in Texas;
 - Change the requirement for Texas experience from issuance of 8609's to Certificates of Occupancy;
 - Change the requirement or otherwise remove requirement for UPCS scores above 85;

- Opportunity Index (§11.9(c)(4)):
 - Limit the school requirement in Rural Areas to apply only to the elementary school;
 - Increase the poverty rate allowed for at least Region 11 (along Texas-Mexico border) from 25% to 35%;

- Underserved Area (§11.9(c)(6)):
 - Modify to allow sites within 2,500 feet of Colonias to get the same points;
 - Remove the point distinction between non-Elderly developments and Elderly developments entirely or at least for Rural Areas;

- Cost of Development Per Square Foot (§11.9(e)(2)):
 - Revert to the language from 2012 and remove the deviation from the mean concept;

- Leveraging of Private, State and Federal Resources (§11.9(e)(4)):
 - Modify to allow project-based vouchers and other PHA subsidy count as leveraging;
 - Modify to exclude HOME so that HOME can be used for more Tax-Exempt Bond developments;

- Development Size (§11.9(e)(6)):
 - Modify the 50-unit limitation such that it is only a 50-unit limit for tax credit units;

- Point Deductions (§11.9(f)):
 - Remove the point deductions for electing points but failing to qualify for the points;

The Draft QAP, as published in the *Texas Register* and currently out for public comment, would allow all of the above issues to be addressed, without necessitating a republication of the proposed QAP for an additional public comment period. The purpose of the discussion today is to determine if the Board has any specific direction to staff with regard to the public comment.

5a

BOARD ACTION REQUEST

HOUSING RESOURCE CENTER

OCTOBER 9, 2012

Presentation, Discussion, and Possible Action to approve *The Contract for Deed Prevalence Project: A final report to the Texas Department of Housing and Community Affairs*

RECOMMENDED ACTION

WHEREAS, the 2010 Sunset Advisory Commission “direct[ed] the Department to conduct a one-time study of the current prevalence of contracts for deed in Texas colonias and to report the results to the Legislature by December 1, 2012”; and

WHEREAS, in August 2011 the Department entered into an agreement with The University of Texas at Austin to perform research and provide a report regarding the prevalence of recorded and unrecorded contracts for deed in Texas colonias; and

WHEREAS, the University of Texas at Austin has completed its study and report;

NOW, therefore it is hereby

RESOLVED, that the Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to accept the submission of *The Contract for Deed Prevalence Project: A final report to the Texas Department of Housing and Community Affairs*, and ensure that it is submitted to the Legislature before December 1, 2012.

The 2010 Sunset Advisory Commission “direct[ed] the Department to conduct a one-time study of the current prevalence of contracts for deed in Texas colonias and to report the results to the Legislature by December 1, 2012.” Because of the expertise needed for such a study, TDHCA entered into an agreement in August 2011 with The University of Texas at Austin (UT) to provide research and a report regarding the prevalence of recorded and unrecorded contracts for deed in Texas colonias. The research team consisted of faculty and students from the LBJ School of Public Affairs and the UT School of Law. The final draft of the report on the Contract for Deed Prevalence Project was submitted to the Department in September 2012. The final draft is divided into the following chapters:

Chapter 1: Introduction and overview of the project, including goals, definitions, descriptions and photographs of informal settlements and outline of research strategy.

Chapter 2: Brief history of and background information on land titling in Texas, including (1) deed with lender financing via a deed of trust; (2) deed with seller financing via a deed of trust; (3) contract for deed. Research strategy and methodology are given in more detail.

Chapter 3: Description of Phase 1 of the Project, which generated estimates of the number of recorded contracts for deed in the counties selected for the study from 1989 through 2010. The methodology used in this phase included sending a written request to the offices of the county clerk and central appraisal district within each county for records of contracts for deed and then verifying the data with visual checks of the records.

Chapter 4: Description of Phase 2 of the Project, which generated estimates of the unrecorded contracts for deed by selected counties. Utilizing information from surveys of 1,287 residents, the methodology used in this phase involved the juxtaposition of the names of the purported owners surveyed with information in the county deed records and central appraisal district records. A number of assumptions were made to mitigate the effects of data ambiguities stemming from a variety of factors, resulting in the team creating ranges of estimates of unrecorded contracts for deed for the Department's review. After setting out a series of these "conservative" and "liberal" estimates, the research team arrived at what it deemed to be the most reliable "moderate" estimates of unrecorded contracts for deed by county.

Chapter 5: Other issues and titling practices that were captured in the field survey results, including new developer practices and rapid "flipping" of lots; the use of contract for deed in consumer-to-consumer transactions; the lack of wills and "clouded" title issues arising out of inheritance; informality and renting in colonias; and vacant lots and home abandonment.

Chapter 6: Conclusions and policy recommendations, including overarching trends, additional key findings, public policy responses to informality, and priorities for further research.

References are also provided with the report. UT is preparing to make available online a full copy of the report, appendices, and statistical databases (with sensitive information redacted).

Upon approval by the Board, the report will be submitted to the Legislature before December 1, 2012.

Exhibit A: Abstract of *The Contract for Deed Prevalence Project: A Final Report to the Texas Department of Housing and Community Affairs*

Project Abstract

The Contract for Deed Prevalence Research Project was commissioned by the Texas Department of Housing and Community Affairs in response to a 2010 recommendation from the Texas Sunset Advisory Commission. The Project was designed in three stages. In Phase One we conducted a hard count of the **recorded CFDs** (RCFDs) from 1989 through 2010 in targeted counties along the border and in several interior counties, also assessing their relative and current importance against the backdrop of all recorded land sales transactions in each county. In Phase Two we arrived at numbers of **unrecorded CFDs** (UCFDs) by conducting nearly 1,300 household surveys and title histories of the lots sampled. In Phase Three, which involved both the collection of some new data and follow-up phone interviews of households purposively selected from Phase Two, we sought to further research major trends and issues arising from current land acquisition processes in the communities studied.

The Residents: Demographics in Brief

- ❖ *Low-Income Hispanic Owners.* Of the heads of household surveyed in our study, 96% are Hispanic. Seventy-six percent are owners. A majority live in deep poverty: 57% of the owners and 63% of the renters we surveyed make less than \$1,600 a month.
- ❖ *Stable, Larger Families of Long-term Residents.* Seventy-five percent of the heads of household we surveyed are formally married or in a common law union; only 7% have been divorced, and only 6% are single. The average household size of our survey respondents—4.16—is higher than the U.S. and Texas averages of 2.59 and 2.78 respectively. Three-fourths of residents who purchased their lots reported having lived on their lots for at least 10 years.

The Prevalence of Contracts for Deed: Key Findings

- ❖ **RCFDs continue to be in use at significant rates in the border region and also in interior counties far from the border.** Generally speaking, usage peaked in 2000-2001, around the time that state legislative reforms were being implemented, and has since leveled out at around 450 contracts recorded per year in all 10 counties combined.
- ❖ **We estimate that 16,261 total CFDs were recorded between 1989 and 2010 in the 10 counties, and that 5,451 of these CFDs are still active.** Most of the active RCFDs are in five counties: Bastrop, Travis, Webb, Maverick, and El Paso counties. The fewest outstanding contracts are in Starr, Guadalupe, and Val Verde counties.
- ❖ **Buyers of RCFDs appear to have a low success rate in eventually obtaining a deed.** Fewer than 20% of Maverick County buyers of RCFDs made the transition to a deed, and 37% still hold an active RCFD. For those buyers we surveyed with RCFDs who were successful in obtaining a deed, the conversion time was a relatively short 8 to 10.
- ❖ **UCFDs are still in active use in Texas in colonias and informal homestead subdivisions.** Of the owners surveyed (in all eight counties) who had recently purchased their homesteads, approximately one of out of five had purchased with a UCFD. An estimated 6,597 homestead owners—13.8% of homestead owners—in colonias of six Texas border counties had a UCFD as of 2012. UCFDs were found in the interior counties in roughly 8% to 11% of the households in which we interviewed owners.

Land Acquisition in Informal Settlements: Key Trends

New Communities in Which Developers Sell to Poorest Buyers Tend to Show High Turnover

- ❖ **As in past, the poorest buyers today are more likely to buy from developers than from other consumers.** Properties purchased from consumers have higher combined land and house prices, down payments, and initial monthly payments than properties purchased from developers. All depend upon seller financing.
- ❖ **Today, developers are much more active in land sales in newer subdivisions developed legally with infrastructure under the state's model subdivision rules than they are in older colonias and informal homestead subdivisions.** Fewer than 50% of homestead purchases in the older settlements we surveyed are by developers, in contrast to 89% of purchases in post-1996 settlements.
- ❖ **Developers selling land prior to 1995 in colonias relied largely on UCFDs as the primary means for financing land sales. Since then, they have turned to deeds and deeds of trust as the primary method of titling and financing land sales, although some still use contracts for deed, which are by and large recorded. However, we found that residents obtaining developer-financing today continue to face a number of exploitative practices through their participation in a market that still lacks regulatory oversight and contains limited consumer protections.** Since the implementation of the state's model subdivision regulations in the 1990s, some developers are promoting subdivisions with full services, but at greater cost and with aggressive practices that are facilitating **rapid repossession**. Paradoxically, even though the lots in these newer subdivisions come with infrastructure and may often be bought via deed and deed of trust, they contain some of the poorest housing conditions in the state.

On the Rise: UCFDs, Clouded Titles, Renting and Vacancy

- ❖ **Homebuyers in colonias and informal homestead subdivisions confront a number of different title issues,** including conflicting names in titling documents, and failure to obtain formal divorce decrees reallocating title to the property. In some cases, even simple legal descriptions cannot be located.
- ❖ **As consumer-to-consumer sales have grown in older colonias and informal homestead subdivisions, use of UCFDs in these communities is on the rise. Consumers on both sides of these transactions lack access to basic information about the buying process,** how to comply with the law, and how to protect their interests. These transactions also typically do not involve title insurance or homeowners insurance, placing buyers in an especially vulnerable position.
- ❖ **In addition, many more property transfers will occur via intestacy law in the coming two decades, most likely leading to a dramatic increase in "clouded" property titles.** Only 10% of the owners we surveyed have a will. Meanwhile, 68% of the owners we surveyed in colonias and IFHs developed before 1989 are aged 61 and over. If left unresolved, these trends will produce serious problems with delivery of disaster recovery and other government rebuilding assistance, bar families from reselling their properties, and cause market under-performance and under-valuation, among other problems.
- ❖ **Renting is on the rise in colonias.** One-fifth of lots we surveyed in all eight counties are being rented or loaned to kin or friends, frequently on an informal basis—70% of renters we surveyed do not have a rental contract. **Vacant lots, non-occupancy, and lot/home abandonment are commonplace (up to 20% total) as well.** We suspect that title impediments and the lack of formal financing contribute to these trends.

5b

BOARD ACTION REQUEST

HOUSING RESOURCE CENTER

OCTOBER 9, 2012

Presentation, Discussion, and Possible Action to approve and publish the proposed 2013 Regional Allocation Formula Methodology for Public Comment

RECOMMENDED ACTION

WHEREAS, §§2306.1115 and 2306.111(d) of the Texas Government Code require that the Department use a Regional Allocation Formula to allocate its HOME, Housing Tax Credit, and Housing Trust Fund funding; and,

WHEREAS, this Regional Allocation Formula utilizes appropriate statistical data to measure affordable housing needs and available resources in 13 State Service Regions used for planning purposes;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees are authorized and empowered to publish the Draft 2013 Regional Allocation Formula Methodology for the HOME, Housing Tax Credit (HTC), and Housing Trust Fund (HTF) programs in the *Texas Register* for public comment and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The Regional Allocation Formula (RAF) utilizes appropriate statistical data to measure 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. The Department has flexibility in determining variables to be used in the RAF, per §2306.1115(a)(3) “the department shall develop a formula that...includes other factors determined by the department to be relevant to the equitable distribution of housing funds.” The RAF is revised annually to reflect current data, respond to public comment, and better assess regional housing needs and available resources.

In response to public comments for the 2012 draft RAF, the RAF has undergone substantial changes from 2012 RAF to the 2013 draft RAF. New information has become available since the RAF began in 2000, and, after careful and thorough analysis, staff recommends a series of substantial changes to increase accuracy and transparency. Below is a summary of the changes measuring Housing Need and Availability:

2012 RAF	2013 Draft RAF	Rationale for Change
Need: Cost Burden	Need: Cost Burden	No change. This is a direct measurement of need for housing assistance.
Need: Overcrowded Units	Need: Overcrowded units	No change. This is a direct measurement of need for housing assistance.

2012 RAF	2013 Draft RAF	Rationale for Change
Need: Units with Incomplete Kitchen and Plumbing	Need: Units with Incomplete Kitchen and Plumbing Not Used	Upon closer inspection of the data that measures this need, the accuracy required to justify using this variable is not available by region.
Need: Poverty	Need: 200% of Poverty	There is a strong link between persons at 200% of poverty (38% of Texans) and households who earn up to 80% area median family income (42% of households). HOME and HTF programs serve persons making up to 80% AMFI. HTC programs serve persons making up to 60% AMFI. The 200% poverty data is available yearly, while the data showing how many households are in each AMFI category is available every other year.
Availability: Federal and State Housing Program Awards	Availability: Vacancies	Building affordable housing may take years to complete and, due to market fluctuations, awarded units may never be built at all. Awards also do not account for market-rate unit availability. Using awards as a measurement creates huge swings in funding per region depending on awards the year before. Vacancies in each region indicate a direct need or lack of need for housing.

The proposed data to be used for the 2013 RAF is released yearly, as opposed every 10 years as was previously the case with the RAFs from 2000 to 2012. If the measurements above are used, the RAF will become an active measure of need and availability without the need for data projections.

The proposed changes to the RAF were outlined in a Position Paper and discussed via an online forum from August 10, 2012, to September 10, 2012. As a result of the online forum, additional models of the RAF were developed and presented to the public at a Roundtable for the Housing Tax Credit (HTC) RAF on September 26, 2012. As a result of the Roundtable, an addendum to the Position Paper was created on September 28, 2012.

Attachment A consists of the RAF methodology with the proposed changes. Attachment B consists of the General Overview, including original Executive Summary and Position Paper posted for the online forum and First Addendum developed after the Roundtable. Attachment C consists of the Exhibits of the Position Paper and First Addendum. Attachment D consists of the 2013 HTC RAF Models and analysis of the models provided for the Roundtable. Attachment E consists of estimated allocations for the HTC, HOME and HTF programs when using the draft methodology.

The HOME, HTC and HTF RAFs use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. Section 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 2013 RAF methodology will be made available for official public comment from October 15, 2012 through October 29, 2012. A public hearing will be held on Wednesday, October 24, 2012 at 1:00 p.m. in the Stephen F. Austin Building, Room 172, 1700 North Congress Avenue, Austin, TX

78701. Once approved, the final methodology will be published on the Department website. It should be noted with this action that the Board is approving the draft formula methodology, not specific allocation amounts.

Attachment A: 2013 Regional Allocation Formula Proposed Methodology for Public Comment

2013 REGIONAL ALLOCATION FORMULA PROPOSED METHODOLOGY

Legislative Requirement

Sections 2306.111 and 2306.1115 of the Texas Government Code require that TDHCA use a Regional Allocation Formula (RAF) for the HOME Investment Partnership Program (HOME), Housing Trust Fund (HTF) Program and Housing Tax Credit (HTC) Program funding. The RAF presented below analyzes of housing need and availability in the State's urban and rural areas and distributes funding accordingly.

TDHCA's governing statute §2306.1115 states:

(a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

The methodology below outlines the need for housing assistance and the availability of housing assistance in urban and rural areas, in keeping with the statute's requirements.

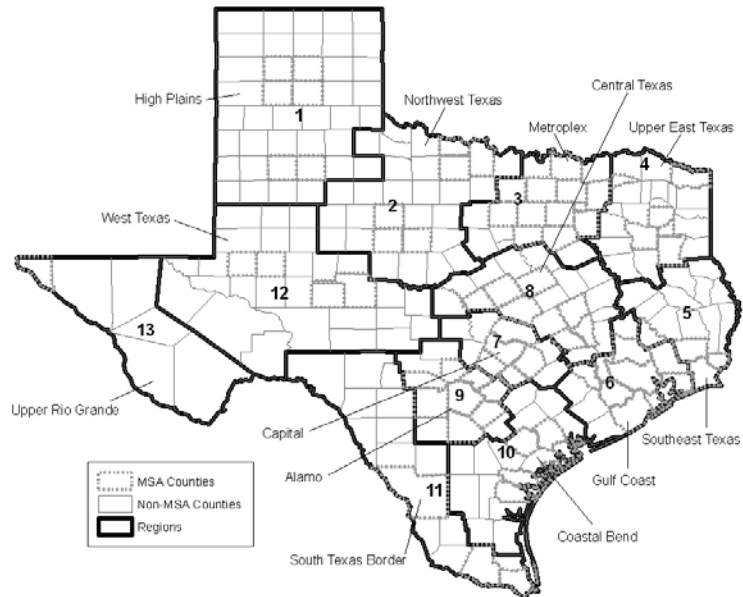
Methodology

Affordable Housing Need

Affordable housing need will be measured by variables that relate to the types of assistance available through TDHCA programs.

September 28, 2012

Figure 1: TDHCA Regions



HTC and HOME both offer reduced-rent apartments. HOME offers Tenant-Based Rental Assistance. Therefore people in need of rental assistance should be included. The renters with cost burden measures the number of people in Texas that pay over 30% of their income on rent. Renters experiencing overcrowding measures the number of units with more than one person per room, including the kitchen and bathroom. Both rent burden and overcrowding will be used as a variable in the RAF.

HOME also offers homebuyer assistance and single-family development. For single-family development, typically the homes are built by nonprofits or units of local government and the homes are often purchased by low-income homeowners. HTF offers the Bootstrap Loan Program for potential homeowners who use sweat equity along with low-interest loans to build their homes. Households who are ready to own and qualify for home buying are efficiently measured by an income measurement. In addition, areas with high numbers of homeowners experiencing cost burden or overcrowding may signify a need for homebuyer assistance to reduce the number of future homeowners with cost burden or overcrowding. Therefore, an income measurement, homeowner cost burden and homeowner overcrowded units will be included in the RAF.

HOME offers homeowner rehabilitation assistance. However, there is a lack of available data to measure the need for homeowner rehabilitation at the regional level. Units lacking kitchen and plumbing did not have sufficient accuracy; the margins of error were larger than the estimates in some regions. Age of housing stock was considered, but there is no data to substantiate the correlation between a specific household age and need for rehabilitation. Therefore, numbers of units with substandard conditions and numbers of units over 30 or 50 years of age could not be included in the RAF.

Income is the primary measurement of eligibility for housing assistance through TDHCA. HTC serves households who earn 0-60% Area Median Family Income (AMFI). HOME and HTF serve households who earn 0-80% AMFI. Therefore, as already determined to measure the need for homebuyer assistance, an income measurement will be used in the RAF. While eligibility for housing assistance is measured by AMFI, the AMFI datasets showing how many households are in each AMFI category are available only every other year, while the measurement of people in poverty is measured yearly. In order to use the most up-to-date data, poverty measurements will be used. The percentage of people at 200% poverty is strongly linked with the percentage of people earning 0-80% AMFI. People at or below 200% of the poverty level will qualify for a majority of housing assistance offered through TDHCA's HOME, HTC and HTF programs.

Need for affordable housing will be determined by three variables:

1. Cost burden (renters for HTC and HOME; owners for HOME and HTF)
2. Overcrowding (renters for HTC and HOME; owners for HOME and HTF); and
3. People at or below 200% of the poverty rate.

Housing Availability

Affordable housing availability will be measured by variables that relate directly to housing resources. In order to take into account both market-rate and subsidized units, rental vacancies will be used. High numbers of vacancies indicate the market has a supply of housing. Vacancies show a direct measure of housing availability.

Need for affordable housing is determined by:

1. Vacant units (rental units for HOME and HTC; homes for sale for HOME and HTF)

Urban and Rural Areas

In TDHCA's governing statute, §2306.004 states:

28-a) "Rural area" means 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 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.

County-level data is easily obtained and allocating to urban and rural areas is derived from the designations of primary metropolitan statistical areas (MSA) and metropolitan statistical areas as discussed in the 2306.004 (28-a) definition of "rural area." County-level data is a more complete and informative dataset than place-level data because the place-level count excludes people and units not located in any census-designated place. Limiting the data to only places in each region substantially hinders the decision-making capabilities of the RAF as an allocation tool. Using the county-based data in MSA vs Non-MSA to allocate for urban and rural areas allows for a more complete picture of the state's demographic data.

According to 2306.1115(b), TDHCA must use appropriate data to develop the formula, and county-level data is most appropriate data. However, the RAF is not stating that MSA vs Non-MSA analysis will always coincide with urban and rural designations for specific sites. The rural and urban designation for site-specific applications applying for funding will be at the place-level.

Weights

To allocate funds, the RAF will use each sub-region's ratios of the State's total. In order to account for the amount of population that the variables affect, all the need variables will be added together¹ (i.e. compounded) before taking the percentage of each sub-region's need over the amount of the total need in the State.

A successful allocation formula will provide more funding for high housing need and remove funding for an abundance of housing resources. In order to get the right relationship between housing and need, the housing availability variable will have negative weight. If the weights were equal, each variable would receive 50% of the weight. Because the availability variable should be negative, the need variables are weighted at 50% each and the availability variable is weighted at -50%, giving the appropriate relationship between funding and current availability of resources. The compounded need variable will receive 150% weight (50% per variable).

Exceptions to the RAF

According to §2306.111(d), there are certain instances when the RAF would not apply to HOME, HTC, and HTF funds. For instance, specific set aides will not be run through the RAF. This includes set asides for contract-for-deed conversions and set asides mandated by state or federal law, if these set asides are less than 10 percent of the total allocation of funds or credits. Set asides for funds allocated to serve persons with disabilities will not run through the RAF. The total amount available through the RAF will not include funds for at-risk development, with stipulations mentioned in this paragraph.

Also in 2306.111(d), specifically for HTC, 5% of HTC funds must be allocated to developments that receive federal assistance through USDA. Any developments that receive federal assistance through USDA and HTC for rehabilitation compete for funding separately under the "USDA Set-Aside." This funding is taken from the total tax credit ceiling prior to applying the RAF to allocate funds between each sub-region.

Finally, pursuant to §2306.111(d) specifically for HTF, funds that do not exceed \$3 million for each programmed activity will not run through the RAF.

HOME, HTC and HTF Data Differences

Even though the RAF applies to HOME, HTC and HTF, there are some differences between the programs that need to be addressed within the formulas. For example, HOME and HTF can serve homeowners and

¹ Note that in order for people in poverty to be combined with households with cost burden and households with overcrowding, the number of people in poverty is divided by the average size of a household in Texas: 2.78.

those wanting to buy or build a home, while HOME and HTC serves renters. Therefore, renters' needs would be counted for HOME and HTC; homebuyer needs would be counted for HOME and HTF.

Because HOME and HTC fund rehabilitation, substandard housing units would ideally be included in the RAF. However, at the time of this writing, staff has not identified a data source that would provide an estimate of these units that is accurate at the regional level.

In addition, according to §2306.111(c)(1), 95 percent of the funds for HOME must be spent outside Participating Jurisdictions (PJs). PJs are areas that receive funding directly from HUD. The other 5 percent of State HOME funds must be spent on activities that help people with disabilities in any area of the State; this portion of HOME is not subject to the RAF because it is set aside for persons with disabilities (see *Exceptions to the RAF* above). Because 95 percent of funds cannot be spent within a PJ, the housing need and availability in those jurisdictions should not be counted in HOME's RAF.

The PJ designations are subject to change yearly depending on HUD's funding. As of this writing, thirty-three of the PJs are cities. The other PJs are grouped by county. Though the cities in the counties do not encompass the entire county, the cities encompass such a large area of the counties that, with the data available and the current margins of error, the entire county will be counted as the PJ. These PJs will be subtracted from the HOME version of the RAF.

HTC \$500,000 Adjustment

§2306.111(d-3) is a special stipulation on funding and the RAF that applies only to HTC. This statute requires that TDHCA allocate at least 20 percent of credits to rural areas and that \$500,000 be available for each urban and rural sub-region, which number 26 in total. The overall state rural percentage of the total tax credit ceiling amount will be adjusted to a minimum of 20 percent only at the time of actual award, if needed. Usually, the 20 percent allocation to rural areas occurs naturally, but, if not, one more deal for rural areas will be awarded from the statewide collapse of the RAF to ensure the requirement is met.

For the HTC RAF, the regional amount of rural and urban funding is adjusted to a minimum \$500,000, if needed. This is done as a final adjustment to the sub-regional allocation amounts available for award. The process proportionately takes funds from sub-regions with initial funding amounts in excess of \$500,000 and reallocates those funds to those sub-regions with initial funding amounts that are less than \$500,000. The process is complete when each sub-region has at least \$500,000.

Attachment B: General Overview of the 2013 Regional Allocation Formula Recalibration

Executive Summary of the Regional Allocation Formula Position Paper

Since it was created in 2000, the Regional Allocation Formula (RAF) has divided funds among 26 sub-regions for the HOME Investment Partnership, Housing Trust Fund and Housing Tax Credit programs. The RAF has had small changes yearly to increase accuracy and transparency. New information has become available since the RAF began and, after careful and thorough analysis, staff recommends a series of substantial changes to increase accuracy and transparency. The benefits for the proposed changes include:

- Increased ability for developers and community members to predict funding availability;
- Elimination of large swings in funding from one region to another each year; and
- A simplified process that will be easier to explain to the Legislature, the Board and the public.

Below is a summary of the changes measuring Housing Need and Availability:

2012 RAF	2013 Proposed RAF	Rationale for Change
Need: Cost Burden	Need: Cost Burden	No change. This is a direct measurement of need for housing assistance.
Need: Overcrowded Units	Need: Overcrowded units	No change. This is a direct measurement of need for housing assistance.
Need: Units with Incomplete Kitchen and Plumbing	Need: Units with Incomplete Kitchen and Plumbing not used	Upon closer inspection of the data that measures this need, the accuracy required to justify using this variable is not available by region.
Need: Poverty	Need: 200% of Poverty	There is a strong link between persons at 200% of poverty (38% of Texans) and households who earn up to 80% area median family income (42% of households). The 200% poverty data is available yearly, while the data for area median family income is available every other year.
Availability: Federal and State Housing Program Awards	Availability: Vacancies	Building affordable housing may take years to complete and, due to market fluctuations, awarded units may never be built at all. Awards also do not account for market-rate unit availability. Using awards as a measurement creates huge swings in funding per region depending on awards the year before. Vacancies in each region indicate a direct need or lack of need for housing.

The proposed data is released yearly, as opposed every 10 years as was previously the case with the census. If the measurements above are used, the RAF will become an active measure of need and availability without the need for data projections.

Other Proposed Changes:

For the 2013 RAF, TDHCA will use data measured by county instead of by place for the process of distributing funds to urban and rural areas. County-level data is more complete than the place-level data that was used in the 2012 RAF.

For the 2013 RAF, the percentages of housing need and housing availability will be weighted equally when distributing funds. The 2012 RAF weighted based on the percentage of population with each need. Weighting equally minimizes population as a variable.

The 2013 RAF will provide more funding for high housing need and funding will be removed for an abundance of housing availability. In order to get the correct relationship between housing and need, the housing availability variable will have negative weight. The 2012 RAF compared each region’s need percentage and its resource percentage before distributing the funding. The 2013 RAF better accounts for variations in the need variables by not trying to relate the percentages of need and availability.

REGIONAL ALLOCATION FORMULA POSITION PAPER

In the fall of 2011, due to extensive public comment, the Texas Department of Housing and Community Affairs (TDHCA, Department) came to realize that its Regional Allocation Formula (RAF), the formula that governs the amount available in each region for Housing Tax Credits, HOME Investment Partnership Program (HOME) and Housing Trust Fund (HTF) programs, needed to be updated. Each fall, the Department takes the RAF methodology out for public comment. Staff received comments and questions on the way the RAF calculates funds available from sources other than TDHCA, the urban and rural definitions, a cap for resource adjustments, and minimum amounts required per region. As a result of the public comment, the Department underwent an internal review process in the spring of 2012 to determine how to make the RAF easier to explain and how to better allow developers and the community to estimate the amounts of funding in each region from year to year.

This paper outlines the internal process undertaken by staff and will be an instrument to allow further discussion with developers and stakeholders. The points discussed internally will be presented below and the paper will be posted in an online forum from August 10, 2012 to September 10, 2012, allowing for further discussion by developers and stakeholders.

Brief History of the RAF

In 1999, the 76th Legislature enacted Senate Bill 1112 (§2306.111 Government Code), requiring the Department to use a formula to regionally allocate its HOME, Housing Tax Credit, and Housing Trust Fund (HTF) programs:

(a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

The RAF was created in 2000. At the direction of the Legislature, population was not the only consideration for the formula. The original formula included the following housing need factors:

1. Poverty (50% weight): Percent of the State's population in poverty

2. Severe Housing Cost Burden (25% weight): Unassisted renters with incomes below 50% of the median income, who pay more than half of their income for housing costs.
3. Substandard Housing (25% weight): Households (renter and owner) with incomes below 50 percent of the area median income that live in severely substandard housing.

Since 2000 there have been multiple changes to the RAF. A summary of the major changes are below:

- 2002 inclusion of availability of subsidized housing factors, such as Section 8 Housing Choice Vouchers and US Department of Agriculture (USDA) Tenant-Based Rental Assistance (TBRA);
- 2002 added overcrowded households as a need factor;
- 2003 clarified the use of only renter data for rental housing programs (e.g. HTC) and the inclusion of owner data for programs that include homeownership options (e.g. HOME and HTF);
- 2004 included rural and urban/exurban definitions;
- 2005 added a resource funding adjustment limit to reduce large swings in funding as a result of availability of housing resources (e.g. funding) awarded the previous year;
- 2006 included the option for a development to petition to be designated as rural or urban designation and added additional factors to qualify for a rural designation;
- 2007 use of Census Designated Place boundaries was clarified;
- 2009 established November as the last date to update funds awarded;
- 2012 removed the resource funding adjustment limit.

Throughout the life the RAF, there were different versions of the formula to address the specifics of different programs. For example, the HOME RAF included only data for non-Participating Jurisdictions, since non-Participating Jurisdictions are the areas in which 95% of the HOME funds can be spent.

The most current version of the RAF from 2012 has the following need factors:

1. Poverty (50% weight): Number of persons in the region who live in poverty
2. Cost burden (36% weight): Number of households with a monthly gross rent or mortgage payment to monthly household income ration that equals 30 percent.
3. Overcrowded Units (12% weight): Number of occupied units with more than one person per room.

4. Units with incomplete kitchen or plumbing (2% weight): number of occupied units that do not have a sink with piped in water, range or cook top and oven, refrigerator, hot and cold piped water, flush toilet, and bathtub or shower.

The housing availability measurements included:

- Housing Tax Credits (4% and 9%)
- Housing Trust Fund Rental Development Funding
- HUD HOME Funds (TDHCA and Participating Jurisdictions)
- HUD Housing for Persons with AIDS Funding
- HUD Public Housing Authority (PHA) Capital Funding
- Multifamily Texas Housing Trust Fund
- Multifamily Tax-Exempt Bond Financing
- USDA Multifamily Development Funding
- USDA Rental Assistance
- USDA 502 and 504 Loans and Grants
- Single Family Bond Financing (TDHCA and Housing Finance Corporation)

The 2012 RAF methodology and spreadsheets are included with this Position Paper as Exhibit A and Exhibit B.

It should be noted that §2306.1115 includes references to “urban and rural areas”. Rural areas are defined by §2306.004. A discussion of urban and rural allocation designations is included on page 10.

Changes in Data Availability

Besides the public comment received and the need for greater transparency in the RAF process, another reason the RAF needs to be updated is due to the changes in the availability of data. The 2012 RAF used several different sources of demographic data, including the decennial census, the American Community Survey (ACS) estimates, comprehensive housing affordability strategy (CHAS), and third-party projections via Ribbon Demographics.

Any discussion of data for housing purposes has to acknowledge some inherent limitations. For example, the demographic data will be outdated from the time of award to the time of construction. This is unavoidable because of the nature of housing delivery: several months to several years may pass in order to secure funding for a development that will take several months to over one year to

construct. Given the inherent limitations on the availability of the data, the Department makes every effort to make its decisions on the most up-to-date information when allocating funds.

The original RAF used to use only decennial census data from 1990, since that was the only nationally-recognized demographic data that was available when the RAF was created. Starting in 2009, the ACS provided updated data for all places and counties yearly. While the decennial census provides an actual population count, the ACS provides an estimate of the population using statically-sound sampling methods. The 2012 RAF used both decennial census and ACS data. More information on the decennial census and ACS can be found on the U.S. Census Bureau's website at <http://www.census.gov>.

When the RAF was originally formulated, the CHAS data was updated every ten years using special tables from the decennial census. With the advent of the ACS estimates, the CHAS data will be released every two years, starting in 2011, and will use data from the ACS and not the decennial census. The new frequency with which the data will be released increases data accuracy.

Because of the advent of new datasets and the release of updated datasets on a regular basis, there will be no need to buy or apply projections from third-party providers.

Legislative Requirements

The legislation requires three main factors to be included in the RAF:

1. The need for housing assistance;
2. The availability of housing assistance;
3. Division of need and assistance by urban and rural areas.

Each of these factors will be addressed below.

Need for Housing Assistance Discussion

The need for housing assistance could be measured by a number of variables. The 2012 RAF used cost burden, overcrowded units, units with incomplete kitchen and plumbing, and poverty as variables of need for assistance. When considering variables for the 2013 RAF, staff made an effort to measure affordable housing need in a way that related to the types of assistance available through TDHCA HOME, HTC and HTF programs. Activities available to consumers from these programs include reduced-rent apartment units, Tenant-Based Rental Assistance (TBRA), homebuyer assistance (including contract-for-deed conversions), owner-builder assistance, single-family development, housing rehabilitation assistance, and accessibility modifications for persons with disabilities. However, as listed on page 14 in *Exceptions to the RAF*, funds relating to contract-for-deed conversions, certain set asides and persons with disabilities are not subject to the RAF. Staff considered the measurements below for assistance. Staff's recommendations of which measurements to use are on page 12 under *Staff Proposal*.

1. *Area Median Family Income (AMFI)*

AMFI is the primary measure used to qualify for housing assistance. For HTC, households can only be served if their incomes are at or below 60% AMFI. For HOME and HTF, households can be served up to 80% AMFI. While the Department recognizes that low income does not automatically correspond into a need for housing assistance, low-income households have higher rates of cost burden, which does indicate a need for housing assistance. In addition, income is one measurement to help determine if households are ready for homeownership, and is a qualifying factor for homebuyer assistance, owner-builder assistance or to purchase a home through an organization that has participated in the single-family development program. It should be noted that AMFIs differ dramatically from county to county because the ranges of income is so wide. Staff recognizes this variable as appropriate for the RAF.

Data: AMFI data comes from the CHAS dataset, which is released every two years. CHAS includes the 0-30% AMFI, >30-50% AMFI, >50-80% AMFI, and >80-100% AMFI categories. CHAS also correlates AMFI to certain housing needs, such as cost burden, overcrowding, and lack of kitchen or plumbing.

2. *Cost Burden*

Cost burden is defined as households paying more than 30% of their income on rent or mortgages. The RAF will focus on renters with cost burden for HTC and HOME, since these persons can be helped with lower rents which can be provided by reduced-rent units or TBRA. For HOME and HTF, need for homebuyer assistance and owner-builder programs may be measured by the number of homeowners with cost burden. A high number of homeowners with cost burden could be reduced by providing TDHCA programs and lowering future homeowners' costs. This is a direct measurement of need for assistance that the Department can provide. See Exhibit C for a map of renters with cost burden. Staff recognizes this variable as appropriate for the RAF.

Data source: CHAS and ACS both release cost burden data. CHAS data offers a correlation between cost burden and income level by showing how many households are in each AMFI category and are cost burdened. The ACS does not correlate cost burden to AMFI. However, CHAS is only released every other year. The CHAS data will be outdated every other year, compared to ACS data, which is released yearly.

3. *Overcrowded Units*

Overcrowded units are defined as more than one person per room, including kitchen and bathroom. Households that own their homes may experience overcrowding, signifying a need for HOME's and HTF's homebuyer assistance programs to help reduce the number of future homeowners with overcrowding. Homebuyer assistance may help future homeowners buy larger homes to accommodate the household size that is going to be living at the property. Building reduced-rent units may alleviate overcrowding if people in overcrowded conditions

move into the new units. A map of the renters with overcrowding can be seen in Exhibit D. Staff recognizes this variable as appropriate for the RAF.

Data source: CHAS and ACS. These data sources have the same limitations as listed under the variable “Cost Burden” above.

4. *Population Growth*

Housing is often needed as the population grows. To determine need for housing, historical population growth would not be as useful as projected population growth. The housing assistance that TDHCA awards to provide new housing stock, such as developments with reduced-rent units and single-family development, would be available approximately three years after the award date, due to construction time. Therefore, population projections for approximately three years from the date of the each RAF would be appropriate. For example, if projections were used for the 2013 RAF, the 2016 population projection would be used. Staff recognizes this variable as appropriate for the RAF.

Data source: Texas State Demographers Office projections based on census data. This data is only available at the county level.

5. *Poverty*

The 2000 decennial census showed only the number of persons at the poverty level. In the ACS data, new measurements are available, such as the number of persons at 200% of poverty. The 200% poverty level equals approximately \$44,380 for a family of four, according to the 2010 Poverty threshold from U.S. Census Bureau. The Department’s housing programs use AMFI as their measurement for income. The highest AMFI that HTC can serve is 60% AMFI and the highest AMFI that HOME and HTF can serve is 80% AMFI. There is a strong overlap between persons at 200% of poverty and households between 50-80% AMFI¹: approximately 38% of Texans are at 200% of poverty (2006-2010 ACS) and approximately 24% of households earn 50% AMFI and 42% of households earn up to 80% AMFI (2005-2009 CHAS, Table 5). Poverty data can be used as an income measurement in lieu of CHAS data, if needed. A map of this variable can be seen in Exhibit E. Staff recognizes this variable as appropriate for the RAF.

Data: Poverty data is released yearly with the ACS and is shows the number of people at 50%, 100%, 125%, 150%, 185% and 200% of the poverty level.

¹ There is no data source that provides the number of households at 60% AMFI. CHAS provides data on the number of households in each AMFI but it does not include 60% AMFI as an income category; it offers 0-30%, >30-50%, >50-80% and >80-100% AMFI categories.

6. *Units with Incomplete Kitchen or Plumbing*

Households that own or rent units with incomplete kitchen or plumbing need either housing rehabilitation assistance or rental assistance in order to move to housing that is more sanitary and safe. The percent of the units with this issue comprises only 1% of the total units in Texas (2006-2010 ACS). Because this variable affects such a small percentage of the population, the margin of errors were larger than the estimated number in certain regions. For example, Region 13 renters in non-MSA counties lacking kitchens are estimated at 59 renters, but the margin of error is 83. Furthermore, Region 13 renters in non-MSA counties lacking plumbing are estimated at 135 renters but the margin of error is 274. Because of the uncertainty of the data at the regional level, staff recommends not using this variable for the RAF.

Data source: CHAS and ACS. These data sources have the same limitations as listed under the variable "Cost Burden" above. However, due to the small size of the population that is affected by this variable, the margins of error were larger than the estimated households affected. Therefore, the data accuracy and relevance when summed to the regional level is in question.

7. *Units' Age*

Households that own or rent units in older houses or apartment buildings may need housing rehabilitation assistance to repair their homes or rental assistance in order to move to housing that is more sanitary and safe. The greater the age of the home, the more likely the home will need home repair. The age of the home could be measured in two increments: the number of units built 30 years ago and the number of units built 50 years ago. However, there is no commonly-recognized standard linking housing age to need for rehabilitation assistance. While one 30-year-old unit may be in dire need of assistance, another 30-year-old unit may be in better condition than some new housing units. Staff could not find data to make a correlation between a specific housing age and a need for rehabilitation assistance. Therefore, staff recommends not using this variable in the RAF.

Data source: ACS.

8. *Wait lists*

For rental housing, housing need could be measured using the number of people on the wait lists for the current affordable housing inventory. The major problem with this measurement is availability of the data; no single data source exists to obtain the number of people on these wait lists. To gather this data, staff would have to contact each organization and ask about their wait lists each year. For an example of the enormity of this endeavor, there are 413 public housing authorities in Texas each with their own wait lists. Statewide, for programs outside of TDHCA's purview, the Department has no authority to compel or regulate the accuracy of this data. Another problem with wait lists is that, in areas in which wait lists are closed and are not

accepting requests from persons wanting to be on the wait list, the current wait list does not accurately reflect the need in the area. Staff recommends not using this variable in the RAF.

Data: No reasonable way to collect.

The Availability of Housing Assistance Discussion

Similarly to the need for housing assistance, the availability for housing assistance could be measured by a number of variables. The 2012 RAF uses the funding awarded to each sub-region for the previous year by federal and state housing programs. Staff considered the measurements below for availability. Staff's recommendations of which measurements to use are on page 14 under *Staff Proposal*.

1. Building permits

Construction of housing begins with obtaining a building permit. Determining how many building permits are issued would affect the availability of housing. Building permit data includes information on single and multifamily housing. A drawback in using building permits as a variable is that the measurement does not show if the new homes are affordable to the targeted population (e.g. households between 0-80% AMFI). However, a positive aspect in using building permits is that the variable measures market-rate housing, which provides a choice to consumers in need of housing assistance. Staff recognizes this variable as appropriate for the RAF.

Data: The U.S. Census Bureau collects building permit data through the Building Permits Survey. Annual and monthly data is available.

