

BOARD MEETING OF JANUARY 17, 2013

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

12:30 p.m.
January 17, 2013

Thompson Conference Center
2405 East Campus Drive, Room 3.102
Austin, TX 78712

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

J. Paul Oser, 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 on the Board Minutes Summary for December 13, 2012

Brooke Boston
Board Secretary

INTERNAL AUDIT:

- b) Presentation, Discussion, and Possible Action on the 2013 Internal Audit Charter and Board Resolution (#13-019)

Sandy Donoho
Dir. Internal Audit

LEGAL:

- c) Presentation, Discussion, and Possible Action on a proposed Agreed Final Order with respect to Autumn Creek (HTC 70071)

Jeff Pender
Deputy General Counsel, Legal

ASSET MANAGEMENT:

- d) Presentation, Discussion, and Possible Action to approve Housing Tax Credit Amendments

Cari Garcia
Dir. Asset Management

10084	4415 Perry Street Apartments	Houston
12314	Parkview Place	Huntsville
12152	Eastside Crossings	El Paso

COMMUNITY AFFAIRS:

- e) Presentation, Discussion, and Possible Action on Authorization to Release a Notice of Funding Availability (NOFA) for Fiscal Year 2013 Emergency Solutions Grants Program (ESG)
- f) Presentation, Discussion, and Possible Action on unexpended Program Year (PY) 2011 Emergency Shelter Grants Program funds

Michael DeYoung
Assist. DED, Network & Customer Service

OFFICE OF COLONIA INITIATIVES:

- g) Presentation, Discussion, and Possible Action on Colonia Self Help Center Program Award to Cameron County to serve both Cameron and Willacy counties in accordance with Texas Government Code §2306.582 through Community Development Block Grant (CDBG) Funding
- h) Presentation, Discussion, and Possible Action on a Memorandum of Understanding (MOU) between the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Department of Agriculture (TDA) regarding the management of Community Development Block Grant (CDBG) funds for the Colonia Self-Help Center Program (CSHC)

Homero Cabello
Dir. Colonia Initiatives, Housing Trust Fund

MULTIFAMILY FINANCE:

Cameron Dorsey
Dir. Multifamily Finance

- i) Presentation, Discussion, and Possible Action regarding Awards of HOME funds from the 2012-1 HOME Multifamily Development Program (MFD) Notice of Funding Availability (NOFA)

12503	Creek View Apartments III	Johnson City
12505	Champion Homes on the Lake	Lake Dallas
12506	Champion Homes by the Spring	Spring

NEIGHBORHOOD STABILIZATION PROGRAM:

Marni Holloway
Neighborhood Stabilization Program

- j) Presentation, Discussion, and Possible Action to approve a waiver of NSP1, NSP1-PI and NSP3 NOFA requirements necessary for alignment with the CDBG Disaster Recovery Program Hurricanes Ike and Dolly, Round 2 Homeowner Opportunity Program

- k) Presentation, Discussion, and Possible Action to approve the Neighborhood Stabilization Program – Program Income (NSP-PI) Reservation System Participants

2012-602	City of Kilgore	Kilgore
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RULES:

Patricia Murphy
Chief of Compliance

- l) Presentation, Discussion, and Possible Action on a proposed amendment to 10 TAC Chapter 60, Compliance Administration, Subchapter B, Accessibility Requirements, §60.209(h), regarding Reasonable Accommodations, and directing its publication for public comment in the *Texas Register*

- m) Presentation, Discussion, and Possible Action on proposed amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures §1.5, concerning Previous Participation Reviews and directing its publication for public comment in the *Texas Register*

- n) Presentation, Discussion, and Possible Action on a proposed amendment to 10 TAC Chapter 25, §25.5 regarding the Colonia Self-Help Center Program Rule, and directing its publication for public comment in the *Texas Register*

Homero Cabello
Dir. Colonia Initiatives, Housing Trust Fund

The Board accepts the following reports:

1. Status Report on the HOME Program Contracts and Reservation System
2. TDHCA Outreach Activities, December 2012
3. Report on any actions taken under the Texas Neighborhood Stabilization Program grant of emergency authority

Jennifer Molinari
Acting Dir. HOME

Michael Lyttle
Dir. External Affairs

Marni Holloway
Dir. Neighborhood Stabilization

ACTION ITEMS

ITEM 2: COMPLIANCE:

Presentation Discussion and Possible Action, as the Board deems warranted, on the Fiscal Year 2013 Income and Rent Limits and with regard to the application of the limits under certain tax exempt bond regulatory agreements

Patricia Murphy
Chief of Compliance

ITEM 3: INTERNAL AUDIT:

- a) Report from the Audit Committee Meeting
- b) Presentation, Discussion, and Possible Action on Acceptance of the 2012 Audit Results from the State Auditor's Office

Sandy Donoho
Dir. Internal Audit

ITEM 4: STRATEGIC PLANNING & BUDGETING:

Report from the Strategic Planning & Budgeting Committee Meeting

Tom H. Gann
Committee Chair

ITEM 5: LOAN POLICY:

Report from the Loan Policy Committee Meeting

Juan Muñoz
Committee Chair

ITEM 6: COMMUNITY AFFAIRS:

Presentation, Discussion, and Possible Action on the Use of Program Year 2013 Community Services Block Grant (CSBG) Discretionary Funds

Michael DeYoung
Assist. DED, Network & Customer Service

ITEM 7: MULTIFAMILY FINANCE:

Presentation, Discussion, and Possible Action regarding policy guidance related to various issues concerning the 2013 Qualified Allocation Plan, including, but not limited to, disaster declarations and use of the term "general population" in the 2013 QAP and other Multifamily Rules

Cameron Dorsey
Dir. Multifamily Finance

ITEM 8: NEIGHBORHOOD STABILIZATION PROGRAM:

Presentation, Discussion, and Possible Action on Uses of Neighborhood Stabilization Program-1 Program Income

Marni Holloway
Dir. Neighborhood Stabilization

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 Tex. Gov't Code, §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.
2. Pursuant to Tex. Gov't Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al. filed in federal district court, Northern District of Texas*
 - b) *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 any posted 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.
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.
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

JANUARY 17, 2013

Presentation, Discussion, and Possible Action on the Board Minutes Summary for December 13, 2012

RECOMMENDED ACTION

Approve Board Minutes Summary for December 13, 2012.

RESOLVED, that the Board Minutes Summary for December 13, 2012, is hereby approved as presented.

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

December 13, 2012; 10:00 A.M.
Capitol Extension, Room E1.028
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 December 13, 2012, was called to order by J. Paul Ozer, Chair, at 10:02 a.m. It was held at the Capitol Extension, E1.028, 1500 North Congress Ave, Austin, Texas. Roll call certified a quorum was present.

MEMBERS PRESENT:

J. Paul Ozer, Chair
Tom H. Gann, Vice-Chair
Lowell Keig
J. Mark McWatters
Juan Muñoz

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 Summary for November 13, 2012
- b) Presentation, Discussion, and Possible Action superseding Resolution No. 12-019 in the adoption of Resolution No. 13-012, Designating Signature Authority

ASSET MANAGEMENT

- c) Presentation, Discussion, and Possible Action to approve Housing Tax Credit Amendments
 - 11009 Sunflower Estates La Feria
 - 10266 Travis Street Plaza Houston
 - 12002 Riverwood Commons Bastrop
 - 12367 Justice Park Senior Villas Houston
- d) Presentation, Discussion, and Possible Action on the issuance of a Request for Proposal for the procurement of property management and appraisal services in Real Estate

COMMUNITY AFFAIRS

- e) Presentation, Discussion, and Possible Action on a Requests for Applications (RFA) to administer the Community Services Block Grant (CSBG) and Comprehensive Energy Assistance Program (CEAP) in Edwards, Kinney, Real, Uvalde, Val Verde and Zavala Counties
- f) Presentation, Discussion, and Possible Action on Approval of the Draft FFY 2013 Department of Energy (DOE) Weatherization Assistance Program (WAP) State Plan for Public Comment

MULTIFAMILY FINANCE

- g) Presentation, Discussion, and Possible Action regarding Awards of HOME funds from the 2012-1 HOME Multifamily Development Program Notice of Funding Availability
 - 12336 The Residences of Solms Village New Braunfels
- h) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another

Issuer

12412	Villas at Colt Run	Houston
12415	San Juan Square III	San Antonio

- i) Presentation, Discussion, and Possible Action regarding the status of the 2012 Competitive (9%) Housing Tax Credit Application Cycle

NEIGHBORHOOD STABILIZATION PROGRAM

- j) Presentation, Discussion, and Possible Action to approve a waiver of NSP1 NOFA requirements

77090000110	City of Galveston	Galveston
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- k) Presentation, Discussion, and Possible Action regarding an amendment to an NSP1 Contract

77090000158	City of Odessa	Odessa
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- l) Presentation, Discussion, and Possible Action regarding publication of the Neighborhood Stabilization Program Three (NSP3) Fourth Substantial Amendment to the One Year Action Plan for public comment and submission to HUD

TEXAS HOMEOWNERSHIP

- m) Presentation, Discussion, and Possible Action regarding submission of an application to NeighborWorks America for the National Foreclosure Mitigation Counseling (NFMC) Program, Round 7

RULES

- n) Presentation, Discussion, and Possible Action on an order adopting 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 an order adopting new §5.23 concerning Protected Health Information and directing their publication in the *Texas Register*

- o) Presentation, Discussion, and Possible Action on an order adopting 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*

- p) Presentation, Discussion, and Possible Action on an order adopting 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, an order adopting the repeal of §§5.424 and 5.425, and an order adopting new §5.424 concerning Utility Assistance Component, and directing their publication in the *Texas Register*

Agenda Item 1P was pulled from the Consent Agenda to be considered later on the Agenda

- q) Presentation, Discussion, and Possible Action on an order adopting amendments 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*

- r) Presentation, Discussion, and Possible Action on an order adopting 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 its publication in the *Texas Register*

- s) Presentation, Discussion, and Possible Action on the 2013 State of Texas Low Income Housing Plan and Annual Report (Draft for Public Comment), and proposed amendment to 10 TAC §1.23, 2013, State of Texas Low Income Housing Plan and Annual Report (SLIHP), Adoption by Reference, for publication in the *Texas Register* for public comment

REPORT ITEMS

The Board accepts the following reports:

1. Status Report on the HOME Program Contracts and Reservation System
2. TDHCA Outreach Activities, November 2012
3. NSP OIG decision

Report Item #3 was pulled from the Consent Agenda to be considered later on the Agenda.

Motion by Juan Muñoz to approve the Consent Agenda with the exception of Item 1p and Report Item #3, which were pulled from the Agenda for further discussion; duly seconded by Tom Gann; motion passed unanimously.

CONSENT ITEM 1p:

Presentation, Discussion, and Possible Action on an order adopting 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, an order adopting the repeal of §§5.424 and 5.425, and an order adopting new §5.424 concerning Utility Assistance Component, and directing their publication in the *Texas Register*

Michael DeYoung, TDHCA Assistant Executive Director, Network and Customer Service, provided corrections to Item 1p. In §5.422 there are two typographical corrections to be noted. The general assistance and benefit levels, should read \$4900.00 instead of \$4500.00 and on page 134, a reference to §5.422 should read §5.423(h).
Motion by Lowell Keig to accept staff's recommendation to adopt the amendments repeal, and new sections of 10 TAC Chapter 5 with noted corrections; duly seconded by Juan Muñoz; motion passed unanimously.

CONSENT REPORT ITEM 3:

NSP OIG decision

Report item only. No action required.

ACTION ITEMS

AGENDA ITEM 2: ARRA:

Presentation and Discussion of a final Report on TDHCA's successful implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

Status report item only. No action required.

AGENDA ITEM 3: COMMUNITY AFFAIRS:

a) Presentation, Discussion, and Possible Action on approval of the Program Year 2013 Community Service Block Grant (CSBG) Awards

Motion by Lowell Keig to accept staff's recommendation to approve Program Year 2013 Community Service Block Grant (CSBG) Awards as presented; duly seconded by Juan Muñoz; motion passed unanimously.

b) Presentation, Discussion, and Possible Action on the award of Program Year 2013 Comprehensive Energy Assistance Program (CEAP) funds

Motion by Lowell Keig to accept staff's recommendation on the award of Program Year 2013 Comprehensive Energy Assistance Program (CEAP) funds as presented; duly seconded by Tom Gann; motion passed unanimously.

AGENDA ITEM 4: MULTIFAMILY FINANCE:

Presentation, Discussion, and Possible Action to adopt a process for receipt and review of certain HOME Multifamily Development Program (MFD) applications prior to execution of a grant agreement with HUD for such funds

Motion by Tom Gann to accept staff's recommendation to adopt a process for receipt and review of certain HOME Multifamily Development Program (MFD) applications prior to execution of a grant agreement with HUD for such funds; duly seconded by Mark McWatters.

Jim Fieser, Fieser Development, provided testimony on set-aside.

Motion passed unanimously.

AGENDA ITEM 5: NEIGHBORHOOD STABILIZATION PROGRAM:

Presentation, Discussion, and Possible Action to authorize emergency action by the Executive Director as necessary for adherence to deadlines established by law for NSP1 and NSP3

Motion by Lowell Keig to accept staff's recommendation, as modified by striking "and his designees", and adding in the resolved paragraph, "in consultation with the chair of the board", to authorize emergency action by the Executive Director, each time as necessary for adherence to deadlines established by law for NSP1 and NSP3 as presented; duly seconded by Juan Muñoz; motion passed unanimously.

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

Tony Sisk, Churchill Residential, asked for special consideration related to the application of the definition of declared

disaster area in Region 3.

EXECUTIVE SESSION

At 11:07 a.m. p.m. Chairman Oxer convened the Executive Session.

1. The Board may go into Executive Session Pursuant to Tex Gov't Code, §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.
2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al. filed in federal district court, Northern District of Texas*
 - b) *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 any posted 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.
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.
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

At 11:35 a.m. Chairman Oxer 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.

ADJOURN

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

Since there was no other business to come before the Board, the meeting was adjourned at 11:36 a.m. on December 13, 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
INTERNAL AUDIT
JANUARY 17, 2013

Presentation, Discussion, and Possible Action on the 2013 Internal Audit Charter and Board Resolution No. 13-019.

RECOMMENDED ACTION

WHEREAS, the Internal Audit Division is required by audit standards to develop a charter, and to periodically update the charter, and

WHEREAS, the Department maintains a board resolution regarding internal audit in order to clarify its expectations regarding the audit function;

NOW, therefore it is hereby

RESOLVED, the Internal Audit Charter and Board Resolution No. 13-019 are approved as presented.

BACKGROUND

Internal Audit Standards (the Institute of Internal Auditor's *International Standards for the Professional Practice of Internal Auditing*) require periodic approval of the Internal Audit Charter. The Board resolutions regarding internal audit are reviewed and approved as part of this process. The content of the charter and the resolutions has not changed substantially since their last approval in February 2012.

**Texas Department of Housing and Community Affairs
Internal Audit Division**

INTERNAL AUDIT CHARTER

(Effective October 17, 2001, Amended January 17, 2013
as approved by the Department's Governing Board)

DEFINITION

Internal audit is an independent, objective assurance and consulting activity within the Texas Department of Housing and Community Affairs (Department) designed to add value and improve the Department's operations. Internal audit helps the Department accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

PURPOSE

The purpose of internal audit's work is to determine whether:

- risks are appropriately identified and managed,
- management information is reliable, accurate and timely,
- acceptable policies and procedures are followed,
- compliance with applicable laws and regulations is achieved,
- resources are safeguarded and used efficiently and economically,
- planned missions are accomplished effectively, and
- the Department's objectives are met.

The internal audit division supports management in its responsibilities by furnishing analyses, appraisals, observations and recommendations to assist the Department in evaluating and improving the effectiveness of its risk management, control and governance processes.

AUTHORITY

The Internal Auditing Act (Chapter 2102, Government Code) and the Department's enabling legislation (Chapter 2306, Government Code) authorize the establishment of an internal audit program. Internal auditors shall have full access to all of the Department's records, facilities, properties and personnel relevant to the performance of engagements or investigations, and are free to review and evaluate all policies, plans, procedures and records. However, internal auditors shall have no direct responsibility for, or authority over, any of the activities reviewed, and the auditing, review and evaluation of an area shall in no way relieve management of its assigned responsibilities.

Department management shall respond to all information requests by the internal auditor or internal audit staff pursuant to this authority within two business days of such requests, including

**Texas Department of Housing and Community Affairs
Internal Audit Division**

requests of information considered confidential by its nature or due to pending or actual litigation. The internal audit staff shall use discretion in its review of records and assure the confidentiality of all matters that come to its attention.

The director of internal audit or a designated representative will be included in all entrance and exit conferences conducted by any external, federal or state auditors or monitors and shall receive copies of the audit or monitoring reports, as well as copies of management's written response. The internal audit division shall be available to assist management in providing additional information, preparing responses to reports and examinations, and subsequently reviewing the progress made to correct the deficiencies reported.

I N D E P E N D E N C E

Internal auditors shall not develop or install procedures, prepare records, perform internal control functions, or engage in any other activity which they would normally review and evaluate and which could reasonably be construed to compromise the independence of the internal audit division. However, the independence of the internal audit division shall not be adversely affected by determining and recommending standards of control to be applied to the development of the systems and procedures reviewed. The internal audit division shall be responsive to requests for assistance from management, provided that the subject of the request is related to auditing or internal controls. The internal audit division staff shall not assume operating responsibilities or direct the activities of any employee not employed by the internal audit division or assigned to assist the internal auditors.

The internal audit division shall be available to perform consulting and advisory services at the specific request of the board, or of management with the board's approval. The nature and scope of these services are subject to agreement with management and the board. Consulting and advisory services are intended to add value and improve the Department's governance, risk management and control processes. These consulting and advisory services will only be performed if the director of internal audit deems that the engagement can be performed while still maintaining the auditors' objectivity and independence, and if the assignment does not result in the internal audit division or any member of the internal audit staff assuming any management responsibility.

A C C O U N T A B I L I T Y

The director of internal audit shall report directly to the audit committee of the governing board of the Department and administratively to the executive director of the Department. The director of internal audit shall furnish copies of all audit reports to the audit committee and to the governing board in accordance with the criteria established by the audit committee. The director of internal audit shall periodically appear before the audit committee and/or the governing board at its meetings to report on audit findings and the operations of the internal audit division.

**Texas Department of Housing and Community Affairs
Internal Audit Division**

The audit committee and the governing board shall periodically assess whether resources allocated to the internal audit division are adequate to implement an effective program of internal auditing. To facilitate this process, the director of internal audit will emphasize significant risks to the Department that are not addressed in the annual audit plan as proposed to the audit committee and/or the governing board for approval, and will periodically report to the audit committee and/or the governing board on internal audit staffing levels. The audit committee and/or the governing board shall approve the internal audit division's annual operating budget.

R E S P O N S I B I L I T I E S

The internal audit division shall:

- comply with the Texas Internal Auditing Act;
- execute a comprehensive audit program to insure all activities of the Department are reviewed at appropriate intervals as determined by the director of internal audit and as approved by the audit committee and/or the governing board;
- review and evaluate systems of control and the quality of ongoing operations, recommend actions to correct any deficiencies and follow-up on management's response to assure that corrective action is taken on a timely basis;
- perform an objective assessment of evidence to provide an independent opinion or conclusions regarding the Department, its operations, functions, processes and systems;
- evaluate the quality of management performance in terms of compliance with policies, plans, procedures, laws and regulations;
- evaluate the effectiveness and contribute to the improvement of risk management processes, including evaluating the potential for the occurrence of fraud and how the Department manages fraud risks;
- assess and make appropriate recommendations for improving the governance process for promoting ethics and values within the Department, ensuring effective organizational performance, achieving management's strategic objectives, communicating risk and control information to appropriate areas of the Department, and coordinating and communicating information among the governing board, external auditors and management;
- review the controls of significant new systems and subsequent revisions before they are implemented. In addition, the environmental, operational and security controls of the

**Texas Department of Housing and Community Affairs
Internal Audit Division**

Department's automated processes shall be assessed and reviewed as needed;

- verify the existence of Department assets and assure that proper safeguards are maintained to protect them from losses of all kinds;
- audit the reliability and operation of the accounting and reporting systems as needed;
- consider the scope of work of external auditors and regulators, as appropriate, for the purpose of providing optimal audit coverage to the Department;
- conduct or participate in internal investigations of suspected fraud, theft or mismanagement, and provide advice relating to internal fraud and security;

identify operational opportunities for performance improvement by evaluating the functional effectiveness against Department and industry standards;

- coordinate its audit efforts with those of the Department's external, state, and federal auditors; and
- evaluate the adequacy of management's corrective actions and perform necessary follow-up procedures to ensure that the corrective actions have been implemented.

