TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Room E.1.028
Capitol Extension Building
1500 North Congress Avenue
Austin, Texas

Thursday,
December 13, 2012
10:04 a.m.

MEMBERS:

J. PAUL OXER, Chair
TOM H. GANN, Vice Chair
LESLIE BINGHAM ESCAREÑO (not present)
LOWELL KEIG
JUAN S. MUÑOZ
J. MARK McWATTERS

STAFF:

TIM IRVINE, Executive Director

A G E N D A

P R O C E E D I N G S

MR. OXER: Good morning everyone. I'd like to come to order please. Welcome everybody to the December 13 meeting of the governing board of the Texas Department of Housing and Community Affairs. As we always do, let's stand and salute the flags.

(Whereupon, the Pledge of Allegiance to the United States Flag and Texas Flag was recited.)

MR. OXER: All right. Let's be about our work here and as we always do, we'll certify a quorum.

Okay. Ms. Bingham is not here.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Keig?

MR. KEIG: Here.

MR. OXER: Mr. McWatters.

MR. McWATTERS: Here.

MR. OXER: Munoz?

DR. MUNOZ: Present.

MR. OXER: And I am J. Paul Oxer. I'm here. We have five present. That's a quorum. We can take care of business.

Do we have any guests, Michael?

MR. LYTTLE: No, sir, other than special ones already here.

MR. OXER: Okay. We'll take up the consent agenda.

MR. IRVINE: Mr. Chairman, if I might request that Items 1(p) and Report Item 3 be taken up separately for consideration.

MR. OXER: What was the second part?

MR. IRVINE: 1(p) and Report Item 3.

MR. OXER: Yes. Okay. Does any board member have an interest -- consideration of any item on the consent agenda.

(No response.)

MR. OXER: In that case, may I hear a motion?

DR. MUNOZ: So moved.

MR. GANN: Second.

MR. OXER: Okay. Dr. Munoz moves the adoption of the consent agenda. Second by Vice-chairman Gann. No public comment.

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none so it's unanimous.

Thank you. Okay. That takes -- with the

exception of 1(p) and Report Item 3 as described.

MR. IRVINE: And Michael DeYoung will present 1(p).

MR. DeYOUNG: Michael DeYoung, Community Affairs Division director. Item 1(p) is the CEAP rules and I have two verbal corrections to be noted before you take action. In Section 5.422, the general assistance and benefit levels, there's a typographical error in(f) which should read 4900 instead of $4500.

MR. OXER: Where is that again, Michael?

MR. DeYOUNG: In 5.422(f). We're talking about where we talk about the maximum assistance level. We had proposed a change down to a thousand dollars in two of the categories. We moved it back to 1200 and we did not make the summary correction on the total award that could go to an individual household

And then also on page 134, an incorrect citation. In the reason response we reference Section 5432 -- 5.432. It should be 5.423 and it should be (h).

MR. OXER: This was more or less typo corrections.

MR. DeYOUNG: Typo corrections as noted by Mr. Keig, which we appreciate.

MR. OXER: It's a mighty fine sieve you have to get through here on this.

MR. DeYOUNG: It's a good catch.

MR. OXER: It's a good catch.

MR. DeYOUNG: So those are the two corrections.

MR. OXER: All right. With those corrections, Mr. Keig, would you care to consider a motion --

MR. KEIG: So moved as corrected.

MR. OXER: Okay. Motion by Mr. Keig to accept Item 1(p) with corrections as stated by staff.

Second?

DR. MUNOZ: Second.

MR. OXER: Second by Dr. Munoz.

Is there any other public comment?

(No response.)

MR. OXER: And one other quick housekeeping item here. It's a reminder to everyone. Staff is here and where Cameron is and Megan and Jeff are, the second row right there all the way across is our public request, or location for request to speak on any item.

If you have an interest in speaking, come up. We're going to go from this side that way. So if you want to speak, sit over there. Fill it up that way.

Since there's nobody in that row, I'll assume there's no comment on this particular item.

All in favor of the motion as stated?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none so that's unanimous.

Okay. Marni?

MR. IRVINE: While Marni is coming up to make this report, I'd just like to say that Marni is one of the most knowledgeable and hard-working people I have ever worked with and you guys have gotten a taste over the past year of the caliber of people I'm talking about so that's --

MR. OXER: We hear you really rock, Marni.

MS. HOLLOWAY: Thank you. I'm Marni Holloway. I'm the director of the Neighborhood Stabilization program. As you know we've been working for an extended period of time, both with the Office of the Inspector General and with our HUD counterparts in the Fort Worth office regarding the findings in the HUD OIG audit report of the Neighborhood Stabilization program I.

The OIG audit had a number of findings numbered 1(a) through 1(g). We are pleased that our HUD field office management has confirmed to us that Items 1(a) through (f) have been closed leaving only Item 1(g) which relates to the timely expenditure of the NSP 1 grant.

Because of the nature of Item 1(g), the audit cannot be concluded and closed under the passage of the expenditure deadline in March so this is our approaching March 3 hundred percent expenditure requirement and, of course, when that formal notice is provided, we'll bring it through the audit committee. This is just an update for you at this point.

So through that conversation our regional HUD office has given us clearance to proceed with completing expenditure of the adjusted NSP 1 grant amount of $91,323,273.

MR. OXER: Good job, Marni.

MS. HOLLOWAY: Thank you.

MR. OXER: So this is just a matter from -- I understand that for all practical purposes we're closed out and we're waiting for the date to pass.

MS. HOLLOWAY: Right. So what's happened is that all of the findings that had dollar amounts tied to them, and there are also some concerns regarding our processes and how we were handling these transactions as they move through, have all been closed. So there will not be a check of -- at this point which is --

MR. OXER: So we basically get to keep all the money they sent us.