2. Federal and State Housing Program Awards

Measuring the funds awarded from federal and state housing programs helps TDHCA determine the future affordable housing production in an area, since the majority of the funds are for construction for reduced-rent apartment, which can take several years to complete. Awards for development do not measure current availability of affordable housing on the ground. Nor do awards for development measure availability of market-rate housing on the ground. A small percentage of the awards, such as Section 8 funds, Tenant-Based Rental Assistance (TBRA) or homebuyer assistance, provide an immediate benefit for the client that translates directly into assistance and, therefore, availability of housing to those in need. However, awards do not account for cost differences in each region. For example, when a person attempts to use their renter-assistance voucher or buy a home, or when developers attempt to build housing, housing costs or construction costs play a huge factor. In addition, because awards can vary widely year to year due to changes in award requirements or decisions by state and federal agencies, this measurement causes large swings in each sub-region from year to year. For an example, see the 2011 and 2012 HTC RAF comparison which is both based on an allocation of \$40,000,000 (Exhibit F). Finally, funding awarded in each region does not automatically translate into units

built. The housing industry is competitive and precarious. Therefore some awarded deals may not receive enough funding to move forward, so the construction may never occur. Staff recommends not using this variable for the RAF.

Data: Multiple sources, including public award announcements, award data published online and email requests to various government agencies.

3. Vacancies

Rental vacancies in each region indicate a need or lack of need for rental housing assistance. Vacant for-sale housing indicates a supply of homes for potential homebuyers. High numbers of vacancies indicate the market has a supply of housing. A drawback in using vacancies as a variable is that the measurement does not show if the vacant units are affordable to the targeted population (e.g. households between 0-80% AMFI). However, a positive aspect in using vacancies is that the variable measures market-rate housing, which provides a choice to consumers in need of housing assistance. Using the number of vacancies as a measurement of housing availability allows for a measurement of both market-rate and subsidized units available. Vacancies show a direct measure of housing availability. A map of the rental vacancies can be found in Exhibit G. Staff recognizes this variable as appropriate for the RAF.

Data: ACS.

A summary of the data considered for the RAF can be found in Exhibit H.

Phase 1 Analysis of Impediments Recommendations

As approved by the U.S. Department of Housing and Urban Development (HUD) in May of 2011, the *Analysis of Impediments to Fair Housing: Phase I Hurricane Impacted Communities* provides recommendations of factors to include in the RAF. Phase I directly pertains to the communities recovering from the devastation of Hurricanes Dolly and Ike, both of which heavily impacted the Texas Coast during 2008. Phase I suggests that: "TDHCA should include in its regional allocation formula, factors regarding the presence within jurisdictions of members of protected classes, families of extremely low income and opportunity indicators including access to high-quality public education, concentration of poverty, racial segregation, environmental quality, access to health care, access to sustainable jobs and crime rates as defined in rules to be issued" (page 175).

Staff took steps to determine how to measure the variables suggested in Phase I AI and considered including them in the RAF. Due to the multi-county nature of the RAF, the presence of certain variables in each region does not guarantee that any specific development would have access to or avoid those variables. For example, if a region has several counties with high-quality public education, there is no way for the RAF to ensure that the developments awarded in that region are located in those school districts. These variables are more suitable to be included in the site-specific award process, rather than the regional allocation process.

Staff will consider the variables listed in the Phase I AI for inclusion in its application process. For example, HTC could include one or more of the Phase I AI suggestions in its definition of High Opportunity Areas (HOAs), as defined in the 2012/2013 Qualified Allocation Plan:

High Opportunity Area--A Development that is proposed to be located in an area that includes, at a minimum, subparagraphs (A) and (B) of this paragraph along with either subparagraph (C) or (D) of this paragraph:

(A) in a census tract which has a median income that is above median for that county (as designated in the Housing Tax Credit Site Demographic Characteristics Report for the current Application Round) as of the first day of the Application Acceptance Period; and

(B) in a census tract that has a 15% or less poverty rate (as designated in the Housing Tax Credit Site Demographic Characteristics Report for the current Application Round) or, for Regions 11 and 13 with a 35% or less poverty rate;

(C) within a half-mile of an accessible transit stop for 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 elementary schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools. However, districts with district-wide enrollment and only one elementary school are acceptable. (pg 74-75)

Proposed developments receive additional points during the application process for locating in a HOA. In the 2012-2013 Qualified Allocation Plan, HOAs already address certain variables listed in the Phase I AI. For instance, HOAs are located in census tracts with poverty rates of 15% or less (or 35% or less in Regions 11 and 13), which is lower than the State's poverty rate of 16.8% (2006-2010 ACS). HOAs may also include access to public transit, creating the Phase I AI's access to health care and jobs through the public transit. HOAs may also be located in an elementary school attendance zone that has an academic rating of "Exemplary" or "Recognized". These examples show that the HOA definition already addresses the factor of concentration of poverty and access to health care, jobs and high-quality education as listed in the Phase I AI. Please note that in 2013, the Department anticipates changes in the Qualified Allocation Plan to implement an Opportunity Index instead of High Opportunity Area; the Opportunity Index will include factors listed above as well as additional factors.

Urban vs Rural

The 2012 RAF uses "place" as a measurement of urban and rural as an interpretation of §2306.004, which states:

28-a) "Rural area" means 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 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.

When analyzing the variables for the 2013 RAF, the Department found that the place-level data undercounts almost two million people and units compared to the county-level data because the place-level count excludes people and units not located in any census-designated place. For an example of the increased accuracy of county-level data, compare Exhibit I, which shows a place-level map of rent cost burden analysis, to Exhibit C, which shows a county-level rent cost burden analysis. Exhibit C includes 117,352 more renters with cost burden than Exhibit I. As can be seen in the chart below, there are 1,545,555 more people at 200% of poverty counted at the county-level than the place-level; there are 23,033 more units with overcrowding counted at the county-level than the place-level; and there are 28,956 more vacant rental units counted at the county-level than the place-level.

County-Level vs. Place-Level Variable Counts

Variables in Texas	Number of persons or units in Texas*
200% of Poverty by COUNTY	8,957,285 people
200% of Poverty by PLACE	7,411,730 people
Overcrowded Renters by COUNTY	225,636 rental units with overcrowding
Overcrowded Renters by PLACE	202,603 rental units with overcrowding
Rent Burden by COUNTY	1,345,954 renters
Rent Burden by PLACE	1,228,602 renters
Rental Vacancies by COUNTY	348,574 rental units
Rental Vacancies by PLACE	319,618 rental units
Total population by PLACE in Texas	19,199,849 people
Total population by COUNTY in Texas	24,311,891 people

*All data is from 2006-2010 American Community Survey.

County-level data is easily obtained and is derived from the designations of primary metropolitan statistical areas and metropolitan statistical areas as discussed in the 2306.004 (28-a) definition of “rural

area.” For the 2013 RAF, the Department determines that county-level data is a more complete and informative dataset than place-level data. Limiting the data to only places in each region substantially hinders the decision-making capabilities of the RAF as an allocation tool. The Department believes that this methodology meets the requirements of 2306.1115, including (a)(3) “the department shall develop a formula that...includes other factors determined by the department to be relevant to the equitable distribution of housing funds.” The Department will use county-level data for the *process* of achieving an equitable distribution of funds available to urban and rural areas.

In the course of analysis, the Department considered determining if the place-level variables were urban or rural, and then taking the place data out of the county data; whatever remained in the county data could be considered rural, even though there was no statutory guidance on this type of data. However, the Department found that given the large number of variables in this type of analysis and the margin of error that comes with the updated ACS dataset, the data could not be parsed in this manner and retain its accuracy. Accurate, informative data is not available to apply §2306.004(28)(c)(B) or §2306.004(28)(c)(B) when summing up place level data which is why use of county-level data is proposed.

Using the county-level data in MSA vs. Non-MSA to allocate for urban and rural areas allows for a more complete picture of the state’s demographic data. The RAF is not stating that MSA vs. Non-MSA analysis will always coincide with urban and rural designations for specific sites. According to 2306.1115(b), the Department must use appropriate data to develop the formula, and county-level data is the most appropriate data. However, the rural and urban designation for site-specific applications applying for funding will be at the place-level.

Staff Proposal

Through analysis of several different variables, staff identified several variables that are appropriate for use in the RAF. Please note that lack of kitchen and lack of plumbing are appropriate variables, but could not be included because of lack of data accuracy at the regional level. For housing need, the following variables are appropriate:

- 200% of Poverty
- AMFI
- Cost Burden (renters for HTC and HOME; homeowners for HOME and HTF)
- Overcrowding (renters for HTC and HOME; homeowners for HOME and HTF)
- Population Growth (3 year projection)

For housing availability, the following variables are appropriate:

- Building permits

- Vacancies (rentals for HTC and HOME; homes for sale for HOME and HTF)

Using the least number of variables ensures that their full influence affects the RAF. Staff proposes to use four variables for the RAF. Using more variables reduces the impact of each variable. In the staff's estimation, the four variables for which the data is updated most consistently and which have the biggest impacts on housing need and availability are:

- 200% of Poverty (variable for housing need)
- Cost burden (variable for housing need)
- Overcrowding (variable for housing need)
- Vacancies (variable for housing availability)

Because of the decrease of funding for HOME and HTF and the absence of the \$500,000 adjustment, many of the amounts in each sub-region are smaller than the minimum necessary to administer a successful project. Therefore, HOME and HTF RAFs usually collapse into a statewide allocation amount. Due to this, the draft RAF models will only show the HTC versions of the RAF for this online discussion forum.

Exhibit J shows the calculations to get a distribution for the 2013 HTC RAF model with four variables for HTC. Exhibit K shows the difference between the 2013 HTC RAF model with four variables and the 2012 HTC RAF which allocated \$40,000,000.

Alternative One

While staff recommends using the RAF model with four variables, the advantage of the RAF model with three variables would capture the factors that affect the most people in Texas:

- 200% of Poverty (variable for housing need)
- Cost burden (variable for housing need)
- Vacancies (variable for housing availability)

By leaving out overcrowding, the poverty and cost burden variables have more impact on the final outcome of the allocation. Exhibit L shows the calculations to get a distribution for the RAF model with three variables for HTC. Exhibit M shows the difference between the 2013 HTC RAF model with three variables which is allocating \$40,000,000 and the 2012 HTC RAF which is allocating \$40,000,000. However, this alternative leaves out the need variable of overcrowding.

Relation of Housing and Need

Staff considered several different ways to relate need and availability of housing. Basic subtraction was attempted. For example, the number of households with cost burden was subtracted from the number

of vacancies in order to get an overall number of persons with need. Staff found that the relationship between the need and availability did not have a high enough correlation to justify subtraction. Households with cost burden may not be able to afford the vacancies available. Also, not all the factors are measured by “household”; for example, “poverty” is measured by person. Subtraction was too simplistic to relate the variables.

Staff decided on using ratios within each region in order to fairly distribute funds. For each variable, the number of persons or units with that variable is summed for the State. Then a percentage is calculated for each sub-region in order to show how many persons/units are in that sub-region. The percentages are then weighted (see Weights below for an explanation of the weights).

Weights

A successful allocation formula will provide more funding for high housing need and remove funding for an abundance of housing resources. In order to have a balanced relationship between housing and need, the housing availability variable should have negative weight.

The weights in the 2012 RAF roughly corresponded to the percentage of the population with those problems. Weighting in this fashion effectively added the general population distribution as a variable. In order to ensure that the outcomes are not solely a function of the population distribution, all the factors in 2013 RAFs will be of equal weight, as can be seen in Table 2 of Exhibit J and L. In addition, weighting the variables by population implies that people with one type of need are more important than people with another type of need, based on the number of people with the particular need. In order to equitably distribute funds to those in need, again, all factors will be of equal weight.

For the 2013 RAF, to make the weights equal, for four variables each variable would receive 50% of the weight. Because the availability variable should be negative, the need variables are weighted at 50% each and the availability variable is weighted at -50%, creating equal weight and giving the appropriate relationship between funding and current availability of resources. With three variables, each variable would be weighted at 100%. Because the availability variable should be negative, the need variables are weighted at 100% each and the availability variable is weighted at -100%, creating equal weight.

Because the 2012 RAF availability variable used awards, the RAF compared the region’s need percentage and its resource percentage. The 2012 RAF considered a region with a negative resource and need difference to be “under allocated.” The 2013 RAF makes no such determination on the reasons behind other agencies’ awards.

Exceptions to the RAF

According to §2306.111(d), there are certain instances when the RAF would not apply to HOME, HTC, and HTF funds. For instance, specific set asides will not be run through the RAF. This includes set asides for contract-for-deed conversions and set asides mandated by state or federal law, if these set asides are less than 10 percent of the total allocation of funds or credits. Set asides for funds allocated to serve

persons with disabilities will not run through the RAF. The total amount available through the RAF will not include funds for at-risk development, with stipulations mentioned in this paragraph.

Also in 2306.111(d), specifically for HTC, 5% of HTC funds must be allocated to developments that receive federal assistance through USDA. Any developments that receive federal assistance through USDA and HTC for rehabilitation compete for funding separately under the "USDA Set-Aside." This funding is taken from the total tax credit ceiling prior to applying the RAF to allocate funds between each sub-region.

Finally, pursuant to §2306.111(d) specifically for HTF, funds that do not exceed \$3 million for each programmed activity will not run through the RAF.

HOME, HTC and HTF Data Differences

Even though the RAF applies to HOME, HTC and HTF, there are some differences between the programs that need to be addressed within the formulas. For example, HOME and HTF can serve homeowners and those wanting to buy or build a home, while HOME and HTC serves renters. Therefore, renters' needs would be counted for HOME and HTC; homebuyer needs would be counted for HOME and HTF.

Because HOME and HTC fund rehabilitation, substandard housing units would ideally be included in the RAF. However, at the time of this writing, staff has not identified a data source that would provide an estimate of these units that is accurate at the regional level.

In addition, according to §2306.111(c) (1), 95 percent of the funds for HOME must be spent outside Participating Jurisdictions (PJs). PJs are areas that receive funding directly from HUD. The other 5 percent of State HOME funds must be spent activities that help people with disabilities in any area of the State; this portion of HOME is not subject to the RAF because it is set aside for persons with disabilities (see Exceptions to the RAF above). Because 95 percent of funds cannot be spent within a participating jurisdiction, the housing need and availability in those jurisdictions should not be counted in HOME's RAF.

The Participating Jurisdiction data is subject to change yearly depending on HUD's funding. As of this writing, thirty-three of the PJs are cities. The other Participating Jurisdictions are grouped by county. Though the cities in the counties do not encompass the entire county, the cities encompass such a large area of the counties that, with the data available and the current margins of error, the entire county will be counted as the PJ. These PJs will be subtracted from the HOME version of the RAF.

HTC \$500,000 Adjustment

§2306.111 (d-3) is a special stipulation on funding and the RAF that applies only to HTC. This statute requires that the Department allocate at least 20 percent of credits to rural areas and that \$500,000 be available for each urban and rural sub-region, which number 26 in total. The overall state rural percentage of the total tax credit ceiling amount will be adjusted to a minimum of 20 percent only at the time of actual allocation if needed. Usually, the 20 percent allocation to rural areas occurs naturally, but,

if not, additional applications in rural areas will be made from the statewide collapse of the RAF to ensure the requirement is met.

For the HTC RAF, the regional amount of rural and urban funding is adjusted to a minimum \$500,000, if needed. This is done as a final adjustment to the sub-regional allocation amounts available for award. The process proportionately takes funds from sub-regions with initial funding amounts in excess of \$500,000 and reallocates those funds to those sub-regions with initial funding amounts that are less than \$500,000. The process is complete when each sub-region has at least \$500,000.

Next steps

The public can comment on the proposed allocations across the state based on RAF options presented by the staff and the appropriateness of the measurements used. The Department will open an online forum for 30 days from August 10 to September 10, 2012. Input the Department receives will help determine a revised and simpler formula thereby increasing the ability of developers and communities to predict available funding while helping key stakeholder groups gain a better understanding of the process and its results.

The 2013 draft HTC RAF will be presented to the Department's Governing Board on October 9th. Upon approval by the Board, the draft RAF will be open for official public comment.

REGIONAL ALLOCATION FORMULA POSITION PAPER – FIRST ADDENDUM

As a result of the online forum held from August 10, 2012 to September 10, 2012, additional models of the Housing Tax Credit (HTC) Regional Allocation Formula (RAF) were developed. In order to focus the analysis, only changes to one program's RAF were proposed: the HTC Program. The three RAF models developed were the: (1) Equal Weights Model; (2) Compounded Need Model; and (3) Subtraction Model, which are described below.

All draft RAF models considered the same variables four staff-recommended variables as the 4-variable model in the Position Paper. These variables are:

1. Housing need: People in 200% of Poverty
2. Housing need: Cost Burden of Renters
3. Housing Need: Overcrowded Renters
4. Housing Availability: Rental Vacancies

(1) Equal Weights Model (Exhibit N)

The Equal Weights Model was the same as the staff recommended RAF with 4 Variables presented on the online forum (Exhibit J). The name was changed to Equal Weights Model to differentiate between this model and the other two models, both of which also use four factors. The Equal Weights Model uses a percentage of each variable which is calculated on the sub-region's amount of the variable over the amount of that variable in the State as a whole. Then, each variable is given equal weight. Each variable is given 50% weight. The equal weight does not indicate that an equal number of households experience cost burden and overcrowding; the equal weight does indicate that a household experiencing cost burden has as much need as the household experiencing overcrowding (the vacancies variable is given negative weight in order to remove resources from areas with high housing availability). The amounts allocated are added for each sub-region to determine the original sub-region amount.

(2) Compounded Need Model (Exhibit O)

The Compounded Need Model used a percentage of the factors similar to the Equal Weights Model. However, all the need variables are added together (i.e. "compounded") before taking the percentage of the sub-region's amount of the variables over the amount of the total need variables in the State as a whole (Table 2 of Exhibit O). In this way, the proportion of population that each need variable affects is taken into account. (Note that in order for people in poverty to be combined with households with cost burden and households with overcrowding, the number of people in poverty is divided by the average size of a household in Texas: 2.78.) The compounded need variables have 150% weight and vacancies - 50%.

(3) Subtraction Model (Exhibit P)

Subtraction Model also uses a percentage of the need factors and housing availability factors, but the percentages are calculated based on simple subtraction (Table 2 of Exhibit P). Similarly to the Compounded Need Model, all the need factors are added together. (Also, similarly to the Compounded Need Model, the number of households in poverty is estimated based on the average household size of 2.78). Then the vacancies number is subtracted from the need variables, giving one number representing need and availability. Then a percentage of that number which constitutes the need and availability is calculated on the sub-region's amount of the variable over the amount of that variable in the State as a whole.

As a benchmark, a test RAF was created based solely on population distribution (Exhibit Q). The analysis shows that any of the proposed models' sub-regional allocations are within 5% of the RAF based on population distribution.

The three models were presented at a HTC RAF Roundtable on September 26, 2012, for which approximately 50 members of the development community and public either attended or called in via conference call. Consensus of the Roundtable was that the Compounded Need Model was the most accurate model presented, and adequately met the requirements of statute to account for housing need and availability. As a result, the proposed methodology was updated (Exhibit R).

Attachment C: Exhibits of the 2013 Regional Allocation Formula Position Paper and First Addendum

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.

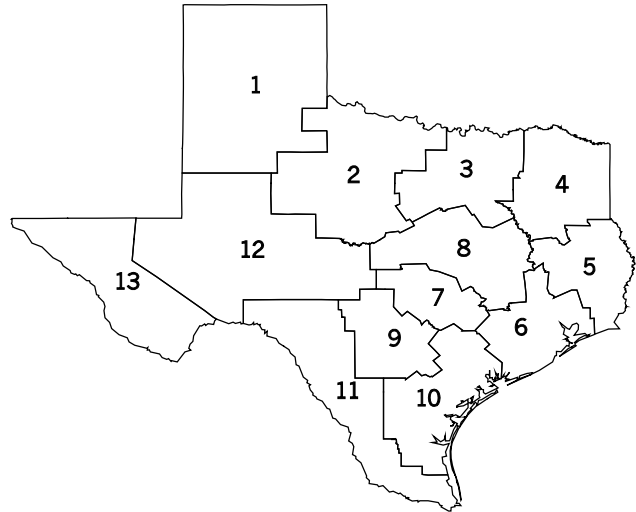


Figure 1. State Service Regions

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.

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

METHODOLOGY

Consideration of Affordable Housing Need

The first part of the RAF determines the funding allocation based solely on objective measures of each region’s share of the State’s affordable housing need. The RAF uses the most current and complete data from the US Census Bureau, including the decennial census and the American Community Survey, and the US Department of Housing and Urban Development, including the Comprehensive Housing Affordability Strategy, to calculate this regional need distribution.

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

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

- Because the HTC program supports rental development activities, renter household data is used for the HTC RAF.
- Because the HOME and HTF programs support renter and owner activities, both renter and owner data is used in the HOME and HTF RAFs.

The following steps are used to measure regional need.

1. Need data is adjusted to current year levels by applying a growth factor based on the growth experienced since 2000.¹
2. Each need measure is weighted to reflect its perceived relevance in assessing affordable housing need. Half the measure weight is associated with poverty because of the significant number of persons in poverty and the use of this factor in the HUD Community Planning and Development Program Formula Allocations. The remaining measure weight is proportionately allocated based on the relative size of the other three measure populations. The resulting need measure weights are: poverty = 50 percent, cost burden = 36 percent, overcrowding = 12 percent, and substandard housing = 2 percent.
3. The following steps calculate the funding distribution based on the need measures.
 - a. The total RAF funding amount is multiplied by each need measure weight to determine the amount of funding distributed by that measure.
 - b. Each measure's amount of funding is regionally distributed based on the distribution of persons or households in need.
4. The resulting regional measure distributions are then combined to calculate each region's need-based funding amount.
5. Each region's need based funding amount is divided by the total RAF funding amount. This quotient is the region's need percentage.

Consideration of Available Housing Resources

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

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

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

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

- Housing Tax Credits (4% and 9%)²
- Housing Trust Fund Rental Development Funding
- HUD HOME Funds (TDHCA and Participating Jurisdiction)
- HUD Housing for Persons with AIDS Funding
- HUD Public Housing Authority (PHA) Capital Funding
- HUD §8 Tenant-Based Rental Assistance (TDHCA & PHA)
- Multifamily Texas Housing Trust Fund
- Multifamily Tax-Exempt Bond Financing³

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

² Estimated capital raised through the syndication of the HTCs. This figure is \$.070 based upon a survey of HTC applications. This does not include forward awarded funds from the 2012 credit ceiling.

- 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.

The following steps calculate the resource funding adjustments.

1. The regional resource percentage and regional need percentage differences are calculated.
2. The resulting over allocated (positive) resource differences are summed to calculate the state resource difference.
3. The state resource difference is multiplied by the total RAF funding. This product is the state over allocated resource amount.
4. Each over allocated resource difference is divided by the state resource difference. This quotient is the over allocation percentage.
5. Each over allocation percentage is multiplied by the state over allocated resource amount to determine the base resource funding adjustment.
6. The over allocated regions' resource funding adjustments are summed. This total is the state under allocated resource amount.
7. Each under allocated (negative) resource difference is divided by the state resource difference to determine the under allocation percentage.
8. 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,

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

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
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.

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 a development's location by providing a letter from a USDA Rural Development official clearly stating that the area is eligible for funding by USDA Rural Development.

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.

Rural and Urban Regional Funding Amounts

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

Adjustments for Prior Year Forward Commitments of Housing Tax Credits

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 forward commitments made during the prior year's cycle.

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 will be adjusted to a minimum of 20 percent only at the time of actual allocation if needed.

QUESTIONS AND COMMENTS

Email: elizabeth.yevich@tdhca.state.tx.us

Phone: (512) 463-7961

Mail: TDHCA, P.O. Box 13941, Austin, TX 78711-3941

Funding Allocation of Estimated Competitive Housing Tax Credit Ceiling

2012 Estimated HTC Ceiling	\$	55,320,234
At-Risk Set-Aside	\$	8,298,035
<i>Less: At-Risk Forward Commitments</i>	\$	<i>(944,918)</i>
Remaining for At-Risk	\$	7,353,117
2012 HTC Ceiling After At-Risk	\$	47,022,199
<i>Less: Regional Forward Commitments</i>	\$	<i>(9,571,260)</i>
Remaining to Regionally Allocate	\$	37,450,939

Regional Allocation of Funds After At-Risk and Forward Commitments

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	\$1,736,795	4.6%	\$703,397	40.5%	\$1,033,399	59.5%
2	Abilene	\$1,000,000	2.7%	\$500,000	50.0%	\$500,000	50.0%
3	Dallas/Fort Worth	\$6,368,694	17.0%	\$766,479	12.0%	\$5,602,215	88.0%
4	Tyler	\$1,773,416	4.7%	\$1,137,439	64.1%	\$635,977	35.9%
5	Beaumont	\$1,000,000	2.7%	\$500,000	50.0%	\$500,000	50.0%
6	Houston	\$10,136,388	27.1%	\$624,072	6.2%	\$9,512,316	93.8%
7	Austin/Round Rock	\$3,584,518	9.6%	\$500,000	13.9%	\$3,084,518	86.1%
8	Waco	\$2,757,781	7.4%	\$500,000	18.1%	\$2,257,781	81.9%
9	San Antonio	\$1,000,000	2.7%	\$500,000	50.0%	\$500,000	50.0%
10	Corpus Christi	\$1,752,078	4.7%	\$500,000	28.5%	\$1,252,078	71.5%
11	Brownsville/Harlingen	\$3,595,225	9.6%	\$621,404	17.3%	\$2,973,821	82.7%
12	San Angelo	\$1,000,000	2.7%	\$500,000	50.0%	\$500,000	50.0%
13	El Paso	\$1,746,046	4.7%	\$500,000	28.6%	\$1,246,046	71.4%
	Total	\$37,450,939	100.0%	\$7,852,791	21.0%	\$29,598,148	79.0%

2012 Housing Tax Credit Regional Allocation Formula

Table 2. Regional Measures of Affordable Housing Need

Total RAF Funding: \$ 47,022,199

Region	Poverty			Rental Cost Burden			Overcrowding			Substandard Housing			Combined Need Measures	
	Measure Weight		Measure Funding Amount	Measure Weight		Measure Funding Amount	Measure Weight		Measure Funding Amount	Measure Weight		Measure Funding Amount		
	# of Persons	Region's Measure %	Region's Measure Funding Amount	# of Households	Region's Measure %	Region's Measure Funding Amount	# of Households	Region's Measure %	Region's Measure Funding Amount	# of Households	Region's Measure %	Region's Measure Funding Amount	Region's Need Based Funding Amount	Region's Need Based %
	50%		\$ 23,511,100	36%		\$ 16,927,992	12%		\$ 5,642,664	2%		\$ 940,444		
1	122,991	4%	\$ 927,523	27,496	4%	\$ 634,354	6,298	2%	\$ 117,880	1,113	3%	\$ 30,469	\$ 1,710,226	3.6%
2	77,647	2%	\$ 585,566	14,191	2%	\$ 327,391	2,421	1%	\$ 45,314	639	2%	\$ 17,501	\$ 975,772	2.1%
3	588,688	19%	\$ 4,439,525	212,768	29%	\$ 4,908,774	86,915	29%	\$ 1,626,817	7,801	23%	\$ 213,487	\$ 11,188,603	23.8%
4	152,036	5%	\$ 1,146,562	25,194	3%	\$ 581,262	5,656	2%	\$ 105,867	1,455	4%	\$ 39,831	\$ 1,873,522	4.0%
5	120,585	4%	\$ 909,378	19,124	3%	\$ 441,210	4,370	1%	\$ 81,801	1,034	3%	\$ 28,308	\$ 1,460,698	3.1%
6	656,239	21%	\$ 4,948,953	169,389	23%	\$ 3,907,977	93,266	31%	\$ 1,745,692	7,629	22%	\$ 208,792	\$ 10,811,414	23.0%
7	145,060	5%	\$ 1,093,954	78,416	11%	\$ 1,809,138	19,295	6%	\$ 361,156	2,726	8%	\$ 74,609	\$ 3,338,856	7.1%
8	149,480	5%	\$ 1,127,287	41,760	6%	\$ 963,447	8,654	3%	\$ 161,983	1,298	4%	\$ 35,523	\$ 2,288,240	4.9%
9	267,118	9%	\$ 2,014,441	62,387	9%	\$ 1,439,326	22,325	7%	\$ 417,866	2,539	7%	\$ 69,484	\$ 3,941,117	8.4%
10	132,214	4%	\$ 997,077	20,206	3%	\$ 466,171	7,006	2%	\$ 131,137	1,026	3%	\$ 28,083	\$ 1,622,468	3.5%
11	455,366	15%	\$ 3,434,092	28,172	4%	\$ 649,959	29,660	10%	\$ 555,153	4,984	15%	\$ 136,409	\$ 4,775,613	10.2%
12	85,063	3%	\$ 641,493	12,650	2%	\$ 291,851	3,385	1%	\$ 63,364	738	2%	\$ 20,195	\$ 1,016,903	2.2%
13	165,122	5%	\$ 1,245,249	21,981	3%	\$ 507,131	12,215	4%	\$ 228,635	1,380	4%	\$ 37,753	\$ 2,018,768	4.3%
Ttl.	3,117,609	100%	\$ 23,511,100	733,735	100%	\$ 16,927,992	301,467	100%	\$ 5,642,664	34,364	100%	\$ 940,444	\$ 47,022,199	100%

2012 Housing Tax Credit Regional Allocation Formula

Table 3. Regional Distribution of Available Housing Resources

Region	HOME	HOPWA	PHA Capital	S8	USDA MF	USDA RA	HTC	MF BOND	HTC Bond	HTF	Total Resources	Region's Resource %
1	\$ 904,733	\$ -	\$ 2,159,632	\$ 15,602,918	\$ -	\$ 253,334	\$ 18,387,425	\$ -	\$ -	\$ -	\$ 37,308,042	3%
2	\$ 2,011,500	\$ -	\$ 4,758,851	\$ 8,380,830	\$ -	\$ 297,354	\$ 15,830,885	\$ -	\$ -	\$ -	\$ 31,279,420	3%
3	\$ 1,188,402	\$ 2,587,718	\$ 11,697,607	\$ 198,359,536	\$ 1,500,000	\$ 670,343	\$ 106,301,629	\$ 7,840,994	\$ -	\$ 75,000	\$ 330,221,229	26%
4	\$ 4,352,226	\$ -	\$ 3,652,691	\$ 14,709,411	\$ -	\$ 466,645	\$ 21,661,150	\$ -	\$ -	\$ -	\$ 44,842,123	4%
5	\$ 1,544,053	\$ -	\$ 3,875,927	\$ 32,299,968	\$ -	\$ 271,167	\$ 26,863,165	\$ -	\$ -	\$ -	\$ 64,854,280	5%
6	\$ 1,990,295	\$ 5,017,561	\$ 7,766,303	\$ 126,157,039	\$ -	\$ 465,270	\$ 76,512,737	\$ 13,320,665	\$ -	\$ 125,000	\$ 231,354,870	19%
7	\$ 1,800,000	\$ 861,467	\$ 4,532,831	\$ 58,552,591	\$ -	\$ 169,717	\$ 14,168,973	\$ -	\$ -	\$ 125,000	\$ 80,210,579	6%
8	\$ 202,603	\$ -	\$ 5,010,303	\$ 24,595,236	\$ -	\$ 447,033	\$ 17,680,579	\$ -	\$ -	\$ 11,773	\$ 47,947,527	4%
9	\$ 5,047,299	\$ 610,326	\$ 10,354,560	\$ 105,444,631	\$ -	\$ 136,160	\$ 18,983,006	\$ 17,665,842	\$ -	\$ -	\$ 158,241,823	13%
10	\$ 855,000	\$ -	\$ 5,529,085	\$ 18,867,967	\$ -	\$ 204,752	\$ 9,367,407	\$ -	\$ -	\$ -	\$ 34,824,211	3%
11	\$ 1,360,388	\$ -	\$ 9,550,236	\$ 57,890,084	\$ 1,078,139	\$ 447,119	\$ 16,512,118	\$ -	\$ -	\$ 18,000	\$ 86,856,084	7.0%
12	\$ -	\$ -	\$ 1,437,613	\$ 10,115,280	\$ -	\$ 107,459	\$ 23,784,054	\$ -	\$ -	\$ -	\$ 35,444,406	3%
13	\$ 100,000	\$ -	\$ 9,242,822	\$ 32,641,170	\$ -	\$ 55,024	\$ 21,393,526	\$ -	\$ -	\$ -	\$ 63,432,542	5%
Total	\$ 21,356,499	\$ 9,077,072	\$ 79,568,461	\$ 703,616,661	\$ 2,578,139	\$ 3,991,378	\$ 387,446,654	\$ 38,827,500	\$ -	\$ 354,773	\$ 1,246,817,137	100%
% of Total Resources	1.7%	0.7%	6.4%	56.4%	0.2%	0.3%	31.1%	3.1%	0.0%	0.0%	100%	

% of Resources not Regionally Allocated: 100.0%

2012 Housing Tax Credit Regional Allocation Formula

Region	Region's Resource %	Region's Need Based %	Resource Difference	Over Allocated Resource Differences	Over Allocation %	Base Resource Funding Adjustment	Region's Need Based Funding Amount	Maximum Resource Funding Adjustment	Resource Funding Adjustment	Under Allocated Resource Differences	Under Allocation %	Base Resource Funding Adjustment	Resource Funding Adjustment
1	3.0%	3.6%	-0.6%	0.0%	0.0%	-	1,710,226	-	-	-0.6%	-5.9%	\$ 303,199	\$ 303,199
2	2.5%	2.1%	0.4%	0.4%	3.9%	(203,894)	975,772	(975,772)	(203,894)	0.0%	0.0%	\$ -	\$ -
3	26.5%	23.8%	2.7%	2.7%	24.5%	(1,265,291)	11,188,603	(11,188,603)	(1,265,291)	0.0%	0.0%	\$ -	\$ -
4	3.6%	4.0%	-0.4%	0.0%	0.0%	-	1,873,522	-	-	-0.4%	-3.5%	\$ 182,356	\$ 182,356
5	5.2%	3.1%	2.1%	2.1%	19.0%	(985,203)	1,460,698	(1,460,698)	(985,203)	0.0%	0.0%	\$ -	\$ -
6	18.6%	23.0%	-4.4%	0.0%	0.0%	-	10,811,414	-	-	-4.4%	-40.3%	\$ 2,086,145	\$ 2,086,145
7	6.4%	7.1%	-0.7%	0.0%	0.0%	-	3,338,856	-	-	-0.7%	-6.1%	\$ 313,812	\$ 313,812
8	3.8%	4.9%	-1.0%	0.0%	0.0%	-	2,288,240	-	-	-1.0%	-9.3%	\$ 479,957	\$ 479,957
9	12.7%	8.4%	4.3%	4.3%	39.2%	(2,026,782)	3,941,117	(3,941,117)	(2,026,782)	0.0%	0.0%	\$ -	\$ -
10	2.8%	3.5%	-0.7%	0.0%	0.0%	-	1,622,468	-	-	-0.7%	-6.0%	\$ 309,115	\$ 309,115
11	7.0%	10.2%	-3.2%	0.0%	0.0%	-	4,775,613	-	-	-3.2%	-29.0%	\$ 1,499,941	\$ 1,499,941
12	2.8%	2.2%	0.7%	0.7%	6.2%	(319,840)	1,016,903	(1,016,903)	(319,840)	0.0%	0.0%	\$ -	\$ -
13	5.1%	4.3%	0.8%	0.8%	7.2%	(373,514)	2,018,768	(2,018,768)	(373,514)	0.0%	0.0%	\$ -	\$ -
Ttl.	100.0%	100.0%	0.0%	11.0%	100.0%	(5,174,524)	47,022,199	(20,601,860)	(5,174,524)	-11.0%	-100.0%	\$ 5,174,524	\$ 5,174,524

State Resource Difference: 11.0%
 Total RAF Funding: 47,022,199
 State Over Allocated Resource Amount: (5,174,524)
 Regional Resource Funding Adjustment Limit: 100.0%

State Under Allocated Resource Amount

*2012 Housing Tax Credit Regional Allocation Formula***Table 5. Regional Funding Amounts**

Region	Place for Geographic Reference	Region's Need Based Funding Amount	Region's Resource Funding Adjustment	Region's Funding Amount	Region's Funding Percentage
1	Lubbock	\$ 1,710,226	\$ 303,199	\$ 2,013,425	4.3%
2	Abilene	\$ 975,772	\$ (203,894)	\$ 771,878	1.6%
3	Dallas/Fort Worth	\$ 11,188,603	\$ (1,265,291)	\$ 9,923,312	21.1%
4	Tyler	\$ 1,873,522	\$ 182,356	\$ 2,055,878	4.4%
5	Beaumont	\$ 1,460,698	\$ (985,203)	\$ 475,494	1.0%
6	Houston	\$ 10,811,414	\$ 2,086,145	\$ 12,897,558	27.4%
7	Austin/Round Rock	\$ 3,338,856	\$ 313,812	\$ 3,652,668	7.8%
8	Waco	\$ 2,288,240	\$ 479,957	\$ 2,768,198	5.9%
9	San Antonio	\$ 3,941,117	\$ (2,026,782)	\$ 1,914,335	4.1%
10	Corpus Christi	\$ 1,622,468	\$ 309,115	\$ 1,931,583	4.1%
11	Brownsville/Harlingen	\$ 4,775,613	\$ 1,499,941	\$ 6,275,553	13.3%
12	San Angelo	\$ 1,016,903	\$ (319,840)	\$ 697,063	1.5%
13	El Paso	\$ 2,018,768	\$ (373,514)	\$ 1,645,254	3.5%
Ttl.		\$ 47,022,199	\$ -	\$ 47,022,199	100%

2012Housing Tax Credit Regional Allocation Formula

Table 6. Measuring Affordable Housing Need in Rural and Urban/Exurban Places

Poverty Measure

Measure Weight: **50%**

Region	Region's Funding Amount	Measure Funding Amount	# of Rural Persons	Measure Rural %	Rural Measure Funding Amount	# of Urban Persons	Measure Urb. %	Urban Measure Funding
1	\$ 2,013,425	\$ 1,006,713	49,785	41%	\$ 408,869	72,795	59%	\$ 597,843
2	\$ 771,878	\$ 385,939	37,625	53%	\$ 203,534	33,719	47%	\$ 182,405
3	\$ 9,923,312	\$ 4,961,656	72,886	9%	\$ 452,354	726,566	91%	\$ 4,509,302
4	\$ 2,055,878	\$ 1,027,939	61,119	60%	\$ 618,555	40,451	40%	\$ 409,384
5	\$ 475,494	\$ 237,747	49,572	56%	\$ 132,861	39,134	44%	\$ 104,886
6	\$ 12,897,558	\$ 6,448,779	58,763	8%	\$ 531,982	653,573	92%	\$ 5,916,798
7	\$ 3,652,668	\$ 1,826,334	22,730	12%	\$ 220,850	165,237	88%	\$ 1,605,484
8	\$ 2,768,198	\$ 1,384,099	35,131	22%	\$ 299,570	127,184	78%	\$ 1,084,528
9	\$ 1,914,335	\$ 957,168	31,061	11%	\$ 104,212	254,228	89%	\$ 852,955
10	\$ 1,931,583	\$ 965,791	49,255	43%	\$ 413,218	65,866	57%	\$ 552,573
11	\$ 6,275,553	\$ 3,137,777	152,797	33%	\$ 1,042,881	306,932	67%	\$ 2,094,895
12	\$ 697,063	\$ 348,531	23,944	34%	\$ 118,256	46,625	66%	\$ 230,275
13	\$ 1,645,254	\$ 822,627	17,796	9%	\$ 77,561	170,951	91%	\$ 745,066
Ttl.	\$ 47,022,199	\$ 23,511,100	662,464	20%	\$ 4,624,705	2,703,261	80%	\$ 18,886,394

Cost Burden Measure

Measure Weight: **36%**

Region	Region's Funding Amount	Measure Funding Amount	# of Rural Households	Measure Rural %	Rural Measure Funding Amount	# of Urban Households	Measure Urb. %	Urban Measure Funding
1	\$ 2,013,425	\$ 724,833	6,301	24%	\$ 172,132	20,231	76%	\$ 552,701
2	\$ 771,878	\$ 277,876	5,053	38%	\$ 104,360	8,402	62%	\$ 173,517
3	\$ 9,923,312	\$ 3,572,392	13,474	7%	\$ 232,834	193,261	93%	\$ 3,339,558
4	\$ 2,055,878	\$ 740,116	10,979	52%	\$ 384,790	10,138	48%	\$ 355,326
5	\$ 475,494	\$ 171,178	9,102	54%	\$ 92,662	7,712	46%	\$ 78,516
6	\$ 12,897,558	\$ 4,643,121	10,373	7%	\$ 310,389	144,794	93%	\$ 4,332,732
7	\$ 3,652,668	\$ 1,314,960	4,083	6%	\$ 75,239	67,282	94%	\$ 1,239,721
8	\$ 2,768,198	\$ 996,551	4,883	12%	\$ 119,908	35,700	88%	\$ 876,643
9	\$ 1,914,335	\$ 689,161	5,912	10%	\$ 69,870	52,398	90%	\$ 619,290
10	\$ 1,931,583	\$ 695,370	5,704	29%	\$ 204,376	13,703	71%	\$ 490,994
11	\$ 6,275,553	\$ 2,259,199	6,527	25%	\$ 554,583	20,062	75%	\$ 1,704,616
12	\$ 697,063	\$ 250,943	2,488	21%	\$ 51,616	9,608	79%	\$ 199,327
13	\$ 1,645,254	\$ 592,292	991	5%	\$ 27,691	20,197	95%	\$ 564,601
Ttl.	\$ 47,022,199	\$ 16,927,992	85,869	12%	\$ 2,400,449	603,489	88%	\$ 14,527,542