The Director of Internal Audit shall:

- ensure that written reports are prepared for every internal audit and that such reports are furnished to the director responsible for the audited activity. Copies of each audit report and management's responses shall be provided to the audit committee and the governing board in accordance with the criteria established by the audit committee. Management is responsible for providing the internal audit division with a detailed written response to reported deficiencies. Such response, stating corrective action taken or planned, including a target date for completion and the individual responsible for implementation, should be received by the director of internal audit within ten (10) business days after management has received the report draft disclosing the deficiencies. Additional response time may be granted by the director of internal audit if circumstances warrant additional time;
- present a summary of audit activities to the audit committee or to the governing board at least three times annually. Each presentation will include comments about major audit findings and if necessary, an opinion of the adequacy of management's response to the audit reports. In addition, the director of internal audit will meet, as needed, with the executive director and/or the audit committee to discuss the purpose, authority, responsibility and performance of the internal audit division, the status of the audit plan, the status of management's resolution of audit recommendations, and other significant issues involving the internal audit function;

**Texas Department of Housing and Community Affairs
Internal Audit Division**

- prepare an annual summary report of audit activities in the content and manner prescribed by the State Auditor's Office;
- confirm to the audit committee and/or the governing board on an annual basis the independence of the internal audit division and its audit staff;
- periodically review the internal audit charter and present it to management, the audit committee and/or the governing board for approval; and
- promote and encourage the advancement of audit and control knowledge through the dissemination of related information and the active participation in professional groups and organizations.

STANDARDS OF AUDIT PRACTICE

As a means of assuring the quality and performance of the internal audit division, the audit committee requires the internal audit division to meet or exceed the *International Standards for the Professional Practice of Internal Auditing* and to comply with the *Code of Ethics* prescribed by the Institute of Internal Auditors and with *Generally Accepted Government Auditing Standards*, as may be periodically amended. It is also expected that the internal audit division will obtain an external peer review of the internal audit division to evaluate the quality of its operations at least once every three years.

AUDIT COMMITTEE - BOARD RESOLUTIONS

Resolution # 13-019 (As approved by the Board on January 17, 2013)

WHEREAS the original audit committee (Committee) members were appointed by the chairman of the governing board (Board) in April, 1992, pursuant to the Texas Government Code, Chapter 2306, *Texas Department of Housing and Community Affairs* (Department), section 2306.056, *Committees*, and whereas the Committee’s authority and composition has not been specified, and whereas the Committee members’ duties and responsibilities have not been previously enumerated, the Board hereby resolves the following:

RESOLVED, that the Committee shall have the authority to investigate any organizational activity as it deems necessary and appropriate, and shall have unrestricted access to all information, including documents and personnel, and shall have adequate resources in order to fulfill the oversight responsibilities it conducts on behalf of the Board, including full cooperation of Department employees. The Committee has the authority to pre-approve the annual budget of the internal audit division and the annual audit plan, and to approve any non-audit services or requests for audits or investigations outside of the annual audit plan.

RESOLVED, that the Committee shall be composed of three board members appointed by the Board’s chairperson who shall serve for two year terms each or until their respective successor shall be duly appointed and qualified. Audit committee members shall be free of any relationships that would interfere with their ability to exercise independent judgment as a member of the Committee.

RESOLVED, that a chairperson of the Committee shall be appointed by the Board’s chairperson.

RESOLVED, that the Committee shall meet a minimum of three times each year, either in a separate meeting or as part of a larger Board meeting, or at such additional or special meetings as may be called as needed by the Board chairperson, the Committee chairperson, or the executive director; and that the Committee shall report on its proceedings and actions to the Board with such recommendations as the Committee deems appropriate.

RESOLVED, that the Committee’s primary function is to assist the Board in carrying out its oversight responsibilities as they relate to financial and other reporting practices, internal control, and compliance with Board and ethics policies, and to ensure the independence of the internal audit function.

RESOLVED, that in fulfilling its function, the Committee’s responsibility for (i) financial and other reporting practices is to provide assurance to the Board that financial and other reporting information reported by management reasonably portrays the circumstances or plans reported; (ii) internal control is to monitor the effectiveness of control systems and processes through the results of internal and external audits and reviews; (iii) compliance with Board and ethics policies is to periodically inquire of management, the internal audit director, and the independent accountant about significant risks or exposures and assess the steps management has taken to minimize such risk; (iv) the internal audit function is to support the internal audit division so that internal auditors can gain the cooperation of auditees and perform their work independently and free from interference and to provide reasonable assurance that the internal auditors perform their responsibilities.

PASSED and APPROVED this 17th day of January, 2013.

Chair of the Governing Board _____

Executive Director _____

Board Secretary _____

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BOARD ACTION REQUEST

LEGAL DIVISION

JANUARY 17, 2013

Presentation, Discussion, and Possible Action on a proposed Agreed Final Order with respect to Autumn Creek Apartments (HTC 70071)

Recommended Action

WHEREAS, Autumn Apartments, LP (“Autumn”) is the owner of Autumn Creek Apartments in Dallas, Dallas County, Texas, which has a history of uncorrected violations of the applicable land use restriction agreement, including, but not limited to failure to lease units to eligible households, failure to maintain annual eligibility certifications, failure to make all units available to qualified tenants and failure to timely submit Annual Owner Compliance reports;

WHEREAS, on December 18, 2012, representatives of Autumn met with the TDHCA Administrative Penalties Committee and agreed to sign an Agreed Final Order with the following requirements:

1. An administrative penalty in the amount of \$3,000 will be assessed, of which \$500 must be paid to TDHCA within 30 days of the date the Agreed Final Order is approved, with the remainder probated pending compliance with provisions of the order;
2. All outstanding violations must be corrected and sufficient evidence of correction must be submitted to TDHCA within 60 days of the date the Agreed Final Order is approved;
3. If outstanding violations are not fully resolved and sufficient evidence of the corrections have not been submitted within the established timeline, the probated \$2,500 penalty will be immediately due and payable; and

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

NOW THEREFORE, It is hereby

RESOLVED, that the Agreed Final Order assessing a partially probated administrative penalty as outlined above for noncompliance at Autumn Creek (HTC 70071), substantially in the form presented at this meeting, and including any non-substantive technical corrections, is hereby adopted as the order of this Board.

Background

Autumn is the owner of an 82 unit apartment complex that is in material noncompliance. The TDHCA Land Use Restriction Agreement (“LURA”) was signed in 1990 by a prior owner, Rolling Creek Apartments, Ltd. in consideration for an allocation of low income housing tax credits in the total amount of \$430,200. The property was sold to Swiss Properties, Ltd. in 1998, then sold to the current owner, Autumn Apartments LP, in 2006. Despite numerous attempts by the Department to provide technical assistance, Autumn Apartments LP, has been unable to place and keep the property in compliance with LURA requirements. Accordingly, TDHCA has met with a representative of Autumn and they have agreed to enter into an Agreed Final Order upon the terms set out below.

Consistent with direction from the Department’s Administrative Penalties Committee, a partially probated penalty in the amount of \$3,000 is recommended. Of that, the Committee recommends that \$500 be due and payable within 30 days of the date this Agreed Final Order is approved. The remainder of the penalty would be fully probated and forgiven provided that Autumn complies with all terms of the Agreed Final Order.

ENFORCEMENT ACTION AGAINST
AUTUMN APARTMENTS, L.P.
(LIHTC FILE # 70071)

§
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§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this _____ day of _____, 2013, the Governing Board of the Texas Department of Housing and Community Affairs (“Board”) considered the matter of whether enforcement action should be taken against **AUTUMN APARTMENTS, L.P.**, a Texas limited partnership (“Autumn” or “Respondent”). The **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (“TDHCA” or “Department”) alleges that Respondent violated 10 TEX. ADMIN. CODE, CHAPTER 60 by failing to timely correct tenant file and reporting violations with respect to the following property owned by respondent: Autumn Creek Apartments (LIHTC File No. 70071 / CMTS No 906 / LDLD No. 104, (“Property”));

The Board has jurisdiction over this matter pursuant to TEX. GOV’T CODE § 2306.041 (Imposition of Penalty) and TEX. GOV’T CODE §§ 2306.261-2306.273 (Regulation of Housing Sponsors). The Board has the authority to dispose of this case by agreed order or otherwise pursuant to the provisions of TEX. GOV’T CODE § 2306.044 (Penalty to be Paid or Hearing Requested). The Department finds that Respondent engaged in acts or practices that violated the Land Use Restriction Agreement (“LURA”) and violated 10 TEX. ADMIN. CODE §§ 60.105 (Reporting Requirements), 60.108 (Determination, Documentation and Certification of Annual Income) and 60.111 (Annual Recertification)¹. The Department alleges that such conduct constitutes grounds for the imposition of an administrative penalty pursuant to TEX. GOV’T CODE § 2306.041, 10 TEX. ADMIN. CODE §1.13 (Adjudication Hearing procedures), 10 TEX. ADMIN. CODE § 1.14 (Administrative Penalties) and 10 TEX. ADMIN. CODE §§ 60.307-309 (Administrative Penalties)². In a desire to conclude this matter without further delay and expense, the Board and Respondent, through their respective signatures hereto, announce that they have compromised and settled all claims and they agree to the entry of this Agreed Final Order.

WAIVER

¹ All references to 10 TEX. ADMIN. CODE §§ 60.105, 60.108 and 60.111 refer to the version of the code in effect at the time of the November 16, 2011 compliance monitoring review that resulted in recording a violation. All past violations remain violations under the current code and all interim amendments.

² All references to 10 TEX. ADMIN. CODE §§ 1.13, 1.14 and 60.307 – 60.309 refer to the version of the code in place on November 27, 2012, when Respondent was warned that administrative penalties could be assessed for uncorrected violations.

Respondent acknowledges the existence of their right to request a hearing on the matters considered in this order, as provided by TEX. GOV'T CODE § 2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by TEX. GOV'T CODE § 2306.047. Pursuant to this compromise and settlement, the Respondent waives the right to a hearing and to judicial review of this agreed order and acknowledges the jurisdiction of the Board over Respondent for these matters.

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

FINDINGS OF FACT

Jurisdiction:

1. Autumn Creek Apartments, an 82 unit apartment complex located in Dallas, Texas, and currently owned by Autumn, is subject to a LURA dated to be effective December 12, 1990, filed of record on December 13, 1990, at Volume 90242, Page 1653 of the Official Public Records of Real Property of Dallas County, Texas. The LURA was signed by a prior owner, Rolling Creek Apartments, Ltd., in consideration for an allocation of low income housing tax credits in the total amount of Four Hundred Thirty Thousand Two Hundred Dollars and No/100 Cents (\$430,200.00) awarded by TDHCA. In accordance with Section 2(b) of the LURA, the agreement is a restrictive covenant / deed restriction encumbering the land and binding on all successors and assigns for the full term of the agreement.

Compliance Violations:

2. An on-site monitoring review was conducted on November 21, 2008, to determine whether Autumn Creek Apartments was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and the following violation was not corrected before the June 21, 2009 corrective action deadline and remained uncorrected as of the date of the TDHCA administrative penalty notice sent to Autumn on November 27, 2012:
 - a. Autumn failed to make unit 121 available for rent, instead using as an office, a violation of the LURA which requires all 82 units to be rented to qualified tenants and does not permit alternative usage. A material LURA amendment request was granted to allow the unit to be used as an office in the future, however, the amendment has not been signed and recorded because Autumn failed to maintain its corporate status with the Texas Secretary of State. Corporate status was reinstated in December 2012.
3. An on-site monitoring review was conducted on November 16, 2011, to determine whether Autumn Creek Apartments was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and the following violations were not corrected before the

April 2, 2012 corrective action deadline and remained uncorrected as of the date of the TDHCA administrative penalty notice sent to Autumn on November 27, 2012:

- a. Autumn failed to provide documentation that household incomes were within prescribed limits upon initial occupancy and/or failed to maintain and provide tenant income certifications and qualification documentation for units 227 and 228, a violation of 10 TEX. ADMIN. CODE §60.108 and the LURA;
 - b. Autumn failed to maintain and provide annual eligibility certifications for sixty-one units (Building 1-101, 103, 105, 106, 107, 109, 110, 201, 202, 203, 204, 205, 206, 207, 208, 209, Building 2-112, 114, 115, 116, 117, 119, 211, 212, 214, 215, 217, Building 3-120, 121, 123, 124, 125, 220, 221, 222, 223, 224, 225, Building 4-126, 127, 226, Building 5-128, 130, 133, 134, 136, 228, 229, 230, 231, 232, 235, Building 6-137, 139, 140, 141, 142, 237, 239, 240, 242) a violation of 10 TEX. ADMIN. CODE §60.111, which requires annual certifications;
4. On May 23, 2012, TDHCA sent notice that Autumn had failed to submit the 2011 Annual Owner's Compliance Report which was due March 1, 2012, a violation of 10 TEX. ADMIN. CODE §60.105 which requires each development to submit an Annual Owner's Compliance Report. Parts A and B remained outstanding as of the date of the administrative penalty notice sent to Autumn on November 27, 2012;
 5. Between March 20, 2009, and November 27, 2012, at least twenty (20) notices of noncompliance and reminder notices were sent regarding the above violations but only some work toward compliance was achieved regarding the above violations.

CONCLUSIONS OF LAW

1. Pursuant to TEX. GOV'T CODE §2306.041 and §2306.177, the board has personal and subject matter jurisdiction over Autumn and is authorized to assess administrative penalties;
2. Pursuant to TEX. GOV'T CODE §2306.267, the Board may order Autumn to bring the Property into compliance with the law, Department rules and any contract or agreement, including a LURA, to which Autumn is a party;
3. Autumn violated 10 TEX. ADMIN. CODE § 60.108 by failing to collect documentation that household incomes were within prescribed limits upon initial occupancy and by failing to maintain tenant income certifications;
4. Autumn violated 10 TEX. ADMIN. CODE § 60.111 by failing to maintain annual eligibility certifications;
5. Autumn violated the LURA by not making all apartment units available to qualified tenants;

6. Autumn violated 10 TEX. ADMIN. CODE § 60.105 by failing to submit the 2011 Annual Owner's Compliance Report on or before the deadline;

Based upon the foregoing Findings of Fact and Conclusions of Law and an assessment of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

IT IS HEREBY ORDERED that Autumn shall correct all outstanding violations indicated above and bring Autumn Creek Apartments into compliance with all laws, Department rules and provisions of the LURA;

IT IS FURTHER ORDERED that Autumn shall pay, and is hereby directed to pay, an administrative penalty of THREE THOUSAND AND 00/100 DOLLARS (\$3,000.00), of which FIVE HUNDRED DOLLARS (\$500.00) shall be due and payable within thirty (30) days of the date this Agreed Final Order is approved by the governing board of TDHCA. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs." The remaining TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) is fully probated, provided that Autumn fully complies with the terms and conditions of this Agreed Final Order. Provided that the violations are corrected as required below, such conduct shall be accepted in lieu of payment of the remaining probated penalty;

IT IS FURTHER ORDERED that Autumn must submit to TDHCA documentation to correct the violations for "failure to provide evidence that household incomes were within prescribed limits upon initial occupancy" for units 227 and 228. If unit is occupied by a qualified household, Autumn is required to submit a full tenant file as indicated in the instructions at *Attachments 1 and 2* within sixty (60) days of the approval date of this Agreed Final Order. If a unit is vacant, Autumn is required to submit evidence that the unit is ready for occupancy within sixty (60) days of the approval date of this Agreed Final Order. If Autumn does not timely submit the required documentation or the submitted documentation is insufficient and does not meet minimum TDHCA standards, the probated amount of the administrative penalty will immediately become due and payable without further process or hearing.

IT IS FURTHER ORDERED that Autumn must submit to TDHCA documentation to correct the violations for failure to maintain annual eligibility certifications for units: Building 1-101, 103, 105, 106, 107, 109, 110, 201, 202, 203, 204, 205, 206, 207, 208, 209, Building 2-112, 114, 115, 116, 117, 119, 211, 212, 214, 215, 217, Building 3-120, 121, 123, 124, 125, 220, 221, 222, 223, 224, 225, Building 4-126, 127, 226, Building 5-128, 130, 133, 134, 136, 228, 229, 230, 231, 232, 235, Building 6-137, 139, 140, 141, 142, 237, 239, 240 and 242 within sixty (60) days of the approval date of this Agreed Final Order. If Autumn does not timely submit the required documentation or the documentation is insufficient and does not meet minimum TDHCA standards, the probated amount of the administrative penalty will immediately become due and payable without further process or hearing. See *Attachments 1 and 2* for instructions;

IT IS FURTHER ORDERED that Autumn shall sign and record a LURA amendment to reduce the number of restricted units from 82 to 81 to accommodate use of one unit as an office. This amendment shall be signed and recorded with the Dallas County Clerk within ten (10) business days after receipt from TDHCA of notice that it finds that all violations outlined in this Agreed Final Order have been resolved. If Autumn does not sign and record the amendment within ten (10) days of receipt from TDHCA, the probated amount of the administrative penalty will immediately become due and payable without further process or hearing.

IT IS FURTHER ORDERED that if Autumn violates any provision of this order, then the probated administrative penalty in the amount of TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$2,500.00) is immediately due and payable to the Department without further process or hearing. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" within thirty days of the date of the written notice from the Department that Autumn has violated a provision of this order.

IT IS FURTHER ORDERED that all correspondence, including corrective documentation and administrative penalty payments, must be submitted to the following address:

If via overnight mail (FedEx, UPS):	If via USPS:
TDHCA Attn: Ysella Kaseman 221 E 11 th St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on _____, 2013.

By: _____
Name: J. Paul Oxer
Title: Chair of the Board of TDHCA

By: _____
Name: Brooke Boston
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
§
COUNTY OF _____ §

Before me, the undersigned notary public, on this _____ day of _____, 2013, personally appeared J. Paul Oxer, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this _____ day of _____, 2013, personally appeared Brooke Boston, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

Given under my hand and seal of office this _____ day of _____, 2013.

Signature of Notary Public

Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF _____

My Commission Expires: _____

Attachment 1

File monitoring letters including corrective instructions

(see attached)



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

BOARD MEMBERS
J. Paul Oscar, *Chair*
Tom H. Cunn, *Vice Chair*
C. Kent Collins
Leslie Blingham, *Secretary*
Lowell A. Kolg
Juan S. Muñoz, PhD

June 6, 2012

512-475-3821

ramon.martinez@tdhca.state.tx.us

Ryan Wehner
Swiss Properties, Ltd.
5526 Dyer Street, Suite 203
Dallas, TX 75206

RE: Autumn Creek Apartments
10765 E. Northwest Hwy.
Dallas, TX 75238

HTC File 70071
CMTS ID 906

Dear Mr. Wehner:

Corrective action was not received to address the issues outlined in the monitoring report for Autumn Creek Apartments dated January 12, 2012. The findings for Household income above income limit upon initial occupancy (Unit 227 and 228) and Failure to maintain or provide Annual Eligibility Certification (Building 1- 101, 103, 105, 106, 107, 109, 110, 201, 202, 203, 204, 205, 206, 207, 208 and 209, Building 2-112, 114, 115, 116, 117, 119, 211, 212, 214, 215 and 217, Building 3- 120, 121, 123, 124, 125, 220, 221, 222, 223, 224 and 225, Building 4- 126, 127 and 226, Building 5- 128, 130, 133, 134, 136, 228, 229, 230, 231, 232 and 235, Building 6- 137, 139, 140, 141, 142, 237, 239, 240 and 242) remain outstanding.

