

# **BOARD MEETING OF JUNE 14, 2012**

**J. Paul Ozer, Chair**



**TEXAS DEPARTMENT OF  
HOUSING & COMMUNITY AFFAIRS**  
*Building Homes. Strengthening Communities.*

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

## **LENDER OF THE YEAR AWARD**

### **TEXAS HOMEOWNERSHIP DIVISION**

**June 14, 2012**

As part of June's celebration of Homeownership Month, the staff and TDHCA Governing Board would like to recognize the lending community for their contributions to affordable housing and their efforts to increase the homeownership rate in Texas during 2011/2012. Through the issuance of mortgage revenue bond loans, TDHCA's network of participating mortgage lenders originated over \$295 million in first lien mortgage loans under the Texas First Time Homebuyer Program. Through the lending community's efforts, 2,450 individuals and families were able to experience the benefits of homeownership.

The Texas Mortgage Credit Program was also very successful as a result of our lender network with 703 Mortgage Credit Certificates (MCCs) issued during the past year. The certificates were issued on mortgage loans totaling in excess of \$92 million. MCCs provide up to \$2,000 annually towards a borrower's federal tax liability. Launched in 2003, the Texas Mortgage Credit Program has become one of the largest and most successful MCC Programs in the nation.

In recognition of the lending community's efforts, the TDHCA Governing Board is recognizing the top producing lending institutions and loan officers under the Texas First Time Homebuyer and Texas Mortgage Credit Programs. The lending institutions were selected for their overall production of mortgage loans and/or issuance of mortgage credit certificates under each of the programs and the corresponding dollar volume. The loan officers were selected based on their overall production level under each of the programs.

The following mortgage lenders have been selected for recognition of their achievements.

#### **Cornerstone Mortgage Company – “Texas First Time Homebuyer Program Lender of the Year”**

In 2011/2012, Cornerstone Mortgage Company originated an impressive 623 mortgage loans resulting in \$76 million in production. They have participated in TDHCA's homebuyer programs for a number of years, have been prior recipients of lender of the year awards and have offices located throughout the state of Texas.

#### **NTFN, Inc. dba Premier Nationwide Lending – “Texas Mortgage Credit Program Lender of the Year”**

Premier Nationwide Lending was responsible for the issuance of 109 MCCs on mortgage loans totaling \$13 million. They also have been the recipient of the MCC lender of the year award for the past several years and have offices located throughout the state.

#### **DHI Mortgage Company - “Texas Mortgage Credit Program Lender of the Year”**

DHI was responsible for the issuance of 107 MCCs on mortgage loans totaling \$16 million. They too have been a prior recipient of a lender of the year award and have been a strong lending partner for a number of years.

**Andy Woodside, Cornerstone Mortgage Company, Houston- “Loan Officer of the Year”**

In 2011/2012, Mr. Woodside closed 101 mortgage loans under the Texas First Time Homebuyer Program. He has worked in the mortgage lending business and with Cornerstone Mortgage Company for over 8 years. He is an asset to the mortgage banking industry and is truly committed to providing affordable housing to all Texans.

**Kim Lewis, NTFN, Inc. dba Premier Nationwide Lending, Flower Mound- “Loan Officer of the Year”**

In 2011/2012, Ms. Lewis closed 151 mortgage loans under the Texas First Time Homebuyer Program and was responsible for the issuance of 109 certificates under the Texas Mortgage Credit Program; a truly impressive level of production. She has worked in the mortgage industry for over 30 years and has participated in TDHCA’s Homebuyer Programs for approximately 20 years. Ms. Lewis has previously won this award several times and is a key business partner for TDHCA’s homeownership programs.

**Texas Department of Housing and Community Affairs  
Resolution No. 12-033**

WHEREAS, June 2012 is Homeownership Month in Texas;

WHEREAS, homeownership has a significantly positive impact on individuals, families, communities and the Great State of Texas;

WHEREAS, homeownership is a significant force that binds neighbors and communities together;

WHEREAS, the Texas Department of Housing and Community Affairs, the Texas State Affordable Housing Corporation, and the State of Texas are dedicated to supporting affordable, responsible long-term homeownership through the provision of safe financing options and homebuyer education;

WHEREAS, the Texas Department of Housing and Community Affairs, the Texas State Affordable Housing Corporation, and the State of Texas are committed to collaborating with the private and non-profit sectors to help as many low- to moderate-income Texans as possible purchase a home and maintain homeownership;

WHEREAS, the goal of the Texas Department of Housing and Community Affairs is to ensure that all Texans have access to safe and decent affordable housing; and

WHEREAS, the Texas Department of Housing and Community Affairs reaffirms the importance of homeownership in the lives of the Texans we serve, and in the Texas economy.

THEREFORE BE IT RESOLVED, that in the pursuit of the goal and responsibility of providing affordable homeownership opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs, does hereby celebrate and join Governor Rick Perry in proclaiming June 2012 as Homeownership Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of Homeownership Month.

Signed this Fourteenth Day of June 2012.



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J. Paul Oxer, Chair

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Tom Gann, Vice Chair

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Leslie Bingham Escareño

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Lowell Keig

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Dr. Juan Sanchez Muñoz

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J. Mark McWatters

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Timothy Irvine, Executive Director

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

**A G E N D A**

**10:00 a.m.  
June 14, 2012**

Capitol Extension Auditorium  
1500 North Congress Ave.  
Austin, TX

CALL TO ORDER, ROLL CALL  
CERTIFICATION OF QUORUM

J. Paul Oxer, Chairman

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

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

Adoption of a resolution recognizing June as Home Ownership Month and announcement of "Lenders of the Year"

**CONSENT AGENDA**

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

*Various action items below, (including consent agenda items and other items) relating to awards or other actions under different programs list specific applicants by name. These lists are informational and do not limit the Board's ability to take action with respect to others under the specific program action items.*

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

***EXECUTIVE***

- a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summary for May 10, 2012

**Brooke Boston**  
Board Secretary

***LEGAL***

- b) Presentation, Discussion, and Possible Action on a Request for Qualifications (RFQ) for Bond/Securities Disclosure Counsel(s) for publication in the *Texas State Business Daily*