2012Housing Tax Credit Regional Allocation Formula

Over Crowding Measure

Measure Weight: 12%

Region	Region's Funding Amount	Measure Funding Amount	# of Rural Households	Measure Rural %	Rural Measure Funding Amount	# of Urban Households	Measure Urb. %	Urban Measure Funding
1	\$ 2,013,425	\$ 241,611	2,202	39%	\$ 93,773	3,472	61%	\$ 147,838
2	\$ 771,878	\$ 92,625	876	41%	\$ 37,640	1,280	59%	\$ 54,985
3	\$ 9,923,312	\$ 1,190,797	3,489	4%	\$ 48,780	81,675	96%	\$ 1,142,018
4	\$ 2,055,878	\$ 246,705	2,252	53%	\$ 130,686	1,999	47%	\$ 116,019
5	\$ 475,494	\$ 57,059	1,808	49%	\$ 28,114	1,862	51%	\$ 28,946
6	\$ 12,897,558	\$ 1,547,707	3,614	4%	\$ 63,636	84,286	96%	\$ 1,484,071
7	\$ 3,652,668	\$ 438,320	1,233	7%	\$ 31,273	16,043	93%	\$ 407,047
8	\$ 2,768,198	\$ 332,184	1,407	18%	\$ 58,839	6,538	82%	\$ 273,345
9	\$ 1,914,335	\$ 229,720	1,510	7%	\$ 16,756	19,193	93%	\$ 212,964
10	\$ 1,931,583	\$ 231,790	2,332	36%	\$ 84,077	4,098	64%	\$ 147,713
11	\$ 6,275,553	\$ 753,066	6,199	23%	\$ 174,653	20,530	77%	\$ 578,413
12	\$ 697,063	\$ 83,648	857	29%	\$ 24,213	2,105	71%	\$ 59,434
13	\$ 1,645,254	\$ 197,431	468	4%	\$ 7,899	11,227	96%	\$ 189,531
Ttl.	\$ 47,022,199	\$ 5,642,664	28,249	10%	\$ 800,339	254,307	90%	\$ 4,842,325

Substandard Measure

Measure Weight: 2%

Region	Region's Funding Amount	Measure Funding Amount	# of Rural Households	Measure Rural %	Rural Measure Funding Amount	# of Urban Households	Measure Urb. %	Urban Measure Funding
1	\$ 2,013,425	\$ 40,269	265	26%	\$ 10,527	749	74%	\$ 29,741
2	\$ 771,878	\$ 15,438	238	43%	\$ 6,587	320	57%	\$ 8,851
3	\$ 9,923,312	\$ 198,466	735	10%	\$ 19,908	6,596	90%	\$ 178,558
4	\$ 2,055,878	\$ 41,118	467	49%	\$ 20,303	479	51%	\$ 20,815
5	\$ 475,494	\$ 9,510	347	48%	\$ 4,588	372	52%	\$ 4,922
6	\$ 12,897,558	\$ 257,951	412	6%	\$ 15,529	6,439	94%	\$ 242,422
7	\$ 3,652,668	\$ 73,053	239	10%	\$ 7,461	2,098	90%	\$ 65,592
8	\$ 2,768,198	\$ 55,364	196	19%	\$ 10,594	826	81%	\$ 44,770
9	\$ 1,914,335	\$ 38,287	280	13%	\$ 5,042	1,845	87%	\$ 33,245
10	\$ 1,931,583	\$ 38,632	335	40%	\$ 15,620	493	60%	\$ 23,012
11	\$ 6,275,553	\$ 125,511	1,563	39%	\$ 48,906	2,449	61%	\$ 76,605
12	\$ 697,063	\$ 13,941	130	19%	\$ 2,669	548	81%	\$ 11,272
13	\$ 1,645,254	\$ 32,905	102	8%	\$ 2,711	1,133	92%	\$ 30,194
Ttl.	\$ 47,022,199	\$ 940,444	5,309	18%	\$ 170,445	24,347	82%	\$ 769,999

2012 Housing Tax Credit Regional Allocation Formula

Overall Measure of Affordable Housing Need

Region	Region's Funding Amount				Rural Need Based Funding Amount	Rural Need Based %		Urban Need Based Funding Amount	Urban Need Based %
1	\$ 2,013,425				\$ 685,301	34.0%		\$ 1,328,124	66.0%
2	\$ 771,878				\$ 352,121	45.6%		\$ 419,757	54.4%
3	\$ 9,923,312				\$ 753,876	7.6%		\$ 9,169,436	92.4%
4	\$ 2,055,878				\$ 1,154,333	56.1%		\$ 901,545	43.9%
5	\$ 475,494				\$ 258,226	54.3%		\$ 217,269	45.7%
6	\$ 12,897,558				\$ 921,536	7.1%		\$ 11,976,023	92.9%
7	\$ 3,652,668				\$ 334,824	9.2%		\$ 3,317,845	90.8%
8	\$ 2,768,198				\$ 488,911	17.7%		\$ 2,279,287	82.3%
9	\$ 1,914,335				\$ 195,881	10.2%		\$ 1,718,454	89.8%
10	\$ 1,931,583				\$ 717,290	37.1%		\$ 1,214,292	62.9%
11	\$ 6,275,553				\$ 1,821,023	29.0%		\$ 4,454,530	71.0%
12	\$ 697,063				\$ 196,754	28.2%		\$ 500,308	71.8%
13	\$ 1,645,254				\$ 115,862	7.0%		\$ 1,529,393	93.0%
Ttl.	\$ 47,022,199				\$ 7,995,938	17.0%		\$ 39,026,261	83.0%

2012 Housing Tax Credit Regional Allocation Formula

Table 7. Measuring Available Housing Resources in Rural and Urban Places

Region	Reg All Res Rur	Reg All Res Urb	Reg All Res	Rural Resource %	Urban Resource %
1	\$ 9,675,907	\$ 25,415,422	\$ 35,091,329	27.6%	72.4%
2	\$ 14,578,373	\$ 16,689,545	\$ 31,267,918	46.6%	53.4%
3	\$ 20,341,302	\$ 305,653,188	\$ 325,994,490	6.2%	93.8%
4	\$ 20,762,627	\$ 22,351,297	\$ 43,113,923	48.2%	51.8%
5	\$ 28,306,537	\$ 36,547,743	\$ 64,854,280	43.6%	56.4%
6	\$ 20,086,650	\$ 211,307,525	\$ 231,394,175	8.7%	91.3%
7	\$ 13,025,705	\$ 67,236,923	\$ 80,262,628	16.2%	83.8%
8	\$ 14,307,623	\$ 33,583,085	\$ 47,890,707	29.9%	70.1%
9	\$ 14,045,724	\$ 144,188,868	\$ 158,234,593	8.9%	91.1%
10	\$ 17,183,123	\$ 17,589,599	\$ 34,772,722	49.4%	50.6%
11	\$ 23,829,335	\$ 63,010,244	\$ 86,839,579	27.4%	72.6%
12	\$ 6,506,923	\$ 28,918,077	\$ 35,425,000	18.4%	81.6%
13	\$ 1,192,914	\$ 62,159,234	\$ 63,352,148	1.9%	98.1%
Ttl.	\$ 203,842,743	\$ 1,034,650,750	\$ 1,238,493,492	16.5%	83.5%

2012 Housing Tax Credit Regional Allocation Formula

Table 8. Rural and Urban Resource Adjustment

Region	Region's Funding Amount	Rural Areas							Urban Areas						
		Area's Resource %	Area's Need %	Area's Resource Difference	Base Resource Funding Adjustment	Region's Need Based Funding Amount	Maximum Resource Funding Adjustment	Resource Funding Adjustment	Area's Resource %	Area's Need %	Area's Resource Difference	Base Resource Funding Adjustment	Region's Need Based Funding Amount	Maximum Resource Funding Adjustment	Resource Funding Adjustment
1	\$ 2,013,425	27.6%	34.0%	-6.5%	\$ -	\$ -	\$ -	\$ -	72.4%	66.0%	6.5%	\$ (130,130)	\$ 1,328,124	\$ (1,328,124)	\$ (130,130)
2	\$ 771,878	46.6%	45.6%	1.0%	\$ (7,760)	\$ 352,121	\$ (352,121)	\$ (7,760)	53.4%	54.4%	-1.0%	\$ -	\$ -	\$ -	\$ -
3	\$ 9,923,312	6.2%	7.6%	-1.4%	\$ -	\$ -	\$ -	\$ -	93.8%	92.4%	1.4%	\$ (134,684)	\$ 9,169,436	\$ (9,169,436)	\$ (134,684)
4	\$ 2,055,878	48.2%	56.1%	-8.0%	\$ -	\$ -	\$ -	\$ -	51.8%	43.9%	8.0%	\$ (164,272)	\$ 901,545	\$ (901,545)	\$ (164,272)
5	\$ 475,494	43.6%	54.3%	-10.7%	\$ -	\$ -	\$ -	\$ -	56.4%	45.7%	10.7%	\$ (50,690)	\$ 217,269	\$ (217,269)	\$ (50,690)
6	\$ 12,897,558	8.7%	7.1%	1.5%	\$ (198,064)	\$ 921,536	\$ (921,536)	\$ (198,064)	91.3%	92.9%	-1.5%	\$ -	\$ -	\$ -	\$ -
7	\$ 3,652,668	16.2%	9.2%	7.1%	\$ (257,963)	\$ 334,824	\$ (334,824)	\$ (257,963)	83.8%	90.8%	-7.1%	\$ -	\$ -	\$ -	\$ -
8	\$ 2,768,198	29.9%	17.7%	12.2%	\$ (338,104)	\$ 488,911	\$ (488,911)	\$ (338,104)	70.1%	82.3%	-12.2%	\$ -	\$ -	\$ -	\$ -
9	\$ 1,914,335	8.9%	10.2%	-1.4%	\$ -	\$ -	\$ -	\$ -	91.1%	89.8%	1.4%	\$ (25,955)	\$ 1,718,454	\$ (1,718,454)	\$ (25,955)
10	\$ 1,931,583	49.4%	37.1%	12.3%	\$ (237,211)	\$ 717,290	\$ (717,290)	\$ (237,211)	50.6%	62.9%	-12.3%	\$ -	\$ -	\$ -	\$ -
11	\$ 6,275,553	27.4%	29.0%	-1.6%	\$ -	\$ -	\$ -	\$ -	72.6%	71.0%	1.6%	\$ (98,971)	\$ 4,454,530	\$ (4,454,530)	\$ (98,971)
12	\$ 697,063	18.4%	28.2%	-9.9%	\$ -	\$ -	\$ -	\$ -	81.6%	71.8%	9.9%	\$ (68,717)	\$ 500,308	\$ (500,308)	\$ (68,717)
13	\$ 1,645,254	1.9%	7.0%	-5.2%	\$ -	\$ -	\$ -	\$ -	98.1%	93.0%	5.2%	\$ (84,882)	\$ 1,529,393	\$ (1,529,393)	\$ (84,882)
Ttl.	\$ 47,022,199	16.5%	17.0%	-0.5%	(1,039,102)	2,814,681	(2,814,681)	(1,039,102)	83.5%	83.0%	0.5%	(758,300)	\$ 19,819,058	\$ (19,819,058)	(758,300)

Resource Funding Adjustment Limit:

2012 Housing Tax Credit Regional Allocation Formula

Table 9. Rural and Urban Area Funding Amount

Region	Region's Funding Amount	Rural Areas					Urban Areas				
		Area's Need %	Area's Need Based Funding Amount	Area's Resource Funding Adjustment	Area's Funding Amount	Allocation % Rural	Area's Need %	Area's Need Based Funding Amount	Area's Resource Funding Adjustment	Area's Funding Amount	Allocation % Urban
1	\$ 2,013,425	34.0%	685,301	\$ 130,130	\$ 815,431	40.5%	66.0%	\$ 1,328,124	\$ (130,130)	\$ 1,197,994	59.5%
2	\$ 771,878	45.6%	352,121	\$ (7,760)	\$ 344,361	44.6%	54.4%	\$ 419,757	\$ 7,760	\$ 427,517	55.4%
3	\$ 9,923,312	7.6%	753,876	\$ 134,684	\$ 888,560	9.0%	92.4%	\$ 9,169,436	\$ (134,684)	\$ 9,034,751	91.0%
4	\$ 2,055,878	56.1%	1,154,333	\$ 164,272	\$ 1,318,606	64.1%	43.9%	\$ 901,545	\$ (164,272)	\$ 737,272	35.9%
5	\$ 475,494	54.3%	258,226	\$ 50,690	\$ 308,916	65.0%	45.7%	\$ 217,269	\$ (50,690)	\$ 166,579	35.0%
6	\$ 12,897,558	7.1%	921,536	\$ (198,064)	\$ 723,472	5.6%	92.9%	\$ 11,976,023	\$ 198,064	\$ 12,174,087	94.4%
7	\$ 3,652,668	9.2%	334,824	\$ (257,963)	\$ 76,861	2.1%	90.8%	\$ 3,317,845	\$ 257,963	\$ 3,575,807	97.9%
8	\$ 2,768,198	17.7%	488,911	\$ (338,104)	\$ 150,807	5.4%	82.3%	\$ 2,279,287	\$ 338,104	\$ 2,617,391	94.6%
9	\$ 1,914,335	10.2%	195,881	\$ 25,955	\$ 221,835	11.6%	89.8%	\$ 1,718,454	\$ (25,955)	\$ 1,692,500	88.4%
10	\$ 1,931,583	37.1%	717,290	\$ (237,211)	\$ 480,079	24.9%	62.9%	\$ 1,214,292	\$ 237,211	\$ 1,451,504	75.1%
11	\$ 6,275,553	29.0%	1,821,023	\$ 98,971	\$ 1,919,994	30.6%	71.0%	\$ 4,454,530	\$ (98,971)	\$ 4,355,559	69.4%
12	\$ 697,063	28.2%	196,754	\$ 68,717	\$ 265,471	38.1%	71.8%	\$ 500,308	\$ (68,717)	\$ 431,592	61.9%
13	\$ 1,645,254	7.0%	115,862	\$ 84,882	\$ 200,743	12.2%	93.0%	\$ 1,529,393	\$ (84,882)	\$ 1,444,511	87.8%
Ttl.	\$ 47,022,199	17.0%	7,995,938	\$ (280,802)	\$ 7,715,136	16.4%	83.0%	\$ 39,026,261	\$ 280,802	\$ 39,307,063	83.6%

Rural Pct of State Allocation 14%

**2012 At-Risk and Regional Estimated Funding Amounts
2012 Applicant Funding Request and Award Limits**

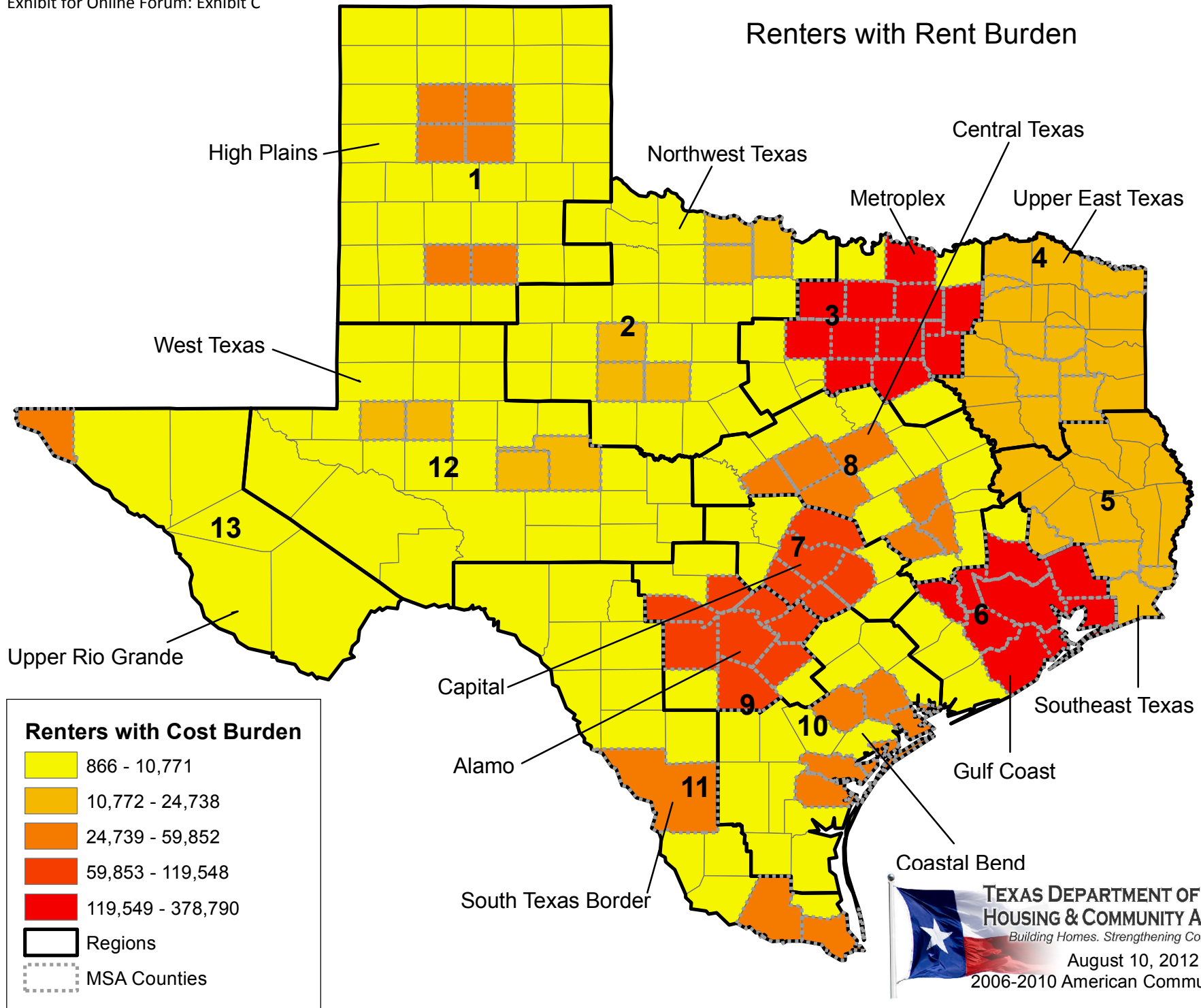
	Region	Geography	RAF Percentage	RAF Amount	2012 Forwards made in 2011	RAF Amount after Forwards	Adjustment Needed to Meet Minimum \$500,000 Funding Amount	Funding Reduced so Other Regions Meet Minimum \$500,000 Funding Amount	Final Funding Amount	Allocation %	Max Funding Request/Award Limits (150%)
Rural	1	Lubbock	1.7%	\$ 815,431		\$ 815,431	\$ -	\$ 112,034	\$ 703,397	1.88%	\$ 1,055,095
	2	Abilene	0.7%	\$ 344,361		\$ 344,361	\$ 155,639	\$ -	\$ 500,000	1.34%	\$ 750,000
	3	Dallas/Fort Worth	1.9%	\$ 888,560		\$ 888,560	\$ -	\$ 122,082	\$ 766,479	2.05%	\$ 1,149,718
	4	Tyler	2.8%	\$ 1,318,606		\$ 1,318,606	\$ -	\$ 181,167	\$ 1,137,439	3.04%	\$ 1,706,158
	5	Beaumont	0.7%	\$ 308,916		\$ 308,916	\$ 191,084	\$ -	\$ 500,000	1.34%	\$ 750,000
	6	Houston	1.5%	\$ 723,472		\$ 723,472	\$ -	\$ 99,400	\$ 624,072	1.67%	\$ 936,108
	7	Austin/Round Rock	0.2%	\$ 76,861	\$ 1,356,665	\$ (1,279,804)	\$ 1,779,804	\$ -	\$ 500,000	1.34%	\$ 750,000
	8	Waco	0.3%	\$ 150,807		\$ 150,807	\$ 349,193	\$ -	\$ 500,000	1.34%	\$ 750,000
	9	San Antonio	0.5%	\$ 221,835		\$ 221,835	\$ 278,165	\$ -	\$ 500,000	1.34%	\$ 750,000
	10	Corpus Christi	1.0%	\$ 480,079		\$ 480,079	\$ 19,921	\$ -	\$ 500,000	1.34%	\$ 750,000
	11	Brownsville/Harlingen	4.1%	\$ 1,919,994	\$ 1,034,797	\$ 885,197	\$ -	\$ 263,793	\$ 621,404	1.66%	\$ 932,106
	12	San Angelo	0.6%	\$ 265,471		\$ 265,471	\$ 234,529	\$ -	\$ 500,000	1.34%	\$ 750,000
	13	El Paso	0.4%	\$ 200,743		\$ 200,743	\$ 299,257	\$ -	\$ 500,000	1.34%	\$ 750,000
Urban	1	Lubbock	2.5%	\$ 1,197,994		\$ 1,197,994	\$ -	\$ 164,596	\$ 1,033,399	2.76%	\$ 1,550,098
	2	Abilene	0.9%	\$ 427,517	\$ 721,737	\$ (294,220)	\$ 794,220	\$ -	\$ 500,000	1.34%	\$ 750,000
	3	Dallas/Fort Worth	19.2%	\$ 9,034,751	\$ 2,191,228	\$ 6,843,523	\$ -	\$ 1,241,308	\$ 5,602,215	14.96%	\$ 2,000,000
	4	Tyler	1.6%	\$ 737,272		\$ 737,272	\$ -	\$ 101,296	\$ 635,977	1.70%	\$ 953,965
	5	Beaumont	0.4%	\$ 166,579		\$ 166,579	\$ 333,421	\$ -	\$ 500,000	1.34%	\$ 750,000
	6	Houston	25.9%	\$ 12,174,087	\$ 989,141	\$ 11,184,946	\$ -	\$ 1,672,630	\$ 9,512,316	25.40%	\$ 2,000,000
	7	Austin/Round Rock	7.6%	\$ 3,575,807		\$ 3,575,807	\$ -	\$ 491,290	\$ 3,084,518	8.24%	\$ 2,000,000
	8	Waco	5.6%	\$ 2,617,391		\$ 2,617,391	\$ -	\$ 359,610	\$ 2,257,781	6.03%	\$ 2,000,000
	9	San Antonio	3.6%	\$ 1,692,500	\$ 2,000,000	\$ (307,500)	\$ 807,500	\$ -	\$ 500,000	1.34%	\$ 750,000
	10	Corpus Christi	3.1%	\$ 1,451,504		\$ 1,451,504	\$ -	\$ 199,426	\$ 1,252,078	3.34%	\$ 1,878,117
	11	Brownsville/Harlingen	9.3%	\$ 4,355,559	\$ 783,316	\$ 3,572,243	\$ -	\$ 598,422	\$ 2,973,821	7.94%	\$ 2,000,000
	12	San Angelo	0.9%	\$ 431,592	\$ 494,376	\$ (62,784)	\$ 562,784	\$ -	\$ 500,000	1.34%	\$ 750,000
	13	El Paso	3.1%	\$ 1,444,511		\$ 1,444,511	\$ -	\$ 198,465	\$ 1,246,046	3.33%	\$ 1,869,069
Rural Total			16%	\$ 7,715,136	\$ 2,391,462	\$ 5,323,674	\$ 3,307,592	\$ 778,475	\$ 7,852,791	21%	
Urban Totals			84%	\$ 39,307,063	\$ 7,179,798	\$ 32,127,265	\$ 2,497,926	\$ 5,027,043	\$ 29,598,148	79%	
Regional Total				\$ 47,022,199	\$ 9,571,260	\$ 37,450,939	\$ 5,805,518	\$ 5,805,518	\$ 37,450,939		
At-Risk Total				\$ 8,298,035	\$ 944,918	\$ 7,353,117			\$ 7,353,117		
Grand Total				\$ 55,320,234	\$ 10,516,178	\$ 44,804,056	\$ 5,805,518	\$ 5,805,518	\$ 44,804,056		

NOTES:

This table reflects the allocation of the estimated 2012 Competitive Housing Tax Credit Ceiling that the Department expects to have available for allocation during the 2012 cycle. The Internal Revenue Service has not yet released the final population figures to be used to determine the 2012 ceiling. The ceiling is estimated as the 2011 population figure multiplied by \$2.20 [Rev. Proc. 2011-52]. The column labeled "Final Funding Amount" is the column an Applicant can reference to determine the amount of credit allocation that is estimated to be available after forward commitments made in 2011 are removed.

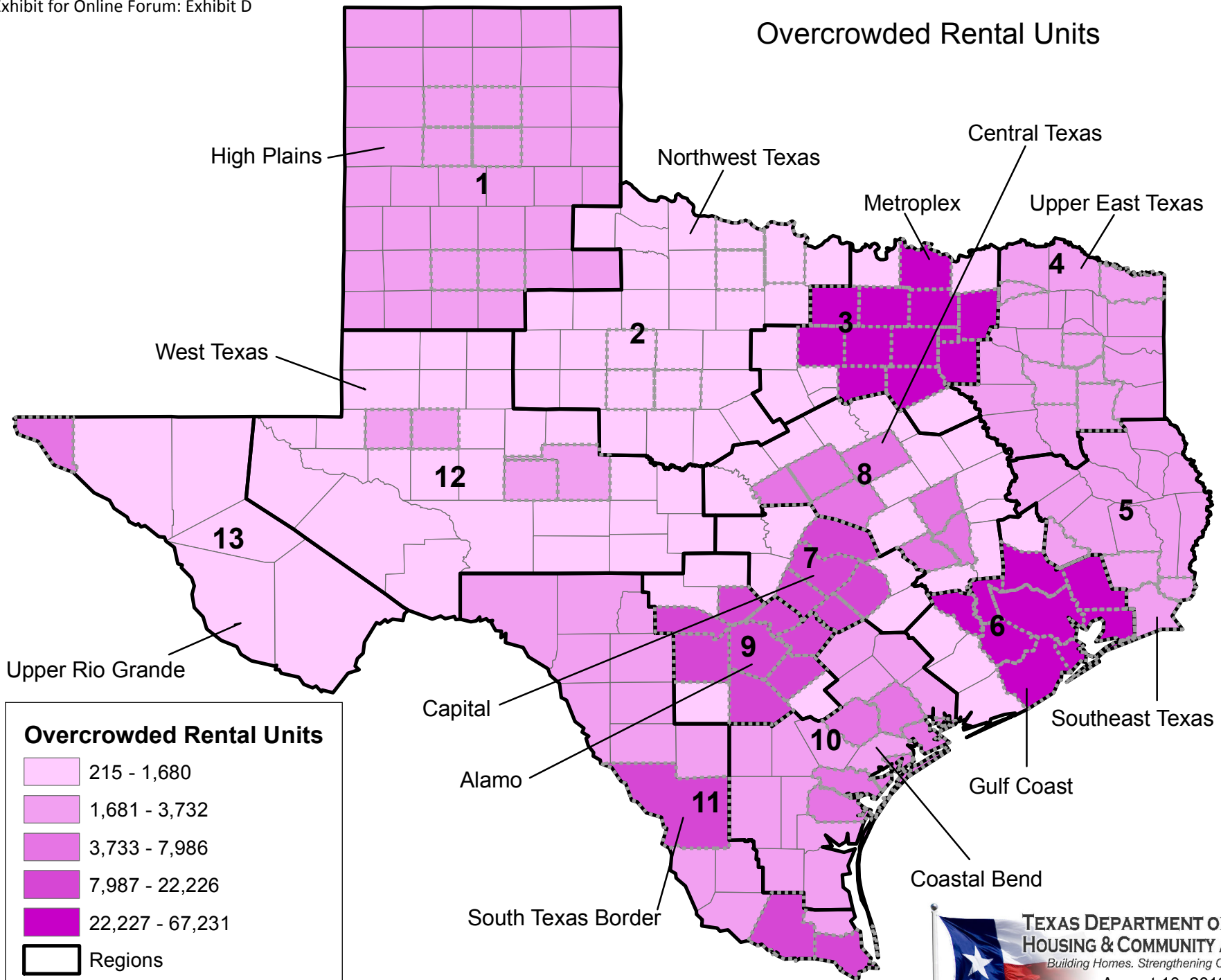
This information is also used to set the maximum award limits for each State sub-region in accordance with 10 TAC §§50.4(c)(10) and 50.5(c). An Applicant cannot request or be awarded more than the amounts reflected in the column labeled "Max Funding Request/Award Limits (150%)." These maximums are subject to Governor's approval of the the final Board adopted Qualified Allocation Plan. Additionally, these award limits are fixed and will not change even if the regional funding amounts change based on updates to the state population or total amount of credits available during the 2012 cycle.

Renters with Rent Burden



TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.
August 10, 2012
2006-2010 American Community Survey

Overcrowded Rental Units

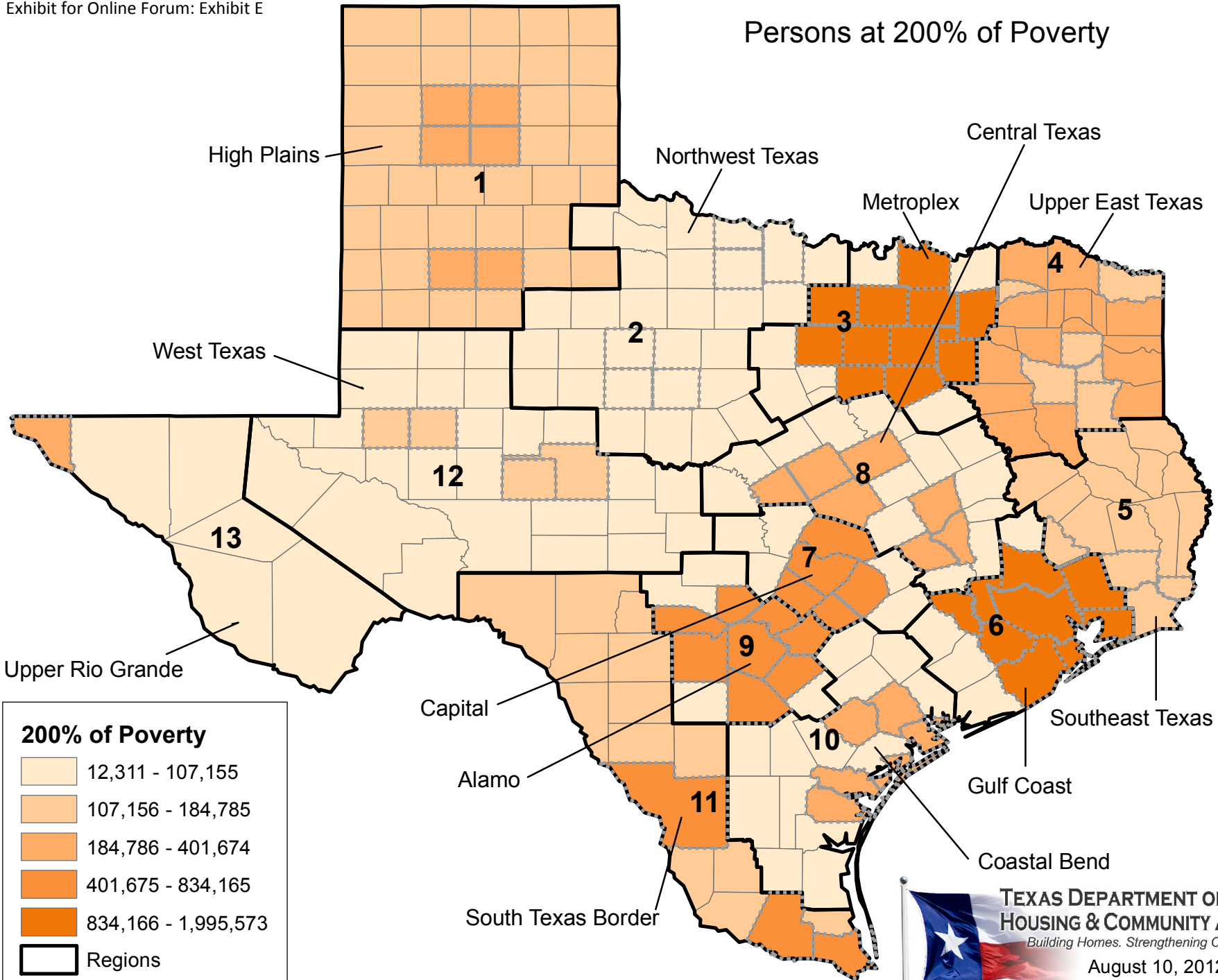


Overcrowded Rental Units

- 215 - 1,680
- 1,681 - 3,732
- 3,733 - 7,986
- 7,987 - 22,226
- 22,227 - 67,231

- Regions
- MSA Counties

Persons at 200% of Poverty



200% of Poverty

- 12,311 - 107,155
- 107,156 - 184,785
- 184,786 - 401,674
- 401,675 - 834,165
- 834,166 - 1,995,573

- Regions
- MSA Counties



TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

August 10, 2012
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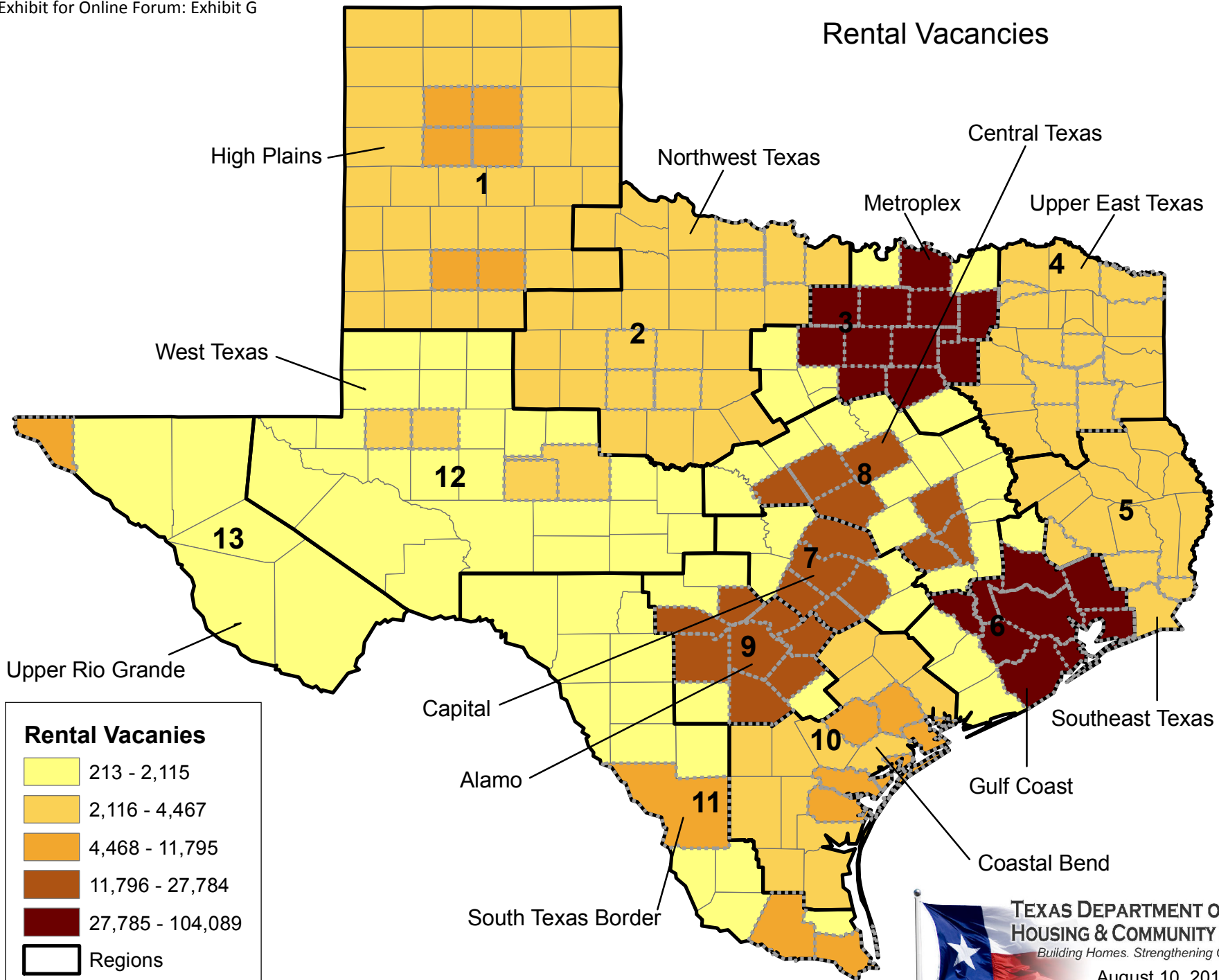
Texas Department of Housing and Community Affairs

Exhibit for Online Forum: Exhibit F

2011 and 2012 HTC RAF Comparisons

	Geography	2011 HTC RAF, Based on \$40,000,000	2012 HTC RAF, Based on \$40,000,000	Change between 2011 and 2012 HTC RAF
1-Urban	Lubbock	\$ 1,068,657	\$ 940,460	-12%
1-Rural	Levelland	\$ 703,376	\$ 640,137	-9%
1-Total	High Plains	\$ 1,772,033	\$ 1,580,597	-11%
2-Urban	Abilene	\$ 594,517	\$ 500,000	-16%
2-Rural	Sweetwater	\$ 500,000	\$ 500,000	0%
2-Total	Northwest Texas	\$ 1,094,517	\$ 1,000,000	-9%
3-Urban	Dallas/Fort Worth	\$ 7,926,780	\$ 7,092,539	-11%
3-Rural	Gainesville	\$ 800,759	\$ 697,545	-13%
3-Total	Metroplex	\$ 8,727,539	\$ 7,790,084	-11%
4-Urban	Tyler	\$ 729,105	\$ 578,780	-21%
4-Rural	Mount Pleasant	\$ 1,067,915	\$ 1,035,143	-3%
4-Total	Upper East Texas	\$ 1,797,020	\$ 1,613,923	-10%
5-Urban	Beaumont	\$ 687,146	\$ 500,000	-27%
5-Rural	Nacogdoches	\$ 685,964	\$ 500,000	-27%
5-Total	Southeast Texas	\$ 1,373,110	\$ 1,000,000	-27%
6-Urban	Houston	\$ 8,981,718	\$ 9,557,007	6%
6-Rural	Huntsville	\$ 607,808	\$ 567,946	-7%
6-Total	Gulf Coast	\$ 9,589,526	\$ 10,124,953	6%
7-Urban	Austin/Round Rock	\$ 1,720,876	\$ 2,807,111	63%
7-Rural	Marble Falls	\$ 500,000	\$ 500,000	0%
7-Total	Capital	\$ 2,220,876	\$ 3,307,111	49%
8-Urban	Waco	\$ 1,731,884	\$ 2,054,727	19%
8-Rural	Brenham	\$ 500,000	\$ 500,000	0%
8-Total	Central Texas	\$ 2,231,884	\$ 2,554,727	14%
9-Urban	San Antonio	\$ 2,625,188	\$ 1,328,661	-49%
9-Rural	Fredericksburg	\$ 500,000	\$ 500,000	0%
9-Total	Alamo	\$ 3,125,188	\$ 1,828,661	-41%
10-Urban	Corpus Christi	\$ 1,078,359	\$ 1,139,472	6%
10-Rural	Kingsville	\$ 620,718	\$ 500,000	-19%
10-Total	Coastal Bend	\$ 1,699,077	\$ 1,639,472	-4%
11-Urban	Brownsville/Harlingen	\$ 2,375,228	\$ 3,419,238	44%
11-Rural	Del Rio	\$ 1,174,396	\$ 1,507,251	28%
11-Total	South Texas Border	\$ 3,549,624	\$ 4,926,489	39%
12-Urban	San Angelo	\$ 624,476	\$ 500,000	-20%
12-Rural	Lamesa	\$ 500,000	\$ 500,000	0%
12-Total	West Texas	\$ 1,124,476	\$ 1,000,000	-11%
13-Urban	El Paso	\$ 1,195,132	\$ 1,133,983	-5%
13-Rural	Fort Davis	\$ 500,000	\$ 500,000	0%
13-Total	Upper Rio Grande	\$ 1,695,132	\$ 1,633,983	-4%

Rental Vacancies



Rental Vacancies

- 213 - 2,115
- 2,116 - 4,467
- 4,468 - 11,795
- 11,796 - 27,784
- 27,785 - 104,089
- Regions
- MSA Counties

A. Regions (MSA Counties)	B. Building Permits, Multifamily	C. Building Permits, Single-family	D. Building Permits, Total*	E. Cost Burden, Owners	F. Cost Burden, Renters	G. Lacking Kitchen, Own	H. Lacking Kitchen, Rent	I. Lack of Plumbing, Own	J. Lack Plumbing, Rent
1	884	1,468	2,378	25,333	34,134	488	1,300	522	560
2	128	429	577	14,909	17,649	497	416	447	250
3	5,242	14,492	19,882	396,632	378,790	5,336	10,480	4,386	5,910
4	388	478	952	25,965	24,738	459	1,467	464	536
5	152	1,258	1,426	18,892	17,665	714	816	569	152
6	4,858	22,328	27,450	341,981	327,333	5,814	8,288	5,340	5,798
7	2,290	6,200	8,786	102,474	119,548	1,076	2,819	1,324	1,298
8	514	3,177	3,838	39,742	59,852	747	1,683	559	761
9	1,645	5,144	6,865	116,649	110,578	2,488	3,473	2,350	2,139
10	296	1,028	1,328	30,515	33,394	917	1,971	960	1,135
11	459	4,794	5,473	79,794	56,907	2,387	3,008	4,437	2,927
12	440	839	1,279	18,058	17,406	718	1,486	504	561
13	1,412	2,961	4,549	42,569	41,999	728	1,301	1,058	1,145

Regions (Non-MSA Counties)	Building Permits, Multifamily	Building Permits, Single-family	Building Permits, Total	Cost Burden, Owners	Cost Burden, Renters	Lacking Kitchen, Own	Lacking Kitchen, Rent	Lack of Plumbing, Own	Lack Plumbing, Rent
1	124	70	196	13706	9,348	407	454	412	210
2	0	89	127	12336	8,281	456	463	364	222
3	170	182	361	14191	10,771	520	577	352	277
4	45	233	310	31151	17,243	887	1311	766	785
5	284	490	782	19063	15,256	615	647	553	274
6	294	288	716	7937	8,512	209	327	118	40
7	16	398	432	8329	3,757	281	379	225	154
8	0	108	112	15271	7,502	567	405	552	218
9	0	111	111	6328	3,999	57	127	158	25
10	0	89	89	9539	6,819	418	452	408	295
11	36	227	286	13511	8,791	576	333	902	531
12	64	69	133	6735	4,816	514	269	362	129
13	0	23	23	1316	866	72	59	139	135

Texas Department of Housing and Community Affairs

Exhibit for Online Forum: Exhibit H

Variables Considered for the 2013 RAF

K. Over-crowded Owners	L. Over-crowded Renters	M. People at 200% Poverty	N. Population Growth between 2013-2016	O. Unit's Age at 30 yrs or more, Owners	P. Unit's Age at 30 yrs or more, Renters	Q. Unit's Age at 50 yrs or more, Owners	R. Unit's Age at 50 yrs or more, Renters	S. Vacancies, Owners	T. Vacancies, Rental
3,246	3,732	197,083	11,855	72,930	43,776	34,021	18,726	2,678	7,317
1,288	1,680	107,155	(1,280)	50,976	24,664	28,977	12,691	1,640	4,467
35,569	57,107	1,995,573	586,612	576,080	347,552	232,391	110,152	35,380	103,640
3,280	3,084	184,785	22,199	67,929	32,609	26,714	12,002	2,539	3,692
2,590	2,081	145,209	501	66,977	27,003	30,080	12,522	2,000	3,740
39,214	67,231	1,959,263	482,491	519,653	355,889	177,412	88,998	32,328	104,089
7,796	14,330	486,104	171,308	106,693	89,654	36,592	21,728	7,703	18,889
4,183	5,353	335,779	32,882	77,553	59,840	32,304	21,698	4,650	17,275
13,654	14,610	739,878	116,997	207,784	120,047	92,659	41,842	9,622	27,784
3,695	4,885	209,455	5,680	72,421	42,842	34,942	18,471	2,854	7,699
27,780	22,226	834,165	117,318	82,088	44,816	28,224	14,572	6,080	11,795
3,340	1,837	134,615	7,646	58,452	24,804	31,069	9,793	894	4,141
7,610	7,986	401,674	23,904	74,122	50,211	30,746	18,878	3,604	7,903
Over-crowded Owners	Overcrowded Renters	People at 200% Poverty	Population Growth between 2013-2016	Unit's Age at 30 yrs or more, Owners	Unit's Age, Rent 30 yrs	Unit's Age at 50 yrs or more, Owners	Unit's Age, Rent 50 yrs	Vacancies, Owners	Vacancies, Rental
2,940	2094	122,109	(652)	57,566	21394	30611	12301	1,379	2,762
1,372	1104	94,601	510	46,474	17704	27339	9614	1,656	2,401
1,651	1527	86,260	12,601	30,350	14577	13120	6536	1,861	1,813
4,286	2795	213,083	12,998	74,521	27321	29762	11530	3,447	4,136
2,879	2123	152,551	6,321	48,511	19371	17532	7075	1,859	3,449
1,150	1099	59,244	275	20,126	10154	9017	3448	590	2,040
828	605	37,999	8,057	15,203	6036	5934	2856	822	1,292
1,656	1039	93,928	6,230	35,056	13376	16919	6144	2,064	1,606
678	935	34,823	3,222	13,853	6148	6205	2397	835	782
1,850	1990	87,618	150	33,313	14659	17541	7989	1,309	2,506
4,277	2902	161,792	8,372	26,671	12216	10217	4807	1,022	2,115
1,349	1066	70,228	(644)	33,691	11814	18587	5283	1,033	1,028
170	215	12,311	653	3,360	1910	2022	999	254	213

Column B, C and D are from the US Census Bureau's Economic Census

Column E, F, G, H, I, J, K, L and M are from the 2006-2010 American Community Survey.

