

**TITLE 10
PART 1
CHAPTER 20**

**COMMUNITY DEVELOPMENT
TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
SINGLE FAMILY PROGRAMS UMBRELLA RULE**

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§20.1. Purpose.

This Chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the "Department") single family Programs, which includes the Department's HOME Investment Partnerships Program (HOME), State Housing Trust Fund (SHTF or HTF), Texas Neighborhood Stabilization (NSP), and Office of Colonia Initiatives (OCI) Programs and other single family Programs as developed by the Department. Single family Programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with Chapter 2306 of the Texas Government Code and any applicable statutes and federal regulations. Excluded from this Chapter are loans facilitated by the Department's pass through first-time homebuyer Programs utilizing bond financing structures or mortgage credit certificates that have no other Department funding.

§20.2. Applicability.

This Chapter only applies to single family Programs. Program Rules may impose additional requirements related to any provision of this Chapter. Where Program Rule is less restrictive and the item is not preempted by federal law, the provisions of this Chapter will govern Program decisions.

§20.3. Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings unless the context indicates otherwise. Any capitalized terms not specifically mentioned in this Section or any Section referenced in this Chapter shall have the meaning as defined in Chapter 2306 of the Texas Government Code, the Program Rules, the Texas Administrative Code, or applicable federal regulations.

(1) Activity--The assistance provided to a specific Household or Administrator by which funds are used for acquisition, new construction, reconstruction, rehabilitation, refinance of an existing Mortgage, tenant-based rental assistance, or other Department approved expenditure under single family housing Programs.

(2) Administrator--A unit of local government, Nonprofit Organization or other entity acting as a

Subrecipient, Developer, or similar organization that has an executed written Agreement with the Department.

(3) Affirmative Marketing Plan--HUD Form 935.2B or equivalent plan created in accordance with HUD requirements to direct specific marketing and outreach to potential tenants and homebuyers who are considered "least likely" to know about or apply for housing based on an evaluation of market area data. May be referred to as "Affirmative Fair Housing Marketing Plan" (AFHMP).

(4) Affiliate--If, directly or indirectly, either one Controls or has the power to Control the other or a third person Controls or has the power to Control both. The Department may determine Control to include, but not be limited to:

(A) interlocking management or ownership;

(B) identity of interests among family members;

(C) shared facilities and equipment;

(D) common use of employees; or

(E) a business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

(5) Affiliated Party--A person or entity with a contractual relationship with the Administrator as it relates to the Program, the form of assistance under a Program, or an Activity.

(6) Agreement--Same as "Contract." May be referred to as a "Reservation System Agreement" or "Reservation Agreement" when providing access to the Department's Reservation System as defined in this Chapter.

(7) Amy Young Barrier Removal Program--Program designed to remove barriers and address immediate health and safety issues for Persons with Disabilities as outlined in the Program Rule.

(8) Annual Income--The definition of Annual Income and the methods utilized to establish eligibility for housing or other types of assistance as defined under the Program Rule.

(9) Applicant--An individual, unit of local government, nonprofit corporation or other entity, as applicable, who has submitted to the Department or to an Administrator an Application for Department funds or other assistance.

(10) Application--A request for a Contract award or a request to participate in a Reservation System submitted by an Applicant to the Department in a form prescribed by the Department, including any exhibits or other supporting material.

(11) Certificate of Occupancy--Document issued by a local authority to the owner of premises attesting that the structure has been built in accordance with building ordinances.

(12) Combined Loan to Value (CLTV)--The aggregate principal balance of all the Mortgage Loans, including Forgivable Loans, divided by the appraised value.

(13) Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.

(14) Contract--The executed written Agreement between the Department and an Administrator performing an Activity related to a single family Program that describes performance requirements and responsibilities. May also be referred to as "Agreement."

(15) Control--The possession, directly or indirectly, of the power to direct or cause the direction of the management, operations or policies of any person or entity, whether through the ownership of voting securities, ownership interests, or by contract or otherwise.

(16) Debt--A duty or obligation to pay money to a creditor, lender, or person which can include car payments, credit card bills, loans, child support payments, and student loans.

(17) Debt-to-Income Ratio--The percentage of gross monthly income from Qualifying Income that goes towards paying off Debts and is calculated by dividing total recurring monthly Debt by gross monthly income expressed as a percentage.

(18) Deobligate--The cancellation of or release of funds under a Contract or Agreement as a result of expiration of termination of or reduction of funds under a Contract or Agreement.

(19) Developer--Any person, general partner, Affiliate, or Affiliated Party or affiliate of a person who