**Jeff Pender**  
Deputy General Counsel

***TEXAS HOMEOWNERSHIP***

- c) Presentation, Discussion, and Possible Action to approve the Single Family Mortgage Revenue Bond (MRB) and Mortgage Credit Certificate (MCC) Participating Lender List

**Eric Pike**  
Dir. THP

***BOND FINANCE***

- d) Presentation, Discussion and Possible Action on Resolution 12-031 authorizing the increase of Program 77 from \$500 million to \$600 million
- e) Presentation, Discussion, and Possible Action on Resolution No. 12-032 authorizing the investment of the Escrow Funds in mortgage backed securities

**Tim Nelson**  
Dir. Bond Finance

***COMMUNITY AFFAIRS***

- f) Presentation, Discussion, and Possible Action on Approval of awards from the Notice of Funding Availability (NOFA) for the Fiscal Year 2012 Emergency Solutions Grants Program (ESG)
- g) Presentation, Discussion, and Possible Action on Approval of the Draft FFY 2013 Low Income Home Energy Assistance Program (LIHEAP) State Plan for Public Comment
- h) Presentation, Discussion, and Possible Action on Approval of the Award of a temporary Comprehensive Energy Assistance Program contract to Community Council of South Central Texas

**Michael DeYoung**  
Assist. DED, Network &  
Customer Service

to provide services in Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties

- i) Presentation, Discussion, and Possible Action on Approval of Authorization to release a Request for Applications (RFA) for Maverick, Dimmit, LaSalle, Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties

**COMPLIANCE**

- j) Presentation, Discussion, and Possible Action regarding a reinstatement of request for ownership transfer of Port Arthur Townhomes, and Housing Tax Credit applications 12310, 12317 and 12318

**Patricia Murphy**  
Chief of Compliance

**HOUSING RESOURCE CENTER**

- k) Presentation, Discussion, and Possible Action on a Request for Proposals (RFP) for a Comprehensive Analysis of Service-Enriched Housing Financing Practices

**Elizabeth Yevich**  
Dir. Housing Resource Ctr.

**MULTIFAMILY FINANCE**

- l) Presentation, Discussion, and Possible Action regarding approval for publication in the *Texas Register* of the 2012-1 HOME Multifamily Development Program Notice of Funding Availability
- m) Presentation, Discussion, and Possible Action regarding approval of Qualified Investment Banking Firms to provide Underwriting or Remarketing Agent Services for Multifamily Bond Transactions
- n) Presentation, Discussion, and Possible Action regarding approval for publication in the *Texas Register* Notice of Revisions to the NSP1-PI Notice of Funding Availability

**Cameron Dorsey**  
Dir. Multifamily Finance

**RULES:**

- o) Presentation, Discussion, and Possible Action to publish in the *Texas Register* proposed amendments to 10 TAC Chapter 5, Subchapter A, General Provisions §§5.4, 5.8, 5.10, 5.13, 5.15 - 5.17, 5.19, and 5.20, concerning references to the Emergency Solutions Grants (ESG) and the Homeless Housing and Services Program (HHSP); the repeals of §5.2 concerning Cost Principals and Administrative Costs, and §5.3 concerning Definitions; and new §5.2 concerning Definitions and §5.3 Cost Principals and Administrative Costs
- p) Presentation, Discussion, and Possible Action to publish in the *Texas Register* the proposed new 10 TAC Chapter 5, Subchapter K, §§5.2001 – 5.2017 regarding the Emergency Solutions Grants (ESG)
- q) Presentation, Discussion, and Possible Action to approve the final orders adopting the repeal of 10 TAC §§60.301-.306, concerning assessment of administrative penalties with regard to Compliance Administration; and new 10 TAC §1.13, concerning Adjudicative Hearing Procedures; and new 10 TAC §1.14, concerning Administrative Penalties

**Michael DeYoung**  
Assist. DED, Network & Customer Service

**Barbara Deane**  
General Counsel

**REPORT ITEMS**

The Board accepts the following reports:

1. Presentation and Discussion on a Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)
2. Report on the obligation of the Weatherization Assistance Program (WAP) portion of the PY 2012 Low Income Home Energy Assistance Program (LIHEAP) Award
3. Status Report on the HOME Program Contracts and Reservation System Participants
4. Status Report on The Report on Customer Service as required by Chapter 2114 of the Texas Government Code
5. TDHCA Outreach Activities, May 2012

**Brooke Boston**  
DED SF, CA & Metrics

**Brooke Boston**  
DED SF, CA & Metrics

**Sara Newsom**  
Dir. HOME

**Elizabeth Yevich**  
Dir. Housing Resource Center

**Michael Lyttle**  
Chief, External Affairs

**ACTION ITEMS**

**ITEM 2: PROGRAM SERVICES:**

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

**Jennifer Molinari**  
Fair Housing Coordinator

- ITEM 3: INTERNAL AUDIT:**  
Report from the Audit Committee Meeting Sandy Donoho  
Dir. Internal Audit
- ITEM 4: STRATEGIC PLANNING & BUDGETING:**
- a) Report from the Strategic Planning & Budgeting Committee Meeting Tom H. Gann  
Committee Chair
- b) Presentation, Discussion, and Possible Action on the Agency Strategic Plan for the Fiscal Years 2013-2017 Period Elizabeth Yevich  
Dir. Housing Resource Ctr.
- ITEM 5: HOUSING RESOURCE CENTER:**  
Presentation, Discussion, and Possible Action on submitting an application to the U.S. Department of Housing and Urban Development for Section 811 Project Rental Assistance Demonstration Program Elizabeth Yevich  
Dir. Housing Resource Ctr.
- ITEM 6: MULTIFAMILY FINANCE DIVISION:**  
Presentation, Discussion, and Possible Action to Issue a list of Approved Applications for Housing Tax Credits ("HTC") in accordance with §2306.6724(e) of Texas Government Code Cameron Dorsey  
Dir. Multifamily Finance

This list includes all pending applications including applications still subject to appeals, challenges, underwriting, and other reviews and possible termination.