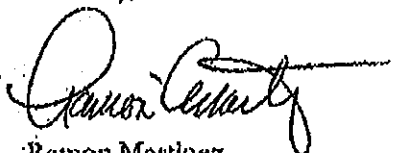
The uncorrected findings of noncompliance have been referred to the Department's Enforcement and Administrative Penalties and Judicial Enforcement Committee with a recommended penalty amounts of \$5000. The Department's legal division will be contacting you regarding an informal conference. Corrective Action can be submitted before the conference in which case the matter will be considered closed.

The Development is in its post 15 Compliance Period. The findings are not reportable to the Internal Revenue Service (IRS) and 8823 forms will not be issued. All findings of noncompliance are scored in the Compliance system as outlined in §60.123 of the Texas Administrative Code.

Autumn Creek Apartments has a current noncompliance score of sixty-one (61). See the attached *Issues of Noncompliance Report* which lists the property's noncompliance findings. Housing Tax Credit properties with a noncompliance score of 30 or more points are considered to be in material noncompliance with the Department. Autumn Creek Apartments is currently in material noncompliance and has been referred to the Department's Administrative Penalties Committee. Owners of these properties are not eligible for additional funding and may be subject to additional fees and sanctions. Title 10 of the Texas Administrative Code §60.102 and §60.123 explains this scoring system.

If you have any questions, please feel free to contact me at (512) 475-3821, toll free in Texas at (800) 643-8204, or email ramon.martinez@tdhca.state.tx.us

Sincerely,

A handwritten signature in black ink, appearing to read "Ramon Martinez", with a long horizontal flourish extending to the right.

Ramon Martinez
Compliance Monitor

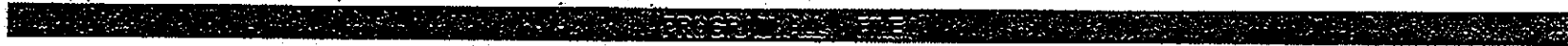
CC: Managing Agent and Property
(Close out letter, Detail Findings and Issues of Noncompliance Reports)

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
COMPLIANCE REVIEW
DETAIL FINDINGS AND CORRECTIVE ACTION
By program

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Property ID # 906
Property Autumn Creek
Address 10765 E. Northwest Hwy., Dallas, TX-75238

Last Desk Review Date:
Last Onsite Review Date: 11/16/11
Program(s): LIHTC File # 70071
Occupancy as of 11/11/11

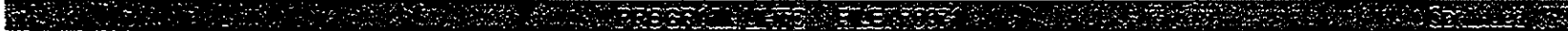


UNIT FINDINGS

Unit # 101	Bldg. # 1	EIN # TX9000998
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2009	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	
Potential Administrative Penalty	\$50 per violation	
Unit # 103	Bldg. # 1	EIN # TX9000998
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	
Potential Administrative Penalty	\$50 per violation	

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
COMPLIANCE REVIEW
DETAIL FINDINGS AND CORRECTIVE ACTION
By program**

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UNIT FINDINGS

Unit # 105 **Bldg. # 1** **BIN # TX9000998**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.
Potential Administrative Penalty \$50 per violation

Unit # 106 **Bldg. # 1** **BIN # TX9000998**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.
Potential Administrative Penalty \$50 per violation

Unit # 107 **Bldg. # 1** **BIN # TX9000998**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2010 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
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UNIT FINDINGS

Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 109 **Bldg. # 1** **BIN # TX9000998**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 110 **Bldg. # 1** **BIN # TX9000998**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
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By program

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UNIT FINDINGS

Unit # 201 **Bldg. # 1** **BIN # TX9000998**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 202 **Bldg. # 1** **BIN # TX9000998**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 203 **Bldg. # 1** **BIN # TX9000998**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 204	Bldg. # 1	BIN # TX9000998
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

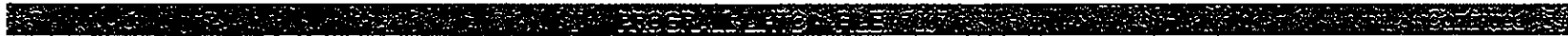
Potential Administrative Penalty \$50 per violation

Unit # 205	Bldg. # 1	BIN # TX9000998
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2009	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

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Unit # 206 **Bldg. # 1** **BIN # TX9000998**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 207 **Bldg. # 1** **BIN # TX9000998**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2010 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 208 **Bldg. # 1** **BIN # TX9000998**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2010 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 209 **Bldg. # 1** **BIN # TX9000998**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2010 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 112 **Bldg. # 2** **BIN # TX9000999**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2010 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

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Unit # 114 **Bldg. # 2** **BIN # TX9000999**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not **Correction Date**
Reportable to IRS

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative \$50 per violation
Penalty

Unit # 115 **Bldg. # 2** **BIN # TX9000999**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not **Correction Date**
Reportable to IRS

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative \$50 per violation
Penalty

Unit # 116 **Bldg. # 2** **BIN # TX9000999**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not **Correction Date**
Reportable to IRS

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 117 **Bldg. # 2** **BIN # TX9000999**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 119 **Bldg. # 2** **BIN # TX9000999**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

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Unit # 211 **Bldg. # 2** **BIN # TX9000999**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2010 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 212 **Bldg. # 2** **BIN # TX9000999**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 214 **Bldg. # 2** **BIN # TX9000999**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 215 **Bldg. # 2** **BIN # TX9000999**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

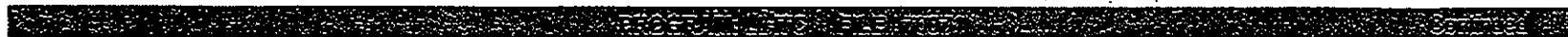
Potential Administrative Penalty \$50 per violation

Unit # 217 **Bldg. # 2** **BIN # TX9000999**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

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Unit # 120 **Bldg. # 3** **BIN # TX9001000**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 121 **Bldg. # 3** **BIN # TX9001000**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 123 **Bldg. # 3** **BIN # TX9001000**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2010 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 124 **Bldg. # 3** **BIN # TX9001000**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 125 **Bldg. # 3** **BIN # TX9001000**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

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Unit # 220	Bldg. # 3	BIN # TX9001000	
Finding	Failure to maintain or provide Annual Eligibility Certification		
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS	Correction Date
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.		
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.		
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.		
Potential Administrative Penalty	\$50 per violation		

Unit # 221	Bldg. # 3	BIN # TX9001000	
Finding	Failure to maintain or provide Annual Eligibility Certification		
Noncompliance Date	12/31/2010	Current Status Uncorrected - Not Reportable to IRS	Correction Date
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.		
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.		
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.		
Potential Administrative Penalty	\$50 per violation		

Unit # 222	Bldg. # 3	BIN # TX9001000	
Finding	Failure to maintain or provide Annual Eligibility Certification		
Noncompliance Date	12/31/2009	Current Status Uncorrected - Not Reportable to IRS	Correction Date
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.		
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.		
Supplemental	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form		

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 224	Bldg. # 3	BIN # TX9001000
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

Unit # 225	Bldg. # 3	BIN # TX9001000
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

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Unit # 126 **Bldg. # 4** **BIN # TX9001001**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2010 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 127 **Bldg. # 4** **BIN # TX9001001**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 226 **Bldg. # 4** **BIN # TX9001001**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2009 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 227	Bldg. # 4	BIN # TX9001001
Finding	Household income above income limit upon initial occupancy	
Noncompliance Date	11/16/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	The Department was unable to determine if the household was income eligible upon initial occupancy. No file was available to review the day of the onsite visit. In accordance with the Land Use Restriction Agreement (LURA) 100% of the units must be leased to households whose income is at or below the 80% AML.	
Corrective Action	When the unit becomes available, occupy the unit with an eligible household and provide copies of the: application, necessary verifications, Income Certification and first page and signatory page of the lease.	
Supplemental Corrective Action	Occupy the unit with an income eligible household. Submit application, all income and asset verifications, Income Certification, first and signature page of the lease to the Department for review.	

Potential Administrative Penalty \$1000 per violation

Unit # 128	Bldg. # 5	BIN # TX9001002
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2009	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

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Unit # 130	Bldg. # 5	BIN # TX9001002
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

Unit # 133	Bldg. # 5	BIN # TX9001002
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

Unit # 134	Bldg. # 5	BIN # TX9001002
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2010	Current Status Uncorrected - Not Reportable to IRS
Reason	100% HTC Projects must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	

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Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. Do not back date the form.

Potential Administrative Penalty \$50 per violation

Unit # 136 **Bldg. # 5** **BIN # TX9001002**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 228 **Bldg. # 5** **BIN # TX9001002**
Finding Household income above income limit upon initial occupancy
Noncompliance Date 04/09/2010 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason The Department was unable to determine if the household was income eligible upon initial occupancy. Each adult household members disclosed on the rental application to be employed. Employment was verified for one adult and not the other. The second adult signed a Zero Income certification form. Termination of employment was not verified.
Corrective Action When the unit becomes available, occupy the unit with an eligible household and provide copies of the: application, necessary verifications, Income Certification and first page and signatory page of the lease.
Supplemental Corrective Action Initially certify the household under current circumstances. If eligible, submit application, all income and asset verifications, Income Certicator, first and signature page of the lease to the Department for review, otherwise follow the above Corrective Action.

Potential Administrative Penalty \$1000 per violation

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Unit # 228 **Bldg. # 5** **BIN # TX9001002**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not **Correction Date**
Reportable to IRS

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative \$50 per violation
Penalty

Unit # 229 **Bldg. # 5** **BIN # TX9001002**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not **Correction Date**
Reportable to IRS

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative \$50 per violation
Penalty

Unit # 230 **Bldg. # 5** **BIN # TX9001002**

Finding Failure to maintain or provide Annual Eligibility Certification

Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not **Correction Date**
Reportable to IRS

Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.

Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

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UNIT FINDINGS

Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 231	Bldg. # 5	BIN # TX9001002
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2009	Current Status Uncorrected - Not Reportable to IRS
		Correction Date

Reason: Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 232	Bldg. # 5	BIN # TX9001002
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
		Correction Date

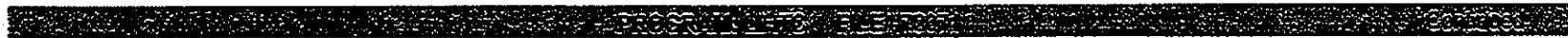
Reason: Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.

Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

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Unit # 235	Bldg. # 5	BIN # TX9001002
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

Unit # 137	Bldg. # 6	BIN # TX9001003
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

Unit # 139	Bldg. # 6	BIN # TX9001003
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2009	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 140	Bldg. # 6	BIN # TX9001003
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2011	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

Unit # 141	Bldg. # 6	BIN # TX9001003
Finding	Failure to maintain or provide Annual Eligibility Certification	
Noncompliance Date	12/31/2009	Current Status Uncorrected - Not Reportable to IRS
Reason	Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.	
Corrective Action	Execute the Annual Eligibility Certification and submit to the Department for review.	
Supplemental Corrective Action	Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.	

Potential Administrative Penalty \$50 per violation

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UNIT FINDINGS

Unit # 142 **Bldg. # 6** **BIN # TX9001003**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 237 **Bldg. # 6** **BIN # TX9001003**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 239 **Bldg. # 6** **BIN # TX9001003**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2011 **Current Status** Uncorrected - Not Reportable to IRS **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2011 is missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Have the household complete an AEC form and submit to the Department for review. The date the household signs the form

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Corrective Action will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 240 **Bldg. # 6** **BIN # TX9001003**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2009 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2009, 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation

Unit # 242 **Bldg. # 6** **BIN # TX9001003**
Finding Failure to maintain or provide Annual Eligibility Certification
Noncompliance Date 12/31/2010 **Current Status Uncorrected - Not Reportable to IRS** **Correction Date**
Reason Projects that are 100% Low Income Housing Tax Credit must collect an Annual Eligibility Certification (AEC) form from each household once a calendar year even if the Project completes a full recertification. The AEC for 2010 and 2011 are missing in the household file.
Corrective Action Execute the Annual Eligibility Certification and submit to the Department for review.
Supplemental Corrective Action Have the household complete an AEC form and submit to the Department for review. The date the household signs the form will be the Effective Date at the top of the form and the date to be entered in CMTS.

Potential Administrative Penalty \$50 per violation



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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January 3, 2012

(512) 475-3821
raman.martinez@tdhca.state.tx.us

Ryan Wehner
Swiss Properties, Ltd.
10765 E. Northwest Hwy
Dallas, TX 75238

RE: Autumn Creek
10765 E. Northwest Hwy
Dallas, TX 75238

HTC File : 70071
CMTS ID: 906

Dear Mr. Wehner:

The Texas Department of Housing and Community Affairs has completed a review of Autumn Creek. The review was performed to determine if the property is in compliance with the requirements of the Housing Tax Credit program.

The attached Monitoring Report and Findings Report have been prepared to explain the Department's findings of noncompliance and to detail the required corrective action. Please supply all requested documentation no later than *April 2, 2012*. The Department will then determine whether or not the submitted materials sufficiently correct the noncompliance. If it is not possible to provide the requested documentation by the corrective action deadline, please submit a corrective action plan detailing how and when the issues identified will be resolved.

Failure to respond to the corrective action deadline will result in a referral to the Department's Administrative Penalties Committee with recommended minimum penalty amount noted on the Detail Findings and Corrective Action report. Please see 10TAC §60.309 for a listing of specific penalty amounts.

Section 42 of the Internal Revenue Code requires the Department to report all noncompliance under the LIHTC program to the Internal Revenue Service, even if noncompliance is corrected. Form(s) 8823 will be mailed to the IRS, with a copy to the owner after the corrective action deadline.

A Uniform Physical Condition Standards inspection will be conducted by the Department in conjunction with this monitoring review. A report of the inspection will be supplied to, and reviewed by, the Department. The development owner will then receive a letter describing any findings generated and a copy of the inspection reports.

Autumn Creek has a current noncompliance score of twenty-two (22) for the Housing Tax Credit program. *Please be advised that this does not include any noncompliance found during this review.* Housing Tax Credit Properties with a noncompliance score of 30 or more are considered to be in material noncompliance with the Texas Department of Housing and Community Affairs.

Please extend our thanks to your onsite staff for their hospitality and cooperation extended during our monitoring visit. If you have any questions about this monitoring report, please contact me toll free in Texas at (800) 643-8204, directly at 512-475-3821, or email: ramon.martinez@tdhca.state.tx.us.

Sincerely,



Ramon Martinez
Compliance Monitor

Reviewed By,



Patricia Murphy
Chief of Compliance and Asset Oversight

Monitoring Report
Autumn Creek
HTC File: 70071
CMIS ID: 906

The Texas Department of Housing and Community Affairs completed an on-site monitoring review of Autumn Creek on November 16, 2011. Ramon Martinez and Virginia Vasterling represented the Department. Madeline Delgado represented the property.

The review resulted in 3 findings of noncompliance:

- Household income above income limit upon initial occupancy: Unit 227 and 228.
- Failure to maintain or provide Annual Eligibility Certification: Building 1- 101, 103, 105, 106, 107, 109, 110, 201, 202, 203, 204, 205, 206, 207, 208 and 209. Building 2: 112, 114, 115, 116, 117, 119, 211, 212, 214, 215 and 217. Building 3- 120, 121, 123, 124, 125, 220, 221, 222, 223, 224 and 225. Building 4- 126, 127 and 226. Building 5- 128, 130, 133, 134, 136, 228, 229, 230, 231, 232 and 235. Building 6- 137, 139, 140, 141, 142, 237, 239, 240 and 242.

During the exit interview, the following Technical Assistance was provided:

- **Utility Allowance Effective Date**- Contact the local housing authority on a quarterly basis to confirm any changes in utility allowance schedules. Changes in utility allowances must be implemented immediately, but must be implemented for rent due 90 days after the change. Also update household leases and the Unit Status Report to reflect new utility allowances and rents.
- **Training**. Management staff is encouraged to attend compliance training. HTC training is offered through the Texas Apartment Association at www.taa.org. TDHCA also offers a basic eligibility course each month at our Austin headquarters on the first Thursday of every month. Information can be found at TDHCA's website at www.tdhca.state.tx.us/pmcomp/COMPtrain.html.
- **Reference material**- Forms, rules and manuals can be found on the Agency's website to assist owner managed developments maintain compliance throughout the project's affordability period in the Low Income Housing Tax Credit program. <http://www.tdhca.state.tx.us/pmcomp/index.htm>
- **Screening tools**- The Development is utilizing the Texas Apartment Association application to screen applicants but this alone is not sufficient in screening for income and assets. It is encouraged that the Development utilizes a supplemental application to screen for income and assets.

To determine if the property is in compliance the following steps were completed:

- A review of the Land Use Restriction Agreement,
- Analysis of the Unit Status Report (USR) dated November 11, 2011,
- A review of the entrance interview and other documents submitted,
- A limited accessibility inspection,
- An exit interview,
- An in depth review of 9 resident files listed below:

Files reviewed:

1-108	1-201	2-111	2-219	3-122
3-223	5-228	6-140	6-242	

Attachment 2

Additional tenant file guidance

File Organization: When organizing tenant files, please ensure that they are in the following order: (a) tenant application, (b) verifications of all sources of income and assets, (c) tenant income certification, (d) tenant lease and lease addenda, (e) annual certification (if applicable) and (f) additional notes (if applicable).

A complete tenant file will include copies of the tenant application, verifications of all sources of income and assets disclosed on the application, Income Certification Form, lease, lease addendum and annual eligibility certification (if applicable). These forms are cross referenced by TDHCA staff during a tenant file review and it is imperative for you to include all parts in every file and ensure that all blanks have been completed or marked as non-applicable. Failure to include verifications of all sources of income and assets will delay review and cause further scrutiny of the file. See below for details regarding each of these forms.

FORMS: All TDHCA forms are available online at <http://www.tdhca.state.tx.us/pmcomp/forms.htm>.

1. **Intake Application** – A TDHCA example is online but there is no required format for an application except that it must:
 - a) Screen for all sources of income and assets;
 - b) Include all members; and
 - c) Be completed by the household, not the property manager (unless there are extenuating circumstances).

Have the household complete the application and sign Tenant Release and Consent forms. Review all applications for incomplete information. Ensure that all blanks are addressed, including those sections of the application that may not apply to the household by use of “none” or “n/a”, and ensure that all adult household members signed the application.

For files where an application has already been completed but did not include screening for income and assets, you must have the household complete a new application that includes the appropriate screening.

2. **Determination of household composition** – Determine the number of household members and select the appropriate income limit from <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm> based on the household size. If the household qualifies, continue the steps below. If the household does not qualify, submit the lease expiration date to the Department, then occupy the unit with a qualified household as soon as it becomes available.
3. **Tenant release & consent form** – This form must be signed by each adult household member so that you can verify income & assets;
4. **Employment & Asset Verification forms** – Every source of income and asset must be documented for each adult household member based on the information disclosed on the application. First hand verifications such as pay checks, bank statements and social security award letters are acceptable or you can collect third party verifications received via fax or mail. If you choose to collect first hand verifications, ensure that you consistently use a specified number of consecutive check stubs as defined in your management plan and use 6 consecutive months of bank statements. If you choose to complete third party verifications:
 1. **Employment Verification Form** – Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You must ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;
 2. **Asset Certification Form (if tenant has under \$5,000 of assets)** – If a tenant has assets in the amount of \$5,000 or less, he or she may annually sign an “Under \$5,000 Asset Certification” form in lieu of the asset verification form. If the tenant has over \$5,000 assets, he or she must complete Asset Verification Forms as described below;
 3. **Asset Verification Form** – Part 1 of the form will be completed by you & signed by the tenant. Part 2 of the form will be completed by the banking institution. Again, the tenant must not hand deliver the verification. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;
 4. **Oral Verifications** – An oral verification is only acceptable for clarifying discrepancies. Such verifications must include your name, the date, the name of the person with whom you spoke & your signature;
 5. **Social Security Verification** – If there is social security income, you must verify it. If you have a tenant release form, the following website can be used to request a social security award letter: <https://secure.ssa.gov/apps6z/BEVE/main.html>;
 6. **Child Support Income** – There is no form for this, but if there is child support income, you must verify it. A copy of a court order is one example of an acceptable type of child support verification.