- owns or proposes a Development or expects to acquire control of a Development and is the person responsible for performing under the Contract with the Department.
- (20) Domestic Farm Laborer--Individuals (and the Household) who receive a substantial portion of their income from the production or handling of agricultural or aquacultural products.
- (21) Draw--Funds requested by the Administrator, approved by the Department and subsequently disbursed to the Administrator.
- (22) Enforcement Committee--The Committee as defined in Chapter 2 of this Title.
- (23) Forgivable Loan--Financial assistance in the form of a loan that is not required to be repaid if the terms of the Mortgage Loan are met.
- (24) HOME Program--A HUD funded Program authorized under the HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.
- (25) Household--One or more persons occupying a rental unit or owner-occupied Single Family Housing Unit as their primary residence. May also be referred to as a "family" or "beneficiary."
- (26) Housing Trust Fund or State Housing Trust Fund (SHTF)--State-funded Programs authorized under Chapter 2306 of Texas Government Code.
- (27) Housing Contract System (HCS)--The electronic information system that is part of the "central database" established by the Department to be used for tracking, funding, and reporting single family Contracts and Activities.
- (28) HUD--The United States Department of Housing and Urban Development or its successor.
- (29) Life-of-Loan Flood Certification--Tracks the flood zone of the Single Family Housing Unit for the life of the Mortgage Loan.
- (30) Limited English Proficiency (LEP)--Requirements as issued by HUD and the Department of Justice to ensure meaningful and appropriate access to programs and activities by individuals who have a limited ability to read, write, speak or understand English.
- (31) Loan Assumption--An agreement between the buyer and seller of Single Family Housing Unit that the buyer will make remaining payments and adhere to terms and conditions of an existing Mortgage Loan on the Single Family Housing Unit and Program requirements. A Mortgage Loan assumption requires Department approval.
- (32) Manufactured Housing Unit (MHU)--A structure that meets the requirements of Texas Manufactured Housing Standards Act, Chapter 1201 of the Texas Occupations Code or FHA guidelines as required by the Department.
- (33) Mortgage--Has the same meaning as defined in Section 2306.004 of the Texas Government Code.
- (34) Mortgage Loan--Has the same meaning as defined in Section 2306.004 of the Texas Government Code.
- (35) Neighborhood Stabilization Program (NSP)--A HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA) and Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010, as a supplemental allocation to the CDBG Program.
- (36) NOFA--Notice of Funding Availability or announcement of funding published by the Department notifying the public of available funds for a particular Program with certain requirements.
- (37) Nonprofit Organization--An organization in which no part of its income is distributable to its members, directors or officers of the organization and has a current tax exemption classification status from the Internal Revenue Service in accordance with the Internal Revenue Code.
- (38) Office of Colonia Initiatives--A division of the Department authorized under Chapter 2306 of Texas Government Code which acts as a liaison to the colonias and manages some Programs in the colonias.
- (39) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in the collateral.
- (40) Persons with Disabilities--Any person who has a physical or mental impairment that substantially limits one or more major life activities and has a record of such impairment; or is regarded as having such impairment.
- (41) Principal Residence--The primary Single Family Housing Unit that a Household inhabits. May also

be referred to as "primary residence."

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

(43) Program Income--Gross income received by the Administrator or Affiliate directly generated from the use of single family funds, including, but limited to gross income received from matching contributions under the HOME Program.

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

(45) Program Rule--Chapters of this Title which pertain to specific single family Program requirements.

(46) Qualifying Income---The income used to calculate the Applicant and co-Applicant's debt-to-income ratio and excludes the total of any income not received consistently for the past 12 months from the date of Application including, but is not limited to, income from a full or part time job that lacks a stable job history, potential bonuses, commissions, and child support. Income less than 12 months such as retirement annuity or court ordered payments will be considered if expected to continue at least 24 months in the foreseeable future.

(47) Reservation--Funds set-aside for a Household submitted through the Department's Reservation System.

(48) Reservation System--The Department's online tracking system that allows Administrators to reserve funds for a specific Household.

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

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

(51) Single Family Housing Unit--A residential dwelling designed and built for a Household to occupy as its primary residence where single family Program funds are used for rental, acquisition, construction, reconstruction or rehabilitation Activities of an attached or detached housing unit, including Manufactured Housing Units after installation. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

(52) Subrecipient--Same as "Administrator."

(53) TMCS--Texas Minimum Construction Standards located at <http://www.tdhca.state.tx.us/single-family/training/index.htm>.

§20.4. Eligible Single Family Activities.

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (7) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

- (1) rehabilitation, or new construction of Single Family Housing Units;
- (2) reconstruction of an existing Single Family Housing Unit on the same site;
- (3) replacement of existing owner-occupied housing with a new MHU;
- (4) acquisition of Single Family Housing Units, including acquisition with rehabilitation and accessibility modifications;
- (5) refinance of an existing Mortgage or Contract for Deed mortgage;
- (6) tenant-based rental assistance; and
- (7) any other single family Activity as determined by the Department.

§20.5. Funding Notices.

- (a) The Department will make funds available for eligible Administrators for single family activities through NOFAs, requests for qualifications (RFQs), request for proposals (RFPs) or other methods describing submission and eligibility guidelines and requirements.
- (b) Funds may be allocated through Contract awards by the Department or by Department authority to submit Reservations.
- (c) Funds may be subject to regional allocation in accordance with Chapter 2306 of the Texas Government Code.
- (d) Eligible Applicants must comply with the provisions of the Application materials and funding notice and are responsible for the accuracy and timely submission of all Applications and timely correction of all deficiencies.

§20.6. Applicant Eligibility.

- (a) Eligible Applicants may include entities such as units of local governments, Nonprofit Organizations, or other entities as further provided in the Program Rule and/or NOFA.
- (b) Applicants shall be in good standing with the Department, Texas Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.
- (c) Applicants shall comply with all applicable state and federal rules, statutes, or regulations including those administrative requirements in 10 TAC Chapter 1.
- (d) Applicants must provide Resolutions in accordance with the applicable Program Rule.
- (e) The actions described in the following paragraphs (1) - (5) of this subsection may cause an Applicant and any Applications they have submitted, to be ineligible:
 - (1) Applicant did not satisfy all eligibility and/or threshold requirements described in the applicable Program Rule and NOFA;
 - (2) Applicant failed to make timely payments on fee commitments or on debts to the Department for which the Department has initiated formal collection or enforcement actions;
 - (3) Applicant failed to comply with any other provisions of debt instruments held by the Department including, but not limited to, such provisions as timely payment of property taxes and insurance;
 - (4) Applicant is debarred by HUD or the Department; or
 - (5) Applicant is currently noncompliant or has a history of noncompliance with any Department Program. Each Applicant will be reviewed for compliance history by the Department. Applications submitted by Applicants found to be in noncompliance or otherwise violating the rules of the Department may be terminated, recommended with conditions, and/or not recommended for funding.
- (f) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.
- (g) The Department may decline to fund any Application if the proposed Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual components of any Application.
- (h) If Applicant is originating or servicing a Mortgage Loan, Applicant must possess all licenses required under state or federal law for taking the application of and/or servicing a residential mortgage loan and be in good standing with respect hereto, unless Applicant is specifically exempted from such licensure pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

§20.7. Household Eligibility Requirements.