MS. HOLLOWAY: Well -- but you'll recall that we've adjusted the grant amount, going back to the monitoring review of the TDRA obligations.

MR. OXER: Right.

MS. HOLLOWAY: So we're not working with the original 101 million. We're down to 91 million. This result doesn't change that.

MR. OXER: Right. Good. Thank you. It's nice to have that one resolved.

MS. HOLLOWAY: Yes, it is.

MR. OXER: Take a deep breath and enjoy the holidays. We'll see you in January.

MS. HOLLOWAY: Okay.

MR. OXER: All right. Next item here.

MR. GANN: Do we need a motion to accept that report?

MR. OXER: I think that's a report item only, no motion required.

Okay. Ms. Boston?

MS. BOSTON: Brooke Boston. Speaking of other great news, as the deputy with oversight for the Recovery Act programs for the department, I'm pleased to be able to come before you today to officially say, We did it. In spite of nay sayers and critics who thought there was no way we would get it done, we did get it done, and we did it really well. I try not to gloat but this is one of those times when

I'm really glad to say, you know, we did it. We took you on.

With over a billion dollars in Recovery Act funds, we did not have any funds disallowed by our federal oversight agencies and we did not have any significant audit findings. That is just amazing. I'd really like to emphasize as well the "we" in we did it. Key agency staff, the dedicated and often overworked subrecipients, the creative developers, all came together with a lot of blood, sweat and tears to make this a success and make sure that that money got out to Texans and didn't get turned back. Many of us gone grayer --

(Pause.)

MS. HOLLOWAY: Internally, at the heart of our activity was the Office of Recovery Act Accountability and Oversight which was kind of the hub for all things ARRA and David Johnson is the intrepid and wicked efficient manager for that office so he's going to take just a minute to give you a close-out report on the ARRA activities and successes because we want to make sure everyone really gets quite how vast -- and how many people got impacted.

Also, I want to thank the executive leadership and the board because it was through y'all's policies and support, and forbearance at times, that let us get to where we are today. So thank you.

MR. OXER: Good. Thank you.

MR. JOHNSON: Hello. David Johnson, manager of the Office of Recovery Act Accountability and Oversight. I'm happy to be here today in this role to provide you a report on TDHCA's progress in successfully implement the Recovery Act, the ARRA program as we call it.

In 2009, $1.16 billion was awarded to TDHCA for additional assistance --

MR. OXER: David, hold on just for a second. I want to make sure -- and for those who are listening in, who are dialed in and listening in, there's a presentation, PowerPoint presentation, that's up on the screens that we can see here but I gather that they cannot. It's not being broadcast through the --

MR. JOHNSON: I'm not sure. It is in the board book though.

MR. OXER: No, it's in the board book and it's available for those who wish to read and those who are following us via audio can look at the board book and see the presentation.

MR. JOHNSON: It's under Item 2. So these services that ARRA provided for Texans ranged from homelessness services, homebuyer assistance, to weatherization. And I'm excited to say, as Brooke said, that we -- within the three years that we've been administering the program, we've been able to spend 99.7 percent of those funds, which is a great accomplishment.

In June of 2009 the Office of Recovery Act Accountability and Oversight, or ARRA Office, was created to help the interdivision coordination of these new and complex programs. The primary responsibilities of the office were to ensure the timely submission of quarterly reports for Section 1512, which are quarterly performance and job creation reports to the federal government, as well as reports to the Legislative Budget Board as well as the Texas House Select Committee on the Federal Economic Stabilization Fund, as well as liaisoning closely with the Governor's Office and also the creation of forecasting and reporting tools for the different program areas in the agency.

The first program I'd like to tell you about if the community services block grant program. This is an existing community affairs program. It existed before and after ARRA with the purpose of providing administrative support for poverty programs as well as direct services.

The award was $48 million and this is a 54 percent increase over a normal annual grant. We were able to spend 99.9 percent of that award, serving 99,000 Texans. Also, this grant did not come with any administrative funding so we were able to do this within our existing TDHCA staff as well as subrecipient network. We didn't increase or expand at all in order to accommodate this program.

The next program I'd like to discuss is the homelessness prevention and rapid rehousing program, or HPRP. This is an ARRA-only community affairs program. It didn't exist before and they discontinued it after ARRA was over, a HUD program that provides for rental utility assistance as well as case management.

The award was a little over $40 million and we spent 99.99 percent of the award, serving over 46,000 people. While HPRP has been discontinued by HUD, it is exciting to note that a lot of the innovations of HPRP have been carried over into a revised emergency solutions grant program, things such as a focus on rapid rehousing, a focus on homelessness prevention, as well as an allowance for a longer-term tendency. So all of those innovations have been able to be kept through even though the program itself no longer exists.

The next program is not a community affairs program. It's actually a tax credit related program and that is the Tax Credit Assistance Program or TCAP. TCAP funds were used to provide funding to tax credit projects at risk of not being able to use those credits.

The award was just under $150 million and I'm proud to say that we were able to spend every penny of this grant and provide over 8,300 housing units, 97 percent of which, about 8,100, were for income-qualified Texans.

The next program is also a tax credit program. It's the Tax Credit Exchange Program, or as we call it, Exchange. These funds allow developers to exchange returned or unused tax credits for a cash grant. This is by far our largest award for ARRA at almost $600 million. We spent over 99.7 percent of this grant and we were able to provide over 8,000 units for Texans. Out of the 16,000 combined units between TCAP and Exchange, all of those have been constructed at this point.

The final major ARRA program is another existing community affairs program with the Weatherization Assistance program, or ARRA WAP. These funds can be used to weatherize homes, address health and safety issues, as well as provide subrecipients with training and technical assistance. The award is 326 -- almost $327 million. And for comparison, this was awarded in 2009. In 2008 our award from DOE was $5-1/2 million which is overall a 5800 percent increase. If you divide that up annually, it's about 2000 percent increase.