Column N data is from the State Demographers Office

Column O, P, Q, R, S and T are from the 2006-2010 American Community Survey.

*Total Building Permits (Column D) is greater than the sum of Building Permits Multifamily (Column B) and Building Permits Single Family (Column C) because multifamily is defined as 5+ units and single family is defined as 1 unit. Permits for 2-4 units are included in the total building permits.

Renters with Rent Burden by Place

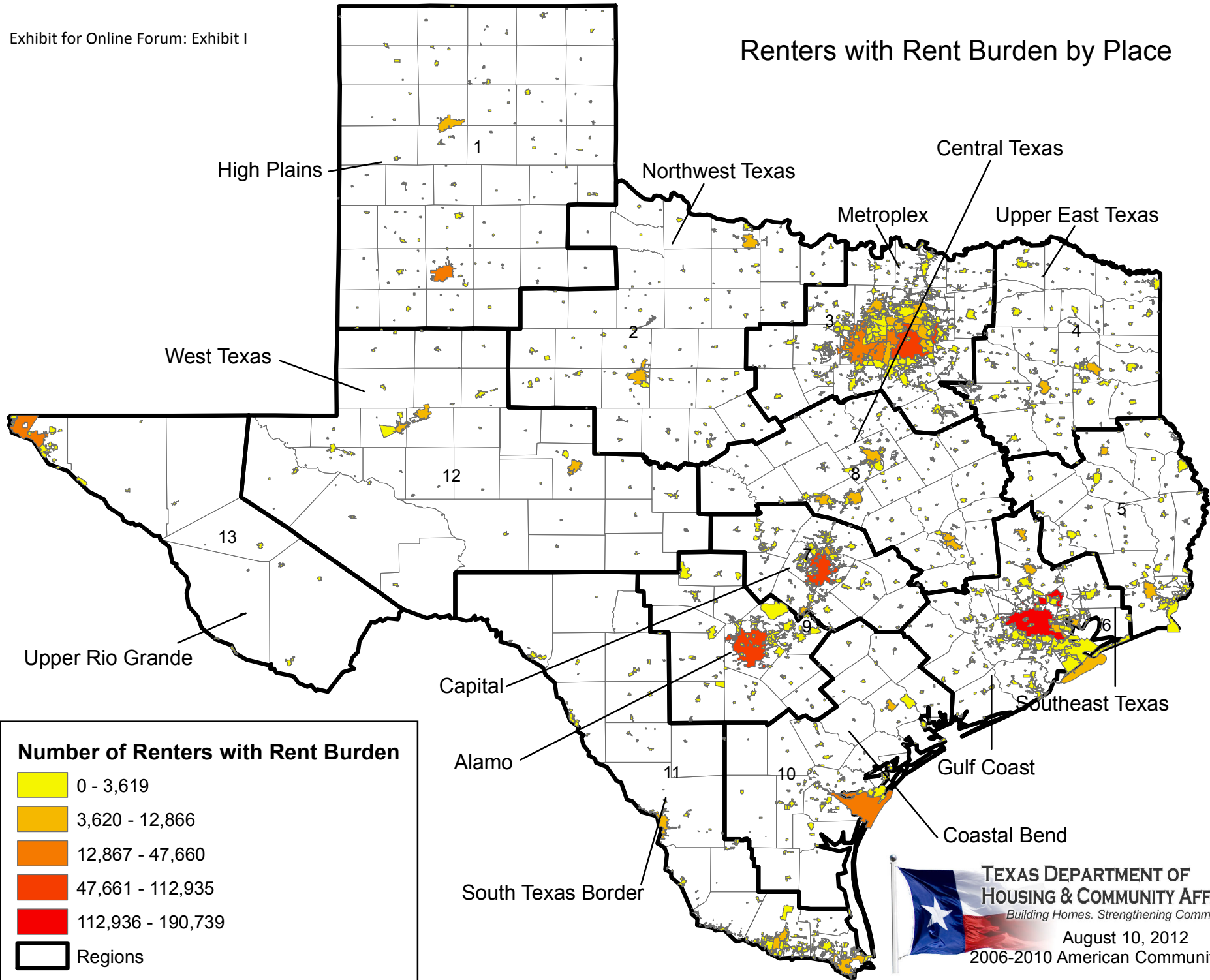


Table 1 - Raw Data

Region (MSA Counties)	People at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide burden	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	197,083	2.2%	34,134	2.5%	3,732	1.7%	7,317	2.10%
2	107,155	1.2%	17,649	1.3%	1,680	0.7%	4,467	1.28%
3	1,995,573	22.3%	378,790	28.1%	57,107	25.3%	103,640	29.73%
4	184,785	2.1%	24,738	1.8%	3,084	1.4%	3,692	1.06%
5	145,209	1.6%	17,665	1.3%	2,081	0.9%	3,740	1.07%
6	1,959,263	21.9%	327,333	24.3%	67,231	29.8%	104,089	29.86%
7	486,104	5.4%	119,548	8.9%	14,330	6.4%	18,889	5.42%
8	335,779	3.7%	59,852	4.4%	5,353	2.4%	17,275	4.96%
9	739,878	8.3%	110,578	8.2%	14,610	6.5%	27,784	7.97%
10	209,455	2.3%	33,394	2.5%	4,885	2.2%	7,699	2.21%
11	834,165	9.3%	56,907	4.2%	22,226	9.9%	11,795	3.38%
12	134,615	1.5%	17,406	1.3%	1,837	0.8%	4,141	1.19%
13	401,674	4.5%	41,999	3.1%	7,986	3.5%	7,903	2.27%

Region (Non-MSA Counties)	People at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide burden	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	122,109	1.4%	9,348	0.7%	2,094	0.9%	2,762	0.8%
2	94,601	1.1%	8,281	0.6%	1,104	0.5%	2,401	0.7%
3	86,260	1.0%	10,771	0.8%	1,527	0.7%	1,813	0.5%
4	213,083	2.4%	17,243	1.3%	2,795	1.2%	4,136	1.2%
5	152,551	1.7%	15,256	1.1%	2,123	0.9%	3,449	1.0%
6	59,244	0.7%	8,512	0.6%	1,099	0.5%	2,040	0.6%
7	37,999	0.4%	3,757	0.3%	605	0.3%	1,292	0.4%
8	93,928	1.0%	7,502	0.6%	1,039	0.5%	1,606	0.5%
9	34,823	0.4%	3,999	0.3%	935	0.4%	782	0.2%
10	87,618	1.0%	6,819	0.5%	1,990	0.9%	2,506	0.7%
11	161,792	1.8%	8,791	0.7%	2,902	1.3%	2,115	0.6%
12	70,228	0.8%	4,816	0.4%	1,066	0.5%	1,028	0.3%
13	12,311	0.1%	866	0.1%	215	0.1%	213	0.1%
Total for State	8,957,285		1,345,954		225,636		348,574	

Table 2 - Weighted Variables

Sample RAF \$ 40,000,000.00

MSA regions	% of statewide 200% poverty	50% Weight	% of statewide burden	50% Weight	% of statewide overcrowding	50% Weight	% of statewide vancancy	-50.00%	Sub-region amount
1	2.2%	\$ 440,051	2.5%	\$ 507,209	1.7%	\$ 330,798	2.1%	\$ (419,825)	\$ 858,233
2	1.2%	\$ 239,258	1.3%	\$ 262,253	0.7%	\$ 148,912	1.3%	\$ (256,301)	\$ 394,121
3	22.3%	\$ 4,455,754	28.1%	\$ 5,628,573	25.3%	\$ 5,061,870	29.7%	\$ (5,946,514)	\$ 9,199,683
4	2.1%	\$ 412,592	1.8%	\$ 367,591	1.4%	\$ 273,361	1.1%	\$ (211,835)	\$ 841,708
5	1.6%	\$ 324,225	1.3%	\$ 262,490	0.9%	\$ 184,456	1.1%	\$ (214,589)	\$ 556,584
6	21.9%	\$ 4,374,680	24.3%	\$ 4,863,955	29.8%	\$ 5,959,244	29.9%	\$ (5,972,276)	\$ 9,225,604
7	5.4%	\$ 1,085,382	8.9%	\$ 1,776,405	6.4%	\$ 1,270,187	5.4%	\$ (1,083,787)	\$ 3,048,188
8	3.7%	\$ 749,734	4.4%	\$ 889,362	2.4%	\$ 474,481	5.0%	\$ (991,181)	\$ 1,122,395
9	8.3%	\$ 1,652,014	8.2%	\$ 1,643,117	6.5%	\$ 1,295,006	8.0%	\$ (1,594,152)	\$ 2,995,985
10	2.3%	\$ 467,675	2.5%	\$ 496,213	2.2%	\$ 432,998	2.2%	\$ (441,743)	\$ 955,144
11	9.3%	\$ 1,862,540	4.2%	\$ 845,601	9.9%	\$ 1,970,076	3.4%	\$ (676,757)	\$ 4,001,459
12	1.5%	\$ 300,571	1.3%	\$ 258,642	0.8%	\$ 162,829	1.2%	\$ (237,597)	\$ 484,445
13	4.5%	\$ 896,866	3.1%	\$ 624,078	3.5%	\$ 707,866	2.3%	\$ (453,447)	\$ 1,775,362
Sub-region MSA Total	86.3%	\$ 17,261,342	92.1%	\$ 18,425,489	91.4%	\$ 18,272,084	92.5%	\$ (18,500,003)	\$ 35,458,912

Non-MSA regions	% of statewide 200% poverty	50% Weight	% of statewide burden	50% Weight	% of statewide overcrowding	50% Weight	% of statewide vancancy	-50.00%	Sub-region amount
1	1.4%	\$ 272,647	0.7%	\$ 138,905	0.9%	\$ 185,609	0.8%	\$ (158,474)	\$ 438,687
2	1.1%	\$ 211,227	0.6%	\$ 123,050	0.5%	\$ 97,857	0.7%	\$ (137,761)	\$ 294,373
3	1.0%	\$ 192,603	0.8%	\$ 160,050	0.7%	\$ 135,351	0.5%	\$ (104,024)	\$ 383,980
4	2.4%	\$ 475,776	1.3%	\$ 256,220	1.2%	\$ 247,744	1.2%	\$ (237,310)	\$ 742,430
5	1.7%	\$ 340,619	1.1%	\$ 226,694	0.9%	\$ 188,179	1.0%	\$ (197,892)	\$ 557,600
6	0.7%	\$ 132,281	0.6%	\$ 126,483	0.5%	\$ 97,414	0.6%	\$ (117,048)	\$ 239,129
7	0.4%	\$ 84,845	0.3%	\$ 55,827	0.3%	\$ 53,626	0.4%	\$ (74,131)	\$ 120,167
8	1.0%	\$ 209,724	0.6%	\$ 111,475	0.5%	\$ 92,095	0.5%	\$ (92,147)	\$ 321,147
9	0.4%	\$ 77,753	0.3%	\$ 59,423	0.4%	\$ 82,877	0.2%	\$ (44,869)	\$ 175,184
10	1.0%	\$ 195,635	0.5%	\$ 101,326	0.9%	\$ 176,390	0.7%	\$ (143,786)	\$ 329,566
11	1.8%	\$ 361,252	0.7%	\$ 130,629	1.3%	\$ 257,228	0.6%	\$ (121,352)	\$ 627,758
12	0.8%	\$ 156,806	0.4%	\$ 71,563	0.5%	\$ 94,488	0.3%	\$ (58,983)	\$ 263,874
13	0.1%	\$ 27,488	0.1%	\$ 12,868	0.1%	\$ 19,057	0.1%	\$ (12,221)	\$ 47,192
Sub-region non-MSA	13.7%	\$ 2,738,658	7.9%	\$ 1,574,511	8.6%	\$ 1,727,916	7.5%	\$ (1,499,997)	\$ 4,541,088

Statewide Total	100.0%	\$ 20,000,000	100.0%	\$ 20,000,000	100.0%	\$ 20,000,000	100.0%	\$ (20,000,000)	\$ 40,000,000
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Texas Department of Housing and Community Affairs - 2013 RAF Model with Four Variables

Exhibit for Online Forum: Exhibit J

Table 3 - \$500,000 Adjustment

Sample RAF \$ 40,000,000.00

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of total funding
1	\$ 858,233	\$ -	\$ 358,233	1%	\$ (30,449.13)	\$ 827,784	2.07%
2	\$ 394,121	\$ 105,879	\$ -	0%	\$ 105,878.57	\$ 500,000	1.25%
3	\$ 9,199,683	\$ -	\$ 8,699,683	29%	\$ (739,456.06)	\$ 8,460,227	21.15%
4	\$ 841,708	\$ -	\$ 341,708	1%	\$ (29,044.53)	\$ 812,664	2.03%
5	\$ 556,584	\$ -	\$ 56,584	0%	\$ (4,809.50)	\$ 551,774	1.38%
6	\$ 9,225,604	\$ -	\$ 8,725,604	30%	\$ (741,659.32)	\$ 8,483,945	21.21%
7	\$ 3,048,188	\$ -	\$ 2,548,188	9%	\$ (216,591.02)	\$ 2,831,597	7.08%
8	\$ 1,122,395	\$ -	\$ 622,395	2%	\$ (52,902.40)	\$ 1,069,493	2.67%
9	\$ 2,995,985	\$ -	\$ 2,495,985	8%	\$ (212,153.85)	\$ 2,783,831	6.96%
10	\$ 955,144	\$ -	\$ 455,144	2%	\$ (38,686.34)	\$ 916,458	2.29%
11	\$ 4,001,459	\$ -	\$ 3,501,459	12%	\$ (297,617.19)	\$ 3,703,842	9.26%
12	\$ 484,445	\$ 15,555	\$ -	0%	\$ 15,555.17	\$ 500,000	1.25%
13	\$ 1,775,362	\$ -	\$ 1,275,362	4%	\$ (108,403.24)	\$ 1,666,958	4.17%
Sub-region MSA Total	\$ 35,458,912	\$ 121,434	\$ 29,080,346	99%	\$ (2,350,339)	\$ 33,108,573	83%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of Total
1	\$ 438,687	\$ 61,313	\$ -	0%	\$ 61,313.02	\$ 500,000	1.25%
2	\$ 294,373	\$ 205,627	\$ -	0%	\$ 205,627.34	\$ 500,000	1.25%
3	\$ 383,980	\$ 116,020	\$ -	0%	\$ 116,020.03	\$ 500,000	1.25%
4	\$ 742,430	\$ -	\$ 242,430	1%	\$ (20,606.08)	\$ 721,824	1.80%
5	\$ 557,600	\$ -	\$ 57,600	0%	\$ (4,895.91)	\$ 552,704	1.38%
6	\$ 239,129	\$ 260,871	\$ -	0%	\$ 260,870.85	\$ 500,000	1.25%
7	\$ 120,167	\$ 379,833	\$ -	0%	\$ 379,832.93	\$ 500,000	1.25%
8	\$ 321,147	\$ 178,853	\$ -	0%	\$ 178,852.53	\$ 500,000	1.25%
9	\$ 175,184	\$ 324,816	\$ -	0%	\$ 324,815.67	\$ 500,000	1.25%
10	\$ 329,566	\$ 170,434	\$ -	0%	\$ 170,434.46	\$ 500,000	1.25%
11	\$ 627,758	\$ -	\$ 127,758	0%	\$ (10,859.16)	\$ 616,899	1.54%
12	\$ 263,874	\$ 236,126	\$ -	0%	\$ 236,125.64	\$ 500,000	1.25%
13	\$ 47,192	\$ 452,808	\$ -	0%	\$ 452,807.54	\$ 500,000	1.25%
Sub-region Non-MSA Total	\$ 4,541,088	\$ 2,386,700	\$ 427,788	1%	\$ 2,350,339	\$ 6,891,427	17%
Statewide Total	\$ 40,000,000	\$ 2,508,134	\$ 29,508,134	100%	\$ 40,000,000	\$ 40,000,000	100.00%

Minimum needed for each region	\$ 500,000
Total if each subregion has \$500,000	\$ 13,000,000
Amount available to be reallocated	\$ 29,508,134
Amount needed to bring underallocated regions to \$500,000	\$ 2,508,134

Exhibit for Online Forum: Exhibit K *Texas Department of Housing and Community Affairs*
 2012 and 2013 HTC RAF Four Factors Comparison

	Geography	2012 HTC RAF	2013 HTC RAF (four factors)	Amount change between 2013 and 2012	Percent change between 2012 and 2013 RAF
1-Urban	Lubbock	\$ 940,460	\$ 827,784	\$ (112,676)	-12%
1-Rural	Levelland	\$ 640,137	\$ 500,000	\$ (140,137)	-22%
1-Total	High Plains	\$ 1,580,597	\$ 1,327,784	\$ (252,813)	-16%
2-Urban	Abilene	\$ 500,000	\$ 500,000	\$ -	0%
2-Rural	Sweetwater	\$ 500,000	\$ 500,000	\$ -	0%
2-Total	Northwest Texas	\$ 1,000,000	\$ 1,000,000	\$ -	0%
3-Urban	Dallas/Fort Worth	\$ 7,092,539	\$ 8,460,227	\$ 1,367,688	19%
3-Rural	Gainesville	\$ 697,545	\$ 500,000	\$ (197,545)	-28%
3-Total	Metroplex	\$ 7,790,084	\$ 8,960,227	\$ 1,170,143	15%
4-Urban	Tyler	\$ 578,780	\$ 812,664	\$ 233,884	40%
4-Rural	Mount Pleasant	\$ 1,035,143	\$ 721,824	\$ (313,319)	-30%
4-Total	Upper East Texas	\$ 1,613,923	\$ 1,534,488	\$ (79,435)	-5%
5-Urban	Beaumont	\$ 500,000	\$ 551,774	\$ 51,774	10%
5-Rural	Nacogdoches	\$ 500,000	\$ 552,704	\$ 52,704	11%
5-Total	Southeast Texas	\$ 1,000,000	\$ 1,104,479	\$ 104,479	10%
6-Urban	Houston	\$ 9,557,007	\$ 8,483,945	\$ (1,073,062)	-11%
6-Rural	Huntsville	\$ 567,946	\$ 500,000	\$ (67,946)	-12%
6-Total	Gulf Coast	\$ 10,124,953	\$ 8,983,945	\$ (1,141,008)	-11%
7-Urban	Austin/Round Rock	\$ 2,807,111	\$ 2,831,597	\$ 24,486	1%
7-Rural	Marble Falls	\$ 500,000	\$ 500,000	\$ -	0%
7-Total	Capital	\$ 3,307,111	\$ 3,331,597	\$ 24,486	1%
8-Urban	Waco	\$ 2,054,727	\$ 1,069,493	\$ (985,234)	-48%
8-Rural	Brenham	\$ 500,000	\$ 500,000	\$ -	0%
8-Total	Central Texas	\$ 2,554,727	\$ 1,569,493	\$ (985,234)	-39%
9-Urban	San Antonio	\$ 1,328,661	\$ 2,783,831	\$ 1,455,170	110%
9-Rural	Fredericksburg	\$ 500,000	\$ 500,000	\$ -	0%
9-Total	Alamo	\$ 1,828,661	\$ 3,283,831	\$ 1,455,170	80%
10-Urban	Corpus Christi	\$ 1,139,472	\$ 916,458	\$ (223,014)	-20%
10-Rural	Kingsville	\$ 500,000	\$ 500,000	\$ -	0%
10-Total	Coastal Bend	\$ 1,639,472	\$ 1,416,458	\$ (223,014)	-14%
11-Urban	Brownsville/Harlingen	\$ 3,419,238	\$ 3,703,842	\$ 284,604	8%
11-Rural	Del Rio	\$ 1,507,251	\$ 616,899	\$ (890,352)	-59%
11-Total	South Texas Border	\$ 4,926,489	\$ 4,320,741	\$ (605,748)	-12%
12-Urban	San Angelo	\$ 500,000	\$ 500,000	\$ -	0%
12-Rural	Lamesa	\$ 500,000	\$ 500,000	\$ -	0%
12-Total	West Texas	\$ 1,000,000	\$ 1,000,000	\$ -	0%
13-Urban	El Paso	\$ 1,133,983	\$ 1,666,958	\$ 532,975	47%
13-Rural	Fort Davis	\$ 500,000	\$ 500,000	\$ -	0%
13-Total	Upper Rio Grande	\$ 1,633,983	\$ 2,166,958	\$ 532,975	33%

Table 1 - Raw Data

Region (MSA Counties)	People at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Percent of statewide burden	Vacancies, Rental	Percent of statewide vancancy
1	197,083	2.2%	34,134	2.5%	7,317	2.10%
2	107,155	1.2%	17,649	1.3%	4,467	1.28%
3	1,995,573	22.3%	378,790	28.1%	103,640	29.73%
4	184,785	2.1%	24,738	1.8%	3,692	1.06%
5	145,209	1.6%	17,665	1.3%	3,740	1.07%
6	1,959,263	21.9%	327,333	24.3%	104,089	29.86%
7	486,104	5.4%	119,548	8.9%	18,889	5.42%
8	335,779	3.7%	59,852	4.4%	17,275	4.96%
9	739,878	8.3%	110,578	8.2%	27,784	7.97%
10	209,455	2.3%	33,394	2.5%	7,699	2.21%
11	834,165	9.3%	56,907	4.2%	11,795	3.38%
12	134,615	1.5%	17,406	1.3%	4,141	1.19%
13	401,674	4.5%	41,999	3.1%	7,903	2.27%

Region (Non-MSA Counties)	People at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Percent of statewide burden	Vacancies, Rental	Percent of statewide vancancy
1	122,109	1.4%	9,348	0.7%	2,762	0.8%
2	94,601	1.1%	8,281	0.6%	2,401	0.7%
3	86,260	1.0%	10,771	0.8%	1,813	0.5%
4	213,083	2.4%	17,243	1.3%	4,136	1.2%
5	152,551	1.7%	15,256	1.1%	3,449	1.0%
6	59,244	0.7%	8,512	0.6%	2,040	0.6%
7	37,999	0.4%	3,757	0.3%	1,292	0.4%
8	93,928	1.0%	7,502	0.6%	1,606	0.5%
9	34,823	0.4%	3,999	0.3%	782	0.2%
10	87,618	1.0%	6,819	0.5%	2,506	0.7%
11	161,792	1.8%	8,791	0.7%	2,115	0.6%
12	70,228	0.8%	4,816	0.4%	1,028	0.3%
13	12,311	0.1%	866	0.1%	213	0.1%

Total 8,957,285 100% 1,345,954 348,574

Table 2 - Weighted Variables

Sample

HTC RAF \$ 40,000,000

MSA regions	% of statewide 200% poverty	100% Weight	% of statewide burden	100% Weight	% of statewide vancancy	-100.00%	Sub-region amount
1	2.2%	\$ 880,102	2.5%	\$ 1,014,418	2.1%	\$ (839,650)	\$ 1,054,870
2	1.2%	\$ 478,516	1.3%	\$ 524,505	1.3%	\$ (512,603)	\$ 490,418
3	22.3%	\$ 8,911,508	28.1%	\$ 11,257,145	29.7%	\$ (11,893,027)	\$ 8,275,627
4	2.1%	\$ 825,183	1.8%	\$ 735,181	1.1%	\$ (423,669)	\$ 1,136,695
5	1.6%	\$ 648,451	1.3%	\$ 524,981	1.1%	\$ (429,177)	\$ 744,255
6	21.9%	\$ 8,749,361	24.3%	\$ 9,727,910	29.9%	\$ (11,944,551)	\$ 6,532,720
7	5.4%	\$ 2,170,765	8.9%	\$ 3,552,811	5.4%	\$ (2,167,574)	\$ 3,556,002
8	3.7%	\$ 1,499,468	4.4%	\$ 1,778,723	5.0%	\$ (1,982,362)	\$ 1,295,829
9	8.3%	\$ 3,304,028	8.2%	\$ 3,286,234	8.0%	\$ (3,188,304)	\$ 3,401,958
10	2.3%	\$ 935,350	2.5%	\$ 992,426	2.2%	\$ (883,485)	\$ 1,044,291
11	9.3%	\$ 3,725,080	4.2%	\$ 1,691,202	3.4%	\$ (1,353,515)	\$ 4,062,767
12	1.5%	\$ 601,142	1.3%	\$ 517,284	1.2%	\$ (475,193)	\$ 643,232
13	4.5%	\$ 1,793,731	3.1%	\$ 1,248,156	2.3%	\$ (906,895)	\$ 2,134,992
Sub-region MSA Total	86.3%	\$ 34,522,684	92.1%	\$ 36,850,977	92.5%	\$ (37,000,006)	\$ 34,373,655

Non-MSA regions	% of statewide 200% poverty	100% Weight	% of statewide burden	100% Weight	% of statewide vancancy	-100.00%	Sub-region amount
1	1.4%	\$ 545,295	0.7%	\$ 277,810	0.8%	\$ (316,948)	\$ 506,157
2	1.1%	\$ 422,454	0.6%	\$ 246,101	0.7%	\$ (275,523)	\$ 393,032
3	1.0%	\$ 385,206	0.8%	\$ 320,100	0.5%	\$ (208,048)	\$ 497,258
4	2.4%	\$ 951,552	1.3%	\$ 512,440	1.2%	\$ (474,619)	\$ 989,372
5	1.7%	\$ 681,238	1.1%	\$ 453,388	1.0%	\$ (395,784)	\$ 738,842
6	0.7%	\$ 264,562	0.6%	\$ 252,966	0.6%	\$ (234,097)	\$ 283,431
7	0.4%	\$ 169,690	0.3%	\$ 111,653	0.4%	\$ (148,261)	\$ 133,082
8	1.0%	\$ 419,449	0.6%	\$ 222,950	0.5%	\$ (184,294)	\$ 458,104
9	0.4%	\$ 155,507	0.3%	\$ 118,845	0.2%	\$ (89,737)	\$ 184,615
10	1.0%	\$ 391,270	0.5%	\$ 202,652	0.7%	\$ (287,572)	\$ 306,350
11	1.8%	\$ 722,505	0.7%	\$ 261,257	0.6%	\$ (242,703)	\$ 741,059
12	0.8%	\$ 313,613	0.4%	\$ 143,125	0.3%	\$ (117,966)	\$ 338,772
13	0.1%	\$ 54,976	0.1%	\$ 25,736	0.1%	\$ (24,442)	\$ 56,270
Sub-region non-MSA Total	13.7%	\$ 5,477,316	7.9%	\$ 3,149,023	7.5%	\$ (2,999,994)	\$ 5,626,345
Statewide Total	100.0%	\$ 40,000,000	100.0%	\$ 40,000,000	100.0%	\$ (40,000,000)	\$ 40,000,000

Table 3 - \$500,000 Adjustment

Sample
 HTC RAF \$ 40,000,000

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of Total Funding
1	\$ 1,054,870	\$ -	\$ 554,870	2%	\$ (35,736.86)	\$ 1,019,133	2.5%
2	\$ 490,418	\$ 9,582	\$ -	0%	\$ 9,581.95	\$ 500,000	1.3%
3	\$ 8,275,627	\$ -	\$ 7,775,627	27%	\$ (500,795.72)	\$ 7,774,831	19.4%
4	\$ 1,136,695	\$ -	\$ 636,695	2%	\$ (41,006.89)	\$ 1,095,688	2.7%
5	\$ 744,255	\$ -	\$ 244,255	1%	\$ (15,731.42)	\$ 728,523	1.8%
6	\$ 6,532,720	\$ -	\$ 6,032,720	21%	\$ (388,542.37)	\$ 6,144,178	15.4%
7	\$ 3,556,002	\$ -	\$ 3,056,002	11%	\$ (196,824.33)	\$ 3,359,177	8.4%
8	\$ 1,295,829	\$ -	\$ 795,829	3%	\$ (51,256.02)	\$ 1,244,573	3.1%
9	\$ 3,401,958	\$ -	\$ 2,901,958	10%	\$ (186,903.01)	\$ 3,215,055	8.0%
10	\$ 1,044,291	\$ -	\$ 544,291	2%	\$ (35,055.53)	\$ 1,009,236	2.5%
11	\$ 4,062,767	\$ -	\$ 3,562,767	12%	\$ (229,462.98)	\$ 3,833,304	9.6%
12	\$ 643,232	\$ -	\$ 143,232	0%	\$ (9,225.00)	\$ 634,007	1.6%
13	\$ 2,134,992	\$ -	\$ 1,634,992	6%	\$ (105,303.00)	\$ 2,029,689	5.1%
Sub-region MSA Total	\$ 34,373,655	\$ 9,582	\$ 27,883,237	97%		\$ 32,587,394	81.5%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of Total
1	\$ 506,157	\$ -	\$ 6,157	0%	\$ (396.52)	\$ 505,760	1.3%
2	\$ 393,032	\$ 106,968	\$ -	0%	\$ 106,968.12	\$ 500,000	1.3%
3	\$ 497,258	\$ 2,742	\$ -	0%	\$ 2,741.54	\$ 500,000	1.3%
4	\$ 989,372	\$ -	\$ 489,372	2%	\$ (31,518.40)	\$ 957,853	2.4%
5	\$ 738,842	\$ -	\$ 238,842	1%	\$ (15,382.83)	\$ 723,459	1.8%
6	\$ 283,431	\$ 216,569	\$ -	0%	\$ 216,568.77	\$ 500,000	1.3%
7	\$ 133,082	\$ 366,918	\$ -	0%	\$ 366,918.24	\$ 500,000	1.3%
8	\$ 458,104	\$ 41,896	\$ -	0%	\$ 41,895.53	\$ 500,000	1.3%
9	\$ 184,615	\$ 315,385	\$ -	0%	\$ 315,385.03	\$ 500,000	1.3%
10	\$ 306,350	\$ 193,650	\$ -	0%	\$ 193,649.50	\$ 500,000	1.3%
11	\$ 741,059	\$ -	\$ 241,059	1%	\$ (15,525.58)	\$ 725,533	1.8%
12	\$ 338,772	\$ 161,228	\$ -	0%	\$ 161,228.21	\$ 500,000	1.3%
13	\$ 56,270	\$ 443,730	\$ -	0%	\$ 443,729.57	\$ 500,000	1.3%
Sub-region Non-MSA Total	\$ 5,626,345	\$ 1,849,085	\$ 975,429	3%		\$ 7,412,606	18.5%
State Total	\$ 40,000,000	\$ 1,858,666	\$ 28,858,666			\$ 40,000,000	

Minimum needed for each region	\$ 500,000
Total if each subregion has \$500,000	\$ 13,000,000
Amount available to be reallocated	\$ 28,858,666
Amount needed to bring underallocated regions to \$500,000	\$ 1,858,666

Texas Department of Housing and Community Affairs
2012 and 2013 HTC RAF Comparison Three Factors

	Geography	2012 HTC RAF	2013 HTC RAF (three factors)	Amount change between 2013 and 2012	Percent change between 2012 and 2013 RAF
1-Urban	Lubbock	\$ 940,460	\$ 1,019,133	\$ 78,673	8%
1-Rural	Levelland	\$ 640,137	\$ 505,760	\$ (134,377)	-21%
1-Total	High Plains	\$ 1,580,597	\$ 1,524,893	\$ (1,080,597)	-68%
2-Urban	Abilene	\$ 500,000	\$ 500,000	\$ -	0%
2-Rural	Sweetwater	\$ 500,000	\$ 500,000	\$ -	0%
2-Total	Northwest Texas	\$ 1,000,000	\$ 1,000,000	\$ -	0%
3-Urban	Dallas/Fort Worth	\$ 7,092,539	\$ 7,774,831	\$ 682,292	10%
3-Rural	Gainesville	\$ 697,545	\$ 500,000	\$ (197,545)	-28%
3-Total	Metroplex	\$ 7,790,084	\$ 8,274,831	\$ 484,747	6%
4-Urban	Tyler	\$ 578,780	\$ 1,095,688	\$ 516,908	89%
4-Rural	Mount Pleasant	\$ 1,035,143	\$ 957,853	\$ (77,290)	-7%
4-Total	Upper East Texas	\$ 1,613,923	\$ 2,053,542	\$ 439,619	27%
5-Urban	Beaumont	\$ 500,000	\$ 728,523	\$ 228,523	46%
5-Rural	Nacogdoches	\$ 500,000	\$ 723,459	\$ 223,459	45%
5-Total	Southeast Texas	\$ 1,000,000	\$ 1,451,982	\$ 451,982	45%
6-Urban	Houston	\$ 9,557,007	\$ 6,144,178	\$ (3,412,829)	-36%
6-Rural	Huntsville	\$ 567,946	\$ 500,000	\$ (67,946)	-12%
6-Total	Gulf Coast	\$ 10,124,953	\$ 6,644,178	\$ (3,480,775)	-34%
7-Urban	Austin/Round Rock	\$ 2,807,111	\$ 3,359,177	\$ 552,066	20%
7-Rural	Marble Falls	\$ 500,000	\$ 500,000	\$ -	0%
7-Total	Capital	\$ 3,307,111	\$ 3,859,177	\$ 552,066	17%
8-Urban	Waco	\$ 2,054,727	\$ 1,244,573	\$ (810,154)	-39%
8-Rural	Brenham	\$ 500,000	\$ 500,000	\$ -	0%
8-Total	Central Texas	\$ 2,554,727	\$ 1,744,573	\$ (810,154)	-32%
9-Urban	San Antonio	\$ 1,328,661	\$ 3,215,055	\$ 1,886,394	142%
9-Rural	Fredericksburg	\$ 500,000	\$ 500,000	\$ -	0%
9-Total	Alamo	\$ 1,828,661	\$ 3,715,055	\$ 1,886,394	103%
10-Urban	Corpus Christi	\$ 1,139,472	\$ 1,009,236	\$ (130,236)	-11%
10-Rural	Kingsville	\$ 500,000	\$ 500,000	\$ -	0%
10-Total	Coastal Bend	\$ 1,639,472	\$ 1,509,236	\$ (130,236)	-8%
11-Urban	Brownsville/Harlingen	\$ 3,419,238	\$ 3,833,304	\$ 414,066	12%
11-Rural	Del Rio	\$ 1,507,251	\$ 725,533	\$ (781,718)	-52%
11-Total	South Texas Border	\$ 4,926,489	\$ 4,558,837	\$ (367,652)	-7%
12-Urban	San Angelo	\$ 500,000	\$ 634,007	\$ 134,007	27%
12-Rural	Lamesa	\$ 500,000	\$ 500,000	\$ -	0%
12-Total	West Texas	\$ 1,000,000	\$ 1,134,007	\$ 134,007	13%
13-Urban	El Paso	\$ 1,133,983	\$ 2,029,689	\$ 895,706	79%
13-Rural	Fort Davis	\$ 500,000	\$ 500,000	\$ -	0%
13-Total	Upper Rio Grande	\$ 1,633,983	\$ 2,529,689	\$ 895,706	55%

Table 1 - Raw Data

Region (MSA Counties)	People at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide burden	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	197,083	2.2%	34,134	2.5%	3,732	1.7%	7,317	2.10%
2	107,155	1.2%	17,649	1.3%	1,680	0.7%	4,467	1.28%
3	1,995,573	22.3%	378,790	28.1%	57,107	25.3%	103,640	29.73%
4	184,785	2.1%	24,738	1.8%	3,084	1.4%	3,692	1.06%
5	145,209	1.6%	17,665	1.3%	2,081	0.9%	3,740	1.07%
6	1,959,263	21.9%	327,333	24.3%	67,231	29.8%	104,089	29.86%
7	486,104	5.4%	119,548	8.9%	14,330	6.4%	18,889	5.42%
8	335,779	3.7%	59,852	4.4%	5,353	2.4%	17,275	4.96%
9	739,878	8.3%	110,578	8.2%	14,610	6.5%	27,784	7.97%
10	209,455	2.3%	33,394	2.5%	4,885	2.2%	7,699	2.21%
11	834,165	9.3%	56,907	4.2%	22,226	9.9%	11,795	3.38%
12	134,615	1.5%	17,406	1.3%	1,837	0.8%	4,141	1.19%
13	401,674	4.5%	41,999	3.1%	7,986	3.5%	7,903	2.27%
Region (Non-MSA Counties)	People at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide burden	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	122,109	1.4%	9,348	0.7%	2,094	0.9%	2,762	0.8%
2	94,601	1.1%	8,281	0.6%	1,104	0.5%	2,401	0.7%
3	86,260	1.0%	10,771	0.8%	1,527	0.7%	1,813	0.5%
4	213,083	2.4%	17,243	1.3%	2,795	1.2%	4,136	1.2%
5	152,551	1.7%	15,256	1.1%	2,123	0.9%	3,449	1.0%
6	59,244	0.7%	8,512	0.6%	1,099	0.5%	2,040	0.6%
7	37,999	0.4%	3,757	0.3%	605	0.3%	1,292	0.4%
8	93,928	1.0%	7,502	0.6%	1,039	0.5%	1,606	0.5%
9	34,823	0.4%	3,999	0.3%	935	0.4%	782	0.2%
10	87,618	1.0%	6,819	0.5%	1,990	0.9%	2,506	0.7%
11	161,792	1.8%	8,791	0.7%	2,902	1.3%	2,115	0.6%
12	70,228	0.8%	4,816	0.4%	1,066	0.5%	1,028	0.3%
13	12,311	0.1%	866	0.1%	215	0.1%	213	0.1%
Total for State	8,957,285		1,345,954		225,636		348,574	