- (a) The method used to determine Annual Income will be provided in the Program Rule.

(b) Households must occupy the Single Family Housing Unit as their Principal Residence for the entirety of the affordability period as established by the Program Rule.

§20.8. Single Family Housing Unit Eligibility Requirements.

(a) A Single Family Housing Unit must be located in the State of Texas and in the case of acquisition or construction assistance, the Household must have good and marketable title at the closing of any Mortgage Loan.

(b) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current (including prior years). Alternatively, the Household must be satisfactorily participating in an approved payment plan with the taxing authority and must be current for at least six consecutive months prior to the date of Application, or must have qualified for an approved tax deferral plan, or received a valid exemption from real property taxes.

(c) An owner-occupied Single Family Housing Unit must not be encumbered with any liens which impair the good and marketable title. The Department will require the owner to be current on any existing Mortgage Loans or home equity loans prior to assistance.

§20.9. Fair Housing, Affirmative Marketing and Reasonable Accommodations.

(a) In addition to Chapter 1, Subchapter B of this Title, Administrators must comply with all applicable state and federal rules, statutes, or regulations, involving accessibility including the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Architectural Barriers Act as well as state and local building codes that contain accessibility requirements; where local, state, or federal rules are more stringent, the most stringent rules shall apply. Administrators receiving Federal or state funds must comply with the Age Discrimination Act of 1975.

(b) Affirmative Marketing and Procedures. An Administrator receiving Federal or state funds must have an Affirmative Marketing Plan. The AFHMP must be submitted to the Department each time the Administrator applies for a new contract or a new type of activity. The plan must be submitted at a minimum of every three years if the Administrator continues to accept new applications.

(1) Administrators must use HUD Form 935.2B, the form on the Department's website, or create an equivalent AFHMP that includes:

(A) Identification of the population "least likely to apply" for the Administrator's Program(s) without special outreach efforts. Administrators may use the Department's single family affirmative marketing tool to determine populations "least likely to apply." If Administrators use another method to determine the populations "least likely to apply" the AFHMP must provide a detailed explanation of the methodology used. Persons with Disabilities must always be included as a population least likely to apply.

(B) Identification of the methods of outreach that will be used to attract persons identified as least likely to apply. Outreach methods must include identification of a minimum of three organizations with whom the Administrator plans to conduct outreach, and whose membership or clientele consists primarily of protected class members. If the Administrator is unable to locate three such groups, the reason must be documented in the file.

(C) Identification of the methods to be used for collection of data and periodic evaluation to determine the success of the outreach efforts. If efforts have been unsuccessful, the Administrator's AFHMP should be revised to include new or improved outreach efforts.

(D) Description of the fair housing trainings required for Administrator staff, including delivery method, training provider and frequency. Training must include requirements of the Fair Housing Act relating to financing and advertising, expected real estate broker conduct, as well as redlining and zoning for all programs, and discriminatory appraisal practices for programs involved in homebuyer transactions.

(E) A description for the provision of applicable counseling programs and educational materials that will be offered to Applicants. Administrators offering acquisition programs must require that potential home purchasers receive homeownership counseling and education at the time assistance is approved.

(2) Applicability.

(A) Affirmative marketing is required as long as an Administrator is accepting applications and/or until all dwelling units are sold in the case of single family homeownership programs.

(B) Administrators that currently have an existing list of Applicants and are not accepting new Applicants or establishing a waitlist are not required to affirmatively market until preparing to accept new Applications, but must develop a plan as described above.

EXAMPLE: An Administrator has an active HOME Reservation System Participation Agreement with a closed waiting list. The Administrator must develop an affirmative marketing plan, but does not have to affirmatively market that portion of its program. The Administrator should serve its waitlist. When the Administrator is nearing the bottom of the waitlist it should begin to affirmatively market the program, open up the program to new Applicants, finish serving the existing Households on the waitlist, and all new Applicants will be held for 30 calendar days, and then selected based on the neutral random selection process.

(C) Administrators providing assistance in more than one service area must provide a separate plan for each market area in which the housing assistance will be provided.

(3) After the required outreach efforts have been made, all Administrators must accept applications from possible eligible Applicants for a minimum of a 30 calendar day period rather than a first-come, first-served basis when selecting among eligible Applicants. At the close of the 30 day period Administrators will select Applicants through a neutral random selection process developed by the Administrator. After Administrators have allowed for a 30 calendar day period to accept applications and used a neutral random selection process to assist Households, they may accept applications on a first-come, first-served basis. HOME Tenant Based Rental Assistance Reservation System Participants with disaster funds may request to be exempt from the 30 calendar day period and the neutral random selection process, as necessary to respond to the disaster.

(4) Administrators must include as an attachment to HUD Form 935.2B or equivalent AFHMP, a waitlist policy including any Department approved preferences used in selecting Applicants from the list. Administrators of the Amy Young Barrier Removal Program may have a preference prioritizing Households to prevent displacement from permanent housing, or to foster returning to permanent housing related to inaccessible features of the unit. Administrators who have defined preferences in their written waitlist procedures or tenant selection plans, as applicable, will employ preferences first and select Applicants from the list of Applicants meeting the defined preference still using the neutral random selection process. Administrators of federally funded programs may only request to establish preferences included in Department planning documents, specifically the One Year Action Plan or Consolidated Plan, or as otherwise allowed for CDBG funded Activities.

EXAMPLE: A HOME Program Administrator has specific program requirements to assist one in every four Households at 30% area median family income. This Administrator should use a neutral random selection process to rank Applicants, and select going down the list. When the Administrator must assist a Household at or below 30% area median income they will then go down the list and select, in order, a Household at the 30% income level.

(5) Administrators offering homeownership or rental assistance that allow the Household to relocate from their current residence must provide the Household access to mobility counseling. For homeownership, mobility counseling may be included in homeownership counseling and education trainings.