12020	Palisades of Inwood	Houston
12022	Galveston Initiative I	Galveston
12024	Artisan at Twin Creeks	Allen
12025	Hawk Ridge Apartments	White Settlement
12028	Heritage Oak Hill	Austin
12031	Mesquite Terrace	Midland
12032	Heartland Village Apartments	Sulphur Springs
12034	Meadow Place Apartments	Wichita Falls
12038	Colonial Ridge Apartments	Houston
12042	Brentwood Apartments	West Columbia
12045	Elmwood Apartments	Buffalo
12048	Cottonwood Apartments	Taft
12049	Brownstones Midland	Midland
12051	Brownstones Tyler	Tyler
12053	The Manor at Hancock Park	Lampasas
12060	The Reserves at High Plains	Dumas
12061	Lost Creek	Mount Pleasant
12062	Cadillac Apartments	Dallas
12063	Stockbauer Landings Apartments	Victoria
12065	La Ventana Apartments	Abilene
12066	Barron's Branch	Waco
12067	Amberwood Place	Longview
12069	Evergreen at Rowlett	Rowlett
12074	Acadiana Village	Bridge City
12075	Saddlebrook Apartments	Burkburnett
12077	Solana Apartments	Benbrook
12080	Place of Grace	Beaumont
12083	Harmon Villas	Fort Worth
12084	San Gabriel Apartments	Georgetown
12088	The Huntington at Bryan	Bryan
12089	Briarbend	Beaumont
12092	The Huntington	Missouri City
12098	1400 Belleview	Dallas
12100	Pinewood Park	Lufkin
12104	Evergreen at Euless	Euless
12105	New Haven	Athens
12107	Calhoun Street Seniors	Houston
12109	Montgomery County Living Community	Conroe
12112	Inez Tims	Lufkin
12113	Churchill at Northlake	Northlake
12114	Timberedge Village	Magnolia
12118	Spring Trace	Spring
12120	Villas at the Orchard	Peñitas
12121	Memorial Apartments	McAllen
12123	Toepperwein Senior	San Antonio
12125	Monarch Meadows	Wolfforth



12126	San Elizario Palms II	San Elizario
12127	Clint Palms	Clint
12132	Monte Viejo	San Antonio
12134	Christie's Cove	Harlingen
12136	Sierra Cove	Edinburg
12140	Kiron at Mesquite Lane	Georgetown
12145	Comfort Place	Comfort
12146	Seaside Manor	Ingleside
12147	Sunflower Gardens	Carrizo Springs
12149	North Desert Palms	El Paso
12150	Whitetail Ridge Apartments	Hemphill
12152	Eastside Crossings	El Paso
12153	Eastpointe Estates	El Paso
12154	Villas at West Mountain	El Paso
12155	Laureles del Este	Fabens
12159	Hatcher Square	Dallas
12160	Residences of Greenville	Greenville
12165	GardenWalk of La Grange, Schulenburg and Weimar	La Grange, Schulenburg, Weimer
12166	Villa Brazos	Freeport
12168	Robbins Villas	Athens
12170	Fairfield Creek Estates	Cypress
12174	Royal Garden Mineral Wells	Mineral Wells
12175	Royal Garden Sulphur Springs	Sulphur Springs
12177	Royal Gardens Rio Grande City	Rio Grande City
12179	River Terrace	Bastrop
12180	Residences of Decatur	Decatur
12182	1701 Canton - EVERgreen Residences	Dallas
12184	SilverLeaf at Quail Creek	Amarillo
12188	Independent Missionary Village	Hitchcock
12191	Riverwood Commons Phase II	Bastrop
12192	The Hamilton	Houston
12202	Park Laureate	Harlingen
12204	Venetian Gardens	Joshua
12206	Spring Hills Apartments	Huntsville
12210	Park Hudson Senior Development	Bryan
12212	Palm Gardens	Corpus Christi
12216	College Station Senior	College Station
12218	The Reserve at Rosharon	Rosharon
12221	Riverstone Trails	Sunnyvale
12222	Playa Lake Apartments	Lubbock
12223	Hidden Hollow	Dumas
12225	Cypress Lake Apartments	Wolfforth
12228	Iowa Park Homes	Iowa Park
12243	Dunes Apartments	Seminole
12244	Monahans Apartments	Monahans
12245	Perryton Apartments	Perryton
12246	The Grove at Elm Park	Lubbock
12248	Lexington Manor Apartments	Corpus Christi
12249	Grand Manor Apartments	Tyler
12252	Gulf Coast Arms	Houston
12254	The Palms at Leopard	Corpus Christi
12260	Wichita Homes	Wichita Falls
12262	Georgetown Senior	Georgetown
12264	LULAC Hacienda Apartments	Corpus Christi
12267	Cornerstone Apartments	Brownsville
12268	Stonebridge of Plainview	Plainview
12269	Stonebridge of Kelsey Park	Lubbock
12271	The Reserve at Western Center	Fort Worth
12274	AT Villages at Elk River	Denton
12276	AT Villages at Cypress	Houston
12277	TGO Villages at Ridge	San Juan
12278	TGO Independence Village	Port Lavaca
12288	Cedarwood Apartments	Cedar Hills
12289	KIRON at Wilshire Boulevard	Burleson
12290	Woodbridge of Lubbock	Lubbock
12297	Abbingon Commons	Kaufman
12300	Capital Studios	Austin

12302	Farm Labor Apartments	Laredo
12303	Pinedale Village	Lufkin
12306	Stardust Apartments	Uvalde
12308	North Bartlett Ave Apartments	Laredo
12309	Ana M Lozano Apartments	Laredo
12310	The Monarch at Bay Prairie	Bay City
12314	Parkview Place	Huntsville
12317	The Sierra on Pioneer Road	Mesquite
12318	Cottonwood Square	Hutto
12323	Lexington Court Phase III	Kilgore
12326	Summerstone Senior Village	Ennis
12327	West Park Senior Housing	Corsicana
12328	Windvale Park Phase II	Corsicana
12329	Stonebridge Place	Palestine
12332	Apple Grove Villas	Mesquite
12334	The Overlook at Linheir Farm	Brenham
12336	The Residences of Solms Village	New Braunfels
12339	Hacienda del Sol	San Benito
12345	Merritt Legacy	Leander
12346	Merritt Hill Country	Dripping Springs
12347	Merritt Estates	Leander
12356	Sunrise Villas Apartments	Odem
12359	The Villas at Woodbend	Corpus Christi
12361	El Campo Village	El Campo
12362	Villas at Henderson	Henderson
12365	Stepping Stone & Taylor Square Apartments	Taylor
12366	Pecan Grove & Pecan Creek Village Apartments	Lampasas
12367	Justice Park Senior Villas	Houston
12368	Heritage Plaza	Montgomery
12371	Mariposa at Ranch Road 12	Wimberley
12372	Mariposa at Woodbridge	Wylie
12379	Sunrise Terrace	La Feria
12382	Stevenson Ranch	Stephenville
12383	Clear Springs	Atascocita
12388	Paseo Pointe	Los Fresnos
12389	Riverstone Ranch	Mansfield
12393	Highland Villas	Bryan
12395	Colonial Point Apartments	Gatesville
12397	Cotton Wood II	Raymondville