5. **Income Certification form** – Upon verification of all income and asset sources disclosed on the application, the next step is to annualize the sources on the Income Certification Form, add them together and compare to the applicable income limit for household size which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. Any income derived from assets must be included and the form must include (and be signed by) each adult household member;
6. **Lease** – The lease must conform with TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. When calculating the rent, ensure that the tenant's rent plus the utility allowance plus any housing subsidies are below the maximum limits set by TDHCA. 10 TEX. ADMIN. CODE. §60.110 prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, HTC developments are prohibited from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. The Texas Apartment Association has an affordable lease addendum that has incorporated this required language and may be used if you are a TAA member. If you are not a member, you will need to prepare an addendum.
7. **Notes to the File** – File notes are not required, but should be included if there are unusual aspects to the file. As a hypothetical, applications should be completed by a prospective tenant, but there is an applicant who is handicapped and cannot write, so you helped them to complete the application. Make a note to the file, then sign & date the document.
8. **Annual Eligibility Certification** – This form must be completed each year for any tenants that will occupy the unit for more than one year. It is recommended that you add this step to your lease renewal process.

For forms and verifications: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>

For income and rent limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>

For eligibility FAQ: <http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm#EligibilitySection>

1d

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
JANUARY 17, 2013

Presentation, Discussion, and Possible Action to approve a Housing Tax Credit Amendment for 4415 Perry (File No. 10084).

RECOMMENDED ACTION

WHEREAS, 4415 Perry received an award of 9% Housing Tax Credits in 2010 to construct 160 Single Room Occupancy (SRO) units under the Nonprofit Set-Aside;

WHEREAS, New Hope Housing, the development owner, met the eligibility requirements at the time of the application and intended to continue to meet such requirements.

WHEREAS, New Hope Housing has indicated that the installation of traditional ceiling fans would violate the fire code and, therefore, is requesting approval to amend their application and obtain a waiver of the requirement to install “Energy-Star or equivalently rated ceiling fans in living areas and bedrooms”;

WHEREAS, the development owner has requested a waiver of the amendment fee and, pursuant to §50.20(1)(3), 2010 Qualified Allocation Plan, the Board may waive the fee for good cause;

NOW, therefore, it is hereby

RESOLVED, that staff’s recommendation to approve the amendment, waive this eligibility criteria, and waive the amendment fee be and is hereby approved as presented at this meeting, provided that the applicant shall propose an alternative to ceiling fans and staff is given authority to approve an acceptable alternative.

BACKGROUND

New Hope Housing, Inc., the development owner, is seeking approval to amend the eligibility requirement to install “Energy-Star or equivalently rated ceiling fans in living areas and bedrooms”. The request is necessary because the installation of a ceiling fan in the 4415 Perry units would result in a fire code violation by obstructing the fire sprinkler pendant.

New Hope Housing develops and operates Single Room Occupancy (SRO) housing. The standard unit square footage of each unit averages between 220-240. This unit size is significantly less than the 600 square footage that the Department requires for an efficiency unit.

As an alternative to the ceiling fan and to promote equivalent ventilation, New Hope Housing installed PTAC units in each apartment. The smallest PTAC unit is essentially larger than the recommended size required for each SRO unit. The PTAC units can be operated to heat, cool or

circulate air on “fan only” mode. In addition, 4415 Perry is “All Bills Paid” development so the installation of these PTAC units will not affect the tenants financially

This Development Owner was also involved with another development, 2424 Sakowitz (File No. 08232), where the requirement for the ceiling fans was removed based on the same information. Since the same circumstances are now present at 4415 Perry, New Hope Housing respectfully requests the same accommodation and approval of this amendment request. Furthermore, the ceiling fan requirement was also waived for the Owner during the 2011 cycle with the Rittenhouse development (File No. 11150). This was requested during the application process and therefore, approved as a waiver. The 2011 QAP allowed a waiver of the threshold requirement under §49.4(c)(14).

Although the 2010 QAP did not allow for a waiver of eligibility requirements, the 2012 and 2013 QAPs allow the Executive Director to approve deviations for good cause. Moreover due to the reoccurring nature of this issue with SRO developments, the 2013 QAP expressly exempts SRO developments from this eligibility requirement.

Staff recommends approval of the amendment and waiver request subject to possible identification of an acceptable alternative to ceiling fans.

BOARD ACTION REQUEST
MULTIFAMILY FINANCE
JANUARY 17, 2012

Presentation, Discussion, and Possible Action Regarding a Housing Tax Credit Amendment for Parkview Place (File No. 12314).

RECOMMENDED ACTION

WHEREAS, Parkview Place received an award of 9% Housing Tax Credits (HTC) in 2012 to acquire and rehabilitate a development of small units for elderly tenants; and,

WHEREAS, the 2012 QAP, §50.4(d)(16)(I), makes it mandatory for all developments to have at least one ceiling fan per unit; and,

WHEREAS, the City of Huntsville Fire Department will not allow ceiling fans in the units because of possible interference with fire sprinklers; and,

WHEREAS, §50.4(d)(16)(L) makes it mandatory for all units to have central air-conditioning except in SRO units (of Supportive Housing Developments), in which Packaged Terminal Air Conditioners (PTACs) can fulfill the requirement; and,

WHEREAS, the units are not in a Supportive Housing Development but were in a development designed to use PTACs, which were the original heating and air-conditioning equipment installed and which remain in use; and,

WHEREAS, the small sizes and low ceiling heights of the units makes the units similar to, although legally distinct from, Supportive Housing Units, rendering the use of air-conditioners other than PTACs impracticable or undesirable; and,

WHEREAS, the development architect stated that air-conditioning units other than PTACs are unavailable with sufficiently small operating capacities to be efficient in cooling the subject units; and,

WHEREAS, the Development Owner now requests waivers of the requirements to have ceiling fans and conventional central air-conditioning systems;

NOW, therefore, it is hereby,

RESOLVED, that staff's recommendation to approve the waivers requested for Parkview Place, be and is hereby approved as presented to this meeting, provided that the applicant shall propose an alternative to ceiling fans and staff is given authority to approve an acceptable alternative.

BACKGROUND

The development consists of a four-story building having 11 efficiency units of 409 square feet and 30 one-bedroom units of 534 square feet. As stated by the development architect, the development was built to use PTACs, is currently using PTACs, and the small sizes of the units makes them similar to (although legally distinct from) Supportive Housing units in that the use of PTACs is optimal because ducted air-conditioning systems are not available in less than a 1.5 ton capacity, which is too large to be efficient in the subject units. Excess capacity can actually exacerbate moisture problems. Regarding the ceiling fans, the architect stated that the local fire department required all ceiling fans to be removed prior to the current development proposal and will not allow the reinstallation of this equipment because it might impede the effective functioning of the fire sprinkler system.

The request deals with requirements prescribed in the 2012 QAP under the heading, Mandatory Development Amenities. The applicant employed an experienced consultant. The applicant submitted its request for these waivers on November 1, 2012, supported by statements from the architect. The conditions were known prior to this and the waivers could have been requested of the Executive Director prior to March 1, 2012, pursuant to 10 TAC §50.4(d)(16). However, since no such timely request was made, these waiver requests are made of the Board pursuant to 10 TAC §50.16.

Staff recommends approval of the waivers subject to the identification of an acceptable alternative to ceiling fans.

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 17, 2013

Presentation, Discussion, and Possible Action Regarding a Housing Tax Credit Amendment.

RECOMMENDED ACTION

WHEREAS, Eastside Crossings (#12152) received an award of 9% Housing Tax Credits (HTC) in 2012 to develop a group of lots in a subdivision reported to contain 16.6 acres of land and proposed to be improved with 20 residential buildings containing 188 multifamily units having 185,322 square feet of net rentable area (NRA), and two non-residential buildings; and,

WHEREAS, HUD, as a party to the project's financing, requested an increase in the sizes of various unit types, thereby increasing the NRA from 185,322 square feet to 191,138 square feet; and,

WHEREAS, staff found discrepancies in the application requiring confirmation of the identities of the lots in the project, thereby establishing the number of lots included as 69, said lots having a land area of 15.56 acres instead of 16.6 acres as originally reported; and,

WHEREAS, these revisions increased the density of the development by 6.7%; and,

WHEREAS, Board approval is required for a modification of the residential density of the development of at least five percent (Texas Government Code, §2306.6712(d)(6)); and,

WHEREAS, staff found that neither the increase in net rentable area nor density materially altered the development in a negative manner and would not have affected the amount of tax credits awarded for the development;

NOW, therefore, it is hereby,

RESOLVED, that staff's recommendation to approve the amendment to Eastside Crossings, be and it hereby is approved as presented to this meeting.

BACKGROUND

Although HUD required increases in various unit sizes that increased the total NRA, the number of residential and nonresidential buildings, units and unit mix remained unchanged. The discrepancy in the application's statement of the land area was caused by the applicant transferring the land area stated in the application site plan to the Specifications and Amenities

exhibit without subtracting the area of 10 previously developed residential lots which were interspersed among the lots that composed the development site but were not proposed to be included in the tax credit development. Conversely, a single lot, Lot 19 in Block 36, was erroneously omitted from the legal descriptions of the project in the title documents and lease, while the same lot was correctly included in the legal descriptions in the zoning documents. Resolving these changes and corrections increased the NRA by 3.1% but decreased the reported land area by 6.3%.

Staff acknowledges the applicant's request that the development be underwritten to include the 30% increase in eligible basis. Staff determined that the development is eligible for this adjustment and will consider implementing the increase when the cost certification is reviewed, if additional basis is required to support the amount of the tax credit award.

Staff recommends approval of the amendment as requested, without penalty, subject to findings by the Real Estate Analysis Division that are consistent with such approval.

1e

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 17, 2013

Presentation, Discussion, and Possible Approval of Authorization to release a Notice of Funding Availability (NOFA) for Fiscal Year 2013 Emergency Solutions Grants Program (ESG)

RECOMMENDED ACTION

WHEREAS, ESG funds are awarded to the State of Texas by the U.S. Department of Housing and Urban Development (HUD);

WHEREAS, the Texas Legislature designated the Texas Department of Housing and Community Affairs to administer the ESG pursuant to §2306.094, Texas Government Code;

WHEREAS, eligible activities under the 2013 ESG grant were approved by the Board as part of the 2013 One Year Action Plan (OYAP);

WHEREAS, ESG funds will be made available to eligible applicants to carry out the purpose of the ESG based on a statewide competitive NOFA process;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director be granted the authority to release a Notice of Funding Availability for Fiscal Year 2013 ESG, and with the condition that all commitments made are subsequently presented to the Board for ratification.

BACKGROUND

The ESG Program focuses on assisting people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness and also assists persons who are at-risk of homelessness. ESG funds can be utilized for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless; the payment of certain expenses related to operating emergency shelters; essential services related to emergency shelters and street outreach for the homeless; and homelessness prevention and rapid re-housing assistance.

Allocations

The NOFA will reflect an allocation of funds as follows:

- ESG funds will be reserved for each of the HUD-designated 2013 Continuum of Care (CoC) Regions using a combination of the region's proportionate share of the state's population of persons in poverty and the region's proportionate share of the state's population of homeless persons. This is a departure from prior years in which the reserving of funds (or regional allocation) utilized the Uniform State Service regions. In an effort to ensure greater synchronicity with state and HUD homeless efforts, the CoC regions are now proposed to be utilized.
- Eligible Applications will be ranked by score within the CoC region in which they are geographically located. ESG funds reserved for each region will be obligated starting with the Applicant with the highest score until all regional funds have been awarded.
- Within each CoC region, Applicants may request no less than \$125,000 unless the initial amount available in the CoC region is less than \$125,000. In those cases, Applicants may request an amount up to the available allocation for that region. The purpose of this minimum

is twofold: first, to ensure that administrative funds at the state and local level are used more efficiently through the oversight of fewer contracts, and second to more fully encourage local collaboration within the CoC.

- Remaining funds from each region will be pooled together and utilized to fully fund Applications that were partially funded during the first distribution, in an effort to fully fund their request.
- Any funds still remaining will then be pooled together and distributed to unfunded eligible Applications in rank order by score within the region with the greatest proportional share of the state's homeless population.
- As a final distribution option, if there are not enough eligible Applicants to be funded in a region, and there are still funds remaining, the Department may award recommended Applicants in that region with an award amount in excess of the funds requested and above the award amount limits identified in the NOFA.

If, subsequent to announcement of awards made under the FY2013 NOFA, additional 2013 funds become available either through a supplemental appropriation or recapture, or if prior year funds become available, the additional funding will be used to make additional awards to previously funded ESG agencies that meet all program requirements. The minimum amount of an additional award will be \$25,000.

1f

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 17, 2013

Presentation, Discussion, and Possible Action on unexpended Program Year (PY) 2011 Emergency Shelter Grants Program (ESGP) funds.

RECOMMENDED ACTION

WHEREAS, the Department deobligated \$311,036 in unexpended funds awarded to ESGP Subgrantees on June 30, 2011;

WHEREAS, Federal regulations require that these funds be fully expended by June 30, 2013, and

WHEREAS, Service of the Emergency Aid Resource Center for the Homeless (SEARCH) and Youth and Family Alliance (dba Lifeworks) met the expenditure and performance criteria described below;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director is authorized to make commitments of these PY 2011 ESGP funds to SEARCH and Youth and Family Alliance (dba Lifeworks).

BACKGROUND

On November 10, 2010, the Department released a Notice of Funding Availability (NOFA) notifying prospective applicants of the availability of ESGP funds for Program Year 2011. The Department received 104 applications from the 13 Service Regions. The available funds were distributed to each region based on each region's need. The Department awarded \$4,916,877 through 44 one-year contracts with a term of September 1, 2011 through August 31, 2012.

Department staff wishes to award the unexpended funds that have been deobligated to existing homeless services Subgrantees that have the greatest capacity to expend the funds within a short period of time. During the PY 2011 ESGP award period, SEARCH received a contract for \$400,000. By the end of the contract they had expended 98% of their award with acceptable program performance. Youth and Family Alliance (dba Lifeworks) received a contract for \$100,000 and by the end of the contract they had expended 100% of their award with acceptable program performance. By this action, SEARCH will receive a contract for \$182,284 and Youth and Family Alliance (dba Lifeworks) will receive a contract for \$128,752 with a term of January 1, 2013 through April 30, 2013.

The Department used the following criteria to select the organizations for these awards:

- Subrecipients who had successfully expended 2009-2011 Homelessness Prevention and Rapid Re-Housing Program (HPRP) and 2011 ESGP First Allocation funds and met performance targets;
- Subrecipients who through previous performance evidenced sufficient program experience, staff capacity, and community need (determined by poverty population) to be able to accept an award large enough for efficient administration;
- Subrecipients who through previous performance evidenced sufficient ability to expend the funds on allowable activities and within the required time frame;
- Subrecipients who are currently implementing 2012 Emergency Solutions Grant (ESG) funds so that the Department has an ongoing contractual relationship with them; and
- Subrecipients who have been monitored in the past with no significant findings.

Applying these criterion, Department staff narrowed the list of eligible organizations to SEARCH, which serves the Houston area, and Youth and Family Alliance (dba Lifeworks), which serves the Austin area, and Family Violence Prevention Services, Inc., which serves the San Antonio area. Family Violence Prevention Services, Inc. was not able to accept an award large enough for efficient administration, and the two others were able to accept the entirety of the funds.

Department staff proposes to utilize this model for selecting organizations for awards whenever, subsequent to announcement of awards made under given FY NOFA, additional funds from that NOFA become available, either through a supplemental appropriation or recapture.

1g

BOARD ACTION REQUEST
OFFICE OF COLONIA INITIATIVES
JANUARY 17, 2013

Presentation, Discussion, and Possible Action on Colonia Self Help Center Program Award to Cameron County to serve both Cameron and Willacy counties in accordance with Texas Government Code §2306.582 through Community Development Block Grant (CDBG) Funding.

RECOMMENDED ACTION

WHEREAS, the award will make available CDBG funding to Cameron County to serve Cameron and Willacy counties with the Colonia Self Help Center Program;

NOW, therefore, it is hereby

RESOLVED, that Cameron County is hereby awarded CDBG funding under the Colonia Self Help Center Program in the amount of \$1,000,000 from Program Years (PY) 2012, 2011 and deobligated funds from previous years and such awards shall be made not earlier than 30 days after the Colonia Resident Advisory Committee meeting at which the award was considered.

BACKGROUND

Colonia Self-Help Centers Program

The Colonia Self-Help Center Program (SHC) was created by Acts of the 74th Legislature of the State of Texas in 1995. The purpose of a Colonia SHC is 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 designated colonia service area or in another area that the Texas Department of Housing and Community Affairs (TDHCA) has determined is suitable. Pursuant to Subchapter Z of Chapter 2306 of the Texas Government Code, TDHCA has established Colonia SHCs in Cameron/Willacy, El Paso, Hidalgo, Starr and Webb counties. If TDHCA determines it necessary and appropriate, the statute allows for Colonia SHCs to be established in any other county if the county is designated as an economically distressed area under Chapter 17 of the Texas Water Code. In 2001, the Department opened two additional centers in Maverick and Val Verde counties to address the needs of colonias in those counties.

TDHCA will allocate no more than \$1,000,000 per Colonia SHC contract in accordance with the Program Rules. If there are insufficient funds available from any specific year to fully fund a proposal, the affected county may accept the amount available at that time and then wait for the remainder to be funded utilizing the next year's funding allocation.

According to statute, it is the responsibility of TDHCA to designate a geographic area for the services provided by each SHC. In consultation with the Colonia Resident Advisory Committee (C-RAC) and the county, TDHCA designates five colonias in each service area to receive concentrated attention from that Colonia SHC. The purpose of the C-RAC is to advise the TDHCA Governing Board regarding the needs of the colonia residents, programs that are appropriate and effective for Colonia SHCs and activities that may be undertaken to better serve colonia residents. A county submitting a funding proposal is required to conduct and submit a needs assessment for each colonia designated to receive concentrated attention in the proposal. Based on the results of the assessments, the county must develop a scope of work to be conducted for each colonia in accordance with the eligible activities as defined in statute and the Program Rules. A scope of work was outlined in a funding proposal and these proposals were formally presented to C-RAC on December 4, 2012, to receive comments and suggestions in fulfillment of C-RAC's obligation to the Department's Governing Board. Section 2306.585(b) of the Texas Government Code requires a Colonia Self Help Center contract be awarded no sooner than 30 days after a C-RAC meeting is held.

Colonia SHC Funding

The Colonia SHCs are funded through a 2.5% set-aside (approximately \$1.6 million per year) of the annual Texas Community Development Block Grant (TxCDBG) non-entitlement allocation to the state of Texas. The management of TxCDBG funds is dictated through a Memorandum of Understanding (MOU) between the Texas Department of Agriculture (TDA), which receives the allocation from the US Department of Housing and Urban Development (HUD), and TDHCA to implement the Colonia SHC Program. The Colonia SHC contracts are four-year contracts as specified by statute; however, if contractor localities are able to complete all contractual requirements before the expiration of the four-year contract period, they may submit a proposal for a new contract. Proposals for new funding will be placed on a first-come, first-served waiting list until there is sufficient funding available.

Colonia SHC Award Descriptions

Cameron/Willacy County

This will be Cameron/Willacy County's fifth Colonia SHC contract.