(A) Mobility counseling must, at a minimum, include easily understandable information that the Household can use in determining areas of opportunity within a service area, it must at minimum provide the following: poverty rates, average income information, school ratings, crime statistics, available area services, public transit, and other items the Administrator deems appropriate to fair housing. Administrators may use resources offered by "Community Commons" as a tool in identifying

areas of opportunity in their community. This data resource can be located at <https://www.communitycommons.org/>.

(B) Information provided for mobility counseling may be offered via the Administrator's website or in paper form.

(C) Administrators must collect signed certifications from Applicants acknowledging the receipt of information. Certifications may be collected as a standalone form or may be integrated into existing program forms.

(6) An analysis of the AFHMP must be conducted at the close out of the contract or Activity and attached to any subsequent AFHMP submitted for the same program.

(7) In the case of any Applicant denial, a letter providing the specific reason for the denial must be provided to the applicant within seven calendar days of the denial. Administrators must keep a record of all denied Applicants including the basis for denial. Such records must be retained for the record retention period described by the Agreement or other sources.

(8) Administrators must provide Applicants with eligibility criteria, which shall include the procedures for requesting a reasonable accommodation to the Administrator's rules, policies, practices, and services, particularly as it relates to the application process.

(9) Administrators must include the Equal Housing Opportunity logo and slogan on any commercial and other media used in marketing outreach.

(10) Copies of all outreach and media ads must be kept in a separate record and made available to the Department upon request.

(c) A copy of all reasonable accommodation requests and the Administrator's responses to such requests must be kept in addition to responses sent by the Administrator.

(d) Provisions Related to Limited English Proficiency.

(1) Administrators must have a Language Assistance Plan that ensures persons with Limited English Proficiency ("LEP") have meaningful access and an equal opportunity to participate in services, activities, programs, and other benefits.

(2) Materials that are critical for ensuring meaningful access to an Administrator's major activities and programs, including but not limited to Applications, mortgage loan applications, consent forms and notices of rights, should be translated for any population considered least likely to apply that meets the threshold requirements of Safe Harbor LEP provisions as provided by HUD and published on the Department's website. Materials considered critical for ensuring meaningful access should be outlined in the Administrator's Language Assistance Plan.

(3) If the Administrator is required to translate vital documents under Safe Harbors guidelines, they must include in their Language Assistance Plan how such translation services will be provided (*e.g.*, whether the Administrator will use voluntary or contracted qualified translation services, telephonic services, or will identify bilingual staff that will be available to assist Applicants in completing vital documents and/or accessing vital services). If the Administrator plans to use bilingual staff in its translation services, contact information for bilingual staff members must be provided.

(4) The plan must be submitted to the Department upon request and be available for review during monitoring visits.

(5) Administrators must offer reasonable accommodations information and Fair Housing rights information in both English and Spanish, and other languages as required by the inclusion of "least likely to apply" groups to reach populations identified as least likely to apply.

(e) The plans noted in sections (b)(1) and (d)(1) of this section, any documentation supporting the plans, and any changes made to the plans, must be kept in accordance with recordkeeping requirements for the specific Program, and in accordance with 10 TAC Section 1.409, relating to Records Retention.

§20.10. Inspection Requirements for Construction Activities.

(a) Applicable to all construction activities. The Amy Young Barrier Removal Program is excluded from Section 20.10, Inspection Requirements for Construction Activities, of this Chapter to the extent funded

with SHTF.

- (1) Interim inspections of construction progress may be required to document a Draw request.
- (2) Final inspections are required for all single family construction Activities. The inspection must document that the Activity is complete; meets all applicable codes, requirements, zoning ordinances; and has no known deficiencies related to health and safety standards.
 - (A) A copy of the final inspection report must be provided to the Department and to the Household.
 - (B) Third party certification of compliance with the Minimum Energy Efficiency Requirements for Single Family Construction Activities under 10 TAC 21 is required, as applicable.
- (b) New construction requirements.
 - (1) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. In instances where the local jurisdiction does not issue a Certificate of Occupancy for the Activity undertaken, the Administrator must provide to the Department documentation evidencing that the Single Family Housing Unit has passed all required building codes in accordance to (a)(2) of this subchapter.
 - (2) Applicant must demonstrate compliance with Section 2306.514 of the Texas Government Code, "Construction Requirements for Single Family Affordable Housing," and applicable Program Rules.
- (c) Reconstruction requirements.
 - (1) The initial inspection must identify all substandard conditions listed in TMCS along with any other health or safety concerns unless the unit has been condemned or in the case of a HOME Activity, the unit to be reconstructed is an MHU. A housing unit condemned by a governmental entity will not be rehabilitated.
 - (A) A copy of the initial inspection report must be provided to the Department and to the Household as applicable. The initial inspection may be waived if the local building official certifies that the extent of the subject property's substandard conditions is beyond repair, or the property has been condemned.
 - (B) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up and cost-estimate in adequate detail to document the need for reconstruction.
 - (2) Applicant must demonstrate compliance with Section 2306.514 of the Texas Government Code, "Construction Requirements for Single Family Affordable Housing," and other Program Rules.
- (d) Rehabilitation requirements.
 - (1) The initial inspection must identify all substandard conditions listed in TMCS along with any other health and safety concerns.
 - (A) A copy of the initial inspection report must be provided to the Department and to the Household.
 - (B) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up and cost-estimate in adequate detail to ensure that all substandard conditions are properly corrected.
 - (2) Final inspections must document that all substandard and health and safety issues identified in the initial inspection have been corrected.
 - (3) Administrators shall meet the applicable requirements of the TMCS. TMCS requirements may be waived only through the process provided in Section 20.16, Waivers and Appeals, of this Chapter.
 - (4) The Certificate of Occupancy may serve as the final inspection if available and acceptable in the Program Rule.
 - (5) All deficiencies noted on the inspector's report must be corrected prior to the final draw of funds.
 - (6) Correction of cosmetic issues, such as paint, wall texture, etc., will not be required if acceptable to the Program as outlined in the Program Rule or if utilizing a Self-Help construction Program.
- (e) Inspector Requirements.
 - (1) Inspectors hired to verify compliance with this Chapter must meet Program requirements as outlined in the Program Rule, as applicable.
 - (2) Within city limits and extraterritorial jurisdictions, municipal code inspectors shall conduct all inspections for local code requirements as applicable.
 - (3) All non-municipal code inspectors shall conduct inspections using applicable construction standards prescribed by the Department, and Department-approved inspection forms and checklists as applicable.