**ITEM 7: APPEALS:**

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

**Cameron Dorsey**  
Dir. Multifamily Finance

12062	Cadillac Apartments	Dallas
12066	Barron's Branch	Waco
12112	Inez Tims	Lufkin
12174	Royal Garden	Mineral Wells
12182	1701 Canton – EVERgreen Residences	Dallas
12192	The Hamilton	Houston
12225	Cypress Lake Apartments	Wolfforth
12271	Reserve at Western Center	Fort Worth
12302	Farm Labor Apartments	Laredo
12362	Villas at Henderson	Henderson

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

**EXECUTIVE SESSION**

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

**J. Paul Oxer**  
Chairman

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

- b) *Heston Emergency Housing, LP and Naji Al-Fouzan vs. Texas Department of Housing and Community Affairs, Michael Gerber, Martin Rivera, Jr., Marisa Callan, and Timothy Irvine*
  - c) *Complaint of James Reedom filed with U.S. HHS/OCR ( No. 09-99008)*
  - d) *TDHCA v. William Ross & Susan Ross; Cause No. D-1-GN-11-002226, filed in district court, Travis County*
  - e) *Complaint of Ameenah Montgomery filed with U.S. HUD (No. 06-12-0779-8)*
  - f) *Goldsberry & Associates*
3. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't. Code, Chapter 551;
  4. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or-
  5. Pursuant to Tex. Gov't. Code, §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

### **OPEN SESSION**

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session

### **ADJOURN**

*To access this agenda & details on each agenda item in the board book, please visit our website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or contact Nidia Hiroms, 512-475-3930; TDHCA, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, and request the information. Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Nidia Hiroms, 512-475-3930 at least three days before the meeting so that appropriate arrangements can be made.*

*Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.*

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**BOARD ACTION REQUEST**

**BOARD SECRETARY**

**June 14, 2012**

Presentation, Discussion, and Possible Action regarding the Board Minutes Summary for May 10, 2012.

**RECOMMENDED ACTION**

Approve Board Meeting Minutes Summary for May 10, 2012.

**RESOLVED**, that the Board Meeting Minutes Summary for May 10, 2012 as having been specifically approved, is hereby approved as presented.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
BOARD MEETING

**May 10, 2012; 10:00 a.m.**

1500 North Congress Ave.  
Capitol Extension, E1.016  
Austin, TX

**SUMMARY OF MINUTES**

**CALL TO ORDER, ROLL CALL, CERTIFICATION OF QUORUM**

The Board Meeting of the Texas Department of Housing and Community Affairs of May 10, 2012, was called to order by J. Paul Oxer, Chair, at 10:04 a.m. It was held at the Capitol Extension, E1.016, 1500 North Congress Ave, Austin, Texas. Roll call certified a quorum was present.

**MEMBERS PRESENT:**

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

CHAIRMAN OXER RECOGNIZED THE HONORABLE STATE REPRESENTATIVE JOHN RAINEY, DISTRICT 14, DON JONES, CHIEF OF STAFF FOR THE HONORABLE STATE REPRESENTATIVE JOSE MENENDEZ AND VIVECA MARTINEZ, GOVERNOR'S OFFICE AS BEING IN THE AUDIENCE.

**CONSENT AGENDA**

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

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

***EXECUTIVE***

- a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summaries for February 16, and April 12, 2012

***FINANCIAL ADMINISTRATION***

- b) Presentation of the Department's 2nd Quarter Investment Report

***BOND FINANCE***

- c) Presentation, Discussion, and Possible Action on Resolution No. 12-027 authorizing a Mortgage Credit Certificate Program (MCC) for first-time homebuyers (Program 80) along with related program documents to be administered by the Texas Department of Housing and Community Affairs  
d) Presentation, Discussion, and Possible Action on Resolution No. 12-028 authorizing the purchase of warehoused mortgage backed securities with proceeds of Residential Mortgage Revenue Bonds, Series 2009C-3 (Program 77)

***RULES***

- e) Presentation, Discussion, and Possible Action to approve a final order adopting the repeal of 10 TAC Chapter 54, §§54.1 – 54.3 concerning Disaster Recovery

***COMMUNITY AFFAIRS***

- f) Presentation, Discussion, and Possible Action regarding Approval of awards from the Notice of Funding Availability (NOFA) for the 2012 Community Services Block Grant (CSBG) State Discretionary Funds for Statewide, Migrant and Seasonal Farm Worker, and Native American projects  
g) Presentation, Discussion, and Possible Approval of use of LIHEAP funds by Sheltering Arms Senior Services as a supplement to WAP funds to optimize expenditures of ARRA WAP funds

***HOME SINGLE FAMILY***

- h) Presentation, Discussion, and Possible Action regarding the 2011 Single Family Homeowner Rehabilitation, Homebuyer Assistance, and Tenant Based Rental Assistance Programs contract award recommendations

**Homeowner Rehabilitation Assistance**

2011-0050 City of Holliday Holliday  
2011-0052 City of Lockney Lockney

**LEGAL DIVISION**

i) Presentation, Discussion, and Possible Action on a proposed Agreed Final Order with respect to Avalon Apartments (HTC 91036)

**MULTIFAMILY DIVISION**

j) Presentation, Discussion, and Possible Action on Housing Tax Credit Amendments

08412 Alamito Gardens El Paso

k) Presentation, Discussion, and Possible Action on Housing Tax Credit Program Extensions

09941 Residences at Stalcup Fort Worth

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

2012-601 Urban Progress CDC Texas, Inc. Dallas

**COMPLIANCE AND ASSET OVERSIGHT**

m) Presentation, Discussion, and Possible Action to approve a material amendment to the Land Use Restriction Agreement for Granada Apartments