MR. OXER: That's a big gulp for that python to be sucking that pig down.

MR. JOHNSON: Yeah. Through the duration of the program we only increased by about a third our subrecipient network so we were able to do it with much of our existing structure. This is the program where we probably experienced the most skepticism about our potential for success but despite that skepticism and our early hurdles in the program, we were able to spend well over 99 percent and serve 55,000 units with these funds so we consider that a great success.

There are some other ARRA activities that I'd like to mention that were somewhat smaller in scale but no less a boon to Texas. The first is the homebuyer tax credit program. It's an award of $4-1/2 million which expanded the $8,000 homebuyer tax credit to include the recipients of the first-time homebuyer as well as the mortgage credit certificate program. And with this program we were able to serve 869 families.

The other program with ARRA is the homeless housing and services program, or HHSP. TDHCA received about $189,000 in re-purposed ARRA funds to go towards the HHSP program which provides services such as case management and housing placement, housing retention, for the eight largest cities in Texas.

All told, TDHCA successfully administered the ARRA grant, spending 99.7 percent, as I said, of the funds which allowed us to serve overall 146,000 people in addition to 72,000 units which is -- I wanted to do this research -- it's roughly the same as serving every person in Mesquite and every house, every home, in Garland, Texas, so it's quite a lot of accumulated units.

The next slide shows Texas as compared to the same programs in other states. It's a national comparison using the 1512 data I mentioned earlier. These speak largely for themselves and I won't go through each one but I would want to point out that while I've showed you examples of Texas's success in terms of internal measures such as percent expended, persons or units served, this kind of shows that Texas also became a top administrator through national comparisons so it's not just our success internally.

I'd like to speak for a moment about job creation which is a primary focus of the Recovery Act. The figures you see here are jobs per quarter which are estimated from hours worked. It includes TDHCA and the subrecipients as well as the vendors of TDHCA and the vendors of the subrecipients.

So if you look at these numbers, for example, the bottom one, the ARRA WAP 1,041, that's the equivalent of about -- that's their highest quarter that ARRA WAP for job creation and it's about 520 hours per quarter for a job so what that figure is telling you is that in the highest working quarter ARRA WAP had 500,000 hours worked, on average about 280,000 hours worked per quarter for ARRA WAP. That's kind of what the numbers there are telling you.

The Exchange number, as you can see, is quite a bit higher at 9,351. That number's calculated very, very differently than the rest of the programs. It's a tremendous amount of jobs created. However, you can't really compare it to the rest of those figures.

MR. OXER: I have a question here. So back on this one, the WAP here. It's 1,041 jobs that were 537 hours per quarter.

MR. JOHNSON: No, I'm sorry.

MR. OXER: Put that back together.

MR. JOHNSON: 1,041 is the highest number of jobs created in any quarter because that Recovery Act -- OMB guidance has us look at the quarters individually and not be able to sum them up across quarters so that's the highest quarter that we produced which was the equivalent of about 540,000 hours. 537 is the average across all of the quarters.

MR. OXER: Okay. I got it.

MR. JOHNSON: Because we can't sum them, I wanted to try to give an idea of --

MR. OXER: So this shows your peak on that and the 537 is the average across the entire program.

MR. JOHNSON: Precisely.

MR. OXER: Got it.

MR. JOHNSON: On the next slide, this is a little more about TDHCA's employees. For the ARRA programs, TDHCA hired 43 temporary employees. Of those 43 temporary employees, 20 of them were later moved to existing permanent vacancies within the agency, which we were excited about being about to keep the talent and the skill that we acquired and developed during the ARRA program.

And as you can see to the table on the right we've kind of migrated throughout the agency. Those are the different divisions that these temporary and then permanent employees have moved to so that the skill has really spread.

MR. OXER: Mr. Keig, did you have a question?

MR. KEIG: I think he's going to address it in his presentation. Thanks.

MR. JOHNSON: Yes, sir. I've got you. The next line shows 40 permanent employees working with the ARRA program and that's in comparison to the 43 temporary employees so what that number represents are 40 full-time permanent employees that were with the agency at the beginning of the ARRA program, such as Brooke or Michael, Tom -- people who were already here and permanent employees but that worked with ARRA and charged to the ARRA grants. So what you would do is add those two numbers together and say that throughout the ARRA program 83 folks within the agency have charged to ARRA or worked with ARRA.

MR. OXER: And so they were essentially here and were succonded to that program.

MR. JOHNSON: Yes. Not all completely but at least part of their time.

MR. OXER: Okay.

MR. KEIG: And just for the folks watching outside the office, staff added a parenthetical under that permanent employees, 40, that says, existing employees working on ARRA some of their time, close paren.

MR. JOHNSON: ARRA has also provided many other benefits and innovations to the agency. These also largely speak for themselves but I did want to point out a few of them. The focus on quantitative forecasting tools and proactive contract management -- in the ARRA WAP program we saw that draws were not moving quickly enough to be able to fully expend. We created a forecasting tool that was able to show us which subrecipients we would predict would be able to spend on time or even faster and which ones would not.

The tool allowed us to implement a fair but aggressive deobligation policy without which I don't think we'd have hit the 99.4 percent expenditure rate and the tool is being used in other areas of the agency now. So we've been able to take the tool and spread it.

MR. OXER: So this tool that you've developed in terms of forecasting, actually -- do I perceive correctly, Brooke, that you're going to be using this for part of what we're talking about in January? Great. A tested tool that works. So it gives us the objective evaluation criteria to say that somebody doesn't -- I'll save it for later, Tom -- that somebody has the capacity to manage a program?

MR. JOHNSON: Yes. That their expenditures, their recent past expenditures would support the fact that they can spend within the time frame.