(f) The Department reserves the right to reject any inspection report if, in its sole determination, the report does not accurately represent the property conditions or if the inspector does not meet Program requirements. All related construction costs in a rejected inspection report may be disallowed until the deficiencies are adequately cured.

(g) Single Family Housing Units participating in the Colonia Self-Help Center Program and receiving utility connections only are exempt from compliance with this Chapter.

§20.11. Survey Requirements.

(a) The Amy Young Barrier Removal Program is excluded from Section 20.11, Survey Requirements, of this Chapter to the extent funded with SHTF. A survey sufficient to induce a title company to issue a title insurance policy without the standard survey exception is required where Program funds are used for construction or acquisition because:

(1) the rehabilitation project is enlarging the footprint; or

(2) the Activity is reconstruction, new construction, or acquisition of an existing home.

(b) If allowed by the Program Rules or NOFA, existing surveys for acquisition only activities may be used if the owner certifies that no changes were made to the footprint of any building or structure, or to any improvement on the Single Family Housing Unit, and the title company accepts the certification and survey.

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

§20.12. Insurance Requirements.

(a) Title Insurance Requirements. A "Mortgagee's Title Insurance Policy" is required for all Department Mortgage Loans Program Rule, exclusive of subordinate lien mortgage loans for down payment assistance and closing costs. The title insurance must be written by a title insurer licensed or authorized to do business in the jurisdiction where the Single Family Housing Unit is located. The policy must be in the amount of the Mortgage Loan. The mortgagee named shall be: "Texas Department of Housing and Community Affairs."

(b) Title Reports.

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

(2) The preliminary title report may not be older than allowed by the Program Rule.

(3) Liens, or any other restriction or encumbrances that impair good and marketable title must be cleared on or before closing of the Department's Mortgage Loan transaction.

(c) Builder's Risk. Builder's Risk (non-reporting form only) is required where construction funds in excess of \$20,000.00 for a Single Family Housing Unit is being financed and/or advanced by the Department. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(d) Hazard Insurance.

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

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

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

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

(C) the amount of hazard insurance coverage at the time the Mortgage Loan is funded should be no less than one hundred percent (100%) of the current insurable value of improvements; and

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

(e) Flood Insurance. Flood insurance must be maintained for all structures located in special flood

hazard areas as determined by the U.S. Federal Emergency Management Agency (FEMA).

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

(2) Evidence of insurance, as required in this Chapter, must be obtained prior to Mortgage Loan funding. A one year insurance policy must be paid and up to two (2) months of reserves may be collected at the closing of the Mortgage Loan. The Department must be named as loss payee on the policy.

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

(a) The term “borrower” in this section means the individual or Household who is borrowing funds from or through the Department for the acquisition, new construction and/or rehabilitation of a Principal Residence.

(b) The fees to be paid by the Department or borrower upfront or through the closing must be reasonable for the service rendered, in accordance with the typical fees paid in the market place for such activities and:

(1) Fees charged by third party Mortgage lenders are limited to the greater of two percent (2%) of the Mortgage Loan amount or \$3,500, including but not limited to origination, loan application, and/or underwriting fees, and

(2) Fees paid to other parties that are supported by an invoice and/or reflected on the Closing Disclosure will not be included in the limit in (1).

(c) Mortgage Loan Underwriting Requirements. The requirements in this paragraph shall apply to all non-forgivable amortizing Mortgage Loans.

(1) Total Debt-to-Income Ratio. The applicant’s total Debt-to-Income Ratio shall not exceed 45 percent of Qualifying Income (unless otherwise allowed or dictated by a participating lender providing a fixed rate Mortgage Loan that is insured or guaranteed by the federal government or a conventional Mortgage Loan that adheres to the guidelines set by Fannie Mae and Freddie Mac.) A potential borrower’s spouse who does not apply for the Mortgage Loan will be required to execute the information disclosure form(s) and the deed of trust as a “non-purchasing” spouse. The “non-purchasing” spouse will not be required to execute the note. For credit underwriting purposes all debts and obligations of the primary potential borrower(s) and the “non-purchasing” spouse will be considered in the potential borrower’s total Debt-to-Income Ratio.

(2) Credit Qualifications.

(A) Potential borrowers must have a credit history that indicates reasonable ability and willingness to meet debt obligations. In order for the Department to make a reasonable determination, all borrowers must provide a credit release form. The Department may utilize credit reports if less than 90 days old as part of the loan application or obtain tri-merge credit reports on all potential borrowers submitted to the Department for approval at the time of loan application. In addition to the initial credit report, the Department may at its discretion obtain one or more additional credit reports before loan closing to ensure the potential borrower still meets Program requirements. Acceptable outstanding debt means that all accounts are paid as agreed and are current.

(B) Unacceptable Credit. Applicant’s meeting one or more of the following criteria will not be qualified to receive a single family Program loan from the Department.

(i) A credit history reflecting payments on any open consumer, retail and/or installment account (*e.g.*, auto loans, signature loans, payday loans, credit cards or any other type of retail and/or installment loan, with the exception of a medical account) which have been delinquent for more than 30 days on two or more occasions within the last 12 months and must be current for the six months immediately preceding the loan application date.

(ii) A foreclosure or deed-in-lieu of foreclosure or a potential borrower in default on a mortgage at the time of the short sale any of which had occurred or been completed within the last 24 months prior to

the date of loan application.