**Motion by Ms. Bingham-Escareño to approve the consent agenda as presented; duly seconded by Mr. Gann; passed unanimously.**

**REPORT ITEMS**

The Board accepts the following reports:

1. Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)
2. Report on the award of a Master Servicer Contract to U.S. Bank for the "To Be Announced" Mortgage Purchase Program
3. Report on selection of First Southwest to administer a taxable mortgage backed securities program
4. Status Report on the HOME Program Contracts and Reservation System Participants
5. Update on the Status of the Preparation of the State of Texas Plan for Fair Housing Choice: Analysis of Impediments
6. Status Report on 2012 Competitive Housing Tax Credit Cycle
7. TDHCA Outreach Activities, April 2012

The Honorable State Representative John Rainey, provided testimony in support of TDHCA project #12216 Don Jones Chief of Staff, on behalf of the Honorable State Representative Jose Menendez, provided testimony in support of Haven for Hope

**ACTION ITEMS**

**AGENDA ITEM 2: MULTIFAMILY FINANCE DIVISION:**

a) Presentation, Discussion, and Possible Action regarding Revision to the Lien Priority of Previously Awarded Multifamily Development Program HOME awards

12402 Fox Run Orange  
12403 Village of Kaufman Kaufman

**Motion by Ms. Bingham-Escareño to approve staff's recommendation to allow the Executive Director and Director of Multifamily the ability to negotiate some alternative security with regard to Revision to the Lien Priority of Previously Awarded Multifamily Development Program HOME awards; duly seconded by Dr. Muñoz; passed unanimously.**

b) Presentation, Discussion, and Possible Action regarding Possible Waivers of Ineligibility for Applications in the 2012 Competitive Housing Tax Credit Cycle

12066 Barron's Branch Waco

**Motion by Mr. Keig to approve staff's recommendation to deny waiver; duly seconded by Ms. Bingham-Escareño.**

TONI HERBERT, City Council Representative, Waco, provided testimony in support of Barron's Branch.

SARAH ANDRE, provided testimony in support of Barron's Branch.

**THE BOARD TOOK A BRIEF RECESS AT 10:46 A.M. AND RESUMED AT 11:02 A.M.**

MALCOLM DUNCAN, JR., Mayor Pro Tem, Waco, provided testimony in support of Barron's Branch.

DARRELL JACK, Apartment Market Data, provided testimony in support of Barron's Branch.

TONI JACKSON, provided testimony on fair housing issues with regard to Barron's Branch.

SARAH ANDRE, provided testimony, once again, in support of Barron's Branch.

**Motion passed unanimously.**

- c) Presentation, Discussion, and Possible Action regarding the Neighborhood Stabilization Program Three (NSP3) Third Substantial Amendment to the One Year Action Plan

**Motion by Mr. Keig to approve staff's recommendation to approve the Neighborhood Stabilization Program Three (NSP3) Third Substantial Amendment to the One Year Action Plan contingent on the receipt of no negative public comment; duly seconded by Dr. Muñoz; passed unanimously.**

- d) Presentation, Discussion, and Possible Action regarding Approval of Amendments to the NSP1-PI and NSP3 Notices of Funding Availability (NOFAs) and Contracts for Multifamily Developments

**Motion by Ms. Bingham-Escareño to approve staff's recommendation to grant authority to staff to amend the NSP1-PI and NSP3 Notices of Funding Availability (NOFAs) and Contracts for Multifamily Developments as necessary, as well as, enter into amendments for those contracts to correct the language based on HUD's guidance; duly seconded by Mr. Gann; passed unanimously.**

### **AGENDA ITEM 3: HOUSING RESOURCE CENTER:**

Status Report on the Comprehensive Analysis of Rural and Farmworker Housing in Texas

PATRICK BOWEN, Bowen National Research, gave a presentation on the Comprehensive Analysis of Rural and Farmworker Housing in Texas.

KATHY TYLER, Motivation, Education and Training, provided testimony on the need for farmworker housing.

**CHAIRMAN OXER RECOGNIZED HASAN MACK, LT. GOVERNOR'S OFFICE AS BEING IN THE AUDIENCE.**

### **EXECUTIVE SESSION**

At 12:09 p.m. Chairman Oxer convened the Executive Session.

1. The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee
2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
  - a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al* filed in federal district court, Northern District of Texas
  - b) *Heston Emergency Housing, LP and Naji Al-Fouzan vs. Texas Department of Housing and Community Affairs, Michael Gerber, Martin Rivera, Jr., Marisa Callan, and Timothy Irvine*
  - c) *Complaint of James Reedom* filed with U.S. HHS/OCR ( No. 09-99008)
  - d) *TDHCA v. William Ross & Susan Ross; Cause No. D-1-GN-11-002226, filed in district court, Travis County*
  - e) *Complaint of Ameenah Montgomery* filed with U.S. HUD (No. 06-12-0779-8)
  - f) *Goldsberry & Associates*
3. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't. Code, Chapter 551; or
4. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or-
5. Pursuant to Tex. Gov't. Code, §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

### **OPEN SESSION**

At 1:19 p.m. Chairman Oxer reconvened the Open Session and announced that no action had been taken during the Executive Session and certified that the posted agenda had been followed.

### **AGENDA ITEM 4: BOND FINANCE:**

Presentation, Discussion, and Possible Action on Resolution No. 12-029 authorizing the sale of mortgage certificates and redemption of bonds from Single Family Mortgage Revenue Bonds Series 2002ABCD and Residential Mortgage Revenue Bonds Series 2002A and the sale of mortgage certificates from Residential Mortgage Revenue Bonds Series 2001ABC

ELIZABETH BOWES, Bracewell & Giuliani, provided testimony on the authorization for staff to work with counsel to approach the IRS to get a private letter ruling.

**Motion by Ms. Bingham-Escareño to approve staff's recommendation authorizing the sale of mortgage certificates and redemption**



of bonds from Single Family Mortgage Revenue Bonds Series 2002ABCD and Residential Mortgage Revenue Bonds Series 2002A and the sale of mortgage certificates from Residential Mortgage Revenue Bonds Series 2001ABC; duly seconded by Mr. Gann; passed unanimously.