Sample RAF \$ 40,000,000.00

MSA regions	% of statewide 200% poverty	50% Weight	% of statewide burden	50% Weight	% of statewide overcrowding	50% Weight	% of statewide vacancy	-50.00%	Sub-region amount
1	2.2%	\$ 440,051	2.5%	\$ 507,209	1.7%	\$ 330,798	2.1%	\$ (419,825)	\$ 858,233
2	1.2%	\$ 239,258	1.3%	\$ 262,253	0.7%	\$ 148,912	1.3%	\$ (256,301)	\$ 394,121
3	22.3%	\$ 4,455,754	28.1%	\$ 5,628,573	25.3%	\$ 5,061,870	29.7%	\$ (5,946,514)	\$ 9,199,683
4	2.1%	\$ 412,592	1.8%	\$ 367,591	1.4%	\$ 273,361	1.1%	\$ (211,835)	\$ 841,708
5	1.6%	\$ 324,225	1.3%	\$ 262,490	0.9%	\$ 184,456	1.1%	\$ (214,589)	\$ 556,584
6	21.9%	\$ 4,374,680	24.3%	\$ 4,863,955	29.8%	\$ 5,959,244	29.9%	\$ (5,972,276)	\$ 9,225,604
7	5.4%	\$ 1,085,382	8.9%	\$ 1,776,405	6.4%	\$ 1,270,187	5.4%	\$ (1,083,787)	\$ 3,048,188
8	3.7%	\$ 749,734	4.4%	\$ 889,362	2.4%	\$ 474,481	5.0%	\$ (991,181)	\$ 1,122,395
9	8.3%	\$ 1,652,014	8.2%	\$ 1,643,117	6.5%	\$ 1,295,006	8.0%	\$ (1,594,152)	\$ 2,995,985
10	2.3%	\$ 467,675	2.5%	\$ 496,213	2.2%	\$ 432,998	2.2%	\$ (441,743)	\$ 955,144
11	9.3%	\$ 1,862,540	4.2%	\$ 845,601	9.9%	\$ 1,970,076	3.4%	\$ (676,757)	\$ 4,001,459
12	1.5%	\$ 300,571	1.3%	\$ 258,642	0.8%	\$ 162,829	1.2%	\$ (237,597)	\$ 484,445
13	4.5%	\$ 896,866	3.1%	\$ 624,078	3.5%	\$ 707,866	2.3%	\$ (453,447)	\$ 1,775,362
Sub-region MSA Total	86.3%	\$ 17,261,342	92.1%	\$ 18,425,489	91.4%	\$ 18,272,084	92.5%	\$ (18,500,003)	\$ 35,458,912

Non-MSA regions	% of statewide 200% poverty	50% Weight	% of statewide burden	50% Weight	% of statewide overcrowding	50% Weight	% of statewide vacancy	-50.00%	Sub-region amount
1	1.4%	\$ 272,647	0.7%	\$ 138,905	0.9%	\$ 185,609	0.8%	\$ (158,474)	\$ 438,687
2	1.1%	\$ 211,227	0.6%	\$ 123,050	0.5%	\$ 97,857	0.7%	\$ (137,761)	\$ 294,373
3	1.0%	\$ 192,603	0.8%	\$ 160,050	0.7%	\$ 135,351	0.5%	\$ (104,024)	\$ 383,980
4	2.4%	\$ 475,776	1.3%	\$ 256,220	1.2%	\$ 247,744	1.2%	\$ (237,310)	\$ 742,430
5	1.7%	\$ 340,619	1.1%	\$ 226,694	0.9%	\$ 188,179	1.0%	\$ (197,892)	\$ 557,600
6	0.7%	\$ 132,281	0.6%	\$ 126,483	0.5%	\$ 97,414	0.6%	\$ (117,048)	\$ 239,129
7	0.4%	\$ 84,845	0.3%	\$ 55,827	0.3%	\$ 53,626	0.4%	\$ (74,131)	\$ 120,167
8	1.0%	\$ 209,724	0.6%	\$ 111,475	0.5%	\$ 92,095	0.5%	\$ (92,147)	\$ 321,147
9	0.4%	\$ 77,753	0.3%	\$ 59,423	0.4%	\$ 82,877	0.2%	\$ (44,869)	\$ 175,184
10	1.0%	\$ 195,635	0.5%	\$ 101,326	0.9%	\$ 176,390	0.7%	\$ (143,786)	\$ 329,566
11	1.8%	\$ 361,252	0.7%	\$ 130,629	1.3%	\$ 257,228	0.6%	\$ (121,352)	\$ 627,758
12	0.8%	\$ 156,806	0.4%	\$ 71,563	0.5%	\$ 94,488	0.3%	\$ (58,983)	\$ 263,874
13	0.1%	\$ 27,488	0.1%	\$ 12,868	0.1%	\$ 19,057	0.1%	\$ (12,221)	\$ 47,192
Sub-region non-MSA	13.7%	\$ 2,738,658	7.9%	\$ 1,574,511	8.6%	\$ 1,727,916	7.5%	\$ (1,499,997)	\$ 4,541,088
Statewide Total	100.0%	\$ 20,000,000	100.0%	\$ 20,000,000	100.0%	\$ 20,000,000	100.0%	\$ (20,000,000)	\$ 40,000,000

Texas Department of Housing and Community Affairs - 2013 RAF Equal Weights Model

Exhibit for First Addendum: Exhibit N

Table 3 - \$500,000 Adjustment

Sample RAF \$ 40,000,000.00

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of total funding
1	\$ 858,233	\$ -	\$ 358,233	1%	\$ (30,449.13)	\$ 827,784	2.07%
2	\$ 394,121	\$ 105,879	\$ -	0%	\$ 105,878.57	\$ 500,000	1.25%
3	\$ 9,199,683	\$ -	\$ 8,699,683	29%	\$ (739,456.06)	\$ 8,460,227	21.15%
4	\$ 841,708	\$ -	\$ 341,708	1%	\$ (29,044.53)	\$ 812,664	2.03%
5	\$ 556,584	\$ -	\$ 56,584	0%	\$ (4,809.50)	\$ 551,774	1.38%
6	\$ 9,225,604	\$ -	\$ 8,725,604	30%	\$ (741,659.32)	\$ 8,483,945	21.21%
7	\$ 3,048,188	\$ -	\$ 2,548,188	9%	\$ (216,591.02)	\$ 2,831,597	7.08%
8	\$ 1,122,395	\$ -	\$ 622,395	2%	\$ (52,902.40)	\$ 1,069,493	2.67%
9	\$ 2,995,985	\$ -	\$ 2,495,985	8%	\$ (212,153.85)	\$ 2,783,831	6.96%
10	\$ 955,144	\$ -	\$ 455,144	2%	\$ (38,686.34)	\$ 916,458	2.29%
11	\$ 4,001,459	\$ -	\$ 3,501,459	12%	\$ (297,617.19)	\$ 3,703,842	9.26%
12	\$ 484,445	\$ 15,555	\$ -	0%	\$ 15,555.17	\$ 500,000	1.25%
13	\$ 1,775,362	\$ -	\$ 1,275,362	4%	\$ (108,403.24)	\$ 1,666,958	4.17%
Sub-region MSA Total	\$ 35,458,912	\$ 121,434	\$ 29,080,346	99%	\$ (2,350,339)	\$ 33,108,573	83%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of Total
1	\$ 438,687	\$ 61,313	\$ -	0%	\$ 61,313.02	\$ 500,000	1.25%
2	\$ 294,373	\$ 205,627	\$ -	0%	\$ 205,627.34	\$ 500,000	1.25%
3	\$ 383,980	\$ 116,020	\$ -	0%	\$ 116,020.03	\$ 500,000	1.25%
4	\$ 742,430	\$ -	\$ 242,430	1%	\$ (20,606.08)	\$ 721,824	1.80%
5	\$ 557,600	\$ -	\$ 57,600	0%	\$ (4,895.91)	\$ 552,704	1.38%
6	\$ 239,129	\$ 260,871	\$ -	0%	\$ 260,870.85	\$ 500,000	1.25%
7	\$ 120,167	\$ 379,833	\$ -	0%	\$ 379,832.93	\$ 500,000	1.25%
8	\$ 321,147	\$ 178,853	\$ -	0%	\$ 178,852.53	\$ 500,000	1.25%
9	\$ 175,184	\$ 324,816	\$ -	0%	\$ 324,815.67	\$ 500,000	1.25%
10	\$ 329,566	\$ 170,434	\$ -	0%	\$ 170,434.46	\$ 500,000	1.25%
11	\$ 627,758	\$ -	\$ 127,758	0%	\$ (10,859.16)	\$ 616,899	1.54%
12	\$ 263,874	\$ 236,126	\$ -	0%	\$ 236,125.64	\$ 500,000	1.25%
13	\$ 47,192	\$ 452,808	\$ -	0%	\$ 452,807.54	\$ 500,000	1.25%
Sub-region Non-MSA Total	\$ 4,541,088	\$ 2,386,700	\$ 427,788	1%	\$ 2,350,339	\$ 6,891,427	17%
Statewide T	\$ 40,000,000	\$ 2,508,134	\$ 29,508,134	100%	\$ 2,350,339	\$ 40,000,000	100.00%

Minimum needed	\$ 500,000
Total if each	\$ 13,000,000
Amount available to be reallocated	\$ 29,508,134
Amount needed to bring underallocated regions to \$500,000	\$ 2,508,134

Texas Department of Housing and Community Affairs
2013 HTC RAF Compounded need, Table 1

Region (MSA Counties)	People at 200% Poverty	HH at 200% Poverty	Cost Burden, Renters	Overcrowded Renters	Vacancies, Rental
1	197,083	70,893	34,134	3732	7,317
2	107,155	38,545	17,649	1680	4,467
3	1,995,573	717,832	378,790	57107	103,640
4	184,785	66,469	24,738	3084	3,692
5	145,209	52,233	17,665	2081	3,740
6	1,959,263	704,771	327,333	67231	104,089
7	486,104	174,858	119,548	14330	18,889
8	335,779	120,784	59,852	5353	17,275
9	739,878	266,143	110,578	14610	27,784
10	209,455	75,344	33,394	4885	7,699
11	834,165	300,059	56,907	22226	11,795
12	134,615	48,423	17,406	1837	4,141
13	401,674	144,487	41,999	7986	7,903

Region (Non-MSA Counties)	People at 200% Poverty		Cost Burden, Renters	Overcrowded Renters	Vacancies, Rental
1	122,109	43,924	9,348	2094	2,762
2	94,601	34,029	8,281	1104	2,401
3	86,260	31,029	10,771	1527	1,813
4	213,083	76,649	17,522	2795	4,136
5	152,551	54,874	15,256	2123	3,449
6	59,244	21,311	8,512	1099	2,040
7	37,999	13,669	3,757	605	1,292
8	93,928	33,787	7,502	1039	1,606
9	34,823	12,526	3,999	935	782
10	87,618	31,517	6,819	1990	2,506
11	161,792	58,199	8,791	2902	2,115
12	70,228	25,262	5,030	1066	1,028
13	12,311	4,428	866	215	213
Total	8,957,285	3,222,045	1,346,447	225636	348,574

Texas Department of Housing and Community Affairs
2013 HTC RAF Compounded need, Table 2

Sample RAF \$ 40,000,000.00

MSA regions	Total of 200% poverty, rent burden, and overcrowding	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Sub-region amount
1	108,759	2.3%	\$ 1,361,155	7,317	2.1%	\$ (419,825)	\$ 941,330
2	57,874	1.2%	\$ 724,311	4,467	1.3%	\$ (256,301)	\$ 468,009
3	1,153,729	24.1%	\$ 14,439,277	103,640	29.7%	\$ (5,946,514)	\$ 8,492,763
4	94,291	2.0%	\$ 1,180,086	3,692	1.1%	\$ (211,835)	\$ 968,252
5	71,979	1.5%	\$ 900,845	3,740	1.1%	\$ (214,589)	\$ 686,257
6	1,099,335	22.9%	\$ 13,758,517	104,089	29.9%	\$ (5,972,276)	\$ 7,786,242
7	308,736	6.4%	\$ 3,863,921	18,889	5.4%	\$ (1,083,787)	\$ 2,780,134
8	185,989	3.9%	\$ 2,327,708	17,275	5.0%	\$ (991,181)	\$ 1,336,527
9	391,331	8.2%	\$ 4,897,631	27,784	8.0%	\$ (1,594,152)	\$ 3,303,479
10	113,623	2.4%	\$ 1,422,021	7,699	2.2%	\$ (441,743)	\$ 980,279
11	379,192	7.9%	\$ 4,745,710	11,795	3.4%	\$ (676,757)	\$ 4,068,953
12	67,666	1.4%	\$ 846,857	4,141	1.2%	\$ (237,597)	\$ 609,260
13	194,472	4.1%	\$ 2,433,878	7,903	2.3%	\$ (453,447)	\$ 1,980,431

Non-MSA regions	Total of 200% poverty, rent burden, and overcrowding	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Sub-region amount
1	55,366	1.2%	\$ 692,924	2,762	0.8%	\$ (158,474)	\$ 534,450
2	43,414	0.9%	\$ 543,341	2,401	0.7%	\$ (137,761)	\$ 405,580
3	43,327	0.9%	\$ 542,248	1,813	0.5%	\$ (104,024)	\$ 438,224
4	96,966	2.0%	\$ 1,213,554	4,136	1.2%	\$ (237,310)	\$ 976,244
5	72,253	1.5%	\$ 904,274	3,449	1.0%	\$ (197,892)	\$ 706,383
6	30,922	0.6%	\$ 386,996	2,040	0.6%	\$ (117,048)	\$ 269,948
7	18,031	0.4%	\$ 225,660	1,292	0.4%	\$ (74,131)	\$ 151,529
8	42,328	0.9%	\$ 529,749	1,606	0.5%	\$ (92,147)	\$ 437,602
9	17,460	0.4%	\$ 218,521	782	0.2%	\$ (44,869)	\$ 173,652
10	40,326	0.8%	\$ 504,696	2,506	0.7%	\$ (143,786)	\$ 360,910
11	69,892	1.5%	\$ 874,715	2,115	0.6%	\$ (121,352)	\$ 753,363
12	31,358	0.7%	\$ 392,453	1,028	0.3%	\$ (58,983)	\$ 333,470
13	5,509	0.1%	\$ 68,952	213	0.1%	\$ (12,221)	\$ 56,731
Total	4,794,128	100%		348,574	100%		\$ 40,000,000

Sample RAF \$40,000,000.00

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount for Compounded Need	Part of total award
1	\$ 941,330	\$ -	\$ 441,330	2%	\$ (29,076.75)	\$ 912,253	2.28%
2	\$ 468,009	\$ 31,991	\$ -	0%	\$ 31,990.76	\$ 500,000	1.25%
3	\$ 8,492,763	\$ -	\$ 7,992,763	28%	\$ (526,598.21)	\$ 7,966,165	19.92%
4	\$ 968,252	\$ -	\$ 468,252	2%	\$ (30,850.49)	\$ 937,401	2.34%
5	\$ 686,257	\$ -	\$ 186,257	1%	\$ (12,271.40)	\$ 673,985	1.68%
6	\$ 7,786,242	\$ -	\$ 7,286,242	25%	\$ (480,049.47)	\$ 7,306,192	18.27%
7	\$ 2,780,134	\$ -	\$ 2,280,134	8%	\$ (150,225.22)	\$ 2,629,909	6.57%
8	\$ 1,336,527	\$ -	\$ 836,527	3%	\$ (55,114.03)	\$ 1,281,413	3.20%
9	\$ 3,303,479	\$ -	\$ 2,803,479	10%	\$ (184,705.45)	\$ 3,118,773	7.80%
10	\$ 980,279	\$ -	\$ 480,279	2%	\$ (31,642.85)	\$ 948,636	2.37%
11	\$ 4,068,953	\$ -	\$ 3,568,953	12%	\$ (235,138.22)	\$ 3,833,815	9.58%
12	\$ 609,260	\$ -	\$ 109,260	0%	\$ (7,198.54)	\$ 602,062	1.51%
13	\$ 1,980,431	\$ -	\$ 1,480,431	5%	\$ (97,537.25)	\$ 1,882,893	4.71%
MSA total	\$ 34,401,914					\$ 32,593,497	81.48%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount for Compounded Need	Part of total award
1	\$ 534,450	\$ -	\$ 34,450	0%	\$ (2,269.70)	\$ 532,180	1.33%
2	\$ 405,580	\$ 94,420	\$ -	0%	\$ 94,419.88	\$ 500,000	1.25%
3	\$ 438,224	\$ 61,776	\$ -	0%	\$ 61,775.76	\$ 500,000	1.25%
4	\$ 976,244	\$ -	\$ 476,244	2%	\$ (31,377.06)	\$ 944,867	2.36%
5	\$ 706,383	\$ -	\$ 206,383	1%	\$ (13,597.38)	\$ 692,785	1.73%
6	\$ 269,948	\$ 230,052	\$ -	0%	\$ 230,052.50	\$ 500,000	1.25%
7	\$ 151,529	\$ 348,471	\$ -	0%	\$ 348,470.73	\$ 500,000	1.25%
8	\$ 437,602	\$ 62,398	\$ -	0%	\$ 62,398.17	\$ 500,000	1.25%
9	\$ 173,652	\$ 326,348	\$ -	0%	\$ 326,347.96	\$ 500,000	1.25%
10	\$ 360,910	\$ 139,090	\$ -	0%	\$ 139,090.08	\$ 500,000	1.25%
11	\$ 753,363	\$ -	\$ 253,363	1%	\$ (16,692.66)	\$ 736,670	1.84%
12	\$ 333,470	\$ 166,530	\$ -	0%	\$ 166,529.69	\$ 500,000	1.25%
13	\$ 56,731	\$ 443,269	\$ -	0%	\$ 443,269.15	\$ 500,000	1.25%
Non-MSA total	\$ 5,598,086				\$ -	\$ 7,406,503	18.52%
Total		\$ 1,904,345	\$ 28,904,345			\$ 40,000,000	

Exhibit for First Addendum: Exhibit O

Texas Department of Housing and Community Affairs
2013 HTC RAF 4 Compounded need, Table 3

Minimum needed for each region	\$ 500,000
Total if each subregion has \$500,000	\$ 13,000,000
Amount available to be reallocated	\$ 28,904,345
Amount needed to bring underallocated regions to	\$ 1,904,345

Table 1 - Raw Data

Region (MSA Counties)	People at 200% Poverty	Households at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide burden	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	197,083	70,893	2.2%	34,134	2.5%	3,732	1.7%	7,317	2.10%
2	107,155	38,545	1.2%	17,649	1.3%	1,680	0.7%	4,467	1.28%
3	1,995,573	717,832	22.3%	378,790	28.1%	57,107	25.3%	103,640	29.73%
4	184,785	66,469	2.1%	24,738	1.8%	3,084	1.4%	3,692	1.06%
5	145,209	52,233	1.6%	17,665	1.3%	2,081	0.9%	3,740	1.07%
6	1,959,263	704,771	21.9%	327,333	24.3%	67,231	29.8%	104,089	29.86%
7	486,104	174,858	5.4%	119,548	8.9%	14,330	6.4%	18,889	5.42%
8	335,779	120,784	3.7%	59,852	4.4%	5,353	2.4%	17,275	4.96%
9	739,878	266,143	8.3%	110,578	8.2%	14,610	6.5%	27,784	7.97%
10	209,455	75,344	2.3%	33,394	2.5%	4,885	2.2%	7,699	2.21%
11	834,165	300,059	9.3%	56,907	4.2%	22,226	9.9%	11,795	3.38%
12	134,615	48,423	1.5%	17,406	1.3%	1,837	0.8%	4,141	1.19%
13	401,674	144,487	4.5%	41,999	3.1%	7,986	3.5%	7,903	2.27%

Region (Non-MSA Counties)	People at 200% Poverty	Households at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	122,109	43,924	1.4%	9,348	0.7%	2,094	0.9%	2,762	0.8%
2	94,601	34,029	1.1%	8,281	0.6%	1,104	0.5%	2,401	0.7%
3	86,260	31,029	1.0%	10,771	0.8%	1,527	0.7%	1,813	0.5%
4	213,083	76,649	2.4%	17,243	1.3%	2,795	1.2%	4,136	1.2%
5	152,551	54,874	1.7%	15,256	1.1%	2,123	0.9%	3,449	1.0%
6	59,244	21,311	0.7%	8,512	0.6%	1,099	0.5%	2,040	0.6%
7	37,999	13,669	0.4%	3,757	0.3%	605	0.3%	1,292	0.4%
8	93,928	33,787	1.0%	7,502	0.6%	1,039	0.5%	1,606	0.5%
9	34,823	12,526	0.4%	3,999	0.3%	935	0.4%	782	0.2%
10	87,618	31,517	1.0%	6,819	0.5%	1,990	0.9%	2,506	0.7%
11	161,792	58,199	1.8%	8,791	0.7%	2,902	1.3%	2,115	0.6%
12	70,228	25,262	0.8%	4,816	0.4%	1,066	0.5%	1,028	0.3%
13	12,311	4,428	0.1%	866	0.1%	215	0.1%	213	0.1%
Total for State	8,957,285	3,222,045		1,345,954		225,636		348,574	

Table 2 - Weighted Variables

Sample RAF \$ 40,000,000.00

MSA regions	Total of 200% poverty, rent burden, and overcrowding	Vacancies subtracted from Need Factors-	% of statewide need and availability	100% Weight
1	108,759	101,442	2.3%	\$ 912,853
2	57,874	53,407	1.2%	\$ 480,596
3	1,153,729	1,050,089	23.6%	\$ 9,449,490
4	94,291	90,599	2.0%	\$ 815,282
5	71,979	68,239	1.5%	\$ 614,070
6	1,099,335	995,246	22.4%	\$ 8,955,970
7	308,736	289,847	6.5%	\$ 2,608,257
8	185,989	168,714	3.8%	\$ 1,518,214
9	391,331	363,547	8.2%	\$ 3,271,471
10	113,623	105,924	2.4%	\$ 953,180
11	379,192	367,397	8.3%	\$ 3,306,118
12	67,666	63,525	1.4%	\$ 571,643
13	194,472	186,569	4.2%	\$ 1,678,889
Sub-region MSA Total	4,226,976	3,904,545	87.8%	\$ 35,136,031

Non-MSA regions	All Need factors added		% of statewide burden	
1	55,366	52,604	1.2%	\$ 473,371
2	43,414	41,013	0.9%	\$ 369,067
3	43,327	41,514	0.9%	\$ 373,572
4	96,687	92,551	2.1%	\$ 832,840
5	72,253	68,804	1.5%	\$ 619,154
6	30,922	28,882	0.6%	\$ 259,900
7	18,031	16,739	0.4%	\$ 150,627
8	42,328	40,722	0.9%	\$ 366,448
9	17,460	16,678	0.4%	\$ 150,084
10	40,326	37,820	0.9%	\$ 340,335
11	69,892	67,777	1.5%	\$ 609,904
12	31,144	30,116	0.7%	\$ 271,005
13	5,509	5,296	0.1%	\$ 47,661
Sub-region non-MSA	566,659	540,516	12.2%	\$ 4,863,969
Statewide Total	4,793,635	4,445,061	100.0%	\$ 40,000,000

Texas Department of Housing and Community Affairs - 2013 RAF Subtraction Model
 Exhibit for First Addendum: Exhibit P

Table 3 - \$500,000 Adjustment

Sample RAF \$ 40,000,000.00

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of total funding
1	\$ 912,853	\$ -	\$ 412,853	1%	\$ (31,331.83)	\$ 881,521	2.20%
2	\$ 480,596	\$ 19,404	\$ -	0%	\$ 19,403.99	\$ 500,000	1.25%
3	\$ 9,449,490	\$ -	\$ 8,949,490	31%	\$ (679,185.98)	\$ 8,770,304	21.93%
4	\$ 815,282	\$ -	\$ 315,282	1%	\$ (23,927.05)	\$ 791,355	1.98%
5	\$ 614,070	\$ -	\$ 114,070	0%	\$ (8,656.88)	\$ 605,413	1.51%
6	\$ 8,955,970	\$ -	\$ 8,455,970	29%	\$ (641,732.25)	\$ 8,314,238	20.79%
7	\$ 2,608,257	\$ -	\$ 2,108,257	7%	\$ (159,997.79)	\$ 2,448,259	6.12%
8	\$ 1,518,214	\$ -	\$ 1,018,214	3%	\$ (77,273.28)	\$ 1,440,940	3.60%
9	\$ 3,271,471	\$ -	\$ 2,771,471	9%	\$ (210,329.75)	\$ 3,061,141	7.65%
10	\$ 953,180	\$ -	\$ 453,180	2%	\$ (34,392.26)	\$ 918,787	2.30%
11	\$ 3,306,118	\$ -	\$ 2,806,118	10%	\$ (212,959.13)	\$ 3,093,158	7.73%
12	\$ 571,643	\$ -	\$ 71,643	0%	\$ (5,437.03)	\$ 566,206	1.42%
13	\$ 1,678,889	\$ -	\$ 1,178,889	4%	\$ (89,467.06)	\$ 1,589,422	3.97%
Sub-region MSA Total	\$ 35,136,031	\$ 19,404	\$ 28,655,435	98%	\$ (2,155,286)	\$ 32,980,745	82%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of Total
1	\$ 473,371	\$ 26,629	\$ -	0%	\$ 26,628.76	\$ 500,000	1.25%
2	\$ 369,067	\$ 130,933	\$ -	0%	\$ 130,932.97	\$ 500,000	1.25%
3	\$ 373,572	\$ 126,428	\$ -	0%	\$ 126,427.83	\$ 500,000	1.25%
4	\$ 832,840	\$ -	\$ 332,840	1%	\$ (25,259.53)	\$ 807,580	2.02%
5	\$ 619,154	\$ -	\$ 119,154	0%	\$ (9,042.74)	\$ 610,112	1.53%
6	\$ 259,900	\$ 240,100	\$ -	0%	\$ 240,099.93	\$ 500,000	1.25%
7	\$ 150,627	\$ 349,373	\$ -	0%	\$ 349,372.55	\$ 500,000	1.25%
8	\$ 366,448	\$ 133,552	\$ -	0%	\$ 133,552.38	\$ 500,000	1.25%
9	\$ 150,084	\$ 349,916	\$ -	0%	\$ 349,916.49	\$ 500,000	1.25%
10	\$ 340,335	\$ 159,665	\$ -	0%	\$ 159,664.81	\$ 500,000	1.25%
11	\$ 609,904	\$ -	\$ 109,904	0%	\$ (8,340.76)	\$ 601,564	1.50%
12	\$ 271,005	\$ 228,995	\$ -	0%	\$ 228,994.76	\$ 500,000	1.25%
13	\$ 47,661	\$ 452,339	\$ -	0%	\$ 452,338.86	\$ 500,000	1.25%
Sub-region Non-MSA Total	\$ 4,863,969	\$ 2,197,929	\$ 561,898	2%	\$ 2,155,286	\$ 7,019,255	18%

Minimum needed for each region	\$ 500,000
Total if each subregion has \$500,000	\$ 13,000,000
Amount available to be reallocated	\$ 29,217,333
Amount needed to bring underallocated regions to \$500,000	\$ 2,217,333

Region (MSA Counties)	Total Population
1	521,316
2	314,045
3	6,268,128
4	510,266
5	410,442
6	5,683,454
7	1,627,571
8	837,093
9	2,057,782
10	537,811
11	1,370,885
12	374,791
13	772,280

Region (Non-MSA Counties)	Total Population
1	301,348
2	233,067
3	242,649
4	584,455
5	348,259
6	164,787
7	111,966
8	246,898
9	104,859
10	216,429
11	264,582
12	181,793
13	24,935
Total	24,311,891

Data from 2006-2010 American Community Survey

Exhibit for Addendum:
Exhibit Q

Texas Department of Housing and Community Affairs
2013 RAF based on population - Table 2, Weights

Sample RAF \$ 40,000,000.00

MSA regions	Total Population	Percentage of total population	100% Weight	Sub-region amount
1	521,316	2.1%	\$ 857,714	\$ 857,714
2	314,045	1.3%	\$ 516,694	\$ 516,694
3	6,268,128	25.8%	\$ 10,312,860	\$ 10,312,860
4	510,266	2.1%	\$ 839,533	\$ 839,533
5	410,442	1.7%	\$ 675,294	\$ 675,294
6	5,683,454	23.4%	\$ 9,350,904	\$ 9,350,904
7	1,627,571	6.7%	\$ 2,677,819	\$ 2,677,819
8	837,093	3.4%	\$ 1,377,257	\$ 1,377,257
9	2,057,782	8.5%	\$ 3,385,639	\$ 3,385,639
10	537,811	2.2%	\$ 884,853	\$ 884,853
11	1,370,885	5.6%	\$ 2,255,497	\$ 2,255,497
12	374,791	1.5%	\$ 616,638	\$ 616,638
13	772,280	3.2%	\$ 1,270,621	\$ 1,270,621
Sub-region total	21,285,864			

Non-MSA regions	Total Population	Percentage of total population	100% Weight	Sub-region amount
1	301,348	1.2%	\$ 495,803	\$ 495,803
2	233,067	1.0%	\$ 383,462	\$ 383,462
3	242,649	1.0%	\$ 399,227	\$ 399,227
4	584,455	2.4%	\$ 961,595	\$ 961,595
5	348,259	1.4%	\$ 572,985	\$ 572,985
6	164,787	0.7%	\$ 271,122	\$ 271,122
7	111,966	0.5%	\$ 184,216	\$ 184,216
8	246,898	1.0%	\$ 406,218	\$ 406,218
9	104,859	0.4%	\$ 172,523	\$ 172,523
10	216,429	0.9%	\$ 356,087	\$ 356,087
11	264,582	1.1%	\$ 435,313	\$ 435,313
12	181,793	0.7%	\$ 299,101	\$ 299,101
13	24,935	0.1%	\$ 41,025	\$ 41,025
Sub-region total	3,026,027			
Total	24,311,891		\$ 40,000,000	\$ 40,000,000

Sample RAF \$ 40,000,000.00

Texas Department of Housing and Community Affairs
 2013 Test RAF based on population, Table 3 - \$500,000 adjustment and Comparison with Models Exhibit Q

Exhibit for Addendum:

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount based on population	Proportion of allocation	2012 RAF allocation based on \$40,000,000	Proportion of allocation for 2012 RAF	Difference Between Population and 2012 RAF
1	\$ 857,714	\$ -	\$ 357,714	1%	\$ (25,310.67)	\$ 832,403	2.08%	\$ 940,460	2.35%	\$ (108,057)
2	\$ 516,694	\$ -	\$ 16,694	0%	\$ (1,181.19)	\$ 515,512	1.29%	\$ 500,000	1.25%	\$ 15,512
3	\$ 10,312,860	\$ -	\$ 9,812,860	34%	\$ (694,326.53)	\$ 9,618,533	24.05%	\$ 7,092,539	17.73%	\$ 2,525,994
4	\$ 839,533	\$ -	\$ 339,533	1%	\$ (24,024.28)	\$ 815,509	2.04%	\$ 578,780	1.45%	\$ 236,729
5	\$ 675,294	\$ -	\$ 175,294	1%	\$ (12,403.26)	\$ 662,891	1.66%	\$ 500,000	1.25%	\$ 162,891
6	\$ 9,350,904	\$ -	\$ 8,850,904	30%	\$ (626,261.63)	\$ 8,724,642	21.81%	\$ 9,557,007	23.89%	\$ (832,365)
7	\$ 2,677,819	\$ -	\$ 2,177,819	7%	\$ (154,095.49)	\$ 2,523,723	6.31%	\$ 2,807,111	7.02%	\$ (283,388)
8	\$ 1,377,257	\$ -	\$ 877,257	3%	\$ (62,071.89)	\$ 1,315,185	3.29%	\$ 2,054,727	5.14%	\$ (739,542)
9	\$ 3,385,639	\$ -	\$ 2,885,639	10%	\$ (204,178.56)	\$ 3,181,460	7.95%	\$ 1,328,661	3.32%	\$ 1,852,799
10	\$ 884,853	\$ -	\$ 384,853	1%	\$ (27,230.94)	\$ 857,622	2.14%	\$ 1,139,472	2.85%	\$ (281,850)
11	\$ 2,255,497	\$ -	\$ 1,755,497	6%	\$ (124,213.35)	\$ 2,131,284	5.33%	\$ 3,419,239	8.55%	\$ (1,287,955)
12	\$ 616,638	\$ -	\$ 116,638	0%	\$ (8,252.94)	\$ 608,385	1.52%	\$ 500,000	1.25%	\$ 108,385
13	\$ 1,270,621	\$ -	\$ 770,621	3%	\$ (54,526.68)	\$ 1,216,094	3.04%	\$ 1,133,983	2.83%	\$ 82,112
MSA Subtotal						\$ 33,003,244	82.51%	\$ 31,551,978	78.88%	\$ 1,451,267

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount based on population	Proportion of allocation	2012 RAF allocation based on \$40,000,000	Proportion of allocation for 2012 RAF	Difference Between Population and 2012 RAF
1	\$ 495,803	\$ 4,197	\$ -	0%	\$ 4,196.53	\$ 500,000	1.25%	\$ 640,137	1.60%	\$ (140,137)
2	\$ 383,462	\$ 116,538	\$ -	0%	\$ 116,538.26	\$ 500,000	1.25%	\$ 500,000	1.25%	\$ -
3	\$ 399,227	\$ 100,773	\$ -	0%	\$ 100,773.14	\$ 500,000	1.25%	\$ 697,545	1.74%	\$ (197,545)
4	\$ 961,595	\$ -	\$ 461,595	2%	\$ (32,661.00)	\$ 928,934	2.32%	\$ 1,035,143	2.59%	\$ (106,209)
5	\$ 572,985	\$ -	\$ 72,985	0%	\$ (5,164.22)	\$ 567,821	1.42%	\$ 500,000	1.25%	\$ 67,821
6	\$ 271,122	\$ 228,878	\$ -	0%	\$ 228,878.35	\$ 500,000	1.25%	\$ 567,946	1.42%	\$ (67,946)
7	\$ 184,216	\$ 315,784	\$ -	0%	\$ 315,783.97	\$ 500,000	1.25%	\$ 500,000	1.25%	\$ -
8	\$ 406,218	\$ 93,782	\$ -	0%	\$ 93,782.32	\$ 500,000	1.25%	\$ 500,000	1.25%	\$ -
9	\$ 172,523	\$ 327,477	\$ -	0%	\$ 327,477.02	\$ 500,000	1.25%	\$ 500,000	1.25%	\$ -
10	\$ 356,087	\$ 143,913	\$ -	0%	\$ 143,912.52	\$ 500,000	1.25%	\$ 500,000	1.25%	\$ -
11	\$ 435,313	\$ 64,687	\$ -	0%	\$ 64,687.09	\$ 500,000	1.25%	\$ 1,507,251	3.77%	\$ (1,007,251)
12	\$ 299,101	\$ 200,899	\$ -	0%	\$ 200,898.63	\$ 500,000	1.25%	\$ 500,000	1.25%	\$ -
13	\$ 41,025	\$ 458,975	\$ -	0%	\$ 458,974.81	\$ 500,000	1.25%	\$ 500,000	1.25%	\$ -
Non-MSA sub-total	\$ 40,000,000			100%	\$ (2,055,902.62)	\$ 6,996,756	17.49%	\$ 8,448,022	21.12%	\$ (1,451,267)
Total		\$ 2,055,903	\$ 29,055,903			\$ 40,000,000		\$ 40,000,000		

Texas Department of Housing and Community Affairs
2013 Test RAF based on population, Table 3 - \$500,000 adjustment and Comparison with Models

MSA regions	Final Sub-Amount based on Compounded Need	Proportion of allocation based on Compounded Need	Difference between Population and Compounded Need	Final Sub-Amount based on Equal Weights	Proportion of allocation based on Equal Weights	Difference between Population and Equal Weights	Final Sub-Amount based on Subtraction Model	Proportion of allocation based on Subtraction Model	Difference between Population and Subtraction Model
1	\$ 912,253	2.28%	\$ (79,850)	\$ 827,784	2.07%	\$ 4,619	\$ 881,521	2.20%	\$ (49,118)
2	\$ 500,000	1.25%	\$ 15,512	\$ 500,000	1.25%	\$ 15,512	\$ 500,000	1.25%	\$ 15,512
3	\$ 7,966,165	19.92%	\$ 1,652,368	\$ 8,460,227	21.15%	\$ 1,158,306	\$ 8,770,304	21.93%	\$ 848,229
4	\$ 937,401	2.34%	\$ (121,893)	\$ 812,664	2.03%	\$ 2,845	\$ 791,355	1.98%	\$ 24,154
5	\$ 673,985	1.68%	\$ (11,094)	\$ 551,774	1.38%	\$ 111,117	\$ 605,413	1.51%	\$ 57,478
6	\$ 7,306,192	18.27%	\$ 1,418,450	\$ 8,483,945	21.21%	\$ 240,698	\$ 8,314,238	20.79%	\$ 410,404
7	\$ 2,629,909	6.57%	\$ (106,186)	\$ 2,831,597	7.08%	\$ (307,874)	\$ 2,448,259	6.12%	\$ 75,464
8	\$ 1,281,413	3.20%	\$ 33,773	\$ 1,069,493	2.67%	\$ 245,692	\$ 1,440,940	3.60%	\$ (125,755)
9	\$ 3,118,773	7.80%	\$ 62,687	\$ 2,783,831	6.96%	\$ 397,629	\$ 3,061,141	7.65%	\$ 120,319
10	\$ 948,636	2.37%	\$ (91,014)	\$ 916,458	2.29%	\$ (58,836)	\$ 918,787	2.30%	\$ (61,166)
11	\$ 3,833,815	9.58%	\$ (1,702,531)	\$ 3,703,842	9.26%	\$ (1,572,558)	\$ 3,093,158	7.73%	\$ (961,875)
12	\$ 602,062	1.51%	\$ 6,324	\$ 500,000	1.25%	\$ 108,385	\$ 566,206	1.42%	\$ 42,180
13	\$ 1,882,893	4.71%	\$ (666,799)	\$ 1,666,958	4.17%	\$ (450,864)	\$ 1,589,422	3.97%	\$ (373,327)
MSA Subtotal	\$ 32,593,497	81.48%	\$ 409,747	\$ 33,108,573	82.77%	\$ (105,329)	\$ 32,980,745	82.45%	\$ 22,500

Non-MSA regions	Final Sub-Amount based on Compounded Need	Proportion of allocation based on Compounded Need	Difference between Population and Compounded Need	Final Sub-Amount based on Equal Weights	Proportion of allocation based on Equal Weights	Difference between Population and Equal Weights	Final Sub-Amount based on Subtraction Model	Proportion of allocation based on Subtraction Model	Difference between Population and Subtraction Model
1	\$ 532,180	1.33%	\$ (32,180)	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
2	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
3	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
4	\$ 944,867	2.36%	\$ (15,933)	\$ 721,824	1.80%	\$ 207,110	\$ 807,580	2.02%	\$ 121,354
5	\$ 692,785	1.73%	\$ (124,964)	\$ 552,704	1.38%	\$ 15,117	\$ 610,112	1.53%	\$ (42,290)
6	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
7	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
8	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
9	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
10	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
11	\$ 736,670	1.84%	\$ (236,670)	\$ 616,899	1.54%	\$ (116,899)	\$ 601,564	1.50%	\$ (101,564)
12	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
13	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -	\$ 500,000	1.25%	\$ -
Non-MSA sub-total	\$ 7,406,503	18.52%	\$ (409,747)	\$ 6,891,427	17.23%	\$ 105,329	\$ 7,019,255	17.55%	\$ (22,500)
Total	\$ 40,000,000			\$ 40,000,000			\$ 40,000,000		

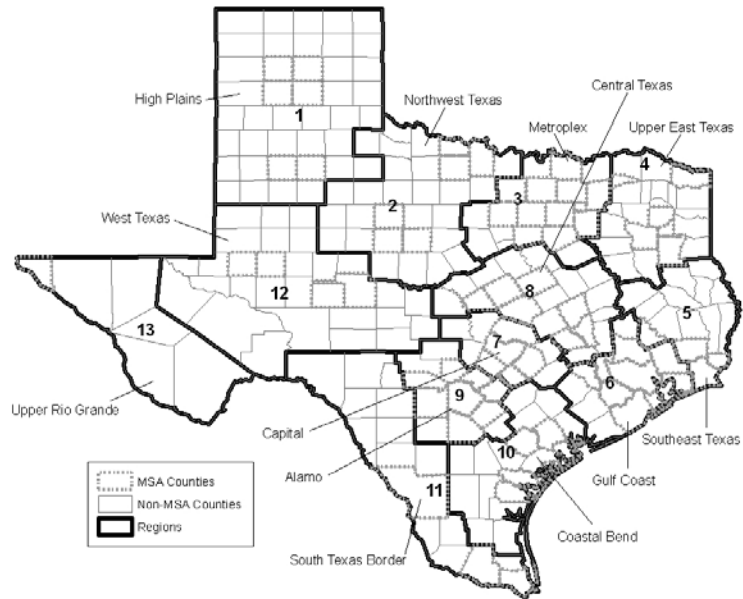
2013 REGIONAL ALLOCATION FORMULA PROPOSED METHODOLOGY – Revised September 28, 2012

Legislative Requirement

Sections 2306.111 and 2306.1115 of the Texas Government Code require that TDHCA use a Regional Allocation Formula (RAF) for the HOME Investment Partnership Program (HOME), Housing Trust Fund (HTF) Program and Housing Tax Credit (HTC) Program funding. The RAF presented below analyzes of housing need and availability in the State’s urban and rural areas and distributes funding accordingly.

TDHCA’s governing statute §2306.1115 states:

Figure 1: TDHCA Regions



(a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

The methodology below outlines the need for housing assistance and the availability of housing assistance in urban and rural areas, in keeping with the statute’s requirements.

Methodology

Affordable Housing Need

Affordable housing need will be measured by variables that relate to the types of assistance available through TDHCA programs.

Exhibit for First Addendum: Exhibit R

HTC and HOME both offer reduced-rent apartments. HOME offers Tenant-Based Rental Assistance. Therefore people in need of rental assistance should be included. The renters with cost burden measures the number of people in Texas that pay over 30% of their income on rent. Renter experiencing overcrowding measures the number of units with more than one person per room, including the kitchen and bathroom. Both rent burden and overcrowding will be used as a variable in the RAF.