Contractor: Cameron County

Contact: The Honorable Carlos Cascos, County Judge

Purpose of Contract: The counties of Cameron and Willacy shall provide housing and community development to the following colonias: Laguna Heights, Cameron Park, La Paloma, Sunny Skies and La Sara. The County proposes to do the following housing and community development activities:

Performance Activity	Proposed	Budget
Public Service		\$ 8,800
<i>Homeownership classes</i>	22	\$ 3,300
<i>Tool Lending library</i>	1 library	\$ 5,500
Residential Rehabilitation		\$ 110,500
<i>Residential Rehabilitation</i>	9 homes	\$ 110,500
Administration		\$ 50,000
Not Feasible for Rehabilitation (Reconstruction)	22 homes	\$ 808,700
Other 105(a)(15) New Construction	4 homes	\$ 22,000
Total		\$ 1,000,000

The Colonia SHC contract will benefit an estimated 14,556 persons, of which 11,994 or 82% are of low-to-moderate income.

1h

BOARD ACTION REQUEST
OFFICE OF COLONIA INITIATIVES
JANUARY 17, 2013

Presentation, Discussion, and Possible Approval of a Memorandum of Understanding (MOU) between the Texas Department of Housing and Community Affairs and the Texas Department of Agriculture regarding the management of Community Development Block Grant (CDBG) funds for the Colonia Self-Help Center (CSHC) Program.

RECOMMENDED ACTION

WHEREAS, the MOU will make available federal CDBG funds from TDA to TDHCA for the administration, operation, and program activities of the CSHC Program;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director is hereby authorized to execute an MOU between TDHCA and TDA regarding the management of CDBG funds for the CSHC Program.

BACKGROUND

The 82nd Texas Legislature transferred the functions of non-disaster related CDBG funding and activities from the Texas Department of Rural Affairs (TDRA) to the TDA.

In accordance with a note referenced in Texas Government Code, §487.351 and §2.15 of Acts 2001, Chapter 1367 (77th Legislative Session), the purpose of this MOU is to transfer federal Community Development Block Grant (CDBG) funds from TDA to TDHCA for the administration and operation of the CSHC Program pursuant to the provisions of Rider 6 to TDRA's appropriations and as authorized pursuant to Texas Government Code, Subchapter Z and Rider 7 to TDHCA's appropriation for the 2012-2013 biennium.

Changes to the proposed MOU compared to the previous MOU update any references from TDRA to TDA and also update the General Appropriation Act, Period of Performance and other minor items.

Upon approval of the Board, the MOU will be fully executed by the Executive Director of TDHCA and the Deputy Commissioner of TDA.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
TEXAS DEPARTMENT OF AGRICULTURE
AND
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

SECTION I. PARTIES

This Memorandum of Understanding hereinafter referred to as “Memorandum,” is made and entered into between the Texas Department of Agriculture, hereinafter referred to as “TDA,” an agency of the State of Texas, and the Texas Department of Housing and Community Affairs, hereinafter referred to as “TDHCA,” an agency of the State of Texas.

SECTION II. PURPOSE

In accordance with a note to Section 487.351 of the Texas Government Code, the purpose of this Memorandum is to make available federal Community Development Block Grant (CDBG) funds from TDA to TDHCA for the administration, operation, and program activities of the Colonia Self-Help Centers (SHC) and to partially fund TDHCA’s border field offices pursuant to the provisions of Rider 7 of TDHCA’s appropriation and the Rider 33 of TDA’s appropriation for the 2012-2013 biennium under the General Appropriations Act of the 82nd Legislature, Regular Session, and authorized pursuant to Subchapter Z of Chapter 2306, Texas Government Code.

SECTION III. PERIOD OF PERFORMANCE

This Memorandum shall begin on February 1, 2013 and shall terminate on January 31, 2015.

SECTION IV. TDHCA PERFORMANCE

TDHCA shall allocate the funds received under this Memorandum to each county in which a Colonia SHC, designated in accordance with Section 2306.583, Texas Government Code, is located. TDHCA shall then ensure that each county receiving funds under this MOU enters into an agreement with a nonprofit organization for the operation of the Colonia SHC within its jurisdiction consistent with program rules and regulations. TDHCA oversight of the program administration shall ensure that all activities are carried out in accordance with the federal law and regulations at 42 USC Sec. 5301 et seq. and 24 CFR Part 570, Subpart I and the state law and rules at Chapter 2306, Subchapter Z of the Texas Government Code and 10 T.A.C. Chapters 255 and 25. In addition, TDHCA shall:

- A. Approve all awards, amendments and modifications related to the funding of the Colonia SHCs in accordance with the Texas Community Development Block Grant (TxCDBG) Program, including the annual Action Plan, and Colonia SHC Program Rules.
- B. Participate in public hearings to solicit comments regarding the funds provided under this contract and provide input as necessary.
- C. Adhere to the certifications TDA makes to the U.S. Department of Housing and Urban Development (HUD) in order to receive CDBG funding.
- D. Ensure that each activity included in a Colonia SHC contract meets a national objective, and qualifies as an eligible activity as identified under the state CDBG regulations. Compliance with this requirement shall be clearly reflected in the Performance Statements and Budgets of all Colonia SHC contracts.
- E. Ensure that each activity in the contract's Performance Statement has a corresponding budget line item in the budget.
- F. Work in coordination with TDA staff to determine a reasonable amount of administrative costs that can be charged by each county for general and program administrative costs, and Colonia SHC operational costs.
- G. Ensure that direct delivery costs, associated with the delivery of housing assistance including the preparation of work write-ups and required architectural or professional services that are directly attributable to a particular housing unit, be charged to the housing related construction budget line item under each Colonia SHC contract.
- H. Provide oversight and monitoring of the activities of Colonia SHC subrecipients, units of local government and the respective Colonia SHC nonprofit service providers, to ensure that CDBG activities are completed, performance goals are met and funds expended in accordance with the Colonia SHC Program Rules, contract provisions, applicable state and federal rules, regulations, policies, including OMB Circulars A-87 and A-122 as applicable, and related statutes. Monitoring reviews may take place at any time or at the request of the unit of local government or TDHCA. A final monitoring review must take place within 120 days of the contract termination
- I. Conduct the final monitoring review of contract close-out documents and an on-site review of subrecipient records to achieve the following monitoring objectives: ensure that activities have been completed and beneficiaries served in accordance with the contract's Performance Statement and Budget; ensure that subrecipient systems, policies and procedures used to administer CDBG funds contain sufficient controls against fraud and misuse and that they are in place and operating efficiently; identify areas of specific need for additional technical assistance.
- J. Provide TDA a copy of any findings and associated necessary corrective actions to be carried out by the Colonia SHC and non-profit providers as well as concerns and recommendations that do not require corrective action.

SECTION V. TDA FUNDING AND PERFORMANCE OBLIGATIONS

- A. Colonia SHC funding. Notwithstanding any other provision of this Memorandum, the total obligations incurred by TDA shall not exceed 2.5% of the annual formula allocation of regular CDBG funds received by the State of Texas from HUD for Program Years 2013 and 2014. TDA shall transfer funds provided under this section to the appropriate local government upon receipt of requests for payment from TDHCA and receipt of funds from HUD. TDA shall simultaneously notify TDHCA of the transfer to the local

government. TDHCA shall obligate the funds provided under this Memorandum within fourteen months after the date the funds were provided to TDA from HUD.

- B. TDA shall transfer to TDHCA a total of \$69,943 for the period February 1, 2013 until January 31, 2014 and a total of \$69,943 for the period of February 1, 2014 until January 31, 2015, assuming TDA receives from HUD a state regular annual CDBG allocation and administration funds are available for the state CDBG program for Program Years 2013 and 2014 in at least the same dollar amount as Program Year 2012, for costs incurred for TDHCA's border field offices and Office of Colonia Initiatives staff and planning activities. The amount of this reimbursement will be adjusted for Program Year 2013 and Program Year 2014 on a percentage basis based upon the actual U.S. Department of Housing and Urban Development CDBG Program Year administration funds that are made available to TDA for the state CDBG program for these Program Years. TDHCA shall submit a budget that defines the use of CDBG funds for this purpose. Funds deobligated and any program income recovered from the funds provided through the Colonia SHC Program shall be used by TDHCA for the Colonia SHCs in accordance with the Consolidated Plan.
- C. If determined necessary, TDA shall be responsible for initiating the reimbursement adjustment for Program Years 2013 and 2014 as an amendment according to the procedure described in Section VIII of this MOU. TDA shall submit an amended MOU, signed by the Executive Director of TDA, for this purpose with back-up documentation sufficient to detail the adjustments to the transfer of funds to TDHCA respective to the changes in the annual allocation from HUD to the State of Texas. The amendment will become fully executed upon signature by the Executive Director of TDHCA.
- D. TDA shall be responsible for fulfilling the federal match requirement for the award of CDBG funds to TDA. If the state general revenue appropriations for the federal match requirement are reduced thereby necessitating a reduction in the overall Texas CDBG administration amount, the administration funds provided in Paragraph B of this Section shall be reduced by the same percentage as the overall reduction in the state general revenue appropriations for the federal match requirement.
- E. All increases and reductions in the contract amount for the administration of the Colonia SHC Program should be in proportion to the amount of the grant award from HUD.
- F. TDA shall monitor TDHCA's oversight and monitoring of the activities of Colonia SHC subrecipients, units of local government and the respective Colonia SHC nonprofit service providers, to ensure that CDBG activities are completed, performance goals are met and funds expended in accordance with the Colonia SHC Program Rules, contract provisions, applicable state and federal rules, regulations, policies, including OMB Circulars A-87 and A-122 as applicable, and related statutes.
- G. TDA shall monitor TDHCA's monitoring activities to achieve the following monitoring objectives: ensure that activities have been completed and beneficiaries served in accordance with the contract's Performance Statement and Budget; ensure that subrecipient systems, policies and procedures used to administer CDBG funds contain sufficient controls against fraud and misuse and that they are in place and operating efficiently; identify areas of specific need for additional technical assistance.
- H. TDA shall identify in writing, through a monitoring report, any findings and recommended associated corrective actions that may be carried out by TDHCA or the subrecipient of Colonia SHC funding as well as concerns and recommendations that do not require corrective action.

SECTION VI. MEASURE OF LIABILITY

- A. TDHCA continues to assume responsibility and liability for outstanding issues relating to the funding and operation of the Colonia SHCs prior to the execution of this Memorandum.
- B. TDHCA shall provide oversight of activities on a regular basis according to Colonia SHC Standard Operating Procedures that is separate from the monitoring responsibilities of TDA to ensure compliance with Colonia SHC Program Rules and federal and state regulations. TDA shall monitor the activities funded under this Memorandum as described in the previous section. Costs that are found to be disallowed, if any, by TDHCA, TDA or HUD may be deducted from existing and future allocations of CDBG funds to TDHCA in an amount agreed upon by the parties to this Memorandum, to the extent allowed by law.

SECTION VII. REPORTING REQUIREMENTS AND RETENTION OF AND ACCESS TO RECORDS

- A. TDHCA shall furnish to TDA, and TDA shall furnish to TDHCA, such reports on the operation and performance of work under this Memorandum as may be required by TDA or TDHCA in order to respond to requests for information. TDHCA has agreed that for the associated LBB performance measure, TDA should perform the calculation from its records, provide the actual result, and provide any required explanation of a variance from the target.
- B. TDHCA shall retain all records relating to its responsibilities described by this Memorandum until its duties are completed and monitored by HUD or until the applicable retention period has expired, whichever is longer.
- C. TDHCA shall give the TDA, HUD, the Auditor of the State of Texas, and any of their duly authorized representatives, access to, and the right to examine, all records relating to this Memorandum for as long as such records are retained by TDHCA as specified in Subsection B of this section. TDHCA shall also provide TDA a copy of any audits conducted on the programs and services covered by this agreement.
- D. TDHCA shall maintain and submit to TDA up-to-date accomplishments in quarterly reports on a timely basis in an agreed upon format sufficient for TDA to complete the CDBG Annual Performance Evaluation Report (PER) and for the purposes of drawing funds under the IDIS system.
- E. TDHCA shall maintain and submit to TDA up-to-date accomplishments in quarterly reports identifying cumulative data necessary for the HUD IDIS Performance Measures, including the colonias served, activities performed and total number of beneficiaries and shall enter up-to-date accomplishments in the TDA's CDBG contract management system. Each contractor shall maintain data regarding all activities completed under the Colonia SHC contract.
- F. TDHCA shall submit Personnel Cost Calculation forms and timesheets to TDA for the reimbursement of administrative expenses.
- G. TDHCA shall respond to TDA in a timely manner regarding any HUD or other correspondence related to the Colonia SHC fund, including any monitoring or audit reports.

H. TDCHA shall submit copies of Colonia SHC contracts and amendments necessary to keep TDA tracking systems updated and for the payment of draws.

SECTION VIII. AMENDMENTS AND CHANGES

Any alteration, addition or deletion to the terms of this Memorandum shall be by amendment hereto in writing and executed by both parties hereto except as may be expressly provided for in some other manner by the terms of this Memorandum.

SECTION IX. POLITICAL ACTIVITY

None of the activities or performances rendered hereunder by TDHCA shall involve and no portion of the funds received by TDHCA hereunder shall be used for any political activity, including but not limited to any activity to further the election or defeat of any candidate for public office, or any activity undertaken to influence the passage, defeat, or final contents of legislation.

SECTION X. SECTARIAN ACTIVITY

None of the activities or performances rendered hereunder by TDHCA shall involve and no portion of the funds received by TDHCA hereunder shall be used in support of any sectarian or religious activity.

SECTION XI. ORAL AND WRITTEN AGREEMENTS

All oral or written agreements between the parties hereto relating to the subject matter of this agreement that were made prior to the execution of this contract have been reduced to writing and are contained herein.

APPROVED AND ACCEPTED ON BEHALF OF THE TDHCA AND TDA EFFECTIVE THE 1ST DAY OF FEBRUARY 2013.

AGREED AND EXECUTED BY:

Drew DeBerry, Deputy Commissioner
Texas Department of Agriculture

Timothy K. Irvine, Executive Director
Texas Department of Housing and Community Affairs

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BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 17, 2013

Presentation, Discussion, and Possible Action regarding Awards of HOME funds from the 2012-1 HOME Multifamily Development Program (MFD) Notice of Funding Availability (NOFA)

RECOMMENDED ACTION

WHEREAS, the Department received applications for HOME funds under the 2012-1 HOME MFD NOFA for Creek View Apartments III, Champion Homes on the Lake, and Champion Homes by the Spring;

WHEREAS, Creek View Apartments III applied under the General Set-Aside and Champion Homes on the Lake and Champion Homes by the Spring applied under the Community Housing Development Organization (CHDO) Set-Aside; and

WHEREAS, sufficient HOME MFD funding is available to award the subject applications under the General and CHDO Set-Asides;

NOW, therefore, it is hereby

RESOLVED, that a commitment for Creek View Apartments III in an amount not to exceed \$1,450,000, a commitment for Champion Homes on the Lake in an amount not to exceed \$3,000,000, and a commitment for Champion Homes by the Spring in an amount not to exceed \$3,000,000 in HOME funding from the 2012-1 HOME MFD NOFA are hereby approved in the form presented at this meeting, and as amended by the Board;

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

BACKGROUND

General Information: All three developments are new construction, with Creek View Apartments III consisting of 16 total units, Champion Homes on the Lake consisting of 140 total units, and Champion Homes by the Spring consisting of 152 total units, all serving a general population.

Creek View Apartments III, proposed to be located in Johnson City, Blanco County, is the third phase of a development that was awarded HOME funds in 2008 and 2012, with the first and second phases totaling 48 units. The third phase would make it a total of 64 units on approximately 10 acres. In addition to \$1,450,000 in HOME funds being requested, the developer anticipates receiving \$83,000 in in-kind contributions.

Champion Homes on the Lake, proposed to be located in Lake Dallas, Denton County, is a proposed mixed-income development. In addition to \$3,000,000 in HOME funds being requested, the developer has received a conditional commitment from Dougherty Mortgage for an FHA 221(d)(4) Loan in the amount of \$13,370,000 and cash equity from Odyssey Residential Holdings in the amount of \$900,000.

Champion Homes by the Spring, proposed to be located in Spring, Harris County, is a proposed mixed-income development. In addition to \$3,000,000 in HOME funds being requested, the developer has received a conditional commitment from Dougherty Mortgage for an FHA 221(d)(4) Loan in the amount of \$14,470,000 and cash equity from Odyssey Residential Holdings in the amount of \$900,000.

There is approximately \$15,363,455 in funding available from the 2012-1 Multifamily Development Program Notice of Funding Availability (NOFA), of which \$5,813,455 is available to applications under the General Set-Aside and \$9,550,000 is available to applications under the CHDO Set-Aside. The agenda today includes awards from those remaining funds under the General Set-Aside and CHDO Set-Aside.

Organizational Structure and Compliance: The Borrower for Creek View Apartments III is Creek View, Ltd., and the General Partner is THF Creek View, LLC. The Compliance Status Summary completed on January 2, 2013, indicates that the principals of the general partner for Creek View Apartments III have received 15 multifamily awards.

The Borrower for Champion Homes on the Lake is Chicory Court Lake Dallas, LP and the General Partner is Chicory GP Lake Dallas, LLC. The Compliance Status Summary completed on January 2, 2013, indicates that the principals of the general partner for Champion Homes on the Lake have received 50 multifamily awards.

The Borrower for Champion Homes by the Spring is Chicory Court Spring, LP and the General Partner is Chicory GP Spring, LLC. The Compliance Status Summary completed on January 2, 2013, indicates that the principals of the general partner for Champion Homes on the Lake have received 50 multifamily awards.

Census Demographics: Creek View Apartments III is proposed to be located at 316 North Winters Furr in Johnson City. Demographics for the census tract (9501) include a population of 4,963; median household income of \$52,805; the percent of population that is minority is 17.4%; the percent of population that is below the poverty line is 7.2%; the percent of owner-occupied units is 78.9%; the percent of renter-occupied units is 21.1% and the percent of vacant units is 23.3% (Census information from datasets DP-1 and DP03 for 2010).

Champion Homes on the Lake is proposed to be located at the southeast corner of Shady Shores and Swisher Road in Lake Dallas. Demographics for the census tract (214.03) include a population of 9,615; median household income of \$73,313; the percent of population that is minority is 24.3%; the percent of population that is below the poverty line is 3.4%; the percent of owner-occupied units is 75.9%; the percent of renter-occupied units is 24.1% and the percent of vacant units is 6.5% (Census information from datasets DP-1 and DP03 for 2010).

Champion Homes by the Spring is proposed to be located at the corner of Falvel Road and FM 2920 in Spring. Demographics for the census tract (5551) include a population of 8,149; median household income of \$80,507; the percent of population that is minority is 42.8%; the percent of population that is below the poverty line is 4.1%; the percent of owner-occupied units is 88.5%; the percent of renter-occupied units is 11.5% and the percent of vacant units is 3.5% (Census information from datasets DP-1 and DP03 for 2010).

Public Comment: Other than a letter of support from the Johnson City Mayor for Creek View Apartments III, the Department has not received any additional letters of support or opposition.