**AGENDA ITEM 5: RULES:**

Presentation, Discussion, and Possible Action to approve the Final Order adopting new 10 TAC §1.25, Right of First Refusal at Fair Market Value and Final Order adopting amendments to 10 TAC §1.9, Qualified Contract Policy

**Motion by Mr. Keig to approve staff's recommendation to approve the Final Order adopting new 10 TAC §1.25, Right of First Refusal at Fair Market Value and Final Order adopting amendments to 10 TAC §1.9, Qualified Contract Policy; duly seconded by Ms. Bingham-Escareño; passed unanimously.**

**AGENDA ITEM 6: APPEALS:**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

12199 Freedom's Path of Kerrville Kerrville

**Motion by Mr. Keig to approve the appeal for Freedom's Path of Kerrville; duly seconded by Ms. Bingham-Escareño.**

CRAIG TAYLOR, President, Communities for Veterans, provided testimony in support of Freedom's Path of Kerrville.

BILL BACON, Hill Country Veteran's Council, provided testimony in support of Freedom's Path of Kerrville.

GARY KNOWLER, provided testimony in support of Freedom's Path of Kerrville.

CYNTHIA BAST, Locke Lord, provided testimony against Freedom's Path of Kerrville.

BILL CANTRELL, provided testimony in support of Freedom's Path of Kerrville.

DR. GARY McVEY, provided testimony in support of Freedom's Path of Kerrville.

BARRY PALMER, provided testimony in support of Freedom's Path of Kerrville.

MICHELE ATKINS, TDHCA Assistant Board Secretary, read into record that Mr. Ken Bowron, representing Freedom's Path at Kerrville is against staff recommendation. Tamea Dula, representing the applicant is also against staff recommendation.

MICHAEL LYTTLE, TDHCA Director of External Affairs, read into record, a letter from the Honorable Senator Leticia Van de Putte supporting Freedom's Path.

**Mr. Keig withdrew his previous motion to grant the appeal for Freedom's Path of Kerrville; Ms. Bingham-Escareño withdrew her second on this motion. Motion by Mr. Gann to approve staff's recommendation to deny the appeal for Freedom's Path of Kerrville; duly seconded by Mr. Oxe; opposed by Dr. Muñoz and Mr. Keig; motion passed.**

12289 KIRON at Wilshire Boulevard Burleson

**WITHDRAWN FROM CONSIDERATION BY THE DEVELOPER.**

**AGENDA ITEM 7: COMMUNITY AFFAIRS:**

Presentation, Discussion, and Possible Action to approve the award of \$950,000 of Community Services Block Grant (CSBG) discretionary funds to Haven for Hope for a pilot program for job creation

**Motion by Ms. Bingham-Escareño to approve staff's recommendation to approve award of \$950,000 of Community Services Block Grant (CSBG) discretionary funds to Haven for Hope for a pilot program for job creation; duly seconded by Dr. Muñoz.**

GEORGE BLOCK, Haven for Hope Bexar County, provided testimony in support of Haven for Hope.

DICK JANSON, TDHCA #12204, started to provide testimony on Venetian Gardens, was stopped by Chair Oxe so that the motion on Haven for Hope could be finalized.

**Motion to approve staff's recommendation to approve award passed unanimously.**

**AGENDA ITEM 8: EXECUTIVE:**

Presentation, Discussion, and Possible Action to authorize the submittal of a remedial plan in the litigation ICP vs TDHCA et al

**Motion by Mr. Keig to approve staff's recommendation to authorize the submittal of a remedial plan in the litigation ICP vs TDHCA et al; duly seconded by Ms. Bingham-Escareño; passed unanimously.**

**PUBLIC COMMENT**

Mr. Oxe opened up the meeting for requests for public comment for anything that was not addressed at the meeting or for requests for any issues to be added to the next Board Meeting agenda.

DICK JANSON, TDHCA #12204, Venetian Gardens, testified that the Mayor of Joshua, City Manager and a couple of councilmen would like to have the opportunity to attend the next TDHCA Board meeting to express their opinion on the project.

DEBBIE ELLER, Community Development Manager, College Station Senior Development, provided testimony on behalf of the Mayor of College Station, supporting TDHCA #12216.

GRANGER MACDONALD, provided testimony in response to a question from Dr. Muñoz with regard to what other states were doing as it pertains

to the lottery and to ask the Governor to reconsider his decision on having no forward commitments.

DOROTHY HOPKINS, Frazier, Hatcher Square, provided testimony with regard to the QAP and how it pertains to Hatcher Square.

ROBERT ONION, Consultant, asked the Board to consider increasing MF HOME award.

MELISSA ADAMI, Odyssey Residential, provided testimony to support Mr. Onion's request to increase the MF Home award.

MICHAEL HARTMAN, Tejas Housing, provided testimony on the QAP and lottery process.

## **ADJOURN**

**Motion by Dr. Muñoz to adjourn; duly seconded by Ms. Bingham-Escareño; passed unanimously.**

Since there was no other business to come before the Board, the meeting was adjourned at 4:10 p.m. on May 10, 2012.

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Michele Atkins, Assistant Board Secretary

For a full transcript of this meeting, please visit the TDHCA website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

1b

**BOARD ACTION REQUEST**  
**LEGAL DIVISION**  
**JUNE 14, 2012**

Presentation, Discussion, and Possible Action on a Request for Qualifications (RFQ) for Bond/Securities Disclosure Counsel(s) for publication in the *Texas State Business Daily*

**RECOMMENDED ACTION**

**WHEREAS**, the term for the outside counsel contract for Bond/Securities Disclosure Counsel will end on August 31, 2012;

**WHEREAS**, the Department desires to continue to employ such counsel and publish an RFQ in the *Texas State Business Daily*, pursuant to 1 TAC Chapter 57, §57.4, relating to Request for Qualification Process, in order to procure the same.

**RESOLVED**, that the executive director and his designees and each of them be and they are hereby are authorized, empowered and directed, for an on behalf of this Department to publish a Request for Qualifications for Bond/Securities Disclosure Counsel in the *Texas State Business Daily*, and, after completing the procurement, to report their selection to the Board.

**BACKGROUND**

In 2010, the Board approved the recommendation by staff to retain McCall, Parkhurst, and Horton, LLP, as disclosure counsel for transactions involving multifamily and single family bond transactions. The original term of this contract ended on August 31, 2011, and was extended through, and ends on August 31, 2012.