HOME also offers homebuyer assistance and single-family development. For single-family development, typically the homes are built by nonprofits or units of local government and the homes are often purchased by low-income homeowners. HTF offers the Bootstrap Loan Program for potential homeowners who use sweat equity along with low-interest loans to build their homes. Households who are ready to own and qualify for home buying are efficiently measured by an income measurement. In addition, areas with high numbers of homeowners experiencing cost burden or overcrowding may signify a need for homebuyer assistance to reduce the number of future homeowners with cost burden or overcrowding. Therefore, an income measurement, homeowner cost burden and homeowner overcrowded units will be included in the RAF.

HOME offers homeowner rehabilitation assistance. However, there is a lack of available data to measure the need for homeowner rehabilitation at the regional level. Units lacking kitchen and plumbing did not have sufficient accuracy; the margins of error were larger than the estimates in some regions. Age of housing stock was considered, but there is no data to substantiate the correlation between a specific household age and need for rehabilitation. Therefore, numbers of units with substandard conditions and numbers of units over 30 or 50 years of age could not be included in the RAF.

Income is the primary measurement of eligibility for housing assistance through TDHCA. HTC serves households who earn 0-60% Area Median Family Income (AMFI). HOME and HTF serve households who earn 0-80% AMFI. Therefore, as already determined to measure the need for homebuyer assistance, an income measurement will be used in the RAF. While eligibility for housing assistance is measured by AMFI, the AMFI datasets are available only every other year, while the measurement of people in poverty is measured yearly. In order to use the most up-to-date data, poverty measurements will be used. The percentage of people at 200% poverty is strongly linked with the percentage of people earning 0-80% AMFI. People at or below 200% of the poverty level will qualify for a majority of housing assistance offered through TDHCA's HOME, HTC and HTF programs.

Need for affordable housing will be determined by three variables:

1. Cost burden (renters for HTC and HOME; owners for HOME and HTF)
2. Overcrowding (renters for HTC and HOME; owners for HOME and HTF); and
3. People at or below 200% of the poverty rate.

Affordable housing availability will be measured by variables that relate directly to housing resources. In order to take into account both market-rate and subsidized units, rental vacancies will be used. High numbers of vacancies indicate the market has a supply of housing. Vacancies show a direct measure of housing availability.

Need for affordable housing is determined by:

1. Vacant units (rental units for HOME and HTC; homes for sale for HOME and HTF)

Urban and Rural Areas

In TDHCA's governing statute, §2306.004 states:

28-a) "Rural area" means 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 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.

County-level data is easily obtained and allocating to urban and rural areas is derived from the designations of primary metropolitan statistical areas (MSA) and metropolitan statistical areas as discussed in the 2306.004 (28-a) definition of "rural area." County-level data is a more complete and informative dataset than place-level data because the place-level count excludes people and units not located in any census-designated place. Limiting the data to only places in each region substantially hinders the decision-making capabilities of the RAF as an allocation tool. Using the county-based data in MSA vs Non-MSA to allocate for urban and rural areas allows for a more complete picture of the state's demographic data.

According to 2306.1115(b), TDHCA must use appropriate data to develop the formula, and county-level data is most appropriate data. However, the RAF is not stating that MSA vs Non-MSA analysis will always coincide with urban and rural designations for specific sites. The rural and urban designation for site-specific applications applying for funding will be at the place-level.

Weights

To allocate funds, the RAF will use each sub-region's ratios of the State's total. In order to account for the amount of population that the variables affect, all the need variables will be added together¹ (i.e. compounded) before taking the percentage of each sub-region's need over the amount of the total need in the State.

A successful allocation formula will provide more funding for high housing need and remove funding for an abundance of housing resources. In order to get the right relationship between housing and need, the housing availability variable will have negative weight. If the weights were equal, each variable would receive 50% of the weight. Because the availability variable should be negative, the need variables are weighted at 50% each and the availability variable is weighted at -50%, giving the appropriate relationship between funding and current availability of resources. The compounded need variable will receive 150% weight (50% per variable).

Exceptions to the RAF

According to §2306.111(d), there are certain instances when the RAF would not apply to HOME, HTC, and HTF funds. For instance, specific set aides will not be run through the RAF. This includes set asides for contract-for-deed conversions and set asides mandated by state or federal law, if these set asides are less than 10 percent of the total allocation of funds or credits. Set asides for funds allocated to serve persons with disabilities will not run through the RAF. The total amount available through the RAF will not include funds for at-risk development, with stipulations mentioned in this paragraph.

Also in 2306.111(d), specifically for HTC, 5% of HTC funds must be allocated to developments that receive federal assistance through USDA. Any developments that receive federal assistance through USDA and HTC for rehabilitation compete for funding separately under the "USDA Set-Aside." This funding is taken from the total tax credit ceiling prior to applying the RAF to allocate funds between each sub-region.

Finally, pursuant to §2306.111(d) specifically for HTF, funds that do not exceed \$3 million for each programmed activity will not run through the RAF.

HOME, HTC and HTF Data Differences

Even though the RAF applies to HOME, HTC and HTF, there are some differences between the programs that need to be addressed within the formulas. For example, HOME and HTF can serve homeowners and

¹ Note that in order for people in poverty to be combined with households with cost burden and households with overcrowding, the number of people in poverty is divided by the average size of a household in Texas: 2.78.

Exhibit for First Addendum: Exhibit R

those wanting to buy or build a home, while HOME and HTC serves renters. Therefore, renters' needs would be counted for HOME and HTC; homebuyer needs would be counted for HOME and HTF.

Because HOME and HTC fund rehabilitation, substandard housing units would ideally be included in the RAF. However, at the time of this writing, staff has not identified a data source that would provide an estimate of these units that is accurate at the regional level.

In addition, according to §2306.111(c)(1), 95 percent of the funds for HOME must be spent outside Participating Jurisdictions (PJs). PJs are areas that receive funding directly from HUD. The other 5 percent of State HOME funds must be spent activities that help people with disabilities in any area of the State; this portion of HOME is not subject to the RAF because it is set aside for persons with disabilities (see *Exceptions to the RAF* above). Because 95 percent of funds cannot be spent within a PJ, the housing need and availability in those jurisdictions should not be counted in HOME's RAF.

The PJ designations are subject to change yearly depending on HUD's funding. As of this writing, twenty-nine of the PJs are cities. The other PJs are grouped by county. Though the cities in the counties do not encompass the entire county, the cities encompass such a large area of the counties that, with the data available and the current margins of error, the entire county will be counted as the PJ. These PJs will be subtracted from the HOME version of the RAF.

HTC \$500,000 Adjustment

§2306.111(d-3) is a special stipulation on funding and the RAF that applies only to HTC. This statute requires that TDHCA allocate at least 20 percent of credits to rural areas and that \$500,000 be available for each urban and rural sub-region, which number 26 in total. The overall state rural percentage of the total tax credit ceiling amount will be adjusted to a minimum of 20 percent only at the time of actual award, if needed. Usually, the 20 percent allocation to rural areas occurs naturally, but, if not, one more deal for rural areas will be awarded from the statewide collapse of the RAF to ensure the requirement is met.

For the HTC RAF, the regional amount of rural and urban funding is adjusted to a minimum \$500,000, if needed. This is done as a final adjustment to the sub-regional allocation amounts available for award. The process proportionately takes funds from sub-regions with initial funding amounts in excess of \$500,000 and reallocates those funds to those sub-regions with initial funding amounts that are less than \$500,000. The process is complete when each sub-region has at least \$500,000.

Attachment D: Models and Analysis of the Housing Tax Credit Regional Allocation Formula as posted online and presented at the Roundtable on September 26, 2012

Brief Description of Housing Tax Credit Regional Allocation Formula for Roundtable

The proposed changes to the Housing Tax Credit (HTC) Regional Allocation Formula (RAF) were outlined in a Position Paper and discussed via online forum from August 10, 2012 to September 10, 2012. The Position Paper is still posted online and is considered background material for this brief description paper. As a result of the online forum, additional models of the HTC RAF were developed and will be presented to the public at a Roundtable on September 26, 2012. The HTC RAF Roundtable will be held at 10:00a.m. at the Capitol Extension, Room E2.026, 1100 Congress Avenue, Austin, TX. All the spreadsheets discussed below are posted online at <http://www.tdhca.state.tx.us/housing-center/pubs.htm>

The three RAF models being presented are: (1) Equal Weights Model; (2) Compounded Need Model; and (3) Subtraction Model. When reading this description page, it is suggested that the reader also examines the models posted online.

All draft RAF models considered the same variables, as outlined in the spreadsheet entitled “Variables for 2013 RAF”. Of these variables, staff recommended using four, which are presented in Table 1 of all the RAF models. These variables are:

1. Housing need: People in 200% of Poverty
2. Housing need: Cost Burden of Renters
3. Housing Need: Overcrowded Renters
4. Housing Availability: Rental Vacancies

(1) Equal Weights Model

Table 2 of the Equal Weights Model uses a percentage of each variable which is calculated on the sub-region’s amount of the variable over the amount of that variable in the State as a whole. Then, each variable is given equal weight. Each variable is given 50% weight to show that each factor is equally important (the vacancies variable is given negative weight in order to remove resources from areas with high housing availability). The amounts allocated are added for each sub-region to determine the original sub-region amount.

(2) Compounded Need Model

Table 2 of the Compounded Need Model uses a percentage of the factors similar to the Equal Weights Model. However, all the need variables are added together (i.e. “compounded”) before taking the percentage of the sub-region’s amount of the variables over the amount of the total need variables in the State as a whole. In this way, the proportion of population that each need variable affects is taken into account. (Note that in order for people in poverty to be combined with households with cost burden and households with overcrowding, the number of people in poverty is divided by the average

Material posted for HTC Roundtable

size of a household in Texas: 2.78.) The compounded need variables have 150% weight and vacancies - 50%.

(3) Subtraction Model

Table 2 of the Subtraction Model also uses a percentage of the need factors and housing availability factors, but the percentages are calculated based on simple subtraction. Similarly to the Compounded Need Model, all the need factors are added together. (Also, similarly to the Compounded Need Model, the number of households in poverty is estimated based on the average household size of 2.78). Then the vacancies number is subtracted from the need variables, giving one number representing need and availability. Then a percentage of that number which constitutes the need and availability is calculated on the sub-region's amount of the variable over the amount of that variable in the State as a whole.

All draft models have the same formula for Table 3. The regional amount of rural and urban funding is adjusted to a minimum \$500,000, if needed. This is done as a final adjustment to the sub-regional allocation amounts available for award. The process proportionately takes funds from sub-regions with initial funding amounts in excess of \$500,000 and reallocates those funds to those sub-regions with initial funding amounts that are less than \$500,000. The process is complete when each sub-region has at least \$500,000.

All the 2013 models are compared to the 2012 RAF based on \$40,000,000 and without forward commitments. All the models also have two maps showing analysis of the results of the allocation: one map that shows amounts allocated and another that shows the percent changed from 2012 to 2013.

For reference, a spreadsheet and map showing the 2011 to 2012 HTC RAFs are also included online. Also for reference, a test RAF based on population only is also available.

A. Regions (MSA Counties)	B. Building Permits, Multifamily	C. Building Permits, Single-family	D. Building Permits, Total*	E. Cost Burden, Owners	F. Cost Burden, Renters	G. Lacking Kitchen, Own	H. Lacking Kitchen, Rent	I. Lack of Plumbing, Own	J. Lack Plumbing, Rent
1	884	1,468	2,378	25,333	34,134	488	1,300	522	560
2	128	429	577	14,909	17,649	497	416	447	250
3	5,242	14,492	19,882	396,632	378,790	5,336	10,480	4,386	5,910
4	388	478	952	25,965	24,738	459	1,467	464	536
5	152	1,258	1,426	18,892	17,665	714	816	569	152
6	4,858	22,328	27,450	341,981	327,333	5,814	8,288	5,340	5,798
7	2,290	6,200	8,786	102,474	119,548	1,076	2,819	1,324	1,298
8	514	3,177	3,838	39,742	59,852	747	1,683	559	761
9	1,645	5,144	6,865	116,649	110,578	2,488	3,473	2,350	2,139
10	296	1,028	1,328	30,515	33,394	917	1,971	960	1,135
11	459	4,794	5,473	79,794	56,907	2,387	3,008	4,437	2,927
12	440	839	1,279	18,058	17,406	718	1,486	504	561
13	1,412	2,961	4,549	42,569	41,999	728	1,301	1,058	1,145

Regions (Non-MSA Counties)	Building Permits, Multifamily	Building Permits, Single-family	Building Permits, Total	Cost Burden, Owners	Cost Burden, Renters	Lacking Kitchen, Own	Lacking Kitchen, Rent	Lack of Plumbing, Own	Lack Plumbing, Rent
1	124	70	196	13706	9,348	407	454	412	210
2	0	89	127	12336	8,281	456	463	364	222
3	170	182	361	14191	10,771	520	577	352	277
4	45	233	310	31151	17,243	887	1311	766	785
5	284	490	782	19063	15,256	615	647	553	274
6	294	288	716	7937	8,512	209	327	118	40
7	16	398	432	8329	3,757	281	379	225	154
8	0	108	112	15271	7,502	567	405	552	218
9	0	111	111	6328	3,999	57	127	158	25
10	0	89	89	9539	6,819	418	452	408	295
11	36	227	286	13511	8,791	576	333	902	531
12	64	69	133	6735	4,816	514	269	362	129
13	0	23	23	1316	866	72	59	139	135

K. Over-crowded Owners	L. Over-crowded Renters	M. People at 200% Poverty	N. Population Growth between 2013-2016	O. Unit's Age at 30 yrs or more, Owners	P. Unit's Age at 30 yrs or more, Renters	Q. Unit's Age at 50 yrs or more, Owners	R. Unit's Age at 50 yrs or more, Renters	S. Vacancies, Owners	T. Vacancies, Rental
3,246	3,732	197,083	11,855	72,930	43,776	34,021	18,726	2,678	7,317
1,288	1,680	107,155	(1,280)	50,976	24,664	28,977	12,691	1,640	4,467
35,569	57,107	1,995,573	586,612	576,080	347,552	232,391	110,152	35,380	103,640
3,280	3,084	184,785	22,199	67,929	32,609	26,714	12,002	2,539	3,692
2,590	2,081	145,209	501	66,977	27,003	30,080	12,522	2,000	3,740
39,214	67,231	1,959,263	482,491	519,653	355,889	177,412	88,998	32,328	104,089
7,796	14,330	486,104	171,308	106,693	89,654	36,592	21,728	7,703	18,889
4,183	5,353	335,779	32,882	77,553	59,840	32,304	21,698	4,650	17,275
13,654	14,610	739,878	116,997	207,784	120,047	92,659	41,842	9,622	27,784
3,695	4,885	209,455	5,680	72,421	42,842	34,942	18,471	2,854	7,699
27,780	22,226	834,165	117,318	82,088	44,816	28,224	14,572	6,080	11,795
3,340	1,837	134,615	7,646	58,452	24,804	31,069	9,793	894	4,141
7,610	7,986	401,674	23,904	74,122	50,211	30,746	18,878	3,604	7,903

Over-crowded Owners	Overcrowded Renters	People at 200% Poverty	Population Growth between 2013-2016	Unit's Age at 30 yrs or more, Owners	Unit's Age, Rent 30 yrs	Unit's Age at 50 yrs or more, Owners	Unit's Age, Rent 50 yrs	Vacancies, Owners	Vacancies, Rental
2,940	2094	122,109	(652)	57,566	21394	30611	12301	1,379	2,762
1,372	1104	94,601	510	46,474	17704	27339	9614	1,656	2,401
1,651	1527	86,260	12,601	30,350	14577	13120	6536	1,861	1,813
4,286	2795	213,083	12,998	74,521	27321	29762	11530	3,447	4,136
2,879	2123	152,551	6,321	48,511	19371	17532	7075	1,859	3,449
1,150	1099	59,244	275	20,126	10154	9017	3448	590	2,040
828	605	37,999	8,057	15,203	6036	5934	2856	822	1,292
1,656	1039	93,928	6,230	35,056	13376	16919	6144	2,064	1,606
678	935	34,823	3,222	13,853	6148	6205	2397	835	782
1,850	1990	87,618	150	33,313	14659	17541	7989	1,309	2,506
4,277	2902	161,792	8,372	26,671	12216	10217	4807	1,022	2,115
1,349	1066	70,228	(644)	33,691	11814	18587	5283	1,033	1,028
170	215	12,311	653	3,360	1910	2022	999	254	213

Material posted for HTC Roundtable Variables Considered for the 2013 RAF

Column B, C and D are from the US Census Bureau's Economic Census

Column E, F, G, H, I, J, K, L and M are from the 2006-2010 American Community Survey.

Column N data is from the State Demographers Office

Column O, P, Q, R, S and T are from the 2006-2010 American Community Survey.

*Total Building Permits (Column D) is greater than the sum of Building Permits Multifamily (Column B) and Building Permits Single Family (Column C) because multifamily is defined as 5+ units and single family is defined as 1 unit. Permits for 2-4 units are included in the total building permits.

Table 1 - Raw Data

Region (MSA Counties)	People at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide burden	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	197,083	2.2%	34,134	2.5%	3,732	1.7%	7,317	2.10%
2	107,155	1.2%	17,649	1.3%	1,680	0.7%	4,467	1.28%
3	1,995,573	22.3%	378,790	28.1%	57,107	25.3%	103,640	29.73%
4	184,785	2.1%	24,738	1.8%	3,084	1.4%	3,692	1.06%
5	145,209	1.6%	17,665	1.3%	2,081	0.9%	3,740	1.07%
6	1,959,263	21.9%	327,333	24.3%	67,231	29.8%	104,089	29.86%
7	486,104	5.4%	119,548	8.9%	14,330	6.4%	18,889	5.42%
8	335,779	3.7%	59,852	4.4%	5,353	2.4%	17,275	4.96%
9	739,878	8.3%	110,578	8.2%	14,610	6.5%	27,784	7.97%
10	209,455	2.3%	33,394	2.5%	4,885	2.2%	7,699	2.21%
11	834,165	9.3%	56,907	4.2%	22,226	9.9%	11,795	3.38%
12	134,615	1.5%	17,406	1.3%	1,837	0.8%	4,141	1.19%
13	401,674	4.5%	41,999	3.1%	7,986	3.5%	7,903	2.27%
Region (Non-MSA Counties)	People at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide burden	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	122,109	1.4%	9,348	0.7%	2,094	0.9%	2,762	0.8%
2	94,601	1.1%	8,281	0.6%	1,104	0.5%	2,401	0.7%
3	86,260	1.0%	10,771	0.8%	1,527	0.7%	1,813	0.5%
4	213,083	2.4%	17,243	1.3%	2,795	1.2%	4,136	1.2%
5	152,551	1.7%	15,256	1.1%	2,123	0.9%	3,449	1.0%
6	59,244	0.7%	8,512	0.6%	1,099	0.5%	2,040	0.6%
7	37,999	0.4%	3,757	0.3%	605	0.3%	1,292	0.4%
8	93,928	1.0%	7,502	0.6%	1,039	0.5%	1,606	0.5%
9	34,823	0.4%	3,999	0.3%	935	0.4%	782	0.2%
10	87,618	1.0%	6,819	0.5%	1,990	0.9%	2,506	0.7%
11	161,792	1.8%	8,791	0.7%	2,902	1.3%	2,115	0.6%
12	70,228	0.8%	4,816	0.4%	1,066	0.5%	1,028	0.3%
13	12,311	0.1%	866	0.1%	215	0.1%	213	0.1%
Total for State	8,957,285		1,345,954		225,636		348,574	

Texas Department of Housing and Community Affairs - 2013 HTC RAF Equal Weights Model

Material posted for HTC Roundtable

Table 2 - Weighted Variables

Sample RAF \$ 40,000,000.00

MSA regions	% of statewide 200% poverty	50% Weight	% of statewide burden	50% Weight	% of statewide overcrowding	50% Weight	% of statewide vacancy	-50.00%	Sub-region amount
1	2.2%	\$ 440,051	2.5%	\$ 507,209	1.7%	\$ 330,798	2.1%	\$ (419,825)	\$ 858,233
2	1.2%	\$ 239,258	1.3%	\$ 262,253	0.7%	\$ 148,912	1.3%	\$ (256,301)	\$ 394,121
3	22.3%	\$ 4,455,754	28.1%	\$ 5,628,573	25.3%	\$ 5,061,870	29.7%	\$ (5,946,514)	\$ 9,199,683
4	2.1%	\$ 412,592	1.8%	\$ 367,591	1.4%	\$ 273,361	1.1%	\$ (211,835)	\$ 841,708
5	1.6%	\$ 324,225	1.3%	\$ 262,490	0.9%	\$ 184,456	1.1%	\$ (214,589)	\$ 556,584
6	21.9%	\$ 4,374,680	24.3%	\$ 4,863,955	29.8%	\$ 5,959,244	29.9%	\$ (5,972,276)	\$ 9,225,604
7	5.4%	\$ 1,085,382	8.9%	\$ 1,776,405	6.4%	\$ 1,270,187	5.4%	\$ (1,083,787)	\$ 3,048,188
8	3.7%	\$ 749,734	4.4%	\$ 889,362	2.4%	\$ 474,481	5.0%	\$ (991,181)	\$ 1,122,395
9	8.3%	\$ 1,652,014	8.2%	\$ 1,643,117	6.5%	\$ 1,295,006	8.0%	\$ (1,594,152)	\$ 2,995,985
10	2.3%	\$ 467,675	2.5%	\$ 496,213	2.2%	\$ 432,998	2.2%	\$ (441,743)	\$ 955,144
11	9.3%	\$ 1,862,540	4.2%	\$ 845,601	9.9%	\$ 1,970,076	3.4%	\$ (676,757)	\$ 4,001,459
12	1.5%	\$ 300,571	1.3%	\$ 258,642	0.8%	\$ 162,829	1.2%	\$ (237,597)	\$ 484,445
13	4.5%	\$ 896,866	3.1%	\$ 624,078	3.5%	\$ 707,866	2.3%	\$ (453,447)	\$ 1,775,362
Sub-region MSA Total	86.3%	\$ 17,261,342	92.1%	\$ 18,425,489	91.4%	\$ 18,272,084	92.5%	\$ (18,500,003)	\$ 35,458,912

Non-MSA regions	% of statewide 200% poverty	50% Weight	% of statewide burden	50% Weight	% of statewide overcrowding	50% Weight	% of statewide vancancy	-50.00%	Sub-region amount
1	1.4%	\$ 272,647	0.7%	\$ 138,905	0.9%	\$ 185,609	0.8%	\$ (158,474)	\$ 438,687
2	1.1%	\$ 211,227	0.6%	\$ 123,050	0.5%	\$ 97,857	0.7%	\$ (137,761)	\$ 294,373
3	1.0%	\$ 192,603	0.8%	\$ 160,050	0.7%	\$ 135,351	0.5%	\$ (104,024)	\$ 383,980
4	2.4%	\$ 475,776	1.3%	\$ 256,220	1.2%	\$ 247,744	1.2%	\$ (237,310)	\$ 742,430
5	1.7%	\$ 340,619	1.1%	\$ 226,694	0.9%	\$ 188,179	1.0%	\$ (197,892)	\$ 557,600
6	0.7%	\$ 132,281	0.6%	\$ 126,483	0.5%	\$ 97,414	0.6%	\$ (117,048)	\$ 239,129
7	0.4%	\$ 84,845	0.3%	\$ 55,827	0.3%	\$ 53,626	0.4%	\$ (74,131)	\$ 120,167
8	1.0%	\$ 209,724	0.6%	\$ 111,475	0.5%	\$ 92,095	0.5%	\$ (92,147)	\$ 321,147
9	0.4%	\$ 77,753	0.3%	\$ 59,423	0.4%	\$ 82,877	0.2%	\$ (44,869)	\$ 175,184
10	1.0%	\$ 195,635	0.5%	\$ 101,326	0.9%	\$ 176,390	0.7%	\$ (143,786)	\$ 329,566
11	1.8%	\$ 361,252	0.7%	\$ 130,629	1.3%	\$ 257,228	0.6%	\$ (121,352)	\$ 627,758
12	0.8%	\$ 156,806	0.4%	\$ 71,563	0.5%	\$ 94,488	0.3%	\$ (58,983)	\$ 263,874
13	0.1%	\$ 27,488	0.1%	\$ 12,868	0.1%	\$ 19,057	0.1%	\$ (12,221)	\$ 47,192
Sub-region non-MSA	13.7%	\$ 2,738,658	7.9%	\$ 1,574,511	8.6%	\$ 1,727,916	7.5%	\$ (1,499,997)	\$ 4,541,088
Statewide Total	100.0%	\$ 20,000,000	100.0%	\$ 20,000,000	100.0%	\$ 20,000,000	100.0%	\$ (20,000,000)	\$ 40,000,000

Texas Department of Housing and Community Affairs - 2013 RAF Equal Rights Model

Table 3 - \$500,000 Adjustment

Material posted for HTC Roundtable

Sample \$ 40,000,000.00
RAF

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of total funding
1	\$ 858,233	\$ -	\$ 358,233	1%	\$ (30,449.13)	\$ 827,784	2.07%
2	\$ 394,121	\$ 105,879	\$ -	0%	\$ 105,878.57	\$ 500,000	1.25%
3	\$ 9,199,683	\$ -	\$ 8,699,683	29%	\$ (739,456.06)	\$ 8,460,227	21.15%
4	\$ 841,708	\$ -	\$ 341,708	1%	\$ (29,044.53)	\$ 812,664	2.03%
5	\$ 556,584	\$ -	\$ 56,584	0%	\$ (4,809.50)	\$ 551,774	1.38%
6	\$ 9,225,604	\$ -	\$ 8,725,604	30%	\$ (741,659.32)	\$ 8,483,945	21.21%
7	\$ 3,048,188	\$ -	\$ 2,548,188	9%	\$ (216,591.02)	\$ 2,831,597	7.08%
8	\$ 1,122,395	\$ -	\$ 622,395	2%	\$ (52,902.40)	\$ 1,069,493	2.67%
9	\$ 2,995,985	\$ -	\$ 2,495,985	8%	\$ (212,153.85)	\$ 2,783,831	6.96%
10	\$ 955,144	\$ -	\$ 455,144	2%	\$ (38,686.34)	\$ 916,458	2.29%
11	\$ 4,001,459	\$ -	\$ 3,501,459	12%	\$ (297,617.19)	\$ 3,703,842	9.26%
12	\$ 484,445	\$ 15,555	\$ -	0%	\$ 15,555.17	\$ 500,000	1.25%
13	\$ 1,775,362	\$ -	\$ 1,275,362	4%	\$ (108,403.24)	\$ 1,666,958	4.17%
Sub-region MSA Total	\$ 35,458,912	\$ 121,434	\$ 29,080,346	99%	\$ (2,350,339)	\$ 33,108,573	83%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of Total
1	\$ 438,687	\$ 61,313	\$ -	0%	\$ 61,313.02	\$ 500,000	1.25%
2	\$ 294,373	\$ 205,627	\$ -	0%	\$ 205,627.34	\$ 500,000	1.25%
3	\$ 383,980	\$ 116,020	\$ -	0%	\$ 116,020.03	\$ 500,000	1.25%
4	\$ 742,430	\$ -	\$ 242,430	1%	\$ (20,606.08)	\$ 721,824	1.80%
5	\$ 557,600	\$ -	\$ 57,600	0%	\$ (4,895.91)	\$ 552,704	1.38%
6	\$ 239,129	\$ 260,871	\$ -	0%	\$ 260,870.85	\$ 500,000	1.25%
7	\$ 120,167	\$ 379,833	\$ -	0%	\$ 379,832.93	\$ 500,000	1.25%
8	\$ 321,147	\$ 178,853	\$ -	0%	\$ 178,852.53	\$ 500,000	1.25%
9	\$ 175,184	\$ 324,816	\$ -	0%	\$ 324,815.67	\$ 500,000	1.25%
10	\$ 329,566	\$ 170,434	\$ -	0%	\$ 170,434.46	\$ 500,000	1.25%
11	\$ 627,758	\$ -	\$ 127,758	0%	\$ (10,859.16)	\$ 616,899	1.54%
12	\$ 263,874	\$ 236,126	\$ -	0%	\$ 236,125.64	\$ 500,000	1.25%
13	\$ 47,192	\$ 452,808	\$ -	0%	\$ 452,807.54	\$ 500,000	1.25%
Sub-region Non-MSA Total	\$ 4,541,088	\$ 2,386,700	\$ 427,788	1%	\$ 2,350,339	\$ 6,891,427	17%
Statewide T	\$ 40,000,000	\$ 2,508,134	\$ 29,508,134	100%	\$	\$ 40,000,000	100.00%

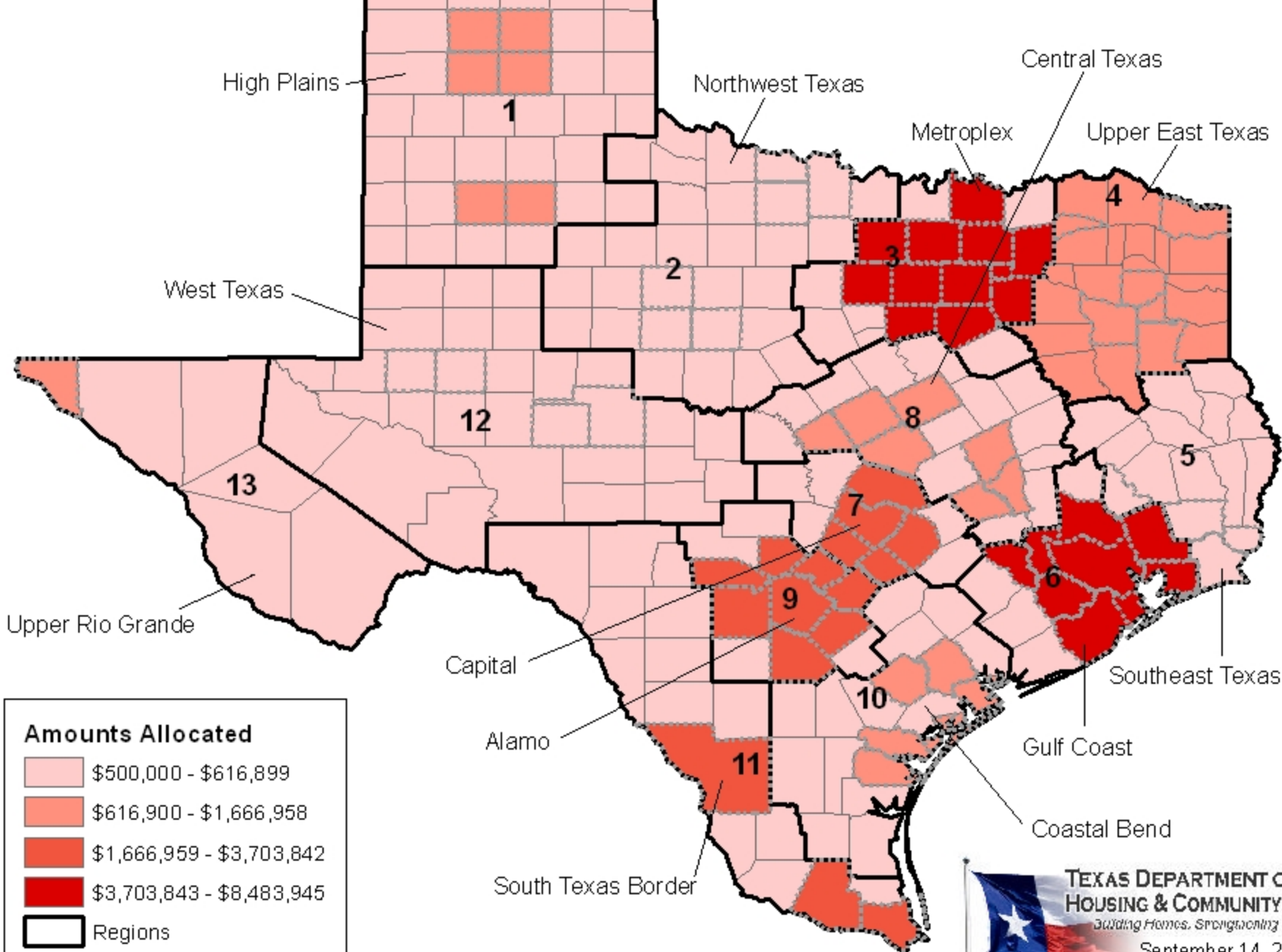
Minimum needed	\$ 500,000
Total if each	\$ 13,000,000
Amount available to be reallocated	\$ 29,508,134
Amount needed to bring underallocated regions to \$500,000	\$ 2,508,134

Material posted for *Texas Department of Housing and Community Affairs*
 HTC Roundtable 2012 and 2013 HTC RAF Equal Weights Model

	Geography	2012 HTC RAF	2013 HTC RAF (four factors)	Amount change between 2013 and 2012	Percent change between 2012 and 2013 RAF
1-Urban	Lubbock	\$ 940,460	\$ 827,784	\$ (112,676)	-12%
1-Rural	Levelland	\$ 640,137	\$ 500,000	\$ (140,137)	-22%
1-Total	High Plains	\$ 1,580,597	\$ 1,327,784	\$ (252,813)	-16%
2-Urban	Abilene	\$ 500,000	\$ 500,000	\$ -	0%
2-Rural	Sweetwater	\$ 500,000	\$ 500,000	\$ -	0%
2-Total	Northwest Texas	\$ 1,000,000	\$ 1,000,000	\$ -	0%
3-Urban	Dallas/Fort Worth	\$ 7,092,539	\$ 8,460,227	\$ 1,367,688	19%
3-Rural	Gainesville	\$ 697,545	\$ 500,000	\$ (197,545)	-28%
3-Total	Metroplex	\$ 7,790,084	\$ 8,960,227	\$ 1,170,143	15%
4-Urban	Tyler	\$ 578,780	\$ 812,664	\$ 233,884	40%
4-Rural	Mount Pleasant	\$ 1,035,143	\$ 721,824	\$ (313,319)	-30%
4-Total	Upper East Texas	\$ 1,613,923	\$ 1,534,488	\$ (79,435)	-5%
5-Urban	Beaumont	\$ 500,000	\$ 551,774	\$ 51,774	10%
5-Rural	Nacogdoches	\$ 500,000	\$ 552,704	\$ 52,704	11%
5-Total	Southeast Texas	\$ 1,000,000	\$ 1,104,479	\$ 104,479	10%
6-Urban	Houston	\$ 9,557,007	\$ 8,483,945	\$ (1,073,062)	-11%
6-Rural	Huntsville	\$ 567,946	\$ 500,000	\$ (67,946)	-12%
6-Total	Gulf Coast	\$ 10,124,953	\$ 8,983,945	\$ (1,141,008)	-11%
7-Urban	Austin/Round Rock	\$ 2,807,111	\$ 2,831,597	\$ 24,486	1%
7-Rural	Marble Falls	\$ 500,000	\$ 500,000	\$ -	0%
7-Total	Capital	\$ 3,307,111	\$ 3,331,597	\$ 24,486	1%
8-Urban	Waco	\$ 2,054,727	\$ 1,069,493	\$ (985,234)	-48%
8-Rural	Brenham	\$ 500,000	\$ 500,000	\$ -	0%
8-Total	Central Texas	\$ 2,554,727	\$ 1,569,493	\$ (985,234)	-39%
9-Urban	San Antonio	\$ 1,328,661	\$ 2,783,831	\$ 1,455,170	110%
9-Rural	Fredericksburg	\$ 500,000	\$ 500,000	\$ -	0%
9-Total	Alamo	\$ 1,828,661	\$ 3,283,831	\$ 1,455,170	80%
10-Urban	Corpus Christi	\$ 1,139,472	\$ 916,458	\$ (223,014)	-20%
10-Rural	Kingsville	\$ 500,000	\$ 500,000	\$ -	0%
10-Total	Coastal Bend	\$ 1,639,472	\$ 1,416,458	\$ (223,014)	-14%
11-Urban	Brownsville/Harlingen	\$ 3,419,238	\$ 3,703,842	\$ 284,604	8%
11-Rural	Del Rio	\$ 1,507,251	\$ 616,899	\$ (890,352)	-59%
11-Total	South Texas Border	\$ 4,926,489	\$ 4,320,741	\$ (605,748)	-12%
12-Urban	San Angelo	\$ 500,000	\$ 500,000	\$ -	0%
12-Rural	Lamesa	\$ 500,000	\$ 500,000	\$ -	0%
12-Total	West Texas	\$ 1,000,000	\$ 1,000,000	\$ -	0%
13-Urban	El Paso	\$ 1,133,983	\$ 1,666,958	\$ 532,975	47%
13-Rural	Fort Davis	\$ 500,000	\$ 500,000	\$ -	0%
13-Total	Upper Rio Grande	\$ 1,633,983	\$ 2,166,958	\$ 532,975	33%



Material posted for
HTC Roundtable

Housing Tax Credit Draft Regional Allocation Formula Equal Weights Model - Amounts Allocated



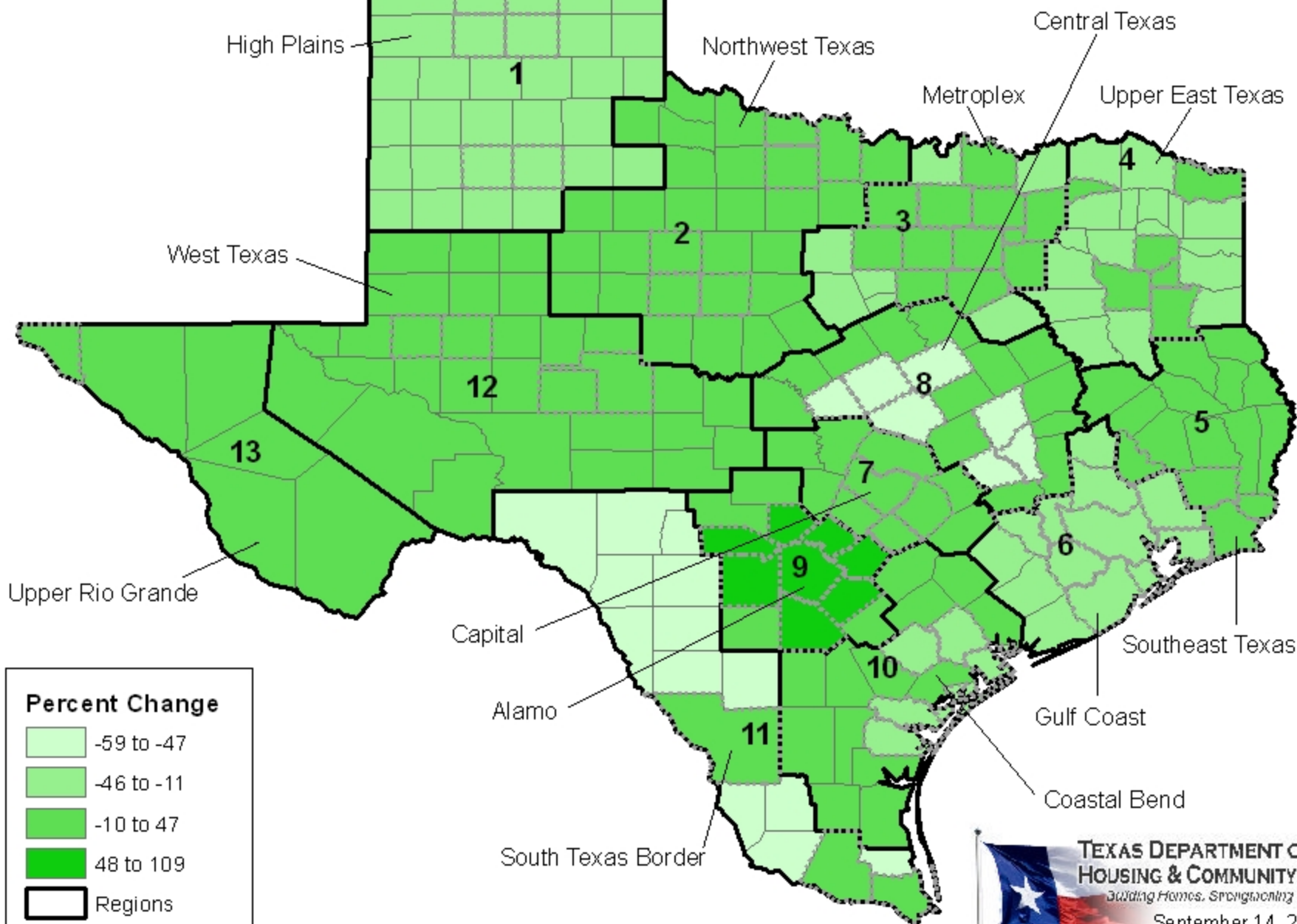
Amounts Allocated

	\$500,000 - \$616,899
	\$616,900 - \$1,666,958
	\$1,666,959 - \$3,703,842
	\$3,703,843 - \$8,483,945

-  Regions
-  MSA Counties

Material posted for
HTC Roundtable

Housing Tax Credit Draft Regional Allocation Formula Equal Weights Model Compared to 2012



Region (MSA Counties)	People at 200% Poverty	HH at 200% Poverty	Cost Burden, Renters	Overcrowded Renters	Vacancies, Rental
1	197,083	70,893	34,134	3732	7,317
2	107,155	38,545	17,649	1680	4,467
3	1,995,573	717,832	378,790	57107	103,640
4	184,785	66,469	24,738	3084	3,692
5	145,209	52,233	17,665	2081	3,740
6	1,959,263	704,771	327,333	67231	104,089
7	486,104	174,858	119,548	14330	18,889
8	335,779	120,784	59,852	5353	17,275
9	739,878	266,143	110,578	14610	27,784
10	209,455	75,344	33,394	4885	7,699
11	834,165	300,059	56,907	22226	11,795
12	134,615	48,423	17,406	1837	4,141
13	401,674	144,487	41,999	7986	7,903