Applicant Evaluation

Project ID **12505**

Name **Champion Homes on the Lake**

City: **Lake Dallas**

HTC 9% HTC 4% HOME BOND HTF NSP ESG Other

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

Compliance and Asset Oversight			
Total # of MF awards monitored:	<u>50</u>	Projects in Material Noncompliance	
Total # of MF awards not yet monitored or pending review:	<u>11</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Projects grouped by score
SF Contract Experience <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Unresolved Audit Findings Identified w/ Contract(s) <input type="checkbox"/>	0-9: <u>38</u>
Total # of SF Contracts:	<u>0</u>	Total # of MF Projects in Material Noncompliance: <u>0</u>	10-19: <u>10</u>
			20-29: <u>2</u>
			Total monitored with a score 0-29: <u>50</u>
Completed by:	<u>James Roper</u>	Reviewer:	<u>Patricia Murphy</u>
Date	<u>12/28/2012</u>	Date	<u>12/31/2012</u>

Single Audit	
<input type="checkbox"/> Single audit review not applicable	<input type="checkbox"/> Late single audit certification form (see comments)
<input checked="" type="checkbox"/> Single audit requirements current	<input type="checkbox"/> Past due single audit or unresolved single audit issue (see comments)
Reviewer: <u>Rosy Falcon</u>	Date: <u>12/31/2012</u>
Comments (if applicable):	

Financial Administration Loan Servicing	
<input checked="" type="checkbox"/> No delinquencies found	<input type="checkbox"/> Delinquencies found (see comments)
Reviewer: <u>Stephanie D'Couto</u>	Date: <u>12/28/2012</u>
Comments (if applicable):	

Financial Administration Financial Services	
<input checked="" type="checkbox"/> No delinquencies found	<input type="checkbox"/> Delinquencies found (See Comments)
Reviewer: <u>Monica Guerra</u>	Date: <u>1 /2 /2013</u>
Comments (if applicable):	

Applicant Evaluation

Project ID **12502**

Name **Creek View III**

City: **Johnson City**

HTC 9% HTC 4% HOME BOND HTF NSP ESG Other

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

Compliance and Asset Oversight

Total # of MF awards monitored:	15	Projects in Material Noncompliance		Projects grouped by score	
Total # of MF awards not yet monitored or pending review:	11	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	0-9:	15
SF Contract Experience <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Unresolved Audit Findings Identified w/ Contract(s) <input type="checkbox"/>		10-19:	0
Total # of SF Contracts:	1	Total # of MF Projects in Material Noncompliance: <u>0</u>		20-29:	0
				Total monitored with a score 0-29:	15

Completed by: James Roper Reviewer: Patricia Murphy
 Date: 12/27/2012 Date: 12/31/2012

Single Audit

Single audit review not applicable Late single audit certification form (see comments)
 Single audit requirements current Past due single audit or unresolved single audit issue (see comments)

Reviewer: Rosy Falcon Date: 1/8/2013

Comments (if applicable):

Financial Administration Loan Servicing

No delinquencies found Delinquencies found (see comments)

Reviewer: Stephanie D'Couto Date: 12/28/2012

Comments (if applicable):

Financial Administration Financial Services

No delinquencies found Delinquencies found (See Comments)

Reviewer: Monica Guerra Date: 1 / 2 / 2013

Comments (if applicable):

Applicant Evaluation

Project ID **12506**

Name **Champion Homes by the Spring**

City: **Spring**

HTC 9% HTC 4% HOME BOND HTF NSP ESG Other

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

Compliance and Asset Oversight

Total # of MF awards monitored:	50	Projects in Material Noncompliance			
		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Projects grouped by score	0-9: 38
Total # of MF awards not yet monitored or pending review:	11			10-19:	10
SF Contract Experience <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Unresolved Audit Findings Identified w/ Contract(s) <input type="checkbox"/>		20-29:	2
Total # of SF Contracts:	0	Total # of MF Projects in Material Noncompliance: 0		Total monitored with a score 0-29:	50

Completed by: James Roper Reviewer: Patricia Murphy
 Date: 12/28/2012 Date: 1/2/2013

Single Audit

Single audit review not applicable Late single audit certification form (see comments)
 Single audit requirements current Past due single audit or unresolved single audit issue (see comments)

Reviewer: Rosy Falcon Date: 12/31/2012

Comments (if applicable):

Financial Administration Loan Servicing

No delinquencies found Delinquencies found (see comments)

Reviewer: Stephanie D'Couto Date: 12/28/2012

Comments (if applicable):

Financial Administration Financial Services

No delinquencies found Delinquencies found (See Comments)

Reviewer: Monica Guerra Date: 1 /2 /2013

Comments (if applicable):

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BOARD ACTION REQUEST
NEIGHBORHOOD STABILIZATION PROGRAM
JANUARY 17, 2013

Presentation, Discussion, and Possible Action regarding a waiver of NSP1, NSP1-PI, and NSP3 NOFA and program requirements necessary for alignment with the CDBG Disaster Recovery Program Hurricanes Ike and Dolly, Round 2 Homeowner Opportunity Program

RECOMMENDED ACTION

WHEREAS, the Texas Neighborhood Stabilization Program (“NSP”) requires that all projects for ownership meet program requirements for loan qualification, and

WHEREAS, The CDBG Disaster Recovery Program for Hurricanes Ike & Dolly, Round 2 will be assisting homeowners through the Homeowner Opportunity Program (HOP) that are income-eligible to participate in the NSP; and

WHEREAS, waiver of certain NSP loan requirements is necessary to align with HOP guidelines; and

NOW, therefore, it is hereby

RESOLVED, that staff recommendation that NOFA and program requirements be waived up to the regulatory limits in order to assist households through the Homeowner Opportunity Program, be and hereby is approved as presented at this meeting.

BACKGROUND

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by HR 3221, the “Housing and Economic Recovery Act of 2008” (HERA) (Pub. L 110-289, approved July 30, 2008), as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The NSP3 allocation of funds is 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). The purpose of the program is to develop into affordable housing abandoned, foreclosed, and vacant properties in areas that are documented to have the greatest need for arresting declining property values as a result of excessive foreclosures.

The Homeowner Opportunity Program (HOP) is a Disaster Recovery Housing Program administered by the General Land Office through which income-qualified applicants who live in FEMA-designated “High Risk” areas or areas of high minority and/or poverty concentration may elect to rehabilitate or reconstruct their existing home or relocate to a safer and higher opportunity area. The High Risk areas are those that fall into one or more of these categories

FEMA-Designated High Risk Area – Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

Area of High Minority Concentration – A census block group that consists of 65% or more of minorities. Minorities include all racial and ethnic population groups other than “White, non-Hispanic (Anglo).”

Area of High Poverty Concentration – A census block group that consists of 35% or more of the residents living in poverty. A resident that meets the US Census Bureau’s poverty threshold is considered to be at or below poverty level for the CDBG Disaster Recovery Program.

NSP has financed the acquisition, rehabilitation or new construction of more than 400 properties in Hidalgo and Cameron counties. Many of these properties are in neighborhoods that are suitable for relocation of income-eligible households that wish to move to a safer or higher opportunity area through HOP. Waiver of certain NSP requirements is necessary to align with HOP guidelines. The requirements include NSP underwriting guidelines, because HOP will be providing funds for purchase of NSP-financed properties.

It is anticipated that HOP will move quickly to identify eligible households and assist them to choose suitable properties for relocation. Approval of the requested waiver of NOFA and/or program requirements is necessary for the NSP to work with HOP to house the eligible families.

1k

BOARD ACTION REQUEST
NEIGHBORHOOD STABILIZATION PROGRAM
JANUARY 17, 2013

Presentation, Discussion, and Possible Action to approve the Neighborhood Stabilization Program – Program Income (NSP-PI) Reservation System Participants

RECOMMENDED ACTION

WHEREAS, the Department anticipates that it will receive funds from loan repayments and deobligated funds under the Neighborhood Stabilization Program (NSP) and that it will need to redistribute such funds in accordance with NSP rules and regulations, and

WHEREAS, program income received will be made available to Reservation System Participants;

NOW, therefore, it is hereby

RESOLVED, that the NSP Reservation System Participant, City of Kilgore, be and hereby is approved conditionally, to participate in the reservation system.

BACKGROUND

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by HR3221, the Housing and Economic Recovery Act of 2008 (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The purpose of the program is to redevelop into affordable housing, or acquire and hold, abandoned and foreclosed properties in areas that are documented to have the greatest need for arresting declining property values as a result of excessive foreclosures.

As NSP subgrantees move forward with completion of their NSP projects, significant program income will be generated through the resale of properties to income-eligible households. A portion of funds will be received as mortgage loan payments from households at or below 50% AMFI that have accessed NSP permanent financing, along with loan payments from subrecipient organizations that are providing rental housing to low-income households. The balance of the program income available for redistribution will be generated by loan repayments as subrecipients sell non-set-aside homes to households over 50% AMFI.

On January 20, 2011, the Board approved the NSP1-Program Income NOFA; a revision to this NOFA was approved by the Board at the September 15, 2011, meeting. The application form was posted to the NSP webpage and applications are continuing to be accepted. Most recently, one additional entity

submitted an application to participate in the NSP Reservation System, and is recommended for conditional approval, pending clearance of administrative deficiencies.

Application Number	Applicant Name	Location	NSP Activity
2012-602	City of Kilgore	Kilgore	Use D – Demolition

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BOARD ACTION REQUEST
COMPLIANCE DIVISION
JANUARY 17, 2013

Presentation, Discussion, and Possible Action on a proposed amendment to 10 TAC Chapter 60, Compliance Administration, Subchapter B, Accessibility Requirements, §60.209(h), regarding Reasonable Accommodations, and directing its publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Department has determined that 10 TAC Chapter 60, Subchapter B, §60.209(h) is not consistent with Texas Government Code, §2306.6725 and requires amendment;

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 publication of the proposed amendment of 10 TAC Chapter 60, Subchapter B, §60.209(h) regarding reasonable accommodations, 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, including the preparation of subchapter specific preambles.

BACKGROUND

In February 2008, 10 TAC Chapter 60, Subchapter B was adopted to provide guidance on compliance with the accessibility requirements of §504 of the Rehabilitation Act of 1973 (29 U.S.C. §§701 et seq.). As adopted, the rule implies that Housing Tax Credit property owners are not responsible for the cost of making reasonable accommodations unless they have federal financing in addition to the Housing Tax Credits. This is not correct. Because Texas Government Code, §2306.6725 requires owners to comply with the accessibility standards that are required under §504, Housing Tax Credit properties in Texas that are allocated credit after 2001 are responsible for the cost of making reasonable accommodations for a person with a disability.

Staff recommends that subsection (h) be removed from the rule through amendment to avoid any confusion:

“(h) Housing Tax Credit Properties that are not layered with additional federal funds are not subject to any provision identified in this section.”

Attachment 1. Preamble, amendment of 10 TAC Chapter 60, Subchapter B, §60.209(h)

The Texas Department of Housing and Community Affairs (the “Department”) proposes an amendment to 10 TAC Chapter 60, Compliance Administration, Subchapter B, Accessibility Requirements §60.209(h), concerning Reasonable Accommodations. The proposed amendment removes subsection (h) from the section to ensure consistency with the requirements of Texas Government Code, §2306.6725.

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 improved compliance and clarity regarding requirements. There will not be any additional economic cost to any individuals required to comply with the amendment.

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 February 1, 2013, to March 1, 2013, to receive input on the amendment. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Patricia Murphy, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-3359. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. MARCH 1, 2013.

STATUTORY AUTHORITY. The amendment is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendment affects no other code, article, or statute.

§60.209. Reasonable Accommodations.

(a) A reasonable accommodation is an alteration, change, exception, or adjustment to a program, service, building, dwelling unit, or workplace that will allow a qualified person with a disability to:

- (1) Participate fully in a program;
- (2) Take advantage of a service;
- (3) Live in a dwelling; or
- (4) Use and enjoy a dwelling.

(b) To show that a requested accommodation may be necessary, there must be an identifiable relationship between the requested accommodation and the individual's disability.

(c) When a resident or applicant requires an accessible unit, feature, space or element, or a policy modification, or other reasonable accommodation to accommodate a disability, the recipient must provide and pay for the requested accommodation, unless doing so would result in a fundamental alteration in the nature of the program or an undue financial and administrative burden. A fundamental alteration is a modification that is so significant that it alters the essential nature of the provider's operations.

(d) If a particular accommodation would result in an undue financial and administrative burden or fundamentally alter the program, the recipient must explore whether other accommodations, although not requested, can meet the needs of the person with a disability.

(e) A recipient may not charge a fee or place conditions on a resident or applicant in exchange for making the accommodation.

(f) A reasonable accommodation that amounts to an alteration should be made to meet the needs of the individual with a disability, rather than any particular minimum code specification.

(g) If a recipient refuses to provide a requested accommodation because it is either an undue financial and administrative burden or would result in a fundamental alteration to the nature of the program, the recipient shall engage in an interactive dialogue with the requester to determine if there is an alternative accommodation that would adequately address the requester's disability-related needs. If an alternative accommodation would meet the individual's needs and is reasonable, the recipient must provide it.

(Source: HUD Handbook 4350.3, §2-39, §2-40, 24 CFR §8.33, Secretary v. Country Manor, HUDALJ 05-98-1469-8 (September 20, 2001))

(1) EXAMPLE 209(1): A resident requires an accessible parking space that will accommodate her wheelchair-equipped van. A reasonable accommodation includes relocating and enlarging an existing parking space that will serve the van.

(2) EXAMPLE 209(2): A project has five parking spaces located outside the main entrance to the building and another parking lot with 20 spaces a half block away. All five of the parking spaces near the entrance to the building have been assigned to residents with disabilities who need a parking space near their door because of their disabilities. A sixth tenant with difficulty in walking long distances moves into the project and requests a parking space near his door. The recipient has explored the options and concluded that the only way to provide more parking spaces near the door would be to widen the parking area by purchasing valuable real estate next door. It would be an undue financial and administrative burden for the recipient to provide the sixth tenant with a parking space near the entrance. An alternative accommodation could be to provide the sixth tenant with an assigned parking space in the lot half block away until such time as one of the five spaces near the door becomes available.

(3) EXAMPLE 209(3): A resident needs grab bars at the toilet in her bathroom. She does not require other accessible features. The recipient must install grab bars consistent with the resident's needs in the bathroom.

(4) EXAMPLE 209(4): A resident needs a ramped entrance to her ground floor unit to accommodate her wheelchair. She does not wish to move to an accessible unit. The recipient must provide an accessible entrance at the resident's current unit, unless it would be an undue financial and administrative hardship or a fundamental alteration of the program to do so.

(5) EXAMPLE 209(5): A resident uses a scooter type wheelchair which is 38 inches in width. She requests a ramp to enter her ground floor unit. The ramp which she requests must be at least 40 inches wide, it must have a slope of no more than 3%, and the landing at the front door, which opens outward, must be enlarged to provide adequate maneuvering space to enter the doorway. The changes must be provided, even though they may exceed the usual specifications for such alterations.

(6) EXAMPLE 209(6): A resident with quadriplegia requests replacement of a bathtub in his unit with a roll-in shower. Due to the location of existing plumbing in the building and the size of the existing bathroom, a plumber confirms that installation of a roll-in shower in that unit is impossible. The on-site manager meets with the resident to explain why the roll-in shower cannot be installed and to explore alternative accommodations with the resident.

~~(h) Housing Tax credit Properties that are not layered with additional federal funds are not subject to any provision identified in this section.~~

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BOARD ACTION REQUEST
COMPLIANCE DIVISION
JANUARY 17, 2013

Presentation, Discussion, and Possible Action on proposed amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.5, concerning Previous Participation Reviews, and directing its publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Department has determined that 10 TAC, Chapter 1, Subchapter A, §1.5, the process for Previous Participation Reviews, did not contemplate the use of such reviews in connection with formula allocated 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 publication of the proposed amendment to 10 TAC, Chapter 1, Subchapter A, §1.5 regarding Previous Participation Reviews, 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, including the preparation of subchapter specific preambles.

BACKGROUND

In the fall of 2012, the Department reorganized its rules. The Previous Participation Review rule was moved out of the Compliance Rules and into its own rule. As adopted, the rule provides that staff would terminate an application for an applicant with identified issues of noncompliance and that the entity would have to request reinstatement. However, some of the Department's programs are not awarded through a competitive application process, so there is no application or "applicant" to terminate. At this time, four Department programs fit this category: HHSP, WAP, CEAP and CSBG. To discontinue funding agencies that receive Community Services Block Grant funds, a federal process would be followed. Staff does not believe that all of the issues identified during a Previous Participation Review would constitute cause to discontinue funding pursuant to the federal process. However, some of them may constitute cause, for example, inclusion on a federal agency's debarred, suspended or excluded list. Other issues, such as failure to submit required single audits or unaddressed material noncompliance could trigger contract suspension.

To address these issues, staff proposes amendments to the Previous Participation Review Rule as shown below:

Attachment 1: Preamble, amendment to 10 TAC, Chapter 1, Subchapter A, §1.5

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.5 concerning Previous Participation Reviews. The purpose of the proposed amendment is to appropriately address the process of Previous Participation Reviews for formula allocated funds.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amended section is in effect, enforcing or administering the amended 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 amended section is in effect, the public benefit anticipated as a result of the amended section will be compliant participants in Department programs and consistency with federal processes. 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 as a result of the amended section.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 1, 2013 to March 1, 2013, to receive input on the amended section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Patricia Murphy, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-3359. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. MARCH 1, 2013.

STATUTORY AUTHORITY. The amended section is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendments affect no other code, article, or statute.

§1.5. Previous Participation Reviews.

(a) Purpose and Overview. The Texas Department of Housing and Community Affairs (the "Department") intends to administer programs with compliant partners. Development owners, sub-recipients, non-profit, and for-profit organizations who have previously received Department funding and failed to comply with state, federal, and/or program rules may be excluded from participation.

(b) Definitions. Capitalized terms are defined in Chapter 10, Subchapter A, §10.3 of this title (relating to Definitions). Any capitalized terms not specifically defined in §10.3 of this title, shall have the meaning as defined in Texas Government Code, Chapter 2306, §42 of the Internal Revenue Code (the "Code"), 24 CFR Part 92 (HOME Final Rule), and other Department rules as applicable.

(c) Applicability. A review of an person's ~~applicants'~~ previous participation in all Department programs will be conducted prior to:

- (1) ~~providing~~ ~~awarding~~ any Department funding, with the exception of individuals awarded funds through Household Commitment Contracts and Participating Lenders in the Department's Texas Homeownership Division Programs;
- (2) approving an ownership transfer request of a Development monitored by the Department;
- (3) executing a Carryover Allocation;
- (4) modifying a Loan;
- (5) modifying a contract that results in additional funding;
- (6) closing a loan or executing a contract if more than one-hundred-twenty (120) days have elapsed from the date of Board approval;
- (7) processing a request for a Qualified Contract; or
- (8) approving an Entity as a Reservation System Participant.

(d) Scope. During the previous participation review, it will be determined if the requesting entity or any person controlling the requesting entity:

- (1) owes the Department any fees;
- (2) is sixty (60) days or more delinquent on a loan payment;
- (3) has failed to provide proof of taxes paid or insurance as required by a Deed of Trust;
- (4) has a past due single audit or single audit certification form;
- (5) has any unresolved monitoring findings and/or disallowed expenditures identified by the Contract Monitoring or Community Affairs Monitoring sections of the Compliance Division;
- (6) is on cost reimbursement with a Community Affairs program;
- (7) is on the Department's or any federal agency's debarred, suspended or excluded list;
- (8) controls a Development monitored by the Department that is in Material Noncompliance;
- (9) controls a HOME Development with any uncorrected issue of noncompliance required by the HOME Final Rule (even if the property is not in Material Noncompliance);
- (10) controls an NSP Development with any uncorrected issue of noncompliance required by FR-5447-N-01, October 19, 2010, as amended or FR-5660-N-01, November 27, 2012, as amended (even if the property is not in Material Noncompliance); or
- (11) has a Department contract that is suspended at the time of the Previous Participation review.

(e) Issues identified during review. If any of the criteria listed in subsection (d) of this section are met, the entity ~~requesting assistance~~ will be notified of the issue and provided five (5) business days to submit all necessary corrective action to resolve the issue(s). The notification will be in writing and may be delivered by email. For rental Developments in Material Noncompliance, the effective score will be at the end of the five (5) business days. If the ~~requesting~~ entity does not resolve the issue(s), the application, or request for assistance will be terminated. In the event that the review is being conducted for a noncompetitive funding source where there is no application or request to terminate, staff will prepare a report to the Board identifying the entity and the issue. If the request for assistance is terminated, the Board has the ability to reinstate the request for assistance for consideration as provided in subsections (k) and (l) ~~(j) and (k)~~ of this section.

(f) Timing. Previous participation reviews may be conducted prior to the Board meeting when funds will be awarded. If the previous participation review cannot be completed prior to the Board meeting when funds will be awarded, the award will be contingent upon the requesting entity successfully clearing the previous participation review. If the action is not subject to Board approval, the previous participation review will be conducted prior to the Department executing an agreement for assistance.