The other one I wanted to point out was the centralization of cross-cutting functions. Internally, we were able to realize great efficiencies and effectiveness through program services in centralizing things like environmentals and Davis Bacon and this happened slightly before ARRA; however, it was considerable benefit to the ARRA program to centralize those functions rather than having each one spread out through all of the different programs.

Externally, as well, we were able to work with the Historical Commission in doing historical reviews for the ARRA WAP program as well as working with the Health and

Human Services Commission in the CSBG ARRA 2 and 1 program, the benefits coordination. We saw a lot of success and efficiencies there as well.

While we're in the final days of ARRA, and we envision this being our last official report, there are a few tasks we have let to carry out. We still need to submit the final 1512 reports for HPRP and weatherization which will happen in January. We're also looking forward to our letter of close-out from the Governor's Office which will come after those reports are submitted and accepted by the federal government.

And then it's housekeeping items such as the records retention policies that will follow as well as tracking unemployment claims and things of that nature.

I want to also say that TDHCA's success with ARRA was an unparalleled effort throughout the agency. Within each program there was a core group of folks that really provided the drive to accomplish what we have accomplished. There are too many to list all individually but without their long days, nights, and weekends of dedication I would not be able to be here touting our success in the programs.

I do want to specifically mention Michael DeYoung and Tom Guiris. Michael was in charge of the CSBG, HPRP, and Weatherization programs and Tom oversaw TCAP and Exchange.

Without their innovative leadership in designing and implementing these primarily brand new programs, I'm confident we wouldn't be at 99.7 percent expended.

Thank you so much for your time and I welcome any questions you have.

MR. OXER: I have to say that's a great report. You could hardly be more satisfied with the reports than that.

Mr. Keig, do you have a question?

MR. KEIG: No, I -- well, yes, I do.

MR. OXER: A comment?

MR. KEIG: A comment. Could you go back to the previous slide, just for our public record -- and thanks for putting all this together. This is very helpful.

MR. JOHNSON: My pleasure.

MR. KEIG: It's one that is not in your board book is the last benefit as long-term access to 2-1-1 statewide data, just for the public record, but that was an additional point.

MR. JOHNSON: Yes, and --

MR. KEIG: Thanks for all the work on this.

MR. JOHNSON: Thank you.

MR. GANN: Mr. Chairman, I'd just like to make one comment because there's probably two on the board that were here when all this started.

MR. OXER: Right.

MR. GANN: I know Tim was here at that time too. We've all moved positions and changed positions and during all this process which hadn't been but maybe two, two-and-a-half years since all of it started, and when it did start it was massive. I mean, insurmountable odds against accomplishing half of it, it seemed like, because some of those increases were 2600 and 5000 percent of what we had been doing and that's almost inconceivable to concur.

But this group worked unbelievably smoothly. There were bumps in the road but they all handled it, seems like, and I want you to know, as one of those few that have been here since the beginning, I'm glad it's at this point.

(Laughter.)

MR. GANN: You've done a great job and I thank all of you.

MR. IRVINE: Swallowing the last bite on this pig going through the snake.

(Pause.)

MR. OXER: Are there any other questions from the board? I have a question and this is for the executive director.

Tim, how exactly is it that you got lucky enough to have a crew like this on your ship?

MR. IRVINE: I truly am incredibly fortunate.

MR. OXER: And having seen this go through -- admittedly, I came on and this was right biting the big part of this thing through and having seen what that is, I hope this is at least an admonition to those outside, don't bet against us.

Thanks, David.

MR. JOHNSON: Thank you.

MR. IRVINE: Mr. Chairman, I'd just like to add a couple of observations. There are some incredibly valuable take-away lessons from ARRA. To me, one of the most illuminating statistics on there is the weatherization assistance slowly pulled up from 48th in expenditures to 13th.

And what was an amazingly valuable lesson was, take the time to build the program out. That's not just a luxury. It's a necessity. You know, I look at the way that that compares to the program that Marni stepped in to take over for NSP but we frankly didn't have that benefit.

And if there's anything I've learned from ARRA, it's take the time and make the investment on the front end. Put the systems in place; put the people in place; hire the best, as we've done.

Another thing that I really learned from ARRA was just the power of collaboration. You can write memos and send emails all day long but there's nothing like getting some smart people in the room to brainstorm and it really was not entirely a program area effort. I mean, internal audit jumped in and helped us through some really difficult little kind of blow-ups along the way. That was really valuable. There's just no substitute for real collaboration.

And the response from, not just the network of subrecipients, but from the professionals that served them -- I remember sitting down there in 116 on New Year's Eve with Cynthia's partner Rick closing the first TCAP and Exchange deals. People everywhere really stepped up to the line and I got to say Texas collectively has enough ass on its tractor.

(Laughter.)

MR. OXER: And I would corroborate that. I've seen in the business that I do the expenditures and investment of financial capital is at risk if you don't have the investment of the intellectual capital ahead of it to make sure you know where you're going before you start throwing money at a problem.

I compliment the agency and the structure the staff has used to get to this point and I'm happy to see some of the metrics programs that came out of this -- be able to tell where we are, how fast we're going, what we're doing, what we're pulling that they're going to be used in the future because we might as well learn from that on somebody else's dollar.

So congratulations to the entire staff, and on behalf of the board I think we would all say thank you collectively.

Okay. Next item.

MR. IRVINE: Michael, you're back.

MR. OXER: And Michael, we'll stop referring to the weatherization and the CSBG program as the Michael DeYoung gray hair development project.

MR. DeYOUNG: That's quite all right. Michael DeYoung, Community Affairs Division director. I'm proud of my gray hair because it's a prerequisite to become an executive director.

(Laughter.)

MR. DeYOUNG: I would have said the whole board but Dr. Munoz, Mr. Gann seem to have fought the good fight.