(iii) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens where the potential borrower has not entered into a satisfactory repayment arrangement and been current for at least 12 months prior to the date of loan application.

(iv) A court-created or court-affirmed obligation or judgment caused by nonpayment that is outstanding at the date of loan application or any time prior to closing of the Mortgage Loan.

(v) Any account (with the exception of a medical account) that has been placed for "collection," "profit and loss" or "charged off" within the last 24 months prior to the date of loan application.

(vi) Any reported delinquency on any government debt at the date of loan application.

(vii) A bankruptcy that has been filed within the past 24 months prior to the date of loan.

(viii) Any reported child support payments in arrears unless the potential borrower has satisfactory payment arrangements for at least 12 months prior to the date of loan.

(C) Mitigation for Unacceptable Credit. The following exceptions will be considered as mitigation to the unacceptable credit criteria in Subsection (c)(2)(B) of this Section:

(i) The potential borrower is a Domestic Farm Laborer and receives a substantial portion of his/her income from the production or handling of agriculture or aquacultural products, and has demonstrated the ability and willingness to meet debt obligations as determined by the Department.

(ii) The potential borrower has medical accounts that are delinquent or that have been placed for collection.

(iii) The potential borrower provides documentation to evidence that the outstanding delinquency or unpaid account has been paid or settled or the potential borrower has entered into a satisfactory repayment arrangement or debt management plan and been current for at least 12 consecutive months prior to the date of loan.

(iv) The potential borrower submits to the Department a written explanation of the cause for the previous delinquency, which is acceptable to the Executive Director or his or her designee.

(v) Any and all outstanding judgments must be released prior to closing of Mortgaged Loan.

(vi) If a potential borrower an applicant is currently participating in a debt management plan, the trustee or assignee provides a letter to the Department stating they are aware and agree with the potential borrower applying for a Mortgage Loan. If a potential borrower filed a bankruptcy, the bankruptcy must have been discharged or dismissed more than 12 months prior to the date of loan application and the potential borrower has re-established good credit with at least one existing or new active consumer account or credit account that is in good standing with no delinquencies for at least 12 months prior to the date of loan application.

(vii) If a Chapter 13 Bankruptcy was filed, a potential borrower must have satisfactorily made 12 consecutive payments and obtain court trustee's written approval to enter into Mortgage Loan.

(D) Liabilities.

(i) The potential borrower's liabilities include all revolving charge accounts, real estate loans, alimony, child support, installment loans, and all other debts of a continuing nature with more than ten (10) monthly payments remaining. Debts for which the potential borrower is a co-signer will be included in the total monthly obligations. For payments with ten or fewer monthly payments remaining, there shall be no late payments within the past 12 months or the debt will be included into the debt ratio calculation. Payments on installment debts which are paid off prior to funding are not included for qualification purposes. Payments on all revolving debts (*e.g.*, credit cards, payday loans, lines of credit, unsecured loans) and certain types of installment loans that appear to be recurring in nature will be included in the Debt-to-Income Ratio calculation, even if the potential borrower intends to pay off the accounts, since the potential borrower can reuse those credit sources, unless the account is paid off and closed. If the credit report shows a revolving account with an outstanding balance but no specific minimum payment, the payment must be calculated as the greater of 5% of the outstanding balance or \$10. If the potential borrower provides a copy of the current statement reflecting the monthly payment that amount may be used for the debt ratio calculation.

(ii) Payments on any type of loan that have been deferred or have not yet commenced, including

accounts in forbearance will be calculated using one percent (1%) of the outstanding balance or monthly payment reported on the potential borrower's credit report for student loans, whichever is less. Other types of loans with deferred payment will be calculated using the monthly payment shown on the potential borrower's credit report. If the credit report does not include a monthly payment for the loan, the monthly payment shown in the loan agreement or payment statement will be utilized. If a potential borrower provides written evidence that debt will be deferred at least 12 months from the date of closing, the debt will not be included in the debt ratio calculation.

(E) Non-Traditional Credit and Insufficient Credit. Applicants must provide three lines of nontraditional credit such as utility payments, auto insurance, cell phone payments, child care or other credit, as approved by the Department, listed in their name and reflecting no more than one 30 day delinquency on payments due to nontraditional creditors within the last 12 months and meet the requirements of section (c)(2)(B) of this section.

(F) Equal Credit Opportunity Act. The Department and/or the Administrator on behalf of the Department will comply with all federal and state laws and regulations relating to the extension of credit, including the Equal Credit Opportunity Act (ECOA) (15 U.S.C. 1691 et seq.) and its implementing regulation at 12 CFR Part 1002 (Regulation B) when qualifying potential borrower to receive a single family Program loan from the Department.

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

(e) Lien Position Requirements.

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

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

(3) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least fifty-five percent (55%) of the combined loans; however liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loans, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan.

(f) Loan Terms. All loan terms must meet all of the following criteria:

(1) May not exceed a term of 30 years;

(2) May not be for a term of less than five years; and

(3) Interest rate may be as low as zero percent as provided in the Program Rules.

(g) Loan Assumption. A Mortgage Loan may be assumable if the Department determines the potential borrower assuming the Mortgage Loan is eligible according to the underwriting criteria of this section and complies with all Program requirements in effect at the time of the assumption.

(h) Cash Assets. Applicant with unrestricted cash assets in excess of \$25,000 must use such excess funds towards the acquisition of the property in lieu of loan proceeds. Unrestricted cash assets for this purpose are Net Family Assets defined in 24 CFR §5.603.

(i) Appraisals.

(1) An appraisal is required by the Department on each property that is part of an acquisition Activity, except for down payment assistance only, prior to closing to determine the current market value.

(2) The appraisal must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation.

(3) The Appraiser must have an active and current license by the Texas Appraisal Licensing and Certification Board.