(g) Exceptions:

(1) the previous participation of an individual elected official affiliated with an application or request from a city, county, or local government will not be considered provided that they are not the contract executor;

(2) in general, the previous participation of a member of a nonprofit Board will not be considered unless they are the Executive Director, Chair of the Audit Committee, Board Chair, or any member of the Executive Committee. However, if it is determined that any member of the Board of the Nonprofit is on the Department's or federal agency's debarred list, the request for assistance will be terminated. If within the five (5) business day period referenced in subsection (e) of this section, the party with noncompliance resigns from the Board of the nonprofit, the noncompliance will not be taken into consideration;

(3) the Department will not take into consideration the score of a Development that the requesting entity has not controlled for at least three (3) years;

(4) the Department will not take into consideration the score of a Development for which the Affordability Period ended over three (3) years ago;

(5) the Department will not take into consideration the points associated with events of noncompliance during the period of time that the requesting entity did not control the Development;

(6) the Department will not take into consideration the score attributed to a Development for noncompliance with the CDBG Disaster Recovery Program or the FDIC's Affordable Housing Disposition Program;

(7) if a requesting entity no longer controls a Development but has controlled the Development at any time in the last three (3) years, the Department will determine the score for the noncompliance events with a date of noncompliance identified during the time the requesting entity controlled the Development. If the points associated with the noncompliance events identified during the requesting entity's control of the Development exceed the threshold for Material Noncompliance, the request for assistance will be terminated but may be subject to reinstatement by the Board as provided in subsections (k) and (l) ~~(j) and (k)~~ of this section; or

(8) Work Out Developments. The fees, loan payments or events of noncompliance affiliated with a work out development may or may not be taken into consideration. Example: a Work-Out Development is more than sixty (60) days delinquent on loan payments. If the entity and Department staff are actively working to modify and restructure the loan and have entered into a written agreement to modify the loan this would enable the Development to come into compliance.

(h) Partial Previous Participation reviews:

(1) a full previous participation review will not be conducted at the time an owner requests IRS Form 8609. However, HTC Developments with any uncorrected issues of noncompliance or with pending notices of noncompliance will not be issued Form 8609s, Low Income Housing Credit Allocation Certifications, until all events of noncompliance are corrected;

(2) a full previous participation review will not be conducted prior to a Land Use Restriction Agreement (LURA) amendment. However, LURAs will not be amended if the subject Development has any uncorrected issues of noncompliance (other than a provision being amended) or owes fees. No previous participation review will be conducted to amend a technical error to a LURA or other use agreement; and

(3) a full previous participation review will not be conducted prior to a contract extension. However, contract extension requests may be denied if there are uncorrected issues of noncompliance with the subject contract or if a response to a department notification is pending.

(i) Previous participation review for ownership transfers. Consistent with this section, the Department will perform a previous participation review prior to approving any transfer of ownership of a Development or any change in the Owner of a Development. The previous participation review shall be conducted with respect to the Developments controlled by the person coming into ownership, not with respect to the Development or Owner being transferred. If the property being transferred has any uncorrected issues of noncompliance or is in the corrective action period, the proposed incoming owner must provide a corrective action plan identifying dates of correction for any outstanding issues. The Department may deny the transfer of ownership based on financial capacity or lack of adequate relevant experience. The Department may require incoming owners to attend program training.

(j) Previous participation review for noncompetitive funding. Consistent with this section, the Department will perform a previous participation review prior to providing any Department funding. However, certain funds administered by the Department are provided through a noncompetitive formula allocation where there is no application or request to terminate as referenced in subsection (e) of this section. In that event, if the person does not correct the issues identified during the five day period referenced in subsection (e) of this section, staff will prepare a report to the Board identifying the person and the issue(s) that have been identified. After reviewing the report, the Board may, within federal or state program guidelines and any requirements of due process, proceed with providing the funding with or without conditions, direct the staff to initiate defunding the agency, direct staff to procure an alternative provider of the services or take other such actions as it deems appropriate.

~~(k)~~(j) Temporary Suspension of Previous Participation reviews. An entity whose request for assistance is terminated may request reinstatement. This process is separate and distinct from the waiver and appeals processes outlined in Chapter 10 of this title (relating to Uniform Multifamily Rules). The request must be in writing and must be submitted to the Department within five (5) business days of the date of the Department's letter notifying the requesting entity of the termination/denial. A timely filed request for

reinstatement shall be placed on the agenda for the next Board meeting for which it can be properly posted.

~~(l)(k)~~ If an Application for assistance was terminated, the Board may consider reinstatement of the application only in the event that it determines, after consideration of the relevant, material facts and circumstances that:

- (1) it is in the best interests of the Department and the state to proceed with the award;
- (2) the award will not present undue increased program or financial risk to the Department or state;
- (3) the applicant is not acting in bad faith; and
- (4) the applicant has taken reasonable measures within its power to remedy the cause for the termination.

~~(m)(l)~~ Reinstatement of a terminated Application or request for assistance merely makes the Application eligible to be considered and does not, in and of itself, constitute approval.

~~(n)(m)~~ A request for assistance properly terminated because the requesting entity or any person controlling the requesting entity is on the Department's or a federal agency's debarred list cannot be reinstated for consideration. The request for assistance can be re-submitted, if the person or entity that is on the debarred list is no longer part of the requesting entity.

~~(o)(n)~~ The Board may provide a suspension of previous participation reviews for a single award or action or at their discretion for set period of time. In the event that the Board chooses to suspend previous participation reviews for a set period of time, the conditions existing at the time the reviews were suspended will not be taken into consideration. However, if there are any new events of noncompliance or any new issues described in this subsection (d) of this section, the matter will be brought back to the Board for consideration.

~~(p)(o)~~ An entity may not request a suspension of previous participation reviews prior to applying for funding or requesting assistance.

1n

BOARD ACTION REQUEST
OFFICE OF COLONIA INITIATIVES
JANUARY 17, 2013

Presentation, Discussion, and Possible Action on a proposed amendment to 10 TAC Chapter 25, §25.5 regarding the Colonia Self-Help Center Program Rule, and directing its publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, a new 10 TAC Chapter 25 was adopted by the Board and became effective November 2012; and

WHEREAS, staff has identified a necessary correction to §25.5 of the rule;

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 10 TAC Chapter 25, §25.5(c) regarding the Colonia Self-Help Center Program Rule, together with the preamble 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 Colonia Self-Help Center Program Rule was approved by the Board and published to be effective November 1, 2012. Staff has since identified a correction needed to §25.5 of the rule, which outlines the application requirements for administrators.

Section 25.5(c) incorrectly references §25.8 regarding *Administrative Thresholds*. The rule will need to be amended to correctly reference §25.9 regarding *Expenditure Thresholds and Closeout Requirements*.

Staff is requesting approval to submit the proposed amendment for publication and comment in the *Texas Register*.

Attachment: Preamble and proposed amendment to 10 TAC Chapter 25.

The Texas Department of Housing and Community Affairs (the “Department”) proposes an amendment to 10 TAC Chapter 25, §25.5 concerning the **Colonia Self-Help Center Program Rule**. The proposed amendment corrects a cross reference to correctly reference §25.9 of Chapter 25.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendment will be in effect, enforcing or administering the amended rule 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 rule will be in effect, the public benefit anticipated as a result of the amended rule is to ensure the clarity with program requirements and provide accurate cross-references. There will be no economic cost to any individuals required to comply with the amendment.

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 February 4, 2013, to February 22, 2013, to receive input on the amendment. Written comments may be submitted to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to Dee Copeland Patience at the following address: dee.patience@tdhca.state.tx.us or by fax to (512) 475-1162. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. FEBRUARY 22 2013.

STATUTORY AUTHORITY. The amendment is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules. Additionally, the amendment is proposed pursuant to Texas Government Code, Chapter 2306, Subchapter Z, which specifically authorizes the Department to administer the Colonia Self-Help Center Program. The proposed amendment affects no other code, article, or statute.

§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 §25.9 [~~§25.8~~] of this chapter (relating to

Expenditure Thresholds and Closeout Requirements [~~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 or 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.

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**BOARD REPORT ITEM
HOME DIVISION
JANUARY 17, 2013**

Status Report on the HOME Program Contracts and Reservation System Participants through December 2012

Activity Type	<u>Funded/Awarded for December</u>		<u>Funded/Awarded for Year</u>		<u>Setups for December</u>		<u>Setups for Year</u>		<u>Draws for December</u>		<u>Draws for Year</u>	
	RSP	Contracts	RSP	Contracts	Amount	Number	Amount	Number	Amount	Number	Amount	Number
CFD	\$0	\$0	\$309,078	\$0	\$0	0	\$309,078	3	\$0	0	\$52,845	2
CHDO Operating	\$0	\$0	\$0	\$50,000	\$0	0	\$0	0	\$0	0	\$37,524	6
Dev SF	\$0	\$0	\$0	\$300,000	\$0	0	\$484,310	5	\$49,661	4	\$902,961	35
HBA/Rehab	\$254,966	\$0	\$2,837,881	\$334,500	\$268,465	15	\$3,463,959	191	\$289,030	31	\$3,656,566	304
HRA	\$2,184,503	\$0	\$16,470,982	\$16,423,000	\$2,575,674	31	\$27,408,616	337	\$1,262,258	61	\$14,482,480	769
MFD	\$0	\$1,900,000	\$0	\$29,151,586	\$0	0	\$21,689,520	22	\$2,417,507	11	\$22,124,919	68
TBRA	\$381,569	\$0	\$3,849,024	\$324,000	\$392,335	40	\$4,514,551	486	\$243,890	375	\$3,787,909	5,266
Sub Totals:	\$2,821,038	\$1,900,000	\$23,466,966	\$46,583,086	\$3,236,474	86	\$57,870,035	1,044	\$4,262,345	482	\$45,045,204	6,450
Totals:	\$4,721,038		\$70,050,052									

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

R2

TDHCA Outreach Activities, December 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
State Independent Living Council Quarterly Meeting	Dallas	Dec 1	Housing Resource Center	Participant
2013 Multifamily Uniform Application Workshop	Austin	Dec 4	Multifamily Finance	Training
2013 Multifamily Uniform Application Workshop	Dallas	Dec 5	Multifamily Finance	Training
2013 Multifamily Uniform Application Workshop	Houston	Dec 6	Multifamily Finance	Training
First Thursday Income Eligibility Workshop	Austin	Dec 6	Compliance	Training
Community Resource Coordination Group State Team Meeting	Austin	Dec 6	Housing Resource Center	Participant
Grand Opening/Terrace at Haven for Hope	San Antonio	Dec 12	Executive, External Affairs	Remarks, Participant
811 Team Monthly Meeting	Austin	Dec 12	Housing Resource Center	Participant
NeighborWorks/National Foreclosure Mitigation Counseling Grantee Workshop	Washington, D.C.	Dec 13	Housing Resource Center	Participant
2013 CEAP Webinar on TAC Rule Changes	Austin	Dec 14	Community Affairs	Training
Disability Advisory Workgroup	Austin	Dec 17	Housing Resource Center	Participant
HOME HBA-PWD/Homeowner Key Presentation Ceremony	Austin	Dec 19	Executive, External Affairs	Remarks, Participant

Internet Postings of Note, December 2012

A list of new or noteworthy documents posted to the Department's Web site

2013 Multifamily Uniform Pre-Application — *by which qualifying applicants may participate in the 2013 Housing Tax Credit pre-application cycle:*

www.tdhca.state.tx.us/multifamily/applications.htm

HOME Administrative Draw Tracking Workbook — *resource helping to ensure Single Audit requirements met and all required Single Audit documents are submitted in timely manner:*

www.tdhca.state.tx.us/home-division/forms/home_forms_hra.htm; www.tdhca.state.tx.us/home-division/forms/home_forms_hba.htm; www.tdhca.state.tx.us/home-division/forms/home_forms_tbra.htm

ESG Implementation Workshop Materials — *making training videos and other resources available detailing use of ESG funds, participant and income eligibility, reporting requirements, and other key program aspects:*

www.tdhca.state.tx.us/community-affairs/esgp/guidance-solutions.htm#resources

2013 Uniform Multifamily Rules and 2013 QAP — *detailing program rules and policies administering the Department's multifamily funding programs and the Housing Tax Credit Program in particular; for reference purposes only:*

www.tdhca.state.tx.us/multifamily/htc/index.htm

2013 HTC Application Workshop Materials — *making training materials available to participants seeking funding through the Competitive and Noncompetitive Housing Tax Credit, Tax-Exempt Bond, and HOME Programs:*

www.tdhca.state.tx.us/multifamily/htc/index.htm

2012 4% Housing Tax Credit with TDHCA as Issuer Status Log (as of December 3, 2012) — *detailing applicants seeking Private Activity Bond financing through the Department:*

www.tdhca.state.tx.us/multifamily/bond/index.htm

2012 4% Housing Tax Credit with Local Issuer Status Log (as of December 3, 2012) — *detailing applicants seeking Private Activity Bond financing with issuers other than the Department:*

www.tdhca.state.tx.us/multifamily/htc/index.htm

LURA Origination Web Page — *updated to provide templates for drafting Land Use Restriction Agreements for Low Income Housing Tax Credit awardees:*

www.tdhca.state.tx.us/asset-management/pca-manual.htm

2013 Multifamily Uniform Application Templates — *providing applicants for multifamily funding templates for correspondence with local government officials, state representatives and senators, neighborhood organizations, and lenders:*

www.tdhca.state.tx.us/multifamily/applications.htm

Waivers, Pre-clearance, Determinations, and Disclosure Packet — *formalizing the process by which applicants for multifamily funding seek pre-clearance for Community Revitalization Plans and Undesirable Area Features:*

www.tdhca.state.tx.us/multifamily/applications.htm

2012 Multifamily Bond Pre-Application Submission Procedures Manual — *detailing the process, timeline, format, and other specifics for applicants filing a Private Activity Bond Pre-Application:*

www.tdhca.state.tx.us/multifamily/bond/applications.htm

State of Texas Neighborhood Stabilization Program Rule — *clarifying the administration of the Texas NSP, general provisions, compliance and monitoring, and related information (links to the Secretary of State Web site):*

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=29&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=29&rl=Y)

2013 Draft DOE Weatherization Assistance Program State Plan — *servicing as the Department's application for weatherization funds through the US Department of Energy:*

www.tdhca.state.tx.us/community-affairs/wap/index.htm

Fair Housing Choice Disclosure Notice — *ensuring tenants residing in affordable rental housing units are aware of basic rights offered them under fair housing laws:*

www.tdhca.state.tx.us/pmcdocs/FairHousingChoiceDisclosureNotice.pdf

CEAP, WAP Subrecipient List (as of December 2012) — *listing the names, addresses, service areas, and key staff of local contract agencies providing services through the Comprehensive Energy Assistance and Weatherization Assistance programs:*

www.tdhca.state.tx.us/community-affairs/index.htm

2013 Multifamily Programs Procedures Manual — *providing guidance to submission requirements under the 9% and 4% Housing Tax Credit, Tax Exempt Bond, HOME, Housing Trust Fund and Neighborhood Stabilization multifamily programs:*

www.tdhca.state.tx.us/multifamily/applications.htm

2012 Housing Sponsor Report — *providing property and occupant profiles for rental properties receiving financial assistance through the Department's programs:*

www.tdhca.state.tx.us/housing-center/pubs.htm

Bond Disclosure (revised as of August 31, 2012) — *listing multiple documents detailing bond balances, mortgage loan balances, mortgage-backed security pool numbers, investment balances, and trustee contact information:*
www.tdhca.state.tx.us/bond-finance/index.htm

Basic Financial Statements for Year Ended 8/31/12 — *detailing audited annual financial data as required by statute and prepared for the Governor, Comptroller, Legislative Budget Board, and State Auditor's Office:*
www.tdhca.state.tx.us/finan.htm

Computation of Unencumbered Fund Balances for Year Ended 8/31/12 — *relating to assets and liabilities associated with tax-exempt or taxable bonds, notes, or other obligations to finance multifamily and single-family housing:*
www.tdhca.state.tx.us/finan.htm

Revenue Bond Program Enterprise Fund for Year Ended 8/31/12 — *providing miscellaneous bond information, including changes in bond indebtedness, debt service requirements, analysis of funds available for debt service, etc:*
www.tdhca.state.tx.us/finan.htm

2013 Uniform Multifamily Application as of 12/28/12 — *by which qualifying applicants may apply for funding from the Department for multifamily activities:*
www.tdhca.state.tx.us/multifamily/applications.htm

R3

BOARD REPORT ITEM
NEIGHBORHOOD STABILIZATION PROGRAM
JANUARY 17, 2013

Report on any actions taken under the Texas Neighborhood Stabilization Program grant of emergency authority

REPORT ITEM

| At the December 13, 2012, meeting of the TDHCA Governing Board, the Executive Director was authorized, for and on behalf of the Board and the Department, to take any such actions as may be required to assure timely, compliant expenditure of NSP1 and NSP3 funds.

No actions were taken under this authority prior to January 2, 2013.

2

BOARD ACTION ITEM
COMPLIANCE DIVISION
JANUARY 17, 2013

Presentation and Discussion and Possible Action, as the Board deems warranted, on the Fiscal Year 2013 Income and Rent Limits and with regard to the application of the limits under certain tax exempt bond regulatory agreements

RECOMMENDED ACTION

No specific action is recommended on this item, but this item has been posted in a manner where the Board can take such action as it deems appropriate.

BACKGROUND

On December 4, 2012, the United States Department of Housing and Urban Development (HUD) released Fiscal Year 2013 Income limits for the Section 8 program and the Multifamily Tax Subsidy Programs (tax credits and tax exempt bonds). HUD identified some errors in the limits that were released on December 4th and released revised limits on December 11, 2012. Of the 254 counties in Texas, the HUD published Section 8 program income limits dropped in 55 counties, increased in 198 counties and stayed the same in one county.

Prior to the Housing and Economic Recovery Act of 2008 (HERA), all multifamily rental programs administered by TDHCA used the income limits released by HUD in connection with the Section 8 program, based on an area's income unless the area was a "non-metro" area with an income less than the state's "non-metro" average, in which case, the HUD income limits were based on the state's "non-metro" income limits.

One change created by HERA was to allow certain housing tax credit properties to use the nation's "non-metro" Area Median Income (AMI) if the state's non-metro is lower. Because the Texas "non-metro" is less than the nation's, many housing tax credit properties in Texas use income limits based on the national non-metro income. From 2012 to 2013, there was no change in the national non-metro income. Therefore, although many areas of the state show increased income limits based on HUD's release, there is no real impact or change.

Kinney County is an interesting example. Because the average non-metro income for Texas has increased, the HUD published limits for Kinney County show an increase even though actual AMI in Kinney has decreased. Despite the decrease in AMI in Kinney and the increase in AMI for rural areas of Texas, there is actually no change in the income and rent limits used by housing tax credit properties in Kinney County because the national non-metro has not changed. See data below:

	2012	2013
Kinney County AMI	\$35,900	\$32,800
Texas Non-metropolitan	\$49,300	\$50,500
National Non-metropolitan	\$52,400	\$52,400

HERA also created a “hold harmless” provision for Housing Tax Credit (HTC) and tax exempt bond properties that are placed in service. This means that the income limits do not drop once a property is placed in service. For example, the 2013 estimates of AMI released by HUD for the Austin area have decreased. The 4 person 60% income limit for a property that places in service in 2013 will be \$43,920. However, the 4 person 60% income limit for a property that placed in service in 2012 will be \$45,540. So, a property that placed in service in 2012 has an income limit of \$45,540 for a 4 person household at 60% AMI, even in 2013 and beyond.

Lastly, HERA created a separate income limit for HTC and tax exempt bond properties placed in service prior to December 31, 2008, and in a “HUD impacted area,” which is defined as an area with Section 8 Income Limits held harmless by HUD in FY 2007 and FY 2008. These limits are commonly referred to as the “HERA special” limits and they are higher than other estimates of AMI. Continuing with Austin as an example, the 4 person 60% income limit for a HTC property that placed in service prior to December 31, 2008, is \$46,860.

Maximum rents for the affordable housing programs administered by TDHCA are based on income limits. In general, the rent limit is equal to the income limit applicable for a household assuming there are 1.5 persons in each bedroom, multiplied by 30%, then divided by 12.