Region (Non-MSA Counties)	People at 200% Poverty		Cost Burden, Renters	Overcrowded Renters	Vacancies, Rental
1	122,109	43,924	9,348	2094	2,762
2	94,601	34,029	8,281	1104	2,401
3	86,260	31,029	10,771	1527	1,813
4	213,083	76,649	17,522	2795	4,136
5	152,551	54,874	15,256	2123	3,449
6	59,244	21,311	8,512	1099	2,040
7	37,999	13,669	3,757	605	1,292
8	93,928	33,787	7,502	1039	1,606
9	34,823	12,526	3,999	935	782
10	87,618	31,517	6,819	1990	2,506
11	161,792	58,199	8,791	2902	2,115
12	70,228	25,262	5,030	1066	1,028
13	12,311	4,428	866	215	213
Total	8,957,285	3,222,045	1,346,447	225636	348,574

Material posted for
HTC Roundtable

Sample RAF \$ 40,000,000.00

Texas Department of Housing and Community Affairs
2013 HTC RAF Compounded need, Table 2

MSA regions	Total of 200% poverty, rent burden, and overcrowding	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Sub-region amount
1	108,759	2.3%	\$ 1,361,155	7,317	2.1%	\$ (419,825)	\$ 941,330
2	57,874	1.2%	\$ 724,311	4,467	1.3%	\$ (256,301)	\$ 468,009
3	1,153,729	24.1%	\$ 14,439,277	103,640	29.7%	\$ (5,946,514)	\$ 8,492,763
4	94,291	2.0%	\$ 1,180,086	3,692	1.1%	\$ (211,835)	\$ 968,252
5	71,979	1.5%	\$ 900,845	3,740	1.1%	\$ (214,589)	\$ 686,257
6	1,099,335	22.9%	\$ 13,758,517	104,089	29.9%	\$ (5,972,276)	\$ 7,786,242
7	308,736	6.4%	\$ 3,863,921	18,889	5.4%	\$ (1,083,787)	\$ 2,780,134
8	185,989	3.9%	\$ 2,327,708	17,275	5.0%	\$ (991,181)	\$ 1,336,527
9	391,331	8.2%	\$ 4,897,631	27,784	8.0%	\$ (1,594,152)	\$ 3,303,479
10	113,623	2.4%	\$ 1,422,021	7,699	2.2%	\$ (441,743)	\$ 980,279
11	379,192	7.9%	\$ 4,745,710	11,795	3.4%	\$ (676,757)	\$ 4,068,953
12	67,666	1.4%	\$ 846,857	4,141	1.2%	\$ (237,597)	\$ 609,260
13	194,472	4.1%	\$ 2,433,878	7,903	2.3%	\$ (453,447)	\$ 1,980,431

Non-MSA regions	Total of 200% poverty, rent burden, and overcrowding	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Sub-region amount
1	55,366	1.2%	\$ 692,924	2,762	0.8%	\$ (158,474)	\$ 534,450
2	43,414	0.9%	\$ 543,341	2,401	0.7%	\$ (137,761)	\$ 405,580
3	43,327	0.9%	\$ 542,248	1,813	0.5%	\$ (104,024)	\$ 438,224
4	96,966	2.0%	\$ 1,213,554	4,136	1.2%	\$ (237,310)	\$ 976,244
5	72,253	1.5%	\$ 904,274	3,449	1.0%	\$ (197,892)	\$ 706,383
6	30,922	0.6%	\$ 386,996	2,040	0.6%	\$ (117,048)	\$ 269,948
7	18,031	0.4%	\$ 225,660	1,292	0.4%	\$ (74,131)	\$ 151,529
8	42,328	0.9%	\$ 529,749	1,606	0.5%	\$ (92,147)	\$ 437,602
9	17,460	0.4%	\$ 218,521	782	0.2%	\$ (44,869)	\$ 173,652
10	40,326	0.8%	\$ 504,696	2,506	0.7%	\$ (143,786)	\$ 360,910
11	69,892	1.5%	\$ 874,715	2,115	0.6%	\$ (121,352)	\$ 753,363
12	31,358	0.7%	\$ 392,453	1,028	0.3%	\$ (58,983)	\$ 333,470
13	5,509	0.1%	\$ 68,952	213	0.1%	\$ (12,221)	\$ 56,731
Total	4,794,128	100%		348,574	100%		\$ 40,000,000

Material posted for HTC Roundtable

Sample RAF \$40,000,000.00

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount for Compounded Need	Part of total award
1	\$ 941,330	\$ -	\$ 441,330	2%	\$ (29,076.75)	\$ 912,253	2.28%
2	\$ 468,009	\$ 31,991	\$ -	0%	\$ 31,990.76	\$ 500,000	1.25%
3	\$ 8,492,763	\$ -	\$ 7,992,763	28%	\$ (526,598.21)	\$ 7,966,165	19.92%
4	\$ 968,252	\$ -	\$ 468,252	2%	\$ (30,850.49)	\$ 937,401	2.34%
5	\$ 686,257	\$ -	\$ 186,257	1%	\$ (12,271.40)	\$ 673,985	1.68%
6	\$ 7,786,242	\$ -	\$ 7,286,242	25%	\$ (480,049.47)	\$ 7,306,192	18.27%
7	\$ 2,780,134	\$ -	\$ 2,280,134	8%	\$ (150,225.22)	\$ 2,629,909	6.57%
8	\$ 1,336,527	\$ -	\$ 836,527	3%	\$ (55,114.03)	\$ 1,281,413	3.20%
9	\$ 3,303,479	\$ -	\$ 2,803,479	10%	\$ (184,705.45)	\$ 3,118,773	7.80%
10	\$ 980,279	\$ -	\$ 480,279	2%	\$ (31,642.85)	\$ 948,636	2.37%
11	\$ 4,068,953	\$ -	\$ 3,568,953	12%	\$ (235,138.22)	\$ 3,833,815	9.58%
12	\$ 609,260	\$ -	\$ 109,260	0%	\$ (7,198.54)	\$ 602,062	1.51%
13	\$ 1,980,431	\$ -	\$ 1,480,431	5%	\$ (97,537.25)	\$ 1,882,893	4.71%
MSA total	\$ 34,401,914					\$ 32,593,497	81.48%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount for Compounded Need	Part of total award
1	\$ 534,450	\$ -	\$ 34,450	0%	\$ (2,269.70)	\$ 532,180	1.33%
2	\$ 405,580	\$ 94,420	\$ -	0%	\$ 94,419.88	\$ 500,000	1.25%
3	\$ 438,224	\$ 61,776	\$ -	0%	\$ 61,775.76	\$ 500,000	1.25%
4	\$ 976,244	\$ -	\$ 476,244	2%	\$ (31,377.06)	\$ 944,867	2.36%
5	\$ 706,383	\$ -	\$ 206,383	1%	\$ (13,597.38)	\$ 692,785	1.73%
6	\$ 269,948	\$ 230,052	\$ -	0%	\$ 230,052.50	\$ 500,000	1.25%
7	\$ 151,529	\$ 348,471	\$ -	0%	\$ 348,470.73	\$ 500,000	1.25%
8	\$ 437,602	\$ 62,398	\$ -	0%	\$ 62,398.17	\$ 500,000	1.25%
9	\$ 173,652	\$ 326,348	\$ -	0%	\$ 326,347.96	\$ 500,000	1.25%
10	\$ 360,910	\$ 139,090	\$ -	0%	\$ 139,090.08	\$ 500,000	1.25%
11	\$ 753,363	\$ -	\$ 253,363	1%	\$ (16,692.66)	\$ 736,670	1.84%
12	\$ 333,470	\$ 166,530	\$ -	0%	\$ 166,529.69	\$ 500,000	1.25%
13	\$ 56,731	\$ 443,269	\$ -	0%	\$ 443,269.15	\$ 500,000	1.25%
Non-MSA total	\$ 5,598,086				\$ -	\$ 7,406,503	18.52%
Total		\$ 1,904,345	\$ 28,904,345			\$ 40,000,000	

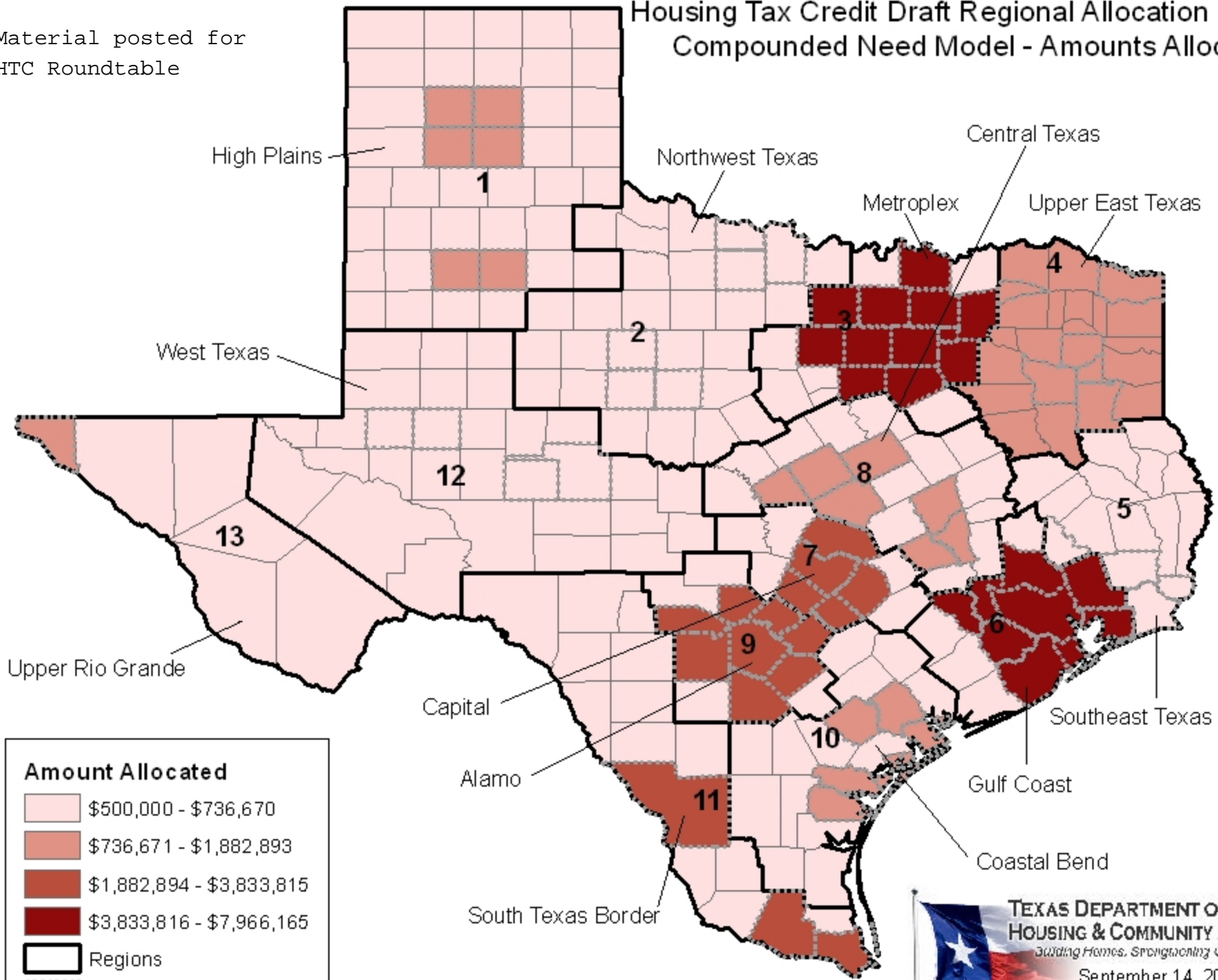
Material posted for HTC Roundtable Texas Department of Housing and Community Affairs
2013 HTC RAF 4 Compounded need, Table 3

Minimum needed for each region	\$ 500,000
Total if each subregion has \$500,000	\$ 13,000,000
Amount available to be reallocated	\$ 28,904,345
Amount needed to bring underallocated regions to	\$ 1,904,345

	Geography	2012 HTC RAF	2013 HTC RAF (Compounded need)	Amount change between 2012 and 2013	Percent change between 2012 and 2013 RAF
1-Urban	Lubbock	\$ 940,460	\$ 912,253	\$ (28,207)	-3.0%
1-Rural	Levelland	\$ 640,137	\$ 532,180	\$ (107,957)	-16.9%
1-Total	High Plains	\$ 1,580,597	\$ 1,444,433	\$ (136,164)	-8.6%
2-Urban	Abilene	\$ 500,000	\$ 500,000	\$ -	0.0%
2-Rural	Sweetwater	\$ 500,000	\$ 500,000	\$ -	0.0%
2-Total	Northwest Texas	\$ 1,000,000	\$ 1,000,000	\$ -	0.0%
3-Urban	Dallas/Fort Worth	\$ 7,092,539	\$ 7,966,165	\$ 873,626	12.3%
3-Rural	Gainesville	\$ 697,545	\$ 500,000	\$ (197,545)	-28.3%
3-Total	Metroplex	\$ 7,790,084	\$ 8,466,165	\$ 676,081	8.7%
4-Urban	Tyler	\$ 578,780	\$ 937,401	\$ 358,621	62.0%
4-Rural	Mount Pleasant	\$ 1,035,143	\$ 944,867	\$ (90,276)	-8.7%
4-Total	Upper East Texas	\$ 1,613,923	\$ 1,882,268	\$ 268,345	16.6%
5-Urban	Beaumont	\$ 500,000	\$ 673,985	\$ 173,985	34.8%
5-Rural	Nacogdoches	\$ 500,000	\$ 692,785	\$ 192,785	38.6%
5-Total	Southeast Texas	\$ 1,000,000	\$ 1,366,770	\$ 366,770	36.7%
6-Urban	Houston	\$ 9,557,007	\$ 7,306,192	\$ (2,250,815)	-23.6%
6-Rural	Huntsville	\$ 567,946	\$ 500,000	\$ (67,946)	-12.0%
6-Total	Gulf Coast	\$ 10,124,953	\$ 7,806,192	\$ (2,318,761)	-22.9%
7-Urban	Austin/Round Rock	\$ 2,807,111	\$ 2,629,909	\$ (177,202)	-6.3%
7-Rural	Marble Falls	\$ 500,000	\$ 500,000	\$ -	0.0%
7-Total	Capital	\$ 3,307,111	\$ 3,129,909	\$ (177,202)	-5.4%
8-Urban	Waco	\$ 2,054,727	\$ 1,281,413	\$ (773,314)	-37.6%
8-Rural	Brenham	\$ 500,000	\$ 500,000	\$ -	0.0%
8-Total	Central Texas	\$ 2,554,727	\$ 1,781,413	\$ (773,314)	-30.3%
9-Urban	San Antonio	\$ 1,328,661	\$ 3,118,773	\$ 1,790,112	134.7%
9-Rural	Fredericksburg	\$ 500,000	\$ 500,000	\$ -	0.0%
9-Total	Alamo	\$ 1,828,661	\$ 3,618,773	\$ 1,790,112	97.9%
10-Urban	Corpus Christi	\$ 1,139,472	\$ 948,636	\$ (190,836)	-16.7%
10-Rural	Kingsville	\$ 500,000	\$ 500,000	\$ -	0.0%
10-Total	Coastal Bend	\$ 1,639,472	\$ 1,448,636	\$ (190,836)	-11.6%
11-Urban	Brownsville/Harlingen	\$ 3,419,238	\$ 3,833,815	\$ 414,577	12.1%
11-Rural	Del Rio	\$ 1,507,251	\$ 736,670	\$ (770,581)	-51.1%
11-Total	South Texas Border	\$ 4,926,489	\$ 4,570,485	\$ (356,004)	-7.2%
12-Urban	San Angelo	\$ 500,000	\$ 602,062	\$ 102,062	20.4%
12-Rural	Lamesa	\$ 500,000	\$ 500,000	\$ -	0.0%
12-Total	West Texas	\$ 1,000,000	\$ 1,102,062	\$ 102,062	10.2%
13-Urban	El Paso	\$ 1,133,983	\$ 1,882,893	\$ 748,910	66.0%
13-Rural	Fort Davis	\$ 500,000	\$ 500,000	\$ -	0.0%
13-Total	Upper Rio Grande	\$ 1,633,983	\$ 2,382,893	\$ 748,910	45.8%

Material posted for
HTC Roundtable

Housing Tax Credit Draft Regional Allocation Formula Compounded Need Model - Amounts Allocated



Amount Allocated

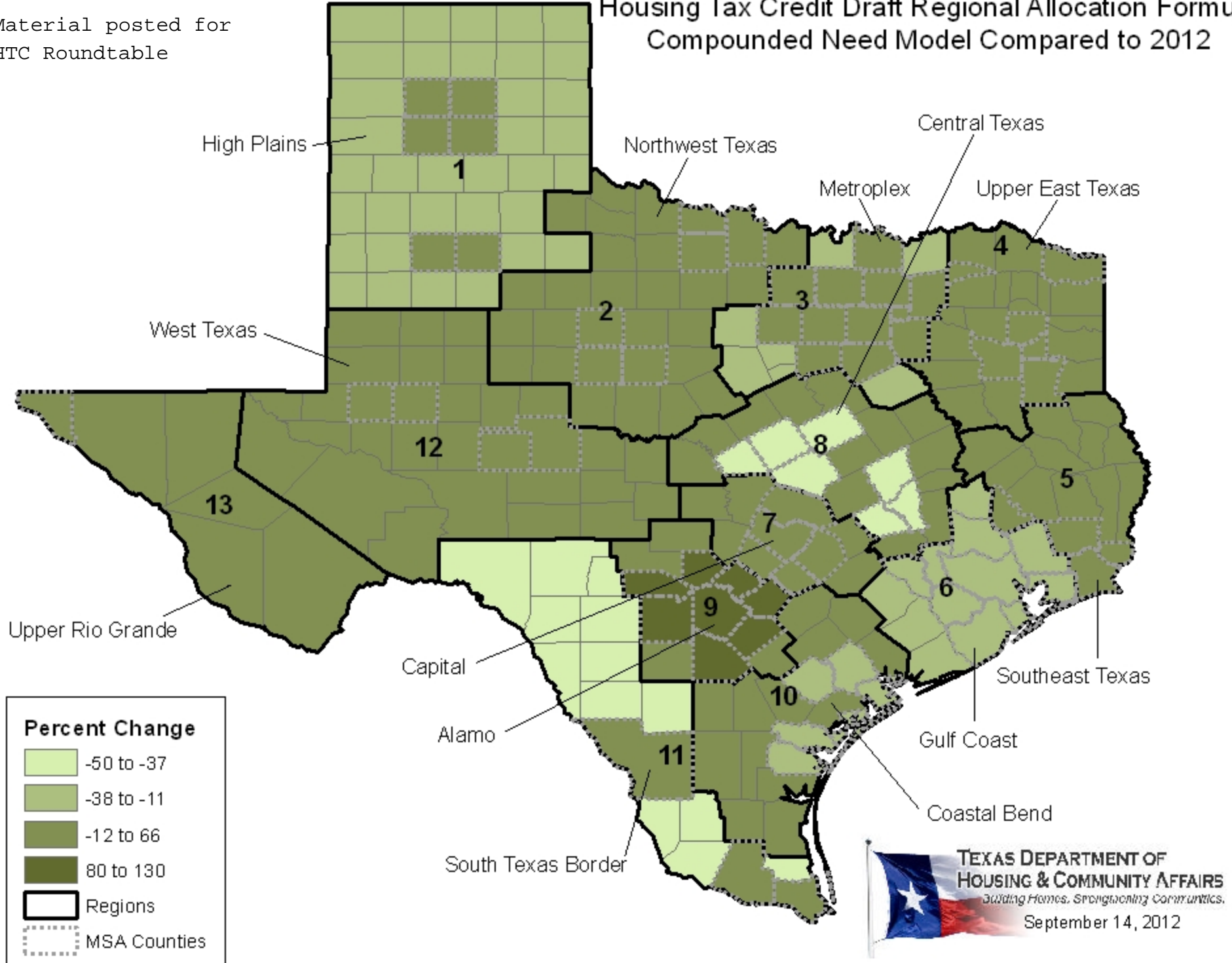
- \$500,000 - \$736,670
- \$736,671 - \$1,882,893
- \$1,882,894 - \$3,833,815
- \$3,833,816 - \$7,966,165

- Regions
- MSA Counties



Material posted for
HTC Roundtable

Housing Tax Credit Draft Regional Allocation Formula Compounded Need Model Compared to 2012



Texas Department of Housing and Community Affairs - 2013 RAF Subtraction Model

Material posted for HTC Roundtable

Table 1 - Raw Data

Region (MSA Counties)	People at 200% Poverty	Households at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide burden	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	197,083	70,893	2.2%	34,134	2.5%	3,732	1.7%	7,317	2.10%
2	107,155	38,545	1.2%	17,649	1.3%	1,680	0.7%	4,467	1.28%
3	1,995,573	717,832	22.3%	378,790	28.1%	57,107	25.3%	103,640	29.73%
4	184,785	66,469	2.1%	24,738	1.8%	3,084	1.4%	3,692	1.06%
5	145,209	52,233	1.6%	17,665	1.3%	2,081	0.9%	3,740	1.07%
6	1,959,263	704,771	21.9%	327,333	24.3%	67,231	29.8%	104,089	29.86%
7	486,104	174,858	5.4%	119,548	8.9%	14,330	6.4%	18,889	5.42%
8	335,779	120,784	3.7%	59,852	4.4%	5,353	2.4%	17,275	4.96%
9	739,878	266,143	8.3%	110,578	8.2%	14,610	6.5%	27,784	7.97%
10	209,455	75,344	2.3%	33,394	2.5%	4,885	2.2%	7,699	2.21%
11	834,165	300,059	9.3%	56,907	4.2%	22,226	9.9%	11,795	3.38%
12	134,615	48,423	1.5%	17,406	1.3%	1,837	0.8%	4,141	1.19%
13	401,674	144,487	4.5%	41,999	3.1%	7,986	3.5%	7,903	2.27%

Region (Non-MSA Counties)	People at 200% Poverty	Households at 200% Poverty	Percent of statewide 200% poverty	Cost Burden, Renters	Burden percent of statewide	Overcrowded Renters	Overcrowd Renters, % of total	Vacancies, Rental	Percent of statewide vancancy
1	122,109	43,924	1.4%	9,348	0.7%	2,094	0.9%	2,762	0.8%
2	94,601	34,029	1.1%	8,281	0.6%	1,104	0.5%	2,401	0.7%
3	86,260	31,029	1.0%	10,771	0.8%	1,527	0.7%	1,813	0.5%
4	213,083	76,649	2.4%	17,243	1.3%	2,795	1.2%	4,136	1.2%
5	152,551	54,874	1.7%	15,256	1.1%	2,123	0.9%	3,449	1.0%
6	59,244	21,311	0.7%	8,512	0.6%	1,099	0.5%	2,040	0.6%
7	37,999	13,669	0.4%	3,757	0.3%	605	0.3%	1,292	0.4%
8	93,928	33,787	1.0%	7,502	0.6%	1,039	0.5%	1,606	0.5%
9	34,823	12,526	0.4%	3,999	0.3%	935	0.4%	782	0.2%
10	87,618	31,517	1.0%	6,819	0.5%	1,990	0.9%	2,506	0.7%
11	161,792	58,199	1.8%	8,791	0.7%	2,902	1.3%	2,115	0.6%
12	70,228	25,262	0.8%	4,816	0.4%	1,066	0.5%	1,028	0.3%
13	12,311	4,428	0.1%	866	0.1%	215	0.1%	213	0.1%
Total for State	8,957,285	3,222,045		1,345,954		225,636		348,574	

Material posted for HTC Roundtable

Table 2 - Weighted Variables

Sample RAF \$ 40,000,000.00

MSA regions	Total of 200% poverty, rent burden, and overcrowding	Vacancies subtracted from Need Factors-	% of statewide need and availability	100% Weight
1	108,759	101,442	2.3%	\$ 912,853
2	57,874	53,407	1.2%	\$ 480,596
3	1,153,729	1,050,089	23.6%	\$ 9,449,490
4	94,291	90,599	2.0%	\$ 815,282
5	71,979	68,239	1.5%	\$ 614,070
6	1,099,335	995,246	22.4%	\$ 8,955,970
7	308,736	289,847	6.5%	\$ 2,608,257
8	185,989	168,714	3.8%	\$ 1,518,214
9	391,331	363,547	8.2%	\$ 3,271,471
10	113,623	105,924	2.4%	\$ 953,180
11	379,192	367,397	8.3%	\$ 3,306,118
12	67,666	63,525	1.4%	\$ 571,643
13	194,472	186,569	4.2%	\$ 1,678,889
Sub-region MSA Total	4,226,976	3,904,545	87.8%	\$ 35,136,031

Non-MSA regions	All Need factors added		% of statewide burden	
1	55,366	52,604	1.2%	\$ 473,371
2	43,414	41,013	0.9%	\$ 369,067
3	43,327	41,514	0.9%	\$ 373,572
4	96,687	92,551	2.1%	\$ 832,840
5	72,253	68,804	1.5%	\$ 619,154
6	30,922	28,882	0.6%	\$ 259,900
7	18,031	16,739	0.4%	\$ 150,627
8	42,328	40,722	0.9%	\$ 366,448
9	17,460	16,678	0.4%	\$ 150,084
10	40,326	37,820	0.9%	\$ 340,335
11	69,892	67,777	1.5%	\$ 609,904
12	31,144	30,116	0.7%	\$ 271,005
13	5,509	5,296	0.1%	\$ 47,661
Sub-region non-MSA	566,659	540,516	12.2%	\$ 4,863,969
Statewide Total	4,793,635	4,445,061	100.0%	\$ 40,000,000

Texas Department of Housing and Community Affairs - 2013 RAF Subtraction Model

Material posted for

Table 3 - \$500,000 Adjustment

HTC Roundtable

Sample \$ 40,000,000.00
RAF

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of total funding
1	\$ 912,853	\$ -	\$ 412,853	1%	\$ (31,331.83)	\$ 881,521	2.20%
2	\$ 480,596	\$ 19,404	\$ -	0%	\$ 19,403.99	\$ 500,000	1.25%
3	\$ 9,449,490	\$ -	\$ 8,949,490	31%	\$ (679,185.98)	\$ 8,770,304	21.93%
4	\$ 815,282	\$ -	\$ 315,282	1%	\$ (23,927.05)	\$ 791,355	1.98%
5	\$ 614,070	\$ -	\$ 114,070	0%	\$ (8,656.88)	\$ 605,413	1.51%
6	\$ 8,955,970	\$ -	\$ 8,455,970	29%	\$ (641,732.25)	\$ 8,314,238	20.79%
7	\$ 2,608,257	\$ -	\$ 2,108,257	7%	\$ (159,997.79)	\$ 2,448,259	6.12%
8	\$ 1,518,214	\$ -	\$ 1,018,214	3%	\$ (77,273.28)	\$ 1,440,940	3.60%
9	\$ 3,271,471	\$ -	\$ 2,771,471	9%	\$ (210,329.75)	\$ 3,061,141	7.65%
10	\$ 953,180	\$ -	\$ 453,180	2%	\$ (34,392.26)	\$ 918,787	2.30%
11	\$ 3,306,118	\$ -	\$ 2,806,118	10%	\$ (212,959.13)	\$ 3,093,158	7.73%
12	\$ 571,643	\$ -	\$ 71,643	0%	\$ (5,437.03)	\$ 566,206	1.42%
13	\$ 1,678,889	\$ -	\$ 1,178,889	4%	\$ (89,467.06)	\$ 1,589,422	3.97%
Sub-region MSA Total	\$ 35,136,031	\$ 19,404	\$ 28,655,435	98%	\$ (2,155,286)	\$ 32,980,745	82%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount	% of Total
1	\$ 473,371	\$ 26,629	\$ -	0%	\$ 26,628.76	\$ 500,000	1.25%
2	\$ 369,067	\$ 130,933	\$ -	0%	\$ 130,932.97	\$ 500,000	1.25%
3	\$ 373,572	\$ 126,428	\$ -	0%	\$ 126,427.83	\$ 500,000	1.25%
4	\$ 832,840	\$ -	\$ 332,840	1%	\$ (25,259.53)	\$ 807,580	2.02%
5	\$ 619,154	\$ -	\$ 119,154	0%	\$ (9,042.74)	\$ 610,112	1.53%
6	\$ 259,900	\$ 240,100	\$ -	0%	\$ 240,099.93	\$ 500,000	1.25%
7	\$ 150,627	\$ 349,373	\$ -	0%	\$ 349,372.55	\$ 500,000	1.25%
8	\$ 366,448	\$ 133,552	\$ -	0%	\$ 133,552.38	\$ 500,000	1.25%
9	\$ 150,084	\$ 349,916	\$ -	0%	\$ 349,916.49	\$ 500,000	1.25%
10	\$ 340,335	\$ 159,665	\$ -	0%	\$ 159,664.81	\$ 500,000	1.25%
11	\$ 609,904	\$ -	\$ 109,904	0%	\$ (8,340.76)	\$ 601,564	1.50%
12	\$ 271,005	\$ 228,995	\$ -	0%	\$ 228,994.76	\$ 500,000	1.25%
13	\$ 47,661	\$ 452,339	\$ -	0%	\$ 452,338.86	\$ 500,000	1.25%
Sub-region Non-MSA Total	\$ 4,863,969	\$ 2,197,929	\$ 561,898	2%	\$ 2,155,286	\$ 7,019,255	18%

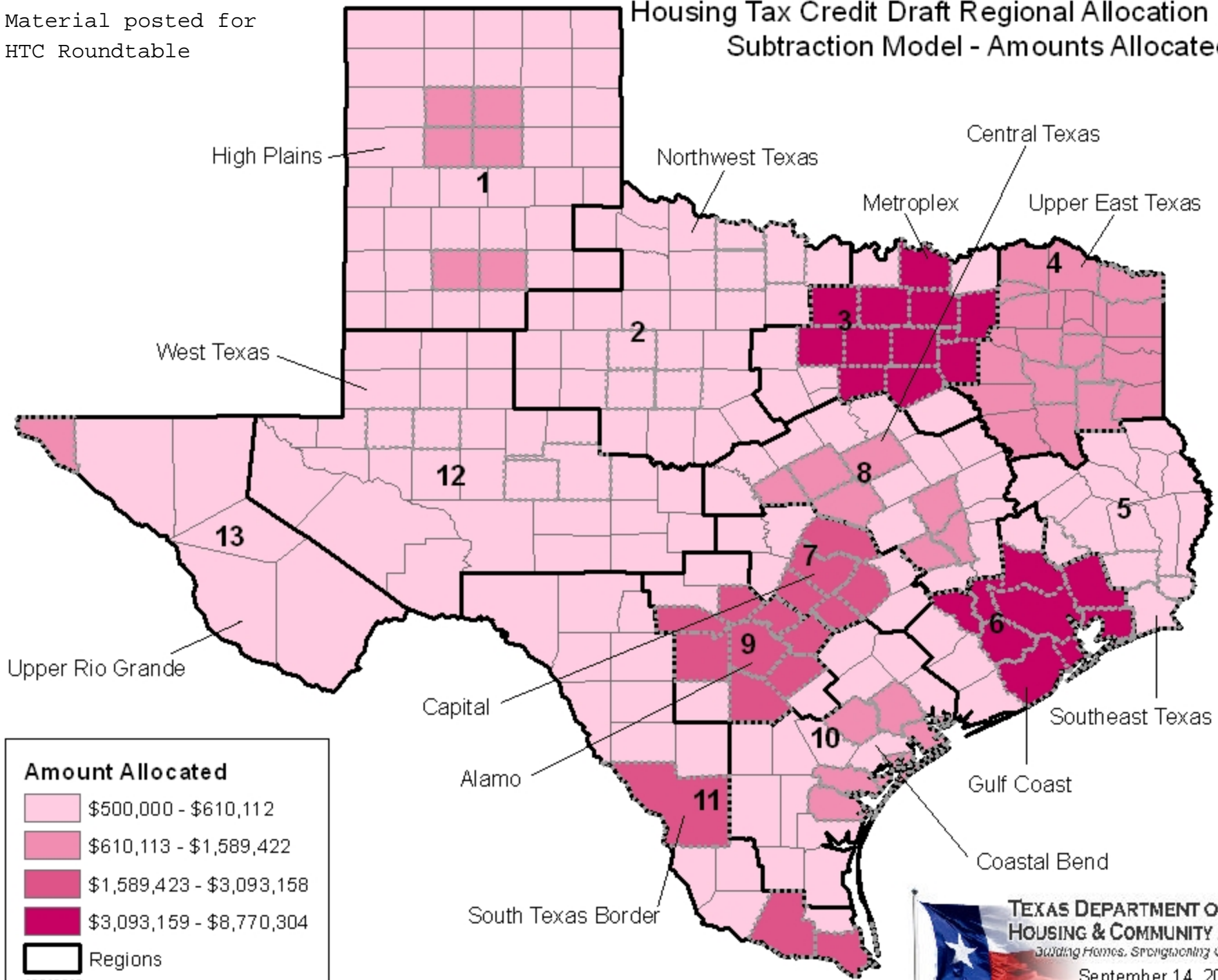
Minimum needed for each region	\$ 500,000
Total if each subregion has \$500,000	\$ 13,000,000
Amount available to be reallocated	\$ 29,217,333
Amount needed to bring underallocated regions to \$500,000	\$ 2,217,333

Material posted for *Texas Department of Housing and Community Affairs*
 HTC Roundtable 2012 and 2013 HTC RAF Subtraction Model

	Geography	2012 HTC RAF	2013 HTC RAF (Subtraction Model)	Amount change between 2012 and 2013	Percent change between 2012 and 2013 RAF
1-Urban	Lubbock	\$ 940,460	\$ 881,521	\$ (58,939)	-6%
1-Rural	Levelland	\$ 640,137	\$ 500,000	\$ (140,137)	-22%
1-Total	High Plains	\$ 1,580,597	\$ 1,381,521	\$ (199,076)	-13%
2-Urban	Abilene	\$ 500,000	\$ 500,000	\$ -	0%
2-Rural	Sweetwater	\$ 500,000	\$ 500,000	\$ -	0%
2-Total	Northwest Texas	\$ 1,000,000	\$ 1,000,000	\$ -	0%
3-Urban	Dallas/Fort Worth	\$ 7,092,539	\$ 8,770,304	\$ 1,677,765	24%
3-Rural	Gainesville	\$ 697,545	\$ 500,000	\$ (197,545)	-28%
3-Total	Metroplex	\$ 7,790,084	\$ 9,270,304	\$ 1,480,220	19%
4-Urban	Tyler	\$ 578,780	\$ 791,355	\$ 212,575	37%
4-Rural	Mount Pleasant	\$ 1,035,143	\$ 807,580	\$ (227,563)	-22%
4-Total	Upper East Texas	\$ 1,613,923	\$ 1,598,935	\$ (14,988)	-1%
5-Urban	Beaumont	\$ 500,000	\$ 605,413	\$ 105,413	21%
5-Rural	Nacogdoches	\$ 500,000	\$ 610,112	\$ 110,112	22%
5-Total	Southeast Texas	\$ 1,000,000	\$ 1,215,525	\$ 215,525	22%
6-Urban	Houston	\$ 9,557,007	\$ 8,314,238	\$ (1,242,769)	-13%
6-Rural	Huntsville	\$ 567,946	\$ 500,000	\$ (67,946)	-12%
6-Total	Gulf Coast	\$ 10,124,953	\$ 8,814,238	\$ (1,310,715)	-13%
7-Urban	Austin/Round Rock	\$ 2,807,111	\$ 2,448,259	\$ (358,852)	-13%
7-Rural	Marble Falls	\$ 500,000	\$ 500,000	\$ -	0%
7-Total	Capital	\$ 3,307,111	\$ 2,948,259	\$ (358,852)	-11%
8-Urban	Waco	\$ 2,054,727	\$ 1,440,940	\$ (613,787)	-30%
8-Rural	Brenham	\$ 500,000	\$ 500,000	\$ -	0%
8-Total	Central Texas	\$ 2,554,727	\$ 1,940,940	\$ (613,787)	-24%
9-Urban	San Antonio	\$ 1,328,661	\$ 3,061,141	\$ 1,732,480	130%
9-Rural	Fredericksburg	\$ 500,000	\$ 500,000	\$ -	0%
9-Total	Alamo	\$ 1,828,661	\$ 3,561,141	\$ 1,732,480	95%
10-Urban	Corpus Christi	\$ 1,139,472	\$ 918,787	\$ (220,685)	-19%
10-Rural	Kingsville	\$ 500,000	\$ 500,000	\$ -	0%
10-Total	Coastal Bend	\$ 1,639,472	\$ 1,418,787	\$ (220,685)	-13%
11-Urban	Brownsville/Harlingen	\$ 3,419,238	\$ 3,093,158	\$ (326,080)	-10%
11-Rural	Del Rio	\$ 1,507,251	\$ 601,564	\$ (905,687)	-60%
11-Total	South Texas Border	\$ 4,926,489	\$ 3,694,722	\$ (1,231,767)	-25%
12-Urban	San Angelo	\$ 500,000	\$ 566,206	\$ 66,206	13%
12-Rural	Lamesa	\$ 500,000	\$ 500,000	\$ -	0%
12-Total	West Texas	\$ 1,000,000	\$ 1,066,206	\$ 66,206	7%
13-Urban	El Paso	\$ 1,133,983	\$ 1,589,422	\$ 455,439	40%
13-Rural	Fort Davis	\$ 500,000	\$ 500,000	\$ -	0%
13-Total	Upper Rio Grande	\$ 1,633,983	\$ 2,089,422	\$ 455,439	28%

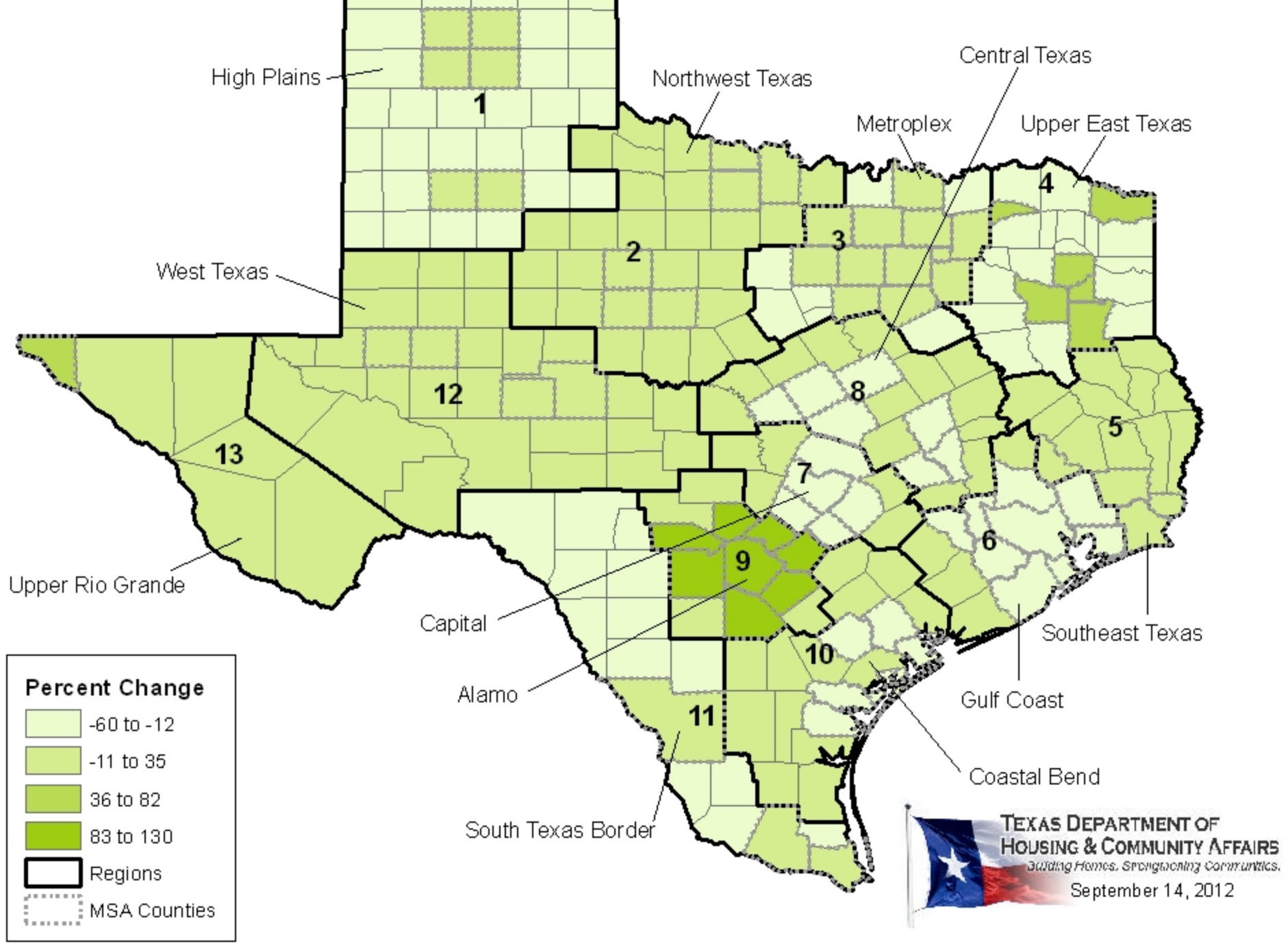
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Housing Tax Credit Draft Regional Allocation Formula Subtraction Model - Amounts Allocated