Item 3(a) is the presentation, discussion of the CSBG Awards. These are annual awards. We received our first quarter allocation for the CSBG grant. It's about $8 million. The way the CSBG funds work is you get quarterly allocations of your awards so that we estimate that we're going to receive about $32-1/2 million this year. And of this amount 90 percent goes to eligible entities to administer a wide array of federal programs that use it for administrative dollars and that's the action you're taking today.

So about $29 million would be awarded today and we would wait on the approval from the federal government for the additional dollars. The funds are awarded by formula and then go to the community action agency network.

In the past we have funded these awards without doing previous participation reviews and we're bringing those previous participation reviews to you today because the rule requires it. You'll note in the board item that there are some agencies who have had some issues identified. Most of those have been corrected and we will work with the other entities who have remaining issues to resolve those issues.

And staff moves for your approval, or asks for your approval.

MR. OXER: Okay. We need a board action to proceed.

MR. KEIG: So moved.

MR. OXER: Motion by Mr. Keig to accept staff recommendation. Second?

DR. MUNOZ: Second.

MR. OXER: Second by Dr. Munoz.

All right. There appears to be no --

MR. KEIG: Yes.

We're asking for public comment. Is there a board comment?

MR. KEIG: Yes. So it's my understanding -- correct me if I get this wrong but the ones that have compliance issues, we're going to move ahead with the process, the application process, but we're not -- we need to actually fund them until they get those issues corrected. Is that a fair statement or can you clarify?

MR. DeYOUNG: Technically, these agencies do not apply for these funds and that's one of the discrepancies in the rule. The rule states that for any application that we would do a previous participation review.

These entities, as well as the next item, do not technically apply for the funds. They are awarded on a formula award basis. And so there's probably some revisions to the rule that are necessitated to include these entities.

MR. KEIG: And I apologize for calling it the application. I don't know what we would call it but the approval process, whatever it is -- once we get the calculations, that sort of thing, we're not actually going to provide them the funds. We'll suspend the contract until they get those compliance issues corrected.

MR. DeYOUNG: Correct. We'll actually merge a contract. We'll get signatures and then, depending on the severity of the issue, and most of these have already been resolved, there could be a contract suspension immediately after the signature of the contract until the issue is resolved.

On some of these it is merely an audit certification form that hasn't been put on file or their audit which is done we have not received a copy of. Most of these entities were notified right after the participation review was done and most of them have resolved their issue already.

MR. KEIG: Thanks.

MR. OXER: Okay. So this is a prescriptive distribution of funds as they come in for an allocation. Then it comes to us and goes out to these agencies. And we're saying is it's comes in, here's how it's going to be distributed because of the contract but you don't get it till you fix this.

MR. DeYOUNG: Correct.

MR. OXER: All right. Are there any other comments? Okay, a motion. Or we had a motion.

Motion by Mr. Keig and second by Dr. Munoz to accept the staff recommendation.

All in favor?

(A chorus of ayes.)

MR. OXER: Any opposed?

(No response.)

MR. OXER: There are none.

Good job, Michael.

MR. DeYOUNG: Item 3(b) is the Comprehensive Energy Assistance Program fund awards. These are CEAP funds. These funds come down from the Low-Income Home Energy Assistance Program. It's called LIHEAP.

We received notice of an award of $117 million this year so far and we also received a small sum of funds from last year called reallotment funds and that basically comes from other states that don't spend their money get distributed to the states that did spend their money. So we're going to bundle those two awards together and make awards for this year.

Now the LIHEAP grant has some flexibility built into it and we actually split the money into two different pots. We is for utility assistance, and that represents approximately 80 percent of the funds, and then 20 percent is dedicated towards weatherization activities.

This is dealing with the utility assistance portion of it. These funds are awarded to community action agencies to provide utility assistance that revolves around two different scenarios. One is ongoing utility assistance and the second is crisis assistance. Someone comes in with a disconnect or they're going through a cold snap, such as we are here in most of the state of Texas and their propane tank may be low.

They made need a refill of their propane tank. Those are crisis assistance that usually are one-time events and the assistance is granted and then the client goes on.

Similar to the previous item, we perform previous participation reviews. The same process will apply. We'll make the awards, sign the contracts, and then we can spend if we have significant issues with each of these. I think your board book, the item that you see -- many of those issues have been resolved. We have an updated list if that's needed.

Staff would recommend your approval.

MR. KEIG: So moved.

MR. OXER: Okay. Motion by Mr. Keig to approve staff recommendation.

MR. GANN: Second.

MR. OXER: Second by Vice-chairman Gann.

MR. OXER: There's no interest in public comment.

Any comments from the board, or questions?

(No response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. We agree. Good job. Thank you.

Okay. Cameron.

MR. DORSEY: Good morning. This item is a pretty unique item. It's essentially an item to adopt guidelines that provide an avenue for certain multifamily development folks to access or to request multifamily HOME funds before we have them available in a NOFA. That's what the action itself is for.

Let me kind of explain why we're presenting this to you all today. Historically, we have always been able to have a NOFA out and available at the time that applicants for 9 percent credits have to apply by March 1; it's statutory. We've always had a NOFA out at that time so that they can also request HOME funds, basically do layered deals.

HOME funds is an incredibly important source of secondary financing. It allows many deals in rural to work or on the fringes of urban areas. This year we've got a better-than-unprecedented situation in that we have a confluence of a few things that cause us to not have money to make available before March 1 and that's the reason for this action.

The circumstances are really primarily twofold. One, the historically single-family activities -- we often have deobligated funds that we could reprogram to multifamily due to changes in the single family program design that is primarily the reservation system. We don't have nearly as much that is being deobligated from those activities so we don't have funds to move to multifamily.

The second is we had in 2012 a much lower grant agreement with HUD. We had a fairly large reduction from around 40 million to 24 million. And we anticipate that that will not increase next year. So we have less funding and the other activities are more efficient in expending the funds that are initially programmed to them.