(j) Combined Loan to Value. The Combined Loan to Value ratio of the property may not exceed 100 percent of the cost to acquire the property. The lien amounts of Forgivable Loans shall be included when determining the Combined Loan to Value ratio. The cost to acquire the property may exceed the appraised value only to the extent of closing costs but in no case may result in cash back to the borrower or exceed the limits under (b)(1) of this section.

(k) Escrow Accounts.

(1) An escrow account must be established if:

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

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

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

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

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

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

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

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

(F) These funds are included in the borrower's monthly payment to the Department or to the servicer; and

(G) The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) under 12 U.S.C. §2601 and its implementing regulations at 12 CFR §1024 (Regulation X), as applicable.

(l) Requirements for Originating Mortgage Loans for the Department.

(1) Any Administrator or staff member of an Administrator originating Mortgage Loans for the Department must be properly licensed and registered as a residential mortgage loan originator in accordance with Chapters 157 and 180 of the Texas Finance Code and its implementing regulations at Chapter 81, Part 4 of Title 7 of the Texas Administrative Code, unless exempt from licensure or registration pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

(A) The Department reserves the right to reject any Mortgage Loan application originated by an Administrator or individual that is not properly licensed or registered.

(B) The Department will not reimburse any expenses related to a rejected Mortgage Loan application received from an Administrator or individual that is not properly licensed or registered.

(2) Only Administrators approved by the Department may issue initial mortgage disclosures, including the Loan Estimate and other integrated disclosures for Mortgage Loans made by the Department as required under RESPA, Regulation X, the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd Frank) at 124 Stat.1375, the Truth in Lending Act (TILA) at 15 U.S.C. §1601 and its implementing regulations at 12 CFR §1026 (Regulation Z), and any applicable Texas laws, statutes, and regulations regarding consumer disclosures for residential mortgage loan transactions.

(A) The Department reserves the right to reject any application for Mortgage Loan and Loan Estimate submitted by an Administrator that has not received Department approval because the loan product as disclosed is not offered or the borrower does not qualify for that loan product.

(B) The Department will not reimburse any expenses related to a Loan Estimate or Application received from an Administrator that does not have Department approval.

(3) Only Administrators approved by the Department may issue final mortgage disclosures, including the Closing Disclosures and other integrated disclosures, for Mortgage Loans made by the Department as required under RESPA, Regulation X, Dodd Frank, TILA, Regulation), and any applicable Texas laws, statutes, and regulations regarding consumer disclosures for residential mortgage loan transactions.

- (A) The Department reserves the right to reject any Closing Disclosure issued by an Administrator or title company without Department approval.
- (B) The Department reserves the right to refuse to fund a Mortgage Loan with a Closing Disclosure that does not have Department approval.
- (4) The Department will not allow disbursement of any portion of the Department's Mortgage Loan for acquisition until seller delivers to the borrower a fully executed deed to the property. After execution of the deed, the deed must be recorded in the records of the county where the property is located.
- (5) The first monthly mortgage payment upon closing of the Mortgage Loan with monthly scheduled payments will be due one full month after the last day of the month in which the Mortgage Loan closed. For example, if the Mortgage Loan closed on May 10th or May 30th, the first Mortgage payment will be due July 1st.
- (m) Principal Residence. Loans are only permitted for potential borrowers who will occupy the property as their Principal Residence. The property must be occupied by the potential borrower within the later of 60 days after closing or completion of the final Draw of Department funds for rehabilitation or reconstruction and remain their Principal Residence as defined in the Mortgage Loan documents or in the case of Forgivable Loans, until the forgiveness period has concluded in accordance with the Mortgage documents.
- (n) Life-of-Loan Flood Certifications will be required to monitor for FEMA flood map revisions and community participation status changes for the term of the Mortgage Loan.

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

- (a) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver amendments to any written Agreement or Contract that is not a Household commitment contract, provided that the requirements of this section are met unless otherwise indicated in the Program Rules.
 - (1) Time extensions. The Executive Director or his/her designee may grant up to a cumulative twelve (12) months extension to the end date of any Contract unless otherwise indicated in the Program Rules. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director identifying the unusual, non-foreseeable or extenuating circumstances justifying the extension. If more than a cumulative twelve (12) months of extension is requested and the Department determines there are no unusual, non-foreseeable, or extenuating circumstances, it will be presented to the Board for approval, approval with revisions, or denial of the requested extension.
 - (2) Award or Contract Reductions. The Department may decrease an award for any good cause including but not limited to the request of the Administrator, insufficient eligible costs to support the award, or failure to meet deadlines or benchmarks.
 - (3) Changes in Household. Reductions in Contractual deliverables and Households shall require an amendment to the Contract. Increases in Contractual deliverables and Households that do not shift funds, or cumulatively shift less than 10 percent of total award or Contract funds, shall be completed through an amendment to the Contract and be approved administratively. If such amendment is not approved, the Applicant will have the right to appeal in accordance with this Title.
 - (4) Increases in Award and Contract Amounts.
 - (A) For a specific single family Program's Contract, the Department can award a cumulative increase of funds up to 50 percent (50%) of the original award amount.
 - (B) Requests for increases in funding will be evaluated by the Department on a first-come, first-served basis to assess the capacity to manage additional funding, the demonstrated need for additional funding and the ability to expend the increase in funding within the Contract period.
 - (C) The requirements to approve an increase in funding shall include, at a minimum, Administrator's ability to continue to meet existing deadlines, benchmarks and reporting requirements.
 - (D) Funding may come from Program funds, Deobligated funds or Program income.
 - (E) Qualifying requests will be recommended to the Executive Director or his/her designee for

approval.

(F) The Board must approve requests for increase in Program funds in excess of the cumulative increase threshold established in this subsection.

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

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

(B) the budget change(s) are less than 10 percent of the total Contract's budget;

(C) if units or activities are desired to be increased, but funds must be shifted from another budget line item in which units or activities from that budget line item have been completed, a Contract amendment will only be necessary if the cumulative budget changes exceed 10 percent of the Contract amount; and
(D) the cumulative total of all Contract's budget modifications cannot exceed 10 percent of the total Contract's budget amount.