On June 17, 2011, new rules for the Office of the Attorney General at 1 TAC Chapter 57, §§57.1 - 57.9, relating to the Attorney General's processes regarding the approval of outside counsel contracts and review of invoices, became effective. Pursuant to §57.4, relating to Request for Qualification Process, "an Agency seeking to obtain legal services from Outside Counsel must publish a Request for Qualifications for Outside Counsel in the *Texas State Business Daily* for thirty (30) days."

Accordingly, the Department seeks permission to procure, through the RFQ process, a Bond/Securities Disclosure Counsel and will report its selection to the Board at a subsequent meeting.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**REQUEST FOR QUALIFICATIONS**  
**FOR**  
**BOND/SECURITIES DISCLOSURE COUNSEL**

**I. BACKGROUND ON THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**A. PURPOSE.**

The Texas Department of Housing and Community Affairs (the “Department”), is a public and official governmental agency of the state, created pursuant to Chapter 2306, Texas Government Code (the “Act”). The Department is authorized to provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income. Pursuant to the Act, the Department may issue bonds, notes, or other obligations to finance or refinance residential housing and multi-family developments and to refund bonds previously issued by Texas Housing Agency (the “Agency”), the Department, or certain other quasi-governmental issuers. The Act specifically provides that the revenue bonds of the Agency become revenue bonds of the Department.

**B. ORGANIZATION.**

The Department is governed by an executive director employed by a seven-member board. The members of the board are appointed by the Governor upon the advice and consent of the Texas Senate for staggered six-year terms, with the terms of two or three members expiring on January 31 of each odd-numbered year. The board is responsible for authorizing the allocation of bonds by the Department and all other acts in connection therewith specified in the Act. The executive director is responsible for the overall administration of the Department and its programs and for employing its staff.

**C. BOND PROGRAMS.**

Single Family Housing Bond Program. The Department has established a Single Family Mortgage Revenue Bond Program pursuant to the Act for the purpose of assisting in financing the costs of acquisition of residences within the State of Texas by eligible borrowers. The program offers mortgage loans at competitive interest rates through the sale of tax-exempt mortgage revenue bonds. The guidelines adopted by the Department from time to time in connection with the program establish the eligibility of lenders to participate in the program, time limitations with respect to commitments for and originations of mortgage loans, the types of mortgage loans eligible for purchase by the servicer, the eligibility of mortgagors, the requirements for dwellings which secure mortgage loans, the fees which a mortgage lender may charge to originate a mortgage loan, the fees which a lending institution may charge for servicing a mortgage loan, as well as other aspects of the program.

Multi-Family Bond Program. The Multi-Family Bond Program finances below market loans to non-profit and for-profit developers of apartment projects serving moderate income persons and families that agree to set aside at least 20% of a project's unit for rental to very low and low income persons and families. In addition, at least 5% must be rented to persons with special needs. The Department funds the loans through the sale of tax-exempt and taxable mortgage revenue bonds.

## **II. SCOPE OF SERVICES.**

### **A. DESCRIPTION OF LEGAL SERVICES REQUIRED.**

The Department anticipates the need for legal services in connection with the issuance of bonds at any time and from time to time during the term of the contract at the request of the Department. Bond/Securities Disclosure Counsel is expected to assign those attorneys and professionals employed by the firm who are best suited to appropriately respond to such requests in connection with the issuance of bonds and with ongoing compliance of any/all trust indentures and other documents and agreements integral to the issuance of such bonds. The firm will provide any such services as Bond/Securities Disclosure Counsel, which includes preparation of all Official Statements of the Department in connection with bond issues being sold into the public market.

The Department may award multiple contracts. It is anticipated that if multiple contracts are awarded, an agreement among selected counsel would provide for the identification and coordination of each awarded firms respective responsibilities.

### **B. TERMS OF AGREEMENT.**

Subject to the negotiation of an acceptable contract by the Department and such outside counsel, the Department will execute an agreement with Bond/Securities Disclosure Counsel for at least a one year term with optional extensions up to two years, as required based on performance and on such other terms and conditions as may be acceptable to the parties subject to required approval of the Attorney General of Texas. Any such agreement shall provide that the Department will retain the right to terminate the contract for any reason and at any time upon the payment of fees and expenses then due and payable.

## **III. REQUEST FOR QUALIFICATIONS (THE "RESPONSE") INSTRUCTIONS.**

### **A. PROPOSAL FORM AND FORMAT.**

1. The Response must include each question or request for information, as specified in §IV of this RFQ, followed by the narrative answer in the standard format for interrogatories, limited to one side of a single 8 1/2" x 11" page. Supplemental information (such as firm brochure, annual reports, or background material) if any, must be restricted to Appendices following the responses.
2. The pages of the response should be numbered sequentially with the name of the firm on each page.
3. The response should be submitted in a loose-leaf binder.

4. Four (4) copies of the response are requested and should be sent by registered mail or delivered in person to the attention of Mr. Jeffrey Pender, Deputy General Counsel, Texas Department of Housing and Community Affairs, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, no later than the deadline for submission of responses specified in §III.B. of this RFQ.

**B. DEADLINE FOR SUBMISSION.**

The deadline for submission in response to the Request for Qualifications is **4:00 p.m.**, Central Daylight Saving Time, on **July 16, 2012**. No response will be accepted after the deadline.

**C. GENERAL INFORMATION.**

The Department reserves the right to accept or reject any (or all) Response's submitted. The information contained in this request for qualification is intended to serve only as a general description of the services desired by the Department, and the Department intends to use responses as a basis for further negotiation of specific project details with offerors. This request does not commit the Department to pay for any costs incurred prior to the execution of a contract and is subject to availability of funds. Issuance of this request for qualifications in no way obligates the Department to award a contract or to pay any costs incurred in the preparation of a response.

**D. RELEASE OF INFORMATION.**

Information submitted in response to this request for qualifications is considered Public Information under the Texas Public Information Act. The Department, in its sole discretion, may seek permission from the Attorney General to withhold submitted information at any time during the RFQ process.