And as a result, it doesn't look like we're going to have any deobligated funds to put out in a NOFA before March 1. We're likely to get the HUD grant agreement for our 2013 money after March 1. And at that time we would put out a NOFA for that money and make it available.

The problem is that there's this timing gap. Obviously, if put out a NOFA after March 1 the folks that hadn't applied before March 1 wouldn't be able to access it. So what we're doing is recommending that we allow folks that are applying for 9 percent credits to also request HOME funds in those applications. We've set out some basic parameters.

Obviously, we have a set of rules that underlie all of these requests but in addition to that, award maximum of a million dollars. Those applications scoring a 5 or 7 on the opportunity index would receive priority over those that are not scoring a 5 or 7 on the opportunity index. And so we've laid out some basic parameters like that.

It's certainly conditional. There is some risk in applying for these funds, both because we're going to have much less available than we had last year. Last year we had a $37 million NOFA. Our whole grant is not expected to be even close to that amount for 2013 so there's risk in that we're unlikely to have as much available as we had last year.

And it's very possible that the timing doesn't work out like we expect -- maybe we get the funds much later than we expect or the funding is lower than we expect, and so there is some risk in applying for it but it's the best we can do to facilitate making -- allowing folks to structure HOME funds into their 9 percent apps.

One other key thing here is this avenue is only being made available to 9 percent applicants. The reason is because they're the only ones subject to this particular statutorily deadline that creates the timing issue. That said, the guidelines specifically lay out our intent to reserve and make some funds available to other types of applications that don't have this kind of early, early by to kind of get in queue.

So staff recommends approval of the guidelines as presented in the board book.

MR. OXER: Okay. Is there a motion to proceed?

MR. GANN: I move staff's recommendation as presented.

MR. OXER: Okay. A motion by Vice-chairman Gann to accept staff recommendation.

MR. McWATTERS: Second by Professor McWatters.

MR. OXER: Is there any public comment?

(No response.)

MR. OXER: There is none. Are there any questions from the board?

DR. MUNOZ: Cameron?

MR. OXER: Dr. Munoz.

DR. MUNOZ: You said that there would be some money set aside for those who don't face that deadline. How will you determine that and how will you respond to the inevitable accusation that this is sort of being earmarked for 9 percents.

MR. DORSEY: We specifically lay out here that when the NOFA comes out staff intends to make at least $5 million available for 4 percent applicants, for example. And it very clearly indicates that the NOFA, when it comes out, may not have the entire amount just available for 9 percent folks.

DR. MUNOZ: You said that we had about 37, 38 million. What do you think it's going to be in '13?

MR. DORSEY: Fourteen, fifteen.

MR. OXER: I have a question, Cameron.

MR. DORSEY: Yes.

MR. OXER: So this is essentially -- it's not a new program. This is a mechanism to integrate two existing programs more smoothly.

MR. DORSEY: This is to facilitate layering of funding sources.

MR. OXER: What is the impact to the economic viability, financial viability to a 9 percent deal if they apply for on funds of a certain amount and they don't get those because they're not available?

MR. DORSEY: They would have the opportunity to identify with a very "fast" turnaround an alternative funding source. Some folks may be able to do that but it would be a minority of folks that would be able to. I mean, it would be pretty big.

MR. OXER: Right. Then so the prudent applicant would -- if they put this HOME fund layer in their 9 percent application would also start backing up with an alternative loan source.

MR. DORSEY: If I were an applicant this year, more than any previous year that I've been associated with the HOME program, I would be prepared to have an alternative to put forth. Right.

MR. OXER: Okay. And let's play it through this whole thing. So let's go through the 2013 round. There's some HOME funds in there. Some of them get -- they're whoever. There's a list of projects that get qualified under the QAP for the tax credit round and they've got layers for HOME in there. They don't come through.

So that potentially means that more -- there's a higher probability a larger percentage of it will actually fall off and not be able to execute on their deal so the second tier -- the follow-on list, the standing list is going to be much more important next year.

MR. DORSEY: It could be, yes. If we only had $15 million available and we get the type of volume of HOME applications we got last year --

MR. OXER: Which is what?

MR. DORSEY: -- then -- upwards of $60 million in applications. If that were to occur this coming year it would be pretty likely that we would be unable to fund everyone who qualified for an award or was eligible for an award of 9 percent credit.

What they would be able to do is they have a -- we would end up providing a relatively short window to try to resolve and find an alternative funding source but it would be extremely difficult to do in most circumstances.

In prior years TDHCA HOME funds counted as under the unit of general local government funding item. This coming year TDHCA HOME funds will not count for points under that item so it won't be a point issue; it'll be more of a financial liability issue.

MR. OXER: Say, for whatever reason, do you have a sense -- and I guess this is going to be something that we'll have to pick up -- if there's five times as many or four times as many applicants using the HOME funding layer of this as there is funds, do you wind up dropping them from a million down to distributing it even across all of them or selecting them --

MR. DORSEY: We -- no, we generally do not do that and the reason is because we're not developers and we're not taking on the same risks that they do. When they structure deals if they fit within the underwriting criteria we have, we generally don't ask or impose reductions further on the funding sources they've applied for to spread them out. If someone were to voluntarily do that themselves, then certainly we could do that.

I will say that is one reason though we did reduce the maximum request. It was 2 million last year. We reduced it to 1 so that hopefully we can fund a few more. Certainly when you're talking about the reduction from 37 to 15 it may not be the solve-all but hopefully it'll help a little bit.

MR. OXER: I guess we'll just have to see how this one works out.

MR. DORSEY: Yeah.

MR. OXER: Okay. Any other questions from the board?

(No response.)

MR. OXER: No public comment?