%	Number of Household Members							
	1	2	3	4	5	6	7	8
30	\$16,410	\$18,750	\$ 21,090	\$ 23,430	\$ 25,320	\$ 27,180	\$ 29,070	\$ 30,930
40	\$21,880	\$25,000	\$ 28,120	\$ 31,240	\$ 33,760	\$ 36,240	\$ 38,760	\$ 41,240
50	\$27,350	\$31,250	\$ 35,150	\$ 39,050	\$ 42,200	\$ 45,300	\$ 48,450	\$ 51,550
60	\$32,820	\$37,500	\$ 42,180	\$ 46,860	\$ 50,640	\$ 54,360	\$ 58,140	\$ 61,860
80	\$43,760	50,000	\$ 56,240	\$ 62,480	\$ 67,520	\$ 72,480	\$ 77,520	\$ 82,480

Using the income limits shown above, the 50% rent limit for a 3 bedroom unit is \$1,015. ($\$39,050 + \$42,200$ divided by 2 = $\$40,625$ times 30% = $\$12,187.5$ divided by 12 = $\$1015$)

When determining the maximum rents that a property may charge, it is critical that the calculation begins with the correct income limit. Suffice it to say, that the income limits have become more complicated since the passage of HERA.

The tax exempt bond program is established through Internal Revenue Code, §142(d). One of the requirements for the interest on the bonds to be exempt from tax is that the project must meet one of two minimum set asides: 20% of the units must be leased to households below 50% Area Median Income (AMI) or, 40% of the units must be leased to households under 60% AMI. Note that federally, there is no rent restriction; just a requirement to lease to households below certain income limits. Because of past policy decisions and provisions of Texas Government Code Chapter §1372, many of the TDHCA

tax exempt bond regulatory agreements establish rent limits. Staff has found many regulatory agreements specifically reference maximum rents calculated from the Section 8 income limits, in fact they recite the actual formula. At the time these regulatory agreements were entered into, there was just one income limit and no way to foresee that there could be different income limits. In addition, at the time these regulatory agreements were entered into HUD had a policy to adjust income limits so that there would not be decreases; therefore it is reasonable to assume that everyone believed the rent limits would not decrease.

Despite that assumption, the Section 8 program income limits for some areas of Texas have decreased. It thus appears that the maximum rent allowable at some of the Department's tax exempt bond properties has decreased. Staff has individually notified owners of bond properties informing them of what the rent limits would be calculated from the 2013 HUD Section 8 program income limit. Department staff has reviewed owner reported rents and utility allowances at these tax-exempt bond properties and recognizes that there is a potentially negative financial impact at several of these properties. Department staff has also learned that Texas is not the only state dealing with this issue.

Several tax exempt bond property owners have contacted staff and expressed concern over the possibility of rent reductions. This item is intended to provide the public the opportunity to comment on this matter and offer any suggestions. Pursuant to published HUD guidance, staff will, if asked by the Board, develop a policy state on this issue.

3a

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 17, 2013

Report from the Audit Committee Meeting.

REPORT ITEM

Verbal report.

3b

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 17, 2013

Presentation, Discussion, and Possible Action on Acceptance of the Audit Results from the State Auditor's Office.

RECOMMENDED ACTION

WHEREAS, the Department is required to undergo an annual audit of its books and accounts, an annual audit of the Housing Trust Fund and to obtain audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules;

NOW, therefore, it is hereby

RESOLVED, the annual financial audit, audit of the Housing Trust Fund and audit of the Housing Finance Division and the Supplemental Bond Schedules are hereby accepted.

BACKGROUND

Audit requirements:

- 1) The Department's governing statute, Texas Govt. Code §2306.074, requires an annual audit of the Department's books and accounts.
- 2) Texas Govt. Code §2306.204 requires an annual audit of the Housing Trust Fund to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund.
- 3) The Department's bond indentures require audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules.

Results of the audits conducted by the State Auditor's Office:

FY 2012 Basic Financial Statements

Unqualified Opinion

FY 2012 Unencumbered Fund Balances Calculation

Audit results yielded no required transfer to the Housing Trust Fund

FY 2012 Revenue Bond Program Audit

Unqualified Opinion

See these reports at the following link:

<http://www.tdhca.state.tx.us/finan.htm>

4

ORAL PRESENTATION

5

ORAL PRESENTATION

6

**STRATEGIC PLANNING & BUDGETING COMMITTEE ACTION REQUEST
AND BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 17, 2013**

Presentation, Discussion, and Possible Action on the Use of Program Year 2013 Community Services Block Grant (CSBG) Discretionary Funds.

NOTE: This item is being presented at the Strategic Planning and Budgeting Committee of the Board occurring on January 17th prior to the Board meeting. This write up is being used for both meetings; however, to the extent that the Committee recommends amendments or changes to the resolution and policy within this write up, those items will be presented at the Board meeting prior to Board action on the item.

RECOMMENDED ACTION

WHEREAS, CSBG funds are awarded to the State of Texas by the U.S. Department of Health and Human Services (HHS); and

WHEREAS, when the Department receives the State's annual award of CSBG funds, it reserves ninety percent (90%) of the allotment for CSBG eligible entities to provide services/assistance to the low-income population in all 254 counties; five percent (5%) for state administration expenses and the remaining five percent (5%) for state discretionary use; and

WHEREAS, Department staff proposes a policy shift in the allocation and use of CSBG Discretionary funds to promote a program focused biennially on improved outcomes for designated special needs groups, with the first biennium focused on issues of homelessness; and

WHEREAS, a Notice of Funding Availability and/or Request for Proposals is necessary to make these funds available to non-state agencies;

NOW, therefore, it is hereby

RESOLVED, that subject to amendments to this resolution from the Strategic Planning and Budgeting Committee of this Board, the Executive Director and his designees each of them be and they hereby are, authorized, empowered, and directed, for and on behalf of the Department, to cause a Notice of Funding Availability and/or a Request for Proposals to be issued for some or all of the 5% state discretionary funds, consistent with the policy noted herein.

FURTHER RESOLVED, that should one or more respondents or applicants for funds require federal approvals, staff is authorized to make submission to those appropriate

federal entities of those selected respondents prior to presentation to the Board, with the condition that all commitments made with CSBG discretionary funds are presented to the Board for award.

BACKGROUND

The Department has set aside \$1,400,000 of its 2013 annual CSBG allocation for state discretionary projects and for disaster assistance. Historically, the Department has released a CSBG Discretionary Funds NOFA that included categories for funding: (1) employment and education programs for migrant and seasonal farm workers and Native Americans, and other innovative projects (\$1 million); (2) statewide projects to provide training and technical assistance to CSBG eligible entities (\$125,000); and (3) statewide projects that provide training and technical assistance to homeless service providers (\$125,000).

As state and federal resources continue to be constrained it is incumbent upon the Department to creatively identify how to continue to serve critical populations and essentially do more with less. Federal funds are generally quite restrictive with regard to their eligible uses, and flexible funds, such as CSBG discretionary, are often the only funds that may be used for addressing special projects or populations. Therefore, beginning with the 2013 allocation, staff proposes the establishment of a new policy that the CSBG discretionary funds for each biennium be targeted to a specific special needs population such as homeless persons, persons with disabilities, rural communities, or colonias. While this policy shift will require a “ramp down” of the traditionally funded uses, it will allow a more concentrated and impactful effort. Staff believes that an intensive focus on the specific needs of these groups by way of a program funded for two years will allow for a greater emphasis on services and outcomes for those groups and optimize the use of these funds for the state.

The suggested focus for the 2013-2014 biennium is homelessness prevention and services, with an emphasis on state and/or local coordination of systems that emphasize a long term impact for that population. The homeless population was selected for several reasons: 1) to follow on the positive synergy created through the recent release of the 2012 Pathways Home report by the Texas Interagency Council for the Homeless; 2) to follow and continue the positive steps created by the Homeless Housing and Services Program (HHSP) and the Recovery Act Homelessness Prevention and Rapid Re-housing Program (HPRP); and 3) to complement the portion of these 2013 discretionary funds already committed to a Homeless Information Exchange in the Department’s capital budget request to the Legislative Budget Board.

With the 2013 CSBG discretionary funds staff suggests programming funds as described below and as further depicted in the table. As reflected in the Department’s capital budget request to the Legislative Budget Board, \$500,000 is identified to support the development of a data warehouse for the collection of statewide homelessness and homeless services data. Approval from the Legislature is required for this to proceed. The sum of \$300,000 will be targeted to support a statewide homelessness initiative with an ongoing and increased focus on statewide Continuum of Care activities including activities related to accessing more funds for the Balance of State; the sum of \$400,000 will support innovative local homelessness initiatives that may include funding in some regard of Continuum’s of Care for their participation and costs related to the

data warehouse if approved and/or may include funding relating to the evaluation and possible implementation of homeless service coordination with community action agencies. As is historically the case, \$100,000 will be held to support disaster recovery. Because some of the organizations that have historically received funding for Migrant and Seasonal Farmworker populations and Native American populations have become somewhat reliant on those funds, \$100,000 is being targeted to transition them out of the regular discretionary funds; it should be noted that they are eligible to apply for other categories of funds if they meet the requirements.

Data Warehouse Project	\$500,000
Other Homeless Initiatives	
Statewide Homelessness Efforts	300,000
Local Homelessness Innovations and Possible Interplay with Community Action Agencies network	400,000
Transitional Funds for Migrant Seasonal Farmworker and Native American populations	\$100,000
Disaster Recovery Reserve	\$100,000
Total CSBG Discretionary Estimate	\$1,400,000

If approved by the Board, a NOFA and/or Request for Proposal (RFP) will be released with applications estimated to be due in March 2013. It is anticipated that final award recommendations under these NOFAs or RFPs will be presented to the Board in May or June of 2013.

In the event that the Department does not have sufficient eligible applications to fund in one or more categories, or should uncommitted disaster assistance funds remain, the Department will seek Board approval to reprogram the funds from one of the eligible categories to another category and award additional funds.

Upon approval of this action item, applicable NOFA(s) and/or Requests for Proposals will be drafted.

7

BOARD ACTION REQUEST
MULTIFAMILY FINANCE
JANUARY 17, 2013

Presentation, Discussion, and Possible Action regarding policy guidance related to various issues concerning the 2013 Qualified Allocation Plan (QAP), including, but not limited to, disaster declarations, and use of the term “general population” in the 2013 QAP and other Multifamily Rules

RECOMMENDED ACTION

No specific action is recommended on this item, but this item has been posted in a manner where the Board can take such action as it deems appropriate.

BACKGROUND

Disaster Declarations

Under §11.9(d)(5) of the QAP an applicant located in a county that received a Disaster Declaration under Texas Government Code §418.014 may be eligible for up to 8 points. This scoring item is derived from the 10th highest priority scoring criterion in Texas Government Code §2306.6710. The relevant rule and statute are as follows:

§11.9(d)(5) Declared Disaster Area. (§2306.6710(b)(1)) An Application may qualify to receive up to eight (8) points for this scoring item. An Application will receive seven (7) points if at the time the complete Application is submitted or at any time within the two-year period preceding the date of submission, the proposed Development Site is located in an area declared to be a disaster area under the Texas Government Code, §418.014 (this excludes disaster declarations that are pre-emptive in nature). An Application will receive eight (8) points if the disaster declaration, within the two-year period preceding the date of submission, is localized, in other words, if the disaster declaration does not apply to the entire state.

§2306.6710(b)(1) directs the Department to develop certain criteria to score and rank applications and includes under subparagraph (J), which reads as follows:

whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014.

Staff, in drafting the rule, envisioned there might be instances in which the Governor issued disaster declarations for threatened events that never materialized, “pre-emptive” declarations. The

classic example would be where a hurricane threatened the Texas coast and prudence dictates the mobilization of resources, but then the hurricane veers and misses Texas. Staff grappled with the issue of whether or not the drought declarations were pre-emptive in nature, but as numerous parties weighed in and it became clear that many of the threatened events in the declarations had already occurred in widespread areas of the state, staff concluded the latter were not pre-emptive declarations. This has been borne out by the persisting conditions as typical fall rains have failed to materialize in a manner to mitigate drought conditions.

Initially, staff provided guidance, albeit heavily qualified guidance, to applicants which was based chiefly on the language of the declarations themselves. Disaster declarations that clearly and unambiguously identified that a disaster had “occurred” would be eligible under the point item and those that identified an “imminent threat” would not be eligible. This interpretation and application of the rule yielded three counties (Dallas, Tarrant, and Kaufman) that would qualify for 8 points and all others 0 points. However, numerous other counties under identified in declarations have since advised that they have actually been affected by these disasters within the applicable time frame. The Bastrop County fire would be the most notable example, but there are many others. Accordingly on January 4, 2013, staff issued written guidance as follows:

The published staff guidance identified all but two Texas counties as eligible for 8 points and the remaining two eligible for 7 points. The revised guidance looks beyond the declaration to acknowledge the actual process for issuing declarations. On April 5, 2011, the Governor issued a disaster declaration warning of an “imminent threat” of wildfires in 252 counties of the state and a series of wildfires ultimately did occur late in 2011 in some of those counties identified. Because this declaration was for some but not all counties in the state and because it was issued for disasters that did ultimately occur, staff believes that 8 points is warranted for applications proposed in those 252 counties. In addition, the remaining 2 counties (San Patricio and Wood counties) would be eligible for 7 points under a statewide disaster declaration for wildfires.

A listserv announcement of the change in guidance was released by staff on January 4, 2013, just before the deadline for filing pre-applications. The announcement also indicated that, due to the late date of the guidance, staff would allow corrections in pre-applications as necessary to take advantage of the new guidance through the Administrative Deficiency process.

Subsequent to the release of the new guidance, staff identified one other declaration, dated February 24, 2012, for 247 counties that identified the drought as posing an imminent threat to public health, property, and the economy. This declaration includes San Patricio and Wood counties. Moreover, while staff did not contemplate this declaration as being eligible for 8 points, if the drought has in fact affected these counties, then San Patricio and Wood counties would also be eligible for 8 points and all applications in the state would receive the same level of points. *Staff believes that this declaration is*

also a qualifying declaration that may allow applicants in these remaining two counties to qualify for 8 points.

While this means that the point item does not provide for differentiation this year, the language itself continues to have meaning. For example, if such exceptional drought were not an issue in Texas and these declarations covering large areas were not in existence, then mere threats of disasters, such as hurricanes, would not count for points unless the actual disaster ultimately occurred. Staff is looking at the possibility of additional detail to expand this concept in future QAPs, NOT IN THE CURRENT ROUND, such as, perhaps, tying the points to actual housing units destroyed.

Some applicants have voiced concerns based on their reliance on initial non-published staff guidance. While staff has indeed given verbal guidance on this issue, staff has always carefully avoided giving the impression that the original guidance was final or that it was not subject to a change or to Board interpretation. When staff determined that actual disaster conditions had actually occurred in numerous counties where the declarations language referenced such things as “imminent threats,” staff believed that the language of the rule compelled this current interpretation.

Unless directed otherwise by the Board, staff will implement the scoring item concerning disaster declarations as outlined herein.

The term “general population” and its use in the QAP and Multifamily Rules

The term “general population” is not a defined term in the QAP. Its definition is effectively implicit through its specific usage in the QAP and other rules and particularly as part of the definition of Target Population. Target Population is defined as follows:

Target Population--The designation of types of housing populations shall include those Developments that are entirely Qualified Elderly and those that are entirely Supportive Housing. All others will be considered to serve general populations without regard to any subpopulations.

According to the definition, by virtue of not being Qualified Elderly or Supportive Housing, an Application is deemed to serve “general populations.”

Issues encountered

Staff is seeing increased interest in structuring applications in which some buildings serve exclusively elderly households while others have no age restrictions. Several years ago the Department defined this type of transaction as “Intergenerational” and had rules to govern how an applicant could structure such as application. Under the current rules, such a transaction would simply be “general

population” since it would not be “entirely Qualified Elderly.” However, this kind of development has raised concerns at the staff level for several reasons.

First, the increased interest in structuring developments like this could allow an application to qualify for points not available to Qualified Elderly Developments. For example, a development structured as 75% elderly and 25% general populations may garner greater support than a development that is 100% for general populations. This is a concern because the specific point incentive in the QAP was designed to encourage housing for families and to encourage developers to pursue development of housing that could serve families and all population sectors (effectively housing for all in need) rather than housing with additional age restrictions.

Second, HUD guidance and case law is evolving and has resulted in less clarity that this structure would always be compliant with fair housing. Age is not protected under the Fair Housing Act and to age restrict a property one must comply with very specific requirements. Recent HUD guidance suggests that the age restriction must be applied at the property owner level. The Fair Housing Act requirement is as follows:

As used in this section "housing for older persons" means housing --

- (A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
- (B) intended for, and solely occupied by, persons 62 years of age or older; or
- (C) intended and operated for occupancy by persons 55 years of age or older, and
 - (i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;
 - (ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
 - (iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--
 - (I) provide for verification by reliable surveys and affidavits; and
 - (II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

Recommended Guidance

Although it has been previously employed, staff believes, based on evolving HUD guidance, that at the level of the property owner, typically a limited partnership, each development needs to be either qualified elderly, general population, or supportive housing, even if within the overall development there are legally separate and distinct portions being developed under common financing. Unless directed otherwise by the Board, staff will incorporate into its review of applications the guidance herein concerning housing for elderly households. Those applicants that identified a target population of “general population” in their pre-applications but intended to structure an “intergenerational” development plan will not be adversely affected provided they simply structure their full applications without any occupancy restrictions for elderly households.

8

BOARD ACTION REQUEST
NEIGHBORHOOD STABILIZATION PROGRAM
JANUARY 17, 2013

Presentation, Discussion, and Possible Action to authorize the programming of NSP1 Program Income

RECOMMENDED ACTION

WHEREAS, NSP1 Subrecipients will be continuing activities after the March 3, 2013 Expenditure Deadline, and continued funding will be required to assure the successful completion of homebuyer sales and disposition of Land Bank properties; and

WHEREAS, NSP1 activities will result in the receipt of program income

NOW, therefore, it is hereby

RESOLVED, that expenses for homebuyer transactions and Land Bank operations and disposition be and hereby are approved to be funded from NSP program income as presented at this meeting

BACKGROUND

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The purpose of the program is to redevelop into affordable housing, or acquire and hold, abandoned and foreclosed properties in areas that are documented to have the greatest need for arresting declining property values as a result of excessive foreclosures.

The NSP Closeout Notice published by HUD on November 27, 2012, along with subsequent guidance has clarified the ability to continue certain activities after the March 3, 2013 Expenditure Deadline. Chiefly, HUD has stated that occupancy of all properties is not a requirement for expenditure, and that disposition of Land Bank properties is an activity they expect to continue until properties reach their final eligible use.

For the Texas NSP1, funds available for the purchase, rehabilitation or new construction of single-family homes must be expended by the deadline, but all properties will not necessarily be occupied. A continued source of funds will be necessary to pay third-party costs required at the homebuyer closings. These costs will generally be tied to Title and Escrow fees, insurance, appraisals and inspections, but may extend to repairs required to meet Housing Quality Standards or TREC Inspection requirements. Activity Delivery charges, in the form of staff time required to close transactions may also be budgeted.

Subrecipients that will be working to complete the redevelopment of Land Bank properties will have continued expenses for administrative and carrying costs to operate the Land Bank. Carrying costs are generally taxes, insurance, mowing and similar maintenance charges. Funds for rehabilitation or construction necessary to bring Land Bank properties into final eligible use prior to the 10 year federal deadline will be prioritized in future NOFAs for NSP Program Income.

It is proposed that funds required to close homebuyer transactions and fund Land Bank carrying costs and possible other activities be budgeted from available NSP Program Income, and made available to current subgrantees in good standing through a Service Agreement or similar arrangement. The amount budgeted will be based on estimates created from NSP records of expenses for similar programs and transactions, the percentages established in earlier NOFAs and Contract would no longer apply. Further, due to the long-term nature of Land Banking, and the need for continued effort to reach timely completion, it is proposed that the administrative funds available for Land Bank activities be tied to production levels.