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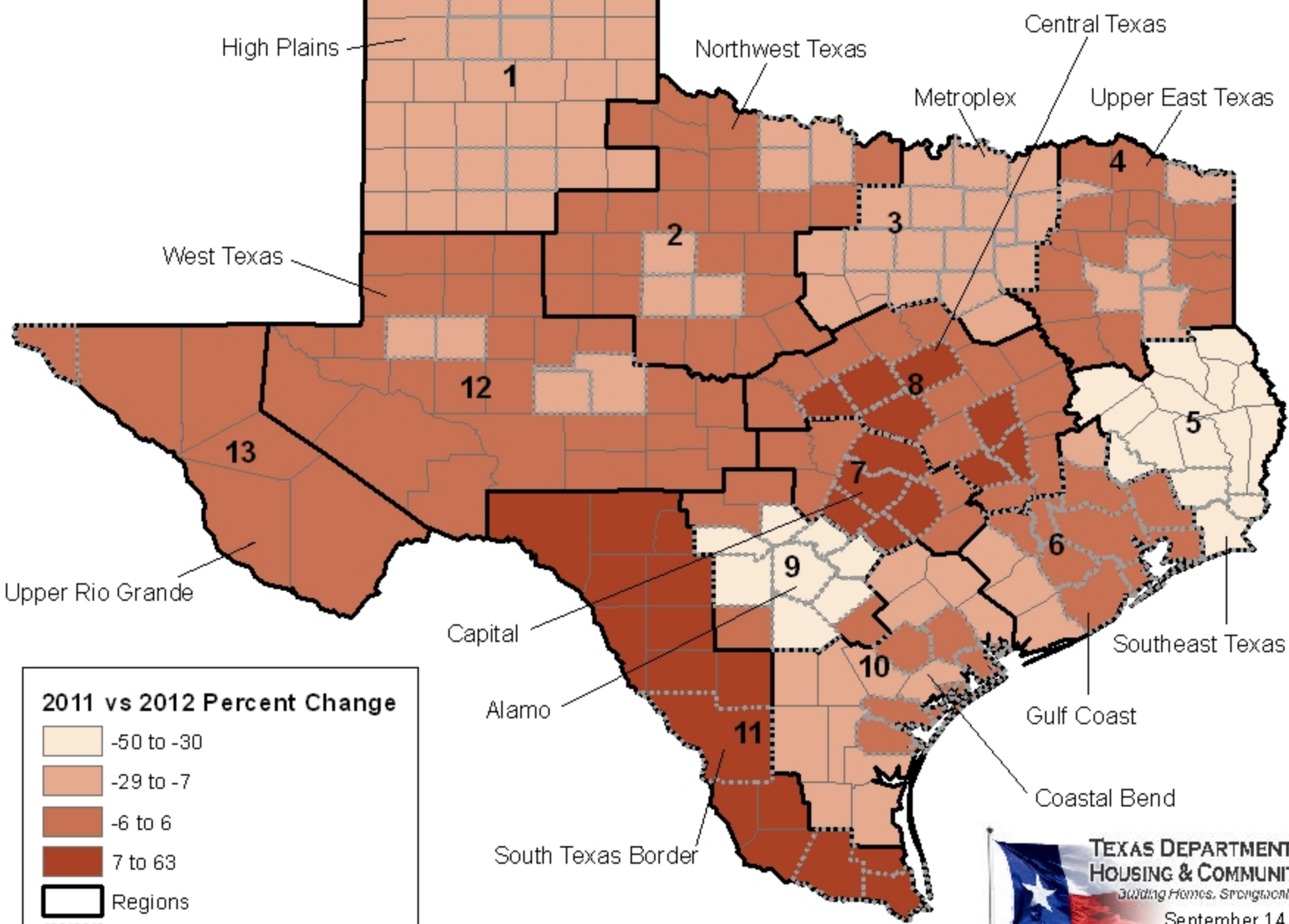
Housing Tax Credit Draft Regional Allocation Formula Subtraction Model Compared to 2012



	Geography	2011 HTC RAF, Based on \$40,000,000	2012 HTC RAF, Based on \$40,000,000	Change between 2011 and 2012 HTC RAF
1-Urban	Lubbock	\$ 1,068,657	\$ 940,460	-12%
1-Rural	Levelland	\$ 703,376	\$ 640,137	-9%
1-Total	High Plains	\$ 1,772,033	\$ 1,580,597	-11%
2-Urban	Abilene	\$ 594,517	\$ 500,000	-16%
2-Rural	Sweetwater	\$ 500,000	\$ 500,000	0%
2-Total	Northwest Texas	\$ 1,094,517	\$ 1,000,000	-9%
3-Urban	Dallas/Fort Worth	\$ 7,926,780	\$ 7,092,539	-11%
3-Rural	Gainesville	\$ 800,759	\$ 697,545	-13%
3-Total	Metroplex	\$ 8,727,539	\$ 7,790,084	-11%
4-Urban	Tyler	\$ 729,105	\$ 578,780	-21%
4-Rural	Mount Pleasant	\$ 1,067,915	\$ 1,035,143	-3%
4-Total	Upper East Texas	\$ 1,797,020	\$ 1,613,923	-10%
5-Urban	Beaumont	\$ 687,146	\$ 500,000	-27%
5-Rural	Nacogdoches	\$ 685,964	\$ 500,000	-27%
5-Total	Southeast Texas	\$ 1,373,110	\$ 1,000,000	-27%
6-Urban	Houston	\$ 8,981,718	\$ 9,557,007	6%
6-Rural	Huntsville	\$ 607,808	\$ 567,946	-7%
6-Total	Gulf Coast	\$ 9,589,526	\$ 10,124,953	6%
7-Urban	Austin/Round Rock	\$ 1,720,876	\$ 2,807,111	63%
7-Rural	Marble Falls	\$ 500,000	\$ 500,000	0%
7-Total	Capital	\$ 2,220,876	\$ 3,307,111	49%
8-Urban	Waco	\$ 1,731,884	\$ 2,054,727	19%
8-Rural	Brenham	\$ 500,000	\$ 500,000	0%
8-Total	Central Texas	\$ 2,231,884	\$ 2,554,727	14%
9-Urban	San Antonio	\$ 2,625,188	\$ 1,328,661	-49%
9-Rural	Fredericksburg	\$ 500,000	\$ 500,000	0%
9-Total	Alamo	\$ 3,125,188	\$ 1,828,661	-41%
10-Urban	Corpus Christi	\$ 1,078,359	\$ 1,139,472	6%
10-Rural	Kingsville	\$ 620,718	\$ 500,000	-19%
10-Total	Coastal Bend	\$ 1,699,077	\$ 1,639,472	-4%
11-Urban	Brownsville/Harlingen	\$ 2,375,228	\$ 3,419,238	44%
11-Rural	Del Rio	\$ 1,174,396	\$ 1,507,251	28%
11-Total	South Texas Border	\$ 3,549,624	\$ 4,926,489	39%
12-Urban	San Angelo	\$ 624,476	\$ 500,000	-20%
12-Rural	Lamesa	\$ 500,000	\$ 500,000	0%
12-Total	West Texas	\$ 1,124,476	\$ 1,000,000	-11%
13-Urban	El Paso	\$ 1,195,132	\$ 1,133,983	-5%
13-Rural	Fort Davis	\$ 500,000	\$ 500,000	0%
13-Total	Upper Rio Grande	\$ 1,695,132	\$ 1,633,983	-4%

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Housing Tax Credit Draft Regional Allocation Formula 2011 vs 2012 Percent Change Based on \$40,000,000



2011 vs 2012 Percent Change

- 50 to -30
- 29 to -7
- 6 to 6
- 7 to 63

- Regions
- MSA Counties



**TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS**
Building Homes. Strengthening Communities.
September 14, 2012

Region (MSA Counties)	Total Population
1	521,316
2	314,045
3	6,268,128
4	510,266
5	410,442
6	5,683,454
7	1,627,571
8	866,952
9	2,057,782
10	537,811
11	1,370,885
12	374,791
13	772,280

Region (Non-MSA Counties)	Total Population
1	306,933
2	233,067
3	242,649
4	549,011
5	348,259
6	164,787
7	111,966
8	246,898
9	104,859
10	216,429
11	264,582
12	187,958
13	24,935
Total	24,318,056

Material posted for
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Texas Department of Housing and Community Affairs
2013 RAF based on population

Sample RAF \$ 40,000,000.00

MSA regions	Total Population	Percentage of total population	100% Weight	Sub-region amount
1	521,316	2.1%	\$ 857,496	\$ 857,496
2	314,045	1.3%	\$ 516,563	\$ 516,563
3	6,268,128	25.8%	\$ 10,310,245	\$ 10,310,245
4	510,266	2.1%	\$ 839,320	\$ 839,320
5	410,442	1.7%	\$ 675,123	\$ 675,123
6	5,683,454	23.4%	\$ 9,348,533	\$ 9,348,533
7	1,627,571	6.7%	\$ 2,677,140	\$ 2,677,140
8	866,952	3.6%	\$ 1,426,022	\$ 1,426,022
9	2,057,782	8.5%	\$ 3,384,780	\$ 3,384,780
10	537,811	2.2%	\$ 884,628	\$ 884,628
11	1,370,885	5.6%	\$ 2,254,925	\$ 2,254,925
12	374,791	1.5%	\$ 616,482	\$ 616,482
13	772,280	3.2%	\$ 1,270,299	\$ 1,270,299
Sub-region total	21,315,723			

Non-MSA regions	Total Population	Percentage of total population	100% Weight	Sub-region amount
1	306,933	1.3%	\$ 504,864	\$ 504,864
2	233,067	1.0%	\$ 383,365	\$ 383,365
3	242,649	1.0%	\$ 399,126	\$ 399,126
4	549,011	2.3%	\$ 903,051	\$ 903,051
5	348,259	1.4%	\$ 572,840	\$ 572,840
6	164,787	0.7%	\$ 271,053	\$ 271,053
7	111,966	0.5%	\$ 184,169	\$ 184,169
8	246,898	1.0%	\$ 406,115	\$ 406,115
9	104,859	0.4%	\$ 172,479	\$ 172,479
10	216,429	0.9%	\$ 355,997	\$ 355,997
11	264,582	1.1%	\$ 435,203	\$ 435,203
12	187,958	0.8%	\$ 309,166	\$ 309,166
13	24,935	0.1%	\$ 41,015	\$ 41,015
Sub-region total	3,002,333			
Total	24,318,056		\$ 40,000,000	\$ 40,000,000

Sample
RAF \$ 40,000,000.00

Texas Department of Housing and Community Affairs
2013 Test RAF_population

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HTC Roundtable

MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount based on population	Pro-portion of allocation	2012 RAF allocation based on \$40,000,000	Difference Between Population and 2012 RAF	Final Sub-Amount based on Compounded Need	Difference between Population and Compounded Need
1	\$ 857,496	\$ -	\$ 357,496	1%	\$ (25,139.84)	\$ 832,356	2.08%	\$ 940,460	\$ (108,103)	\$ 912,253	\$ (79,897)
2	\$ 516,563	\$ -	\$ 16,563	0%	\$ (1,164.72)	\$ 515,398	1.29%	\$ 500,000	\$ 15,398	\$ 500,000	\$ 15,398
3	\$ 10,310,245	\$ -	\$ 9,810,245	34%	\$ (689,875.86)	\$ 9,620,369	24.05%	\$ 7,092,539	\$ 2,527,830	\$ 7,966,165	\$ 1,654,204
4	\$ 839,320	\$ -	\$ 339,320	1%	\$ (23,861.68)	\$ 815,459	2.04%	\$ 578,780	\$ 236,679	\$ 937,401	\$ (121,943)
5	\$ 675,123	\$ -	\$ 175,123	1%	\$ (12,315.00)	\$ 662,808	1.66%	\$ 500,000	\$ 162,808	\$ 673,985	\$ (11,177)
6	\$ 9,348,533	\$ -	\$ 8,848,533	30%	\$ (622,246.38)	\$ 8,726,287	21.82%	\$ 9,557,007	\$ (830,720)	\$ 7,306,192	\$ 1,420,095
7	\$ 2,677,140	\$ -	\$ 2,177,140	7%	\$ (153,100.79)	\$ 2,524,039	6.31%	\$ 2,807,111	\$ (283,072)	\$ 2,629,909	\$ (105,870)
8	\$ 1,426,022	\$ -	\$ 926,022	3%	\$ (65,119.69)	\$ 1,360,902	3.40%	\$ 2,054,727	\$ (693,825)	\$ 1,281,413	\$ 79,490
9	\$ 3,384,780	\$ -	\$ 2,884,780	10%	\$ (202,863.47)	\$ 3,181,917	7.95%	\$ 1,328,661	\$ 1,853,256	\$ 3,118,773	\$ 63,144
10	\$ 884,628	\$ -	\$ 384,628	1%	\$ (27,047.82)	\$ 857,580	2.14%	\$ 1,139,472	\$ (281,892)	\$ 948,636	\$ (91,055)
11	\$ 2,254,925	\$ -	\$ 1,754,925	6%	\$ (123,409.82)	\$ 2,131,515	5.33%	\$ 3,419,239	\$ (1,287,723)	\$ 3,833,815	\$ (1,702,299)
12	\$ 616,482	\$ -	\$ 116,482	0%	\$ (8,191.23)	\$ 608,291	1.52%	\$ 500,000	\$ 108,291	\$ 602,062	\$ 6,229
13	\$ 1,270,299	\$ -	\$ 770,299	3%	\$ (54,168.94)	\$ 1,216,130	3.04%	\$ 1,133,983	\$ 82,147	\$ 1,882,893	\$ (666,763)
MSA Subtotal						\$ 33,053,052	82.63%	\$ 31,551,978	\$ 1,501,074	\$ 32,593,497	\$ 459,555

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount based on population	Pro-portion of allocation	2012 RAF allocation based on \$40,000,000	Difference Between Population and 2012 RAF	Final Sub-Amount based on Compounded Need	Difference between Population and Compounded Need
1	\$ 504,864	\$ -	\$ 4,864	0%	\$ (342.07)	\$ 504,522	1.26%	\$ 640,137	\$ (135,614)	\$ 532,180	\$ (27,658)
2	\$ 383,365	\$ 116,635	\$ -	0%	\$ 116,635.47	\$ 500,000	1.25%	\$ 500,000	\$ -	\$ 500,000	\$ -
3	\$ 399,126	\$ 100,874	\$ -	0%	\$ 100,874.35	\$ 500,000	1.25%	\$ 697,545	\$ (197,545)	\$ 500,000	\$ -
4	\$ 903,051	\$ -	\$ 403,051	1%	\$ (28,343.33)	\$ 874,707	2.19%	\$ 1,035,143	\$ (160,436)	\$ 944,867	\$ (70,160)
5	\$ 572,840	\$ -	\$ 72,840	0%	\$ (5,122.27)	\$ 567,718	1.42%	\$ 500,000	\$ 67,718	\$ 692,785	\$ (125,067)
6	\$ 271,053	\$ 228,947	\$ -	0%	\$ 228,947.08	\$ 500,000	1.25%	\$ 567,946	\$ (67,946)	\$ 500,000	\$ -
7	\$ 184,169	\$ 315,831	\$ -	0%	\$ 315,830.67	\$ 500,000	1.25%	\$ 500,000	\$ -	\$ 500,000	\$ -
8	\$ 406,115	\$ 93,885	\$ -	0%	\$ 93,885.30	\$ 500,000	1.25%	\$ 500,000	\$ -	\$ 500,000	\$ -
9	\$ 172,479	\$ 327,521	\$ -	0%	\$ 327,520.75	\$ 500,000	1.25%	\$ 500,000	\$ -	\$ 500,000	\$ -
10	\$ 355,997	\$ 144,003	\$ -	0%	\$ 144,002.79	\$ 500,000	1.25%	\$ 500,000	\$ -	\$ 500,000	\$ -
11	\$ 435,203	\$ 64,797	\$ -	0%	\$ 64,797.45	\$ 500,000	1.25%	\$ 1,507,251	\$ (1,007,251)	\$ 736,670	\$ (236,670)
12	\$ 309,166	\$ 190,834	\$ -	0%	\$ 190,833.84	\$ 500,000	1.25%	\$ 500,000	\$ -	\$ 500,000	\$ -
13	\$ 41,015	\$ 458,985	\$ -	0%	\$ 458,985.21	\$ 500,000	1.25%	\$ 500,000	\$ -	\$ 500,000	\$ -
Non-MSA sub-total	\$ 40,000,000			100%	\$ (2,042,312.92)	\$ 6,946,948	17.37%	\$ 8,448,022	\$ (1,501,074)	\$ 7,406,503	\$ (459,555)
Total		\$ 2,042,313	\$ 29,042,313			\$ 40,000,000		\$ 40,000,000		\$ 40,000,000	

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Texas Department of Housing and Community Affairs
2013 Test RAF_population

Final Sub-Amount based on Equal Weights	Difference between Population and Equal Weights	Final Sub-Amount based on Subtraction Model	Difference between Population and Subtraction Model
\$ 827,784	\$ 4,572	\$ 881,521	\$ (49,165)
\$ 500,000	\$ 15,398	\$ 500,000	\$ 15,398
\$ 8,460,227	\$ 1,160,142	\$ 8,770,304	\$ 850,065
\$ 812,664	\$ 2,795	\$ 791,355	\$ 24,104
\$ 551,774	\$ 111,034	\$ 605,413	\$ 57,395
\$ 8,483,945	\$ 242,342	\$ 8,314,238	\$ 412,049
\$ 2,831,597	\$ (307,558)	\$ 2,448,259	\$ 75,780
\$ 1,069,493	\$ 291,409	\$ 1,440,940	\$ (80,038)
\$ 2,783,831	\$ 398,086	\$ 3,061,141	\$ 120,776
\$ 916,458	\$ (58,877)	\$ 918,787	\$ (61,207)
\$ 3,703,842	\$ (1,572,326)	\$ 3,093,158	\$ (961,643)
\$ 500,000	\$ 108,291	\$ 566,206	\$ 42,085
\$ 1,666,958	\$ (450,828)	\$ 1,589,422	\$ (373,292)
\$ 33,108,573	\$ (55,521)	\$ 32,980,745	\$ 72,307

Final Sub-Amount based on Equal Weights	Difference between Population and Equal Weights	Final Sub-Amount based on Subtraction Model	Difference between Population and Subtraction Model
\$ 500,000	\$ 4,522	\$ 500,000	\$ 4,522
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 721,824	\$ 152,884	\$ 807,580	\$ 67,127
\$ 552,704	\$ 15,014	\$ 610,112	\$ (42,394)
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 616,899	\$ (116,899)	\$ 601,564	\$ (101,564)
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 500,000	\$ -	\$ 500,000	\$ -
\$ 6,891,427	\$ 55,521	\$ 7,019,255	\$ (72,307)
\$ 40,000,000		\$ 40,000,000	

Minimum needed for each region	\$	500,000
Total if each subregion has \$500,000		13000000
Amount available to be reallocated	\$	29,042,313
Amount needed to bring underallocated regions to \$500,0000	\$	2,042,313

Texas Department of Housing and Community Affairs
2013 Test RAF_population

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Attachment E: Estimated 2013 Allocations Based on Proposed Methodology for Housing Tax Credit, HOME, and Housing Trust Fund Programs

Texas Department of Housing and Community Affairs
2013 HTC RAF Compounded need, Table 1

Region (MSA Counties)	People at 200% Poverty	HH at 200% Poverty	Cost Burden, Renters	Overcrowded Renters	Vacancies, Rental
1	197,083	70,893	34,819	3,732	7317
2	107,155	38,545	17,649	1,680	4467
3	1,995,573	717,832	378,790	57,107	103640
4	184,785	66,469	24,738	3,084	3692
5	145,209	52,233	17,665	2,081	3740
6	1,959,263	704,771	327,333	67,231	104089
7	486,104	174,858	119,548	14,330	18889
8	322,451	115,990	57,423	5,301	17052
9	739,878	266,143	110,578	14,610	27784
10	209,455	75,344	33,394	4,885	7699
11	834,165	300,059	56,907	22,226	11795
12	134,615	48,423	17,406	1,837	4141
13	401,674	144,487	41,999	7,986	7903

Region (Non-MSA Counties)		HH at 200% Poverty	Cost Burden, Renters	Overcrowded Renters	Vacancies, Rental
1	122,826	44,182	8,663	2,030	2766
2	94,601	34,029	8,281	1,104	2401
3	86,260	31,029	10,771	1,527	1813
4	225,694	81,185	17,243	2,911	4355
5	152,551	54,874	15,256	2,123	3449
6	59,244	21,311	8,512	1,099	2040
7	37,999	13,669	3,757	605	1292
8	93,928	33,787	9,931	1,039	1606
9	34,823	12,526	3,999	935	782
10	87,618	31,517	6,819	1,990	2506
11	161,792	58,199	8,791	2,902	2115
12	70,228	25,262	5,030	1,066	1028
13	12,311	4,428	866	215	213
Total	8,957,285	3,222,045			

Texas Department of Housing and Community Affairs
2013 HTC RAF Compounded need, Table 2

Estimated RAF \$ 48,011,653

MSA regions	Total of 200% poverty, rent burden, and overcrowding	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Initial Sub-region amount
1	109,444	2.3%	\$ 1,644,168	7,317	2.1%	\$ (503,912)	\$ 1,140,256
2	57,874	1.2%	\$ 869,434	4,467	1.3%	\$ (307,636)	\$ 561,798
3	1,153,729	24.1%	\$ 17,332,347	103,640	29.7%	\$ (7,137,549)	\$ 10,194,799
4	94,291	2.0%	\$ 1,416,530	3,692	1.1%	\$ (254,263)	\$ 1,162,267
5	71,979	1.5%	\$ 1,081,340	3,740	1.1%	\$ (257,569)	\$ 823,771
6	1,099,335	22.9%	\$ 16,515,190	104,089	29.9%	\$ (7,168,471)	\$ 9,346,719
7	308,736	6.4%	\$ 4,638,101	18,889	5.4%	\$ (1,300,860)	\$ 3,337,241
8	178,714	3.7%	\$ 2,684,795	17,052	4.9%	\$ (1,174,348)	\$ 1,510,446
9	391,331	8.2%	\$ 5,878,926	27,784	8.0%	\$ (1,913,447)	\$ 3,965,479
10	113,623	2.4%	\$ 1,706,939	7,699	2.2%	\$ (530,220)	\$ 1,176,719
11	379,192	7.9%	\$ 5,696,566	11,795	3.4%	\$ (812,306)	\$ 4,884,260
12	67,666	1.4%	\$ 1,016,534	4,141	1.2%	\$ (285,185)	\$ 731,349
13	194,472	4.1%	\$ 2,921,533	7,903	2.3%	\$ (544,269)	\$ 2,377,264

Non-MSA regions	Total of 200% poverty, rent burden, and overcrowding	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Sub-region amount
1	54,875	1.1%	\$ 824,381	2,766	0.8%	\$ (190,491)	\$ 633,891
2	43,414	0.9%	\$ 652,206	2,401	0.7%	\$ (165,354)	\$ 486,852
3	43,327	0.9%	\$ 650,894	1,813	0.5%	\$ (124,859)	\$ 526,035
4	101,339	2.1%	\$ 1,522,403	4,355	1.2%	\$ (299,923)	\$ 1,222,480
5	72,253	1.5%	\$ 1,085,456	3,449	1.0%	\$ (237,528)	\$ 847,928
6	30,922	0.6%	\$ 464,535	2,040	0.6%	\$ (140,492)	\$ 324,043
7	18,031	0.4%	\$ 270,873	1,292	0.4%	\$ (88,978)	\$ 181,895
8	44,757	0.9%	\$ 672,380	1,606	0.5%	\$ (110,603)	\$ 561,777
9	17,460	0.4%	\$ 262,304	782	0.2%	\$ (53,855)	\$ 208,448
10	40,326	0.8%	\$ 605,817	2,506	0.7%	\$ (172,585)	\$ 433,232
11	69,892	1.5%	\$ 1,049,973	2,115	0.6%	\$ (145,657)	\$ 904,316
12	31,358	0.7%	\$ 471,086	1,028	0.3%	\$ (70,797)	\$ 400,289
13	5,509	0.1%	\$ 82,767	213	0.1%	\$ (14,669)	\$ 68,098
Total	4,793,849	100%		348,574	100%		\$ 48,011,653

Texas Department of Housing and Community Affairs
2013 HTC RAF Compounded need, Table 3

MSA regions	Initial Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount for Compounded Need	Part of total award
1	\$ 1,140,256	\$ -	\$ 640,256	2%	\$ (24,569.02)	\$ 1,115,687	2.32%
2	\$ 561,798	\$ -	\$ 61,798	0%	\$ (2,371.42)	\$ 559,427	1.17%
3	\$ 10,194,799	\$ -	\$ 9,694,799	27%	\$ (372,025.82)	\$ 9,822,773	20.46%
4	\$ 1,162,267	\$ -	\$ 662,267	2%	\$ (25,413.66)	\$ 1,136,853	2.37%
5	\$ 823,771	\$ -	\$ 323,771	1%	\$ (12,424.30)	\$ 811,347	1.69%
6	\$ 9,346,719	\$ -	\$ 8,846,719	24%	\$ (339,481.82)	\$ 9,007,237	18.76%
7	\$ 3,337,241	\$ -	\$ 2,837,241	8%	\$ (108,875.58)	\$ 3,228,365	6.72%
8	\$ 1,510,446	\$ -	\$ 1,010,446	3%	\$ (38,774.62)	\$ 1,471,672	3.07%
9	\$ 3,965,479	\$ -	\$ 3,465,479	10%	\$ (132,983.44)	\$ 3,832,496	7.98%
10	\$ 1,176,719	\$ -	\$ 676,719	2%	\$ (25,968.25)	\$ 1,150,751	2.40%
11	\$ 4,884,260	\$ -	\$ 4,384,260	12%	\$ (168,240.52)	\$ 4,716,020	9.82%
12	\$ 731,349	\$ -	\$ 231,349	1%	\$ (8,877.72)	\$ 722,471	1.50%
13	\$ 2,377,264	\$ -	\$ 1,877,264	5%	\$ (72,037.65)	\$ 2,305,226	4.80%
MSA total	\$ 41,212,368					\$ 39,880,324	83.06%

Non-MSA regions	Sub-region amount	Amount needed to reach \$500,000	Amount over \$500,000 that can be reallocated	Proportion of amount available to be reallocated	Amount to be reallocated	Final Sub-Amount for Compounded Need	Part of total award
1	\$ 633,891	\$ -	\$ 133,891	0%	\$ (5,137.89)	\$ 628,753	1.31%
2	\$ 486,852	\$ 13,148	\$ -	0%	\$ 13,147.74	\$ 500,000	1.04%
3	\$ 526,035	\$ -	\$ 26,035	0%	\$ (999.05)	\$ 525,036	1.09%
4	\$ 1,222,480	\$ -	\$ 722,480	2%	\$ (27,724.28)	\$ 1,194,756	2.49%
5	\$ 847,928	\$ -	\$ 347,928	1%	\$ (13,351.30)	\$ 834,577	1.74%
6	\$ 324,043	\$ 175,957	\$ -	0%	\$ 175,957.32	\$ 500,000	1.04%
7	\$ 181,895	\$ 318,105	\$ -	0%	\$ 318,104.97	\$ 500,000	1.04%
8	\$ 561,777	\$ -	\$ 61,777	0%	\$ (2,370.63)	\$ 559,407	1.17%
9	\$ 208,448	\$ 291,552	\$ -	0%	\$ 291,551.70	\$ 500,000	1.04%
10	\$ 433,232	\$ 66,768	\$ -	0%	\$ 66,767.70	\$ 500,000	1.04%
11	\$ 904,316	\$ -	\$ 404,316	1%	\$ (15,515.13)	\$ 888,801	1.85%
12	\$ 400,289	\$ 99,711	\$ -	0%	\$ 99,711.06	\$ 500,000	1.04%
13	\$ 68,098	\$ 431,902	\$ -	0%	\$ 431,901.64	\$ 500,000	1.04%
Non-MSA total	\$ 6,799,285				\$ -	\$ 8,131,329	16.94%
Total		\$ 1,397,142	\$ 36,408,795			\$ 48,011,653	

Texas Department of Housing and Community Affairs
2013 HTC RAF 4 Compounded need, Table 3

Minimum needed for each region	\$ 500,000
Amount available to be reallocated	\$ 36,408,795
Amount needed to bring underallocated regions to \$500,0000	\$ 1,397,142

Texas Department of Housing and Community Affairs
2013 HOME RAF Compounded Need, Table 1

Region (MSA Counties)	People at 200% Poverty without PJs	HH at 200% Poverty without PJs	Cost Burden, Owners without PJs	Cost Burden, Renters without PJs	Overcrowded Owners without PJs	Overcrowded Renters without PJs	Vacancies, For Sale without PJs	Vacancies, Rental without PJs
1	34,943	12,569	3,942	4,345	725	538	562	733
2	27,459	9,877	3,083	1,938	453	341	587	605
3	395,755	142,358	102,904	60,536	8,483	7,196	11,146	12,080
4	116,472	41,896	12,630	11,026	2,121	1,554	2,081	1,932
5	67,576	24,308	6,971	6,215	1,540	794	1,368	1,348
6	118,415	42,595	20,070	13,948	2,958	2,349	2,635	3,048
7	210,460	75,705	53,872	37,835	4,827	3,731	4,532	5,824
8	134,512	48,386	15,685	16,542	1,927	2,101	2,408	7,027
9	117,594	42,300	19,218	12,806	3,066	2,228	2,331	2,760
10	90,122	32,418	7,958	11,250	1,983	1,932	1,628	3,781
11	111,497	40,107	7,073	4,922	3,680	2,206	848	1,047
12	61,790	22,227	6,296	7,439	1,905	688	427	1,425
13	89,544	32,210	6,290	3,804	2,878	846	334	416

Region (MSA Counties)	People at 200% Poverty without PJs	HH at 200% Poverty without PJs	Cost Burden, Owners without PJs	Cost Burden, Renters without PJs	Overcrowded Owners without PJs	Overcrowded Renters without PJs	Vacancies, For Sale without PJs	Vacancies, Rental without PJs
1	122,826	44,182	7,466	8,663	2,844	2,030	1,323	2,766
2	94,601	34,029	6,649	8,281	1,372	1,104	1,656	2,401
3	86,260	31,029	9,748	10,771	1,651	1,527	1,861	1,813
4	224,990	80,932	21,195	17,135	4,536	2,890	3,652	4,355
5	152,551	54,874	11,273	15,256	2,879	2,123	1,859	3,449
6	59,244	21,311	4,147	8,512	1,150	1,099	590	2,040
7	37,999	13,669	5,985	3,757	828	605	822	1,292
8	93,928	33,787	9,497	9,931	1,656	1,039	2,064	1,606
9	34,823	12,526	4,306	3,999	678	935	835	782
10	87,618	31,517	5,340	6,819	1,850	1,990	1,309	2,506
11	161,792	58,199	7,061	8,791	4,277	2,902	1,022	2,115
12	70,228	25,262	3,802	5,030	1,349	1,066	1,033	1,028
13	12,311	4,428	742	866	170	215	254	213
Total	2,815,310	1,012,701	363,203	300,417	61,786	46,029	49,167	68,392

Texas Department of Housing and Community Affairs
2013 HOME RAF Compounded Need, Table 2

Estimated RAF \$ 24,200,000.00

MSA regions	Total of all Need Variables	Proportion of Total Need Variables	150% Weight	Regional Vacancies	Proportion of Total Vacancies	-50.00%	Sub-region amount
1	22,119	1.2%	\$ 450,041	1,295	1.1%	\$ (133,291)	\$ 316,751
2	15,692	0.9%	\$ 319,276	1,192	1.0%	\$ (122,689)	\$ 196,587
3	321,477	18.0%	\$ 6,540,762	23,226	19.8%	\$ (2,390,583)	\$ 4,150,179
4	69,227	3.9%	\$ 1,408,499	4,013	3.4%	\$ (413,046)	\$ 995,453
5	39,828	2.2%	\$ 810,338	2,716	2.3%	\$ (279,550)	\$ 530,788
6	81,920	4.6%	\$ 1,666,749	5,683	4.8%	\$ (584,934)	\$ 1,081,815
7	175,970	9.9%	\$ 3,580,282	10,356	8.8%	\$ (1,065,912)	\$ 2,514,370
8	84,641	4.7%	\$ 1,722,096	9,435	8.0%	\$ (971,117)	\$ 750,979
9	79,618	4.5%	\$ 1,619,906	5,091	4.3%	\$ (524,002)	\$ 1,095,904
10	55,541	3.1%	\$ 1,130,036	5,409	4.6%	\$ (556,732)	\$ 573,303
11	57,988	3.3%	\$ 1,179,819	1,895	1.6%	\$ (195,047)	\$ 984,772
12	38,555	2.2%	\$ 784,431	1,852	1.6%	\$ (190,621)	\$ 593,811
13	46,028	2.6%	\$ 936,486	750	0.6%	\$ (77,195)	\$ 859,291

Non-MSA regions	Total of all Need Variables	Percentage of total need variables	150% Weight	Regional Vacancies	Percentage of Total Vacancies	-50.00%	Sub-region amount
1	65,185	3.7%	\$ 1,326,253	4,089	3.5%	\$ (420,869)	\$ 905,384
2	51,435	2.9%	\$ 1,046,498	4,057	3.5%	\$ (417,575)	\$ 628,923
3	54,726	3.1%	\$ 1,113,449	3,674	3.1%	\$ (378,154)	\$ 735,295
4	126,688	7.1%	\$ 2,577,584	8,007	6.8%	\$ (824,137)	\$ 1,753,447
5	86,405	4.8%	\$ 1,758,004	5,308	4.5%	\$ (546,337)	\$ 1,211,667
6	36,219	2.0%	\$ 736,907	2,630	2.2%	\$ (270,698)	\$ 466,209
7	24,844	1.4%	\$ 505,469	2,114	1.8%	\$ (217,588)	\$ 287,882
8	55,910	3.1%	\$ 1,137,545	3,670	3.1%	\$ (377,742)	\$ 759,802
9	22,444	1.3%	\$ 456,650	1,617	1.4%	\$ (166,433)	\$ 290,217
10	47,516	2.7%	\$ 966,765	3,815	3.2%	\$ (392,667)	\$ 574,098
11	81,230	4.6%	\$ 1,652,695	3,137	2.7%	\$ (322,882)	\$ 1,329,813
12	36,509	2.0%	\$ 742,809	2,061	1.8%	\$ (212,133)	\$ 530,676
13	6,421	0.4%	\$ 130,650	467	0.4%	\$ (48,067)	\$ 82,583
Total	1,784,136	100%		117,559	100%		\$ 24,200,000

Texas Department of Housing and Community Affairs
2013 HTF RAF Compounded need, Table 1

Regions (MSA Counties)	People at 200% Poverty	Households at 200% Poverty	Cost Burden, Owners	Overcrowded Owners	Vacancies, For Sale
1	197,083	70,893	20,168	3,246	2,678
2	107,155	38,545	10,136	1,288	1,640
3	1,995,573	717,832	338,012	35,569	35,380
4	184,785	66,469	18,796	3,280	2,539
5	145,209	52,233	11,966	2,590	2,000
6	1,959,263	704,771	287,286	39,214	32,328
7	486,104	174,858	89,593	7,796	7,703
8	322,451	115,990	29,759	4,029	4,501
9	739,878	266,143	95,845	13,654	9,622
10	209,455	75,344	21,383	3,695	2,854
11	834,165	300,059	56,321	27,780	6,080
12	134,615	48,423	12,464	3,340	894
13	401,674	144,487	34,838	7,610	3,604

Regions (Non-MSA Counties)	People at 200% Poverty	Households at 200% Poverty	Cost Burden, Owners	Overcrowded Owners	Vacancies, For Sale
1	122,826	44,182	7,466	2,844	1,323
2	94,601	34,029	6,649	1,372	1,656
3	86,260	31,029	9,748	1,651	1,861
4	225,694	81,185	21,275	4,536	3,652
5	152,551	54,874	11,273	2,879	1,859
6	59,244	21,311	4,147	1,150	590
7	37,999	13,669	5,985	828	822
8	93,928	33,787	9,497	1,656	2,064
9	34,823	12,526	4,306	678	835
10	87,618	31,517	5,340	1,850	1,309
11	161,792	58,199	7,061	4,277	1,022
12	70,228	25,262	3,802	1,349	1,033
13	12,311	4,428	742	170	254

Texas Department of Housing and Community Affairs
2013 HTF RAF Compounded need, Table 2

HTF RAF based on \$4,000,000

MSA regions	200% of Poverty, Cost Burden, Overcrowding	Proportion of Needs Variables	150% Weight	Vacancies, For Sale	Proportion of Vacancies	-50.00%	Sub-region amount
1	94,307	2.1%	\$ 125,069	2,678	2.1%	\$ (41,167)	\$ 83,902
2	49,969	1.1%	\$ 66,268	1,640	1.3%	\$ (25,211)	\$ 41,058
3	1,091,413	24.1%	\$ 1,447,423	35,380	27.2%	\$ (543,877)	\$ 903,546
4	88,545	2.0%	\$ 117,428	2,539	2.0%	\$ (39,031)	\$ 78,398
5	66,789	1.5%	\$ 88,576	2,000	1.5%	\$ (30,745)	\$ 57,831
6	1,031,271	22.8%	\$ 1,367,663	32,328	24.8%	\$ (496,960)	\$ 870,702
7	272,247	6.0%	\$ 361,051	7,703	5.9%	\$ (118,414)	\$ 242,637
8	149,778	3.3%	\$ 198,634	4,501	3.5%	\$ (69,191)	\$ 129,442
9	375,642	8.3%	\$ 498,173	9,622	7.4%	\$ (147,914)	\$ 350,260
10	100,422	2.2%	\$ 133,178	2,854	2.2%	\$ (43,873)	\$ 89,305
11	384,160	8.5%	\$ 509,470	6,080	4.7%	\$ (93,464)	\$ 416,006
12	64,227	1.4%	\$ 85,177	894	0.7%	\$ (13,743)	\$ 71,434
13	186,935	4.1%	\$ 247,912	3,604	2.8%	\$ (55,402)	\$ 192,509
Sub-total	3,955,705			111,823			3,527,030

Non-MSA regions	200% of Poverty, Cost Burden, Overcrowding	Proportion of Needs Variables	150% Weight	Vacancies, For Sale	Proportion of Vacancies	-50.00%	Sub-region amount
1	54,492	1.2%	\$ 72,267	1,323	1.0%	\$ (20,338)	\$ 51,929
2	42,050	0.9%	\$ 55,767	1,656	1.3%	\$ (25,457)	\$ 30,310
3	42,428	0.9%	\$ 56,267	1,861	1.4%	\$ (28,608)	\$ 27,659
4	106,996	2.4%	\$ 141,897	3,652	2.8%	\$ (56,140)	\$ 85,757
5	69,026	1.5%	\$ 91,542	1,859	1.4%	\$ (28,577)	\$ 62,965
6	26,608	0.6%	\$ 35,287	590	0.5%	\$ (9,070)	\$ 26,217
7	20,482	0.5%	\$ 27,163	822	0.6%	\$ (12,636)	\$ 14,527
8	44,940	1.0%	\$ 59,599	2,064	1.6%	\$ (31,729)	\$ 27,870
9	17,510	0.4%	\$ 23,222	835	0.6%	\$ (12,836)	\$ 10,386
10	38,707	0.9%	\$ 51,333	1,309	1.0%	\$ (20,123)	\$ 31,211
11	69,537	1.5%	\$ 92,219	1,022	0.8%	\$ (15,711)	\$ 76,508
12	30,413	0.7%	\$ 40,333	1,033	0.8%	\$ (15,880)	\$ 24,454
13	5,340	0.1%	\$ 7,082	254	0.2%	\$ (3,905)	\$ 3,178
Sub-total	568,529			18,280			472,970
Total	4,524,233.96			130,103			\$ 4,000,000

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BOARD ACTION REQUEST

HOUSING RESOURCE CENTER

OCTOBER 9, 2012

Holding of a public hearing to receive public comment on the 2013 State of Texas Consolidated Plan: One-Year Action Plan

RECOMMENDED ACTION

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

WHEREAS, the Draft 2013 State of Texas Consolidated Plan: One-Year Action Plan (Draft for Public Comment), in the form presented to this meeting, was hereby ordered and approved by the Board on September 6, 2012; and,

WHEREAS, the Draft 2013 State of Texas Consolidated Plan: One-Year Action Plan was published in the *Texas Register* on September 21, 2012;

NOW, therefore, it is hereby

RESOLVED, that the chair will convene a public hearing on the Draft 2013 State of Texas Consolidated Plan: One-Year Action Plan to receive public comment.

BACKGROUND

The Texas Department of Housing and Community Affairs (TDHCA), Texas Department of Agriculture (TDA), and Department of State Health Services (DSHS) prepared the 2013 State of Texas Consolidated Plan: One-Year Action Plan (Plan) in accordance with 24 CFR §91.320. TDHCA coordinates the preparation of the State of Texas Consolidated Plan documents. The Plan covers the State's administration of the Community Development Block Grant Program (CDBG) by TDA, the Housing Opportunities for Persons with AIDS Program (HOPWA) by DSHS, and the Emergency Solutions Grant (ESG) Program and the HOME Investment Partnerships (HOME) Program by TDHCA.

The Plan states the intended use of funds received by the State of Texas from the U.S. Department of Housing and Urban Development (HUD) for Program Year 2013. The Program Year begins on February 1, 2013, and ends on January 31, 2014. The Plan also illustrates the State's strategies in addressing the priority needs and specific goals and objectives identified in the 2010-2014 State of Texas Consolidated Plan.

A draft Plan released for public comment can be found online at <http://www.tdhca.state.tx.us/housing-center/pubs.htm>. Based upon prior approval of the Board on September 6, 2012, the Plan became available for public comment on September 21 and written public comments will be accepted through October 22, 2012. The draft Plan, as approved

by the Board, is available for oral or written public comment at the Board meeting on October 9, 2012. Comment on the Plan may also be provided in writing via mail to Elizabeth Yevich, TDHCA, P.O. Box 13941, Austin, TX 78711-3941, or fax at (512) 475-0070 or email at elizabeth.yevich@tdhca.state.tx.us. Oral or written comment will also be accepted at the consolidated public hearing held on October 10, 2012, at Stephen F. Austin State Office Building, Room 172, 1700 Congress Avenue, Austin, TX 78701 at 10:00 am. The final version of the Plan will be presented to the Board for approval in November and is due to HUD by December 15, 2012.