Okay. Public comment. Step up right up here and make sure we have you on the list that you signed. State your name and who you represent.

MR. FEAZER: My name is Jim Feazer with Feazer Development and we primarily specialize in USDA transactions in the 5 percent set-aside. The HOME funds are critical to these particular projects. By nature they're in rural areas.

Some communities are a thousand, two thousand people, so there's no other source of financing available for those transactions to fill in the gap and they all have gaps. I'm sure Cameron would agree with that. So this could impact that set-aside dramatically.

MR. OXER: Cameron, does this consider or give any thought to holding this set-aside for the ones that would be -- because there's a certain amount of set-aside that's got to be made for certain deals. Would those be higher on the list for consideration of their HOME under these funds?

MR. DORSEY: Not necessarily. The way the guidelines are written and presented in your board book there are two pieces to establish the priority. One is -- well, there are really three. One kind of goes unstated but is apparent. That one would be -- you have to get 9 percent credit. If you're applying for 9 percent and HOME and you don't get credits, then your deal's not going to work so clearly that's a key piece.

Second, received date is generally how we run open cycle and we base the priority on the date we received the full application so those that put together a full application earlier get a higher priority. But the received date is a secondary consideration to scoring a 5 or 7 on the opportunity index. That is really going to be the highest priority, scoring that on the opportunity index.

I will say if we're talking about both the at-risk or the USDA set-asides they are less likely to identify deals that score 5 or 7 on the opportunity index because we're dealing with established locations that pre-exist the creation of the QAP.

So all things considered, they may ultimately be less likely to access these funds but I would also say that I would generally be pretty hesitant to say that USDA deals need the funds than another type of deal, whether it be at risk or just a straight up new construction rural deal. I think those are deal-specific issues.

MR. OXER: Okay. Mr. Sisk, did you have a question or comment?

MR. SISK: Board members, my name is Tony Sisk. I'm a partner with Churchill Residential in the Dallas area and the reason I'm here is to make a comment on and respectfully ask the board to consider if there is a way to make a special consideration specific to Region 3.

As you recall, much of the crafting of the QAP language this year was affected by the ICP lawsuit in the Dallas area and at the very last part of the QAP formulation and approval there were ten words that were added to the declared disaster area and those were, This excludes disaster declarations --

MR. OXER: Mr. Sisk, I'm sorry to interrupt you but I have to ask you this. Is this -- we have a segment of the agenda for comments unrelated to the things we've spoken about before and that's where I think you're comment would be appropriate.

What I'm asking is is this going to be appropriate to the question of the HOME --

MR. SISK: Oh, I'm sorry. When you called on me I just --

MR. OXER: Well, that's why I wanted to ask. That's okay.

MR. SISK: I apologize.

MR. OXER: That's all right.

MR. SISK: I just jumped right into it.

MR. OXER: Yeah. Let's resolve this one with you, Cameron. Then we'll be happy to hear you in just a little while. Okay?

MR. SISK: I would like to say we're all in favor of HOME funds though.

(Laughter.)

MR. OXER: I gather most everybody in here's in favor of funding sources. Okay.

Anything else, Cameron?

(No response.)

MR. OXER: Any other questions?

(No response.)

MR. OXER: Okay. Let's see, we had a motion by Vice-chairman Gann and a second by Professor McWatters to accept staff recommendation on this. No more comments.

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

Thanks, Cameron.

MR. IRVINE: Marni is back.

MR. OXER: This is getting way too fast now. You need to take some time on this, Marni. I don't know if I'll get used to us getting out of here early.

(Pause.)

MS. HOLLOWAY: Good morning again. Item Number 5 requests emergency authority for the executive director to take certain actions as we're running up to our NSP 1 and NSP 3 expenditure deadlines.

As we discussed earlier this morning, NSP 1 has a 100 percent expenditure deadline on March 3 of 2013. The

50 percent expenditure deadline for NSP 3 falls on March 7. As we are moving towards those deadlines we are, of course, taking actions or plan to take actions that get us to that 100 percent expenditure.

In some cases those actions are things that we normally would bring before the board -- requesting to add land banking activity to a contract because that extends it by more than a year, requesting to add more than 25 percent to a contract in funding. And that's something that we normally would bring to the board for approval before we make that contract amendment.

Because we're not going to see you all that often between now and the expenditure deadline, we are requesting authority for our executive director -- and let me make a couple of changes here to the resolution language. We're going to strike, and his designee, from the resolution, as requested, and we're also going to add to the resolution a requirement that those actions be discussed with you, Mr. Oxer, as the chair, prior to moving forward with them.

We will bring reports of such action back to the board every month. As they are taken, of course, that authority would expire with the expenditure deadlines on March 3 and March 7, respectively.

MR. OXER: A quick question on that correction, Marni. Does that include cosignature?

MS. HOLLOWAY: No, not that I'm aware of.

MR. OXER: Well, I mean --

MS. HOLLOWAY: If you'd like to sign things, we can make that happen.

MR. OXER: Well, that constitutes representation -- no, it just constitutes representation that I -- it certifies that I've had that conversation.

MS. HOLLOWAY: Right. And we actually had language in the background section further on that said the executive director will consult with the chair prior to taking action. We're just simply moving that small bit of language from the background up into the resolution.

MR. OXER: Okay. Thank you. All right.

A motion to consider?

MR. KEIG: So moved as modified.

DR. MUNOZ: Second.

MR. OXER: And modified as --

MR. KEIG: Modified being -- striking, and his designees, and adding in the resolved paragraph, in consultation with the chair of the board.

MR. OXER: Okay. And I'm trying to get to the point here for just -- processed the requiring signature on that because what that essentially does is, if I sign it, that says I had that conversation.

MS. HOLLOWAY: Okay.

MR. IRVINE: We can just take care of it by each time we discuss the matter we'll send you a confirming email and put that in the file.