(E) If these guidelines are not met, an amendment to the Contract will be required.

(6) The Division Director may approve other amendments to a Contract or an Agreement, including amendments to the Administrator's service area, benchmarks, or selection of Activities administered under a Contract or an Agreement, provided that the amendment would not have negatively impacted the priority of Board approved Applications.

(b) The Department may terminate a Contract in whole or in part if the Administrator does not achieve performance benchmarks as outlined in the Program Rule and/or Contract, or for any other reason in the Department's reasonable discretion.

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

§20.15. Compliance and Monitoring.

(a) The Department will perform monitoring of single family Program Contracts and Activities in order to ensure that applicable requirements of federal laws and regulations, and state laws and rules have been met, and to provide Administrators with clear communication regarding the condition and operation of their Contracts and Activities so they understand clearly, with a documented record, how they are performing in meeting their obligations.

(1) The physical condition of assisted properties and Administrator's documented compliance with contractual and Program requirements may be subject to monitoring.

(2) The Department may contract with an independent third party to monitor an Activity for compliance with any conditions imposed by the Department in connection with the award of any Department funds, and appropriate state and federal laws.

(b) If an Administrator has Contracts for more than one single family Program, or other programs through the Department or the State, the Department may, at its discretion, coordinate monitoring of those programs with monitoring of single family Contracts under this Chapter.

(c) In general, Administrators will be scheduled for monitoring based on federal or state monitoring requirements, or a risk assessment process including but not limited to: the number of Contracts administered by the Administrator, the amount of funds awarded and expended, the length of time since the last monitoring, findings identified during previous monitoring, issues identified through the submission or lack of submission of a single audit, complaints, and reports of fraud, waste and/or abuse. The risk assessment will also be used to determine which Administrators will have an onsite review and which may have a desk review.

(d) The Department will provide an Administrator with written notice of any upcoming onsite or desk monitoring review, and such notice will be given to the Administrator by email to the Administrator's chief executive officer at the email address most recently provided to the Department by the Administrator. In general, a thirty (30) day notice will be provided. However, if a credible complaint of fraud or other egregious noncompliance is received the Department reserves the right to conduct unannounced monitoring visits, or provide a shorter notice period. It is the responsibility of the

Administrator to maintain current contact information with the Department for the organization, key staff members, and governing body.

(e) Upon request, Administrators must make available to the Department all books and records that the Department determines are reasonably relevant to the scope of the Department's review, along with access to assisted properties.

(f) Post Monitoring Procedures. After the review, a written monitoring report will be prepared for the Administrator describing the monitoring assessment and any corrective actions, if applicable. The monitoring report will be emailed to the Administrator. Issues of concern over which there is uncertainty or ambiguity may be discussed by the Department with the staff of cognizant agencies overseeing federal funding.

(g) Administrator Response. If there are any findings of noncompliance requiring corrective action, the Administrator will be provided a thirty (30) day corrective action period, which may be extended for good cause. In order to receive an extension, the Administrator must submit a written request to the Chief of Compliance within the corrective action period, stating the basis for good cause that the Administrator believes justifies the extension. In general, the Department will approve or deny the extension request within three (3) business days. Failure to timely respond to a corrective action notice and/or failure to correct all findings will be taken into consideration if the Administrator applies for additional funding and may result in suspension of the Contract, referral to the Enforcement Committee, or other action under this Title.

(h) Monitoring Close Out. After completion of the monitoring review, a close out letter will be issued to the Administrator. If the Administrator supplies evidence establishing continual compliance that negates the finding of noncompliance, the issue of noncompliance will be rescinded. If the Administrator's response satisfies all findings and concerns noted in the monitoring letter, the issue of noncompliance will be noted as resolved. In some circumstances, the Administrator may be unable to secure documentation to resolve a finding. In those instances, if there are mitigating circumstances, the Department may note the finding is not resolved but may close the issue with no further action required. If the Administrator's response does not correct all findings noted, the close out letter will identify the documentation that must be submitted to correct the issue. Results of monitoring findings may be reported to the Executive Awards and Review Advisory Committee for consideration relating to previous participation.

(i) Options for Review. If, following the submission of corrective action documentation, Compliance staff continues to find the Administrator in noncompliance, and the Administrator disagrees, the Administrator may request or initiate review of the matter using the following options, where applicable:

- (1) If the issue is related to a program requirement or prohibition Administrators may contact an applicable federal program officer for guidance or request that the Department contact applicable federal program officer for guidance without identifying the Administrator.

- (2) If the issue is related to a provision of the Contract or a requirement of the Texas Administrative Code, or a provision of an OMB Circular, the Administrator may submit an appeal to the Executive Director consistent with Section 1.7, Staff Appeals Process, in Chapter 1 of this Title.

- (3) Administrators may request Alternative Dispute Resolution (ADR). An Administrator may send a proposal to the Department's Dispute Resolution Coordinator to initiate ADR pursuant to Section 1.17 of this Title.

(j) If Administrators do not respond to a monitoring letter or fail to provide acceptable evidence of timely compliance after notification of an issue, the matter will be reported to the Department's Enforcement Committee for consideration of administrative penalties, full or partial cost reimbursement, or suspension.

(k) Administrators must provide timely response to corrective action requirements imposed by other agencies. Administrator records may be reviewed during the course of monitoring or audit of the Department by HUD, the Office of the Inspector General, the State Auditor's Office or others. If a finding or concern is identified during the course of a monitoring or audit by another agency, the Administrator is required to provide timely action and response within the conditions imposed by that

agency's notice.

(l) If the Department receives a complaint under Section 1.2 of this Title, it may elect or may be required to follow the procedures outlined therein instead of this Section.

§20.16. Waivers and Appeals.

(a) Appeal of Department staff decisions or actions will follow requirements in Program Rules and Chapter 1 or Chapter 2 of this Title, as applicable.

AUG. 24, 2017