MR. OXER: Okay. All right. Motion by Mr. Keig to accept staff recommendation of the resolution as modified in this meeting, second by Dr. Munoz.

Is there any public comment?

(No response.)

MR. OXER: I assume Mr. Sisk has got another item up here so any questions from the board?

(No response.)

MR. OXER: Okay. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

(Pause.)

MR. OXER: Okay. We have come to the point in the agenda -- we have completed the written agenda. We're open for public comment on matters for items other than those which were posted.

So, Mr. Sisk, I invite you back. Now we'll take up your item.

MR. SISK: I'll start over again. The reason for my presentation is to respectfully request that the board consider if there's anything that can be done about a situation that is specific to Region 3 and to even some specific areas of Region 3.

As I mentioned before, at the last minute the QAP was changed in the definition of declared disaster area -- ten words that were added, This excludes disaster declarations that are preemptive in nature. Up until recent -- well, up until last year's QAP all 254 counties qualified for these points because there was a preemptive declaration the governor related to wildfires, as I understand it.

After -- at some point -- at least I became aware of it very recently there's only two or three -- well, two major counties in north Texas, Dallas County and Tarrant County, that had an actual disaster declaration which was related to the tornados earlier this year.

The reason this is specific is that a lot of the selection criteria was designed to give a competitive chance or advantage for developments in the suburbs of Dallas/Fort Worth and the effect of this if that developments in the two largest growing counties in north Texas, Collin County and Denton County, will not be competitive in scoring this year.

I know from discussions with ICP folks that they had a lot of the preferred areas that they would like to see developments are in cities in Collin and Denton county and we scored all of the pro forma various types of transactions we think would be submitted this year in Region 3 and think it would be extremely difficult for any application to be competitive and score this year. So, again --

One further comment on that is right now the tax credits are variable credits, not fixed, which results in substantially less equity and transactions if that is not fixed, so to speak. Also we're told by major syndicators that the price of credits may go down if corporate tax rates go down next year, which has been proposed. And we think that even in transactions that are in high opportunity areas within Dallas and Tarrant County, it would be very difficult to find soft funds available to make the numbers work.

To make the numbers work, typically major cities have this kind of money but they typically target the money to low-income areas. So what we think the effect will be is that for economically viable deals they will be in low-income areas of Dallas and Tarrant County that are not high-opportunity areas, at least in terms of the financial -- I'm saying not the applications but at the end of the day to financially viable transactions if we stay with the variable tax credit.

So, again, in summary, I would ask that the board consider the effects related to the ICP lawsuit and the application of the definition of declared disaster area in Region 3.

MR. OXER: Okay. Thank you for your comments, Mr. Sisk, and I think you and everyone else here with, I hope, recognize that there's a certain discretion we have to exercise in discussing anything associated with the ICP litigation. It's still live. That's like rolling a hand grenade around, got to do that gently.

The issue that you have brought up is something that has been identified as an issue that needs to be considered. We have no other -- we're not allowed to do any other discussion on this until this item is posted but that'll be a posted item on an agenda as we go forward. I

gather there has been some discussion, Counsel, that this is one of those little quirks that wasn't evident until we lined up all those executive orders and started mapping this and it just popped out. We appreciate you bringing that to our attention.

Now we've come to the end. There appear to be no other interests in public speaking or additional items. I'd like everybody just sit tight for a second. We're going to go into a brief executive session to handle a couple of legal issues that we need to take care of. We're going to do it right over here in the room. I have to read this and everybody needs to be quiet so I can read this clearly into the record.

The governing board of the Texas Department of Housing and Community Affairs will go into closed session at this time pursuant to the Texas Open Meetings Act to discuss pending litigation with its attorney under Section 551.071 of the Act to receive legal advice from its attorney under Section 551.071 of the Act, to discuss certain personnel matters under Section 551.074 of the act, to discuss certain real estate matters under Section 551.072 of the Act, and to discuss issues regarding fraud, waste, or abuse under Section 2306.039(c) under the Texas Government Code.

The closed session will be held in the adjacent anteroom to this room. Today is December 13. The time is 11:07. We'll be back in about 20 minutes and wrap it up.

(Whereupon, the Board adjourned into executive session at 11:07 a.m.)

MR. OXER: All right. We'll resume our open session. The board is now reconvened in open session. We ended our executive session. No decisions were taken and we discussed items related to a legal issue associated with the board's work.

It is 11:35 and we are again in session. I think we are pretty close to the end of our prescribed agenda, posted agenda. I feel like we need to tarry at least to make this consistent so Professor McWatters doesn't feel like he getting off this easy -- getting used to having these short sessions here.

All right. We are at the moment where we have continued public comments from others, matters other than those that are posted. There's nobody standing for public comment.

Is there any comment from the staff, including executive director and the general counsel?

(No response.)

MR. OXER: All right. Is there any member of the board would like to make a comment?

(No response.)

MR. OXER: Okay. As the chair, I will make the opportunity to make my comment. I'd like to thank everybody for such an efficient meeting, thank everybody for taking heed of the memo we had last time to bring a little holiday color to the game. I wish everybody a joyous and safe holidays. Remember we need you all back. We'll see you in January.

I'll entertain a motion for adjournment.

MR. KEIG: I move we adjourn.

MR. OXER: Okay. Motion by Mr. Keig to adjourn.

DR. MUNOZ: Second.

MR. OXER: Second by Dr. Munoz. No discussion necessary. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: And there are none. See you in January. It's 11:36.

(Whereupon, at 11:36 a.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: December 13, 2012

I do hereby certify that the foregoing pages, numbers 1 through 54, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing & Community Affairs.

12/21/2012
(Transcriber) (Date)

On the Record Reporting
3636 Executive Center Dr #G-22
Austin, Texas 78731