**E. PROPRIETARY INFORMATION.**

If a firm does not desire proprietary information in the Response to be disclosed under the Texas Public Information Act or otherwise, it is required to clearly identify (and segregate, if possible) all proprietary information in the Response, which identification shall be submitted concurrently with the Response. If such information is requested under the Texas Public Information Act, the firm will be notified and given an opportunity to present its position to the Attorney General of Texas, who shall make the determination whether the information should be released. If the firm fails to clearly identify proprietary information, it agrees by the submission of a Response that those sections of the Response shall be deemed non-proprietary and may be made available to the public upon request.

**IV. REQUESTED INFORMATION.**

Respondent must:

- A. Provide a general description of your law firm, including historical background, number and location of firm offices, number of attorneys and major areas of practice;
- B. Provide a general description of your firm's practice in the field of public finance, including the size and scope of the practice, the number of attorneys active in the practice and other resources of the firm relevant to the practice;

- C. Provide a complete list of bond issues for which the firm has acted as Bond/Securities Disclosure Counsel during the past two years (calendar year 2010 and 2011); indicate, for each of the two years, the number and aggregate dollar amount of bond issues for which the firm acted as Bond/Securities Disclosure Counsel. Provide a list of any other bond transactions (including issuance, reissuance, marketing, remarketing, etc.) in which the firm has worked other than as Bond/Securities Disclosure Counsel; including, but not limited to: Bond Counsel, Underwriter's Counsel, Trustee's Counsel, investor's counsel, or otherwise.
- D. Indicate subtotals for each of the following categories; state general obligation bonds, local general obligation bonds, state revenue bonds, and local revenue bonds; provide a description of the firm's practice in the field of housing finance, the number of attorneys active in the practice and other resources of the firm relevant to the practice; provide a listing of each single-family and multi-family housing bond issue handled by the firm as Bond/Securities Disclosure Counsel during the past two years. For each bond issue, indicate the name of the issuer, the size of the bond issue and provide a capsule description of the type of transaction (e.g., nature of credit enhancement, tender option provisions or other unusual features); describe five innovative finance transactions in which the firm played a significant role, including at least three housing transactions; identify the individuals who will be assigned to the Department account if the firm is selected as Bond/Securities Disclosure Counsel.
- E. Provide information regarding the background and experience of each individual, in particular their housing finance experience, if any, and designate the percentage of work for which each individual will be responsible; provide five public finance client references, preferably including at least two state agency clients; describe in detail the services that the firm normally provides as Bond/Securities Disclosure Counsel for a transaction and other matters not directly related to bond transactions in which the firm anticipates its services may be necessary.
- F. Law License: An attorney must be licensed by the State Bar of Texas to provide legal services and advice concerning Texas Law, regardless of whether the attorney is actually located in Texas.
- G. Explain the reasons why and the extent to which additional involvement may be necessary; discuss briefly the firm's views as to the major problems to be faced by the Department during the next two years; and discuss the role of Bond/Securities Disclosure Counsel in helping to find solutions to those problems.
- H. **Historically Underutilized Businesses (HUB) Subcontracting Plan.** The HUB Subcontracting Plan (the "Plan") shall be completed, signed, and returned with the Proposal. Include all subcontractors on the Plan; state whether each subcontractor has been certified as a HUB by the State of Texas; and if certified, provide the most recent date of certification. Complete the remainder of the Plan forms as directed. Failure to complete and return the Plan with the submitted Proposal will result in rejection of the Proposal. The Plan can be found as ***Exhibit A*** for this RFQ. The vendor may subcontract any work in performance of the services requested.
- I. ***GOOD FAITH EFFORT TO UTILIZE CERTAIN SUBCONTRACTORS:*** In accordance with the Texas Government Code, Chapter 2161, Subchapter F, §2161.251 all contracts with expected value of at least \$100,000 including goods, services, public construction (excepting federally funded contracts if federal law prohibits application) must include a Historically Underutilized Business (HUB) Subcontracting Plan. The HUB Subcontracting Plan Form with



instructions is a separate document and attached with this Request for Qualifications. The vendor may specify reasonable experience and capacity criteria for subcontractors in order to ensure their ability to perform if selected.

- J. Impact on the Marketplace. Each Response should include a discussion of the strengths and weaknesses of changing or keeping counsel and its impact, both positive and negative, and changing Bond/Securities Disclosure Counsel at this time. For purposes of this discussion, the responder should assume that current counsel has been in place for more than ten years. The discussion should include how the current market (as of date of release of RFP and for the initial one year term) would be impacted by a change.
- K. Provide any other information that you deem relevant to a thorough evaluation of the proposal.

**V. REVIEW.**

- A. In accordance with law, the Department will make its selection based upon the proposer’s demonstrated competence, experience, knowledge, and qualifications, in addition to the reasonableness of the proposed fee for the services to be performed. Proposals will be scored based upon the following scoring criteria out of 100 possible points:

Criteria	Possible Points
<b>A. Overall firm resume (background, experience, size)</b>	5
<b>B. Firm’s experience in field of public finance</b> Maximum points will be given only if the public finance experience involves issuance of housing-related bonds	10
<b>C. Experience as Bond/Securities Disclosure Counsel</b> Maximum points may be given only if experience is with housing issues of the general types issued by the Department	10
<b>D. Bond Experience:</b>	
i. Experience with state revenue bonds	10
ii. Experience with local revenue bonds	10
iii. Experience in housing finance	15
<b>E. Individual experience and services</b>	
i. Background and experience of attorney(s) to be assigned to TDHCA account	10
ii. References	5
iii. Services provided as Bond/Securities Disclosure Counsel	10
<b>F. Risk Assessment in Texas</b> Maximum points will be given only to proposals that have included the potential impact of market risks, especially interest rate risks and the use of hedging mechanisms in the next 3 years	10
<b>G. Views on impact of changing counsel(s)</b>	5
<b>TOTAL SCORE</b>	<b>100</b>

- B. The Department reserves the right to negotiate all elements which comprise the Response of the firm(s) to ensure that the best possible consideration be afforded to all concerned. The Department reserves the right to reject any and all Responses and to resolicit in such an event. The Department permits Responses utilizing joint ventures of any two or more firms, if

appropriate. The Department may sever the multi family and single family bond transactions and award to different counsels.

- C. Conflict of Interest. The Department will not contract with any firm in which the provisions of conflict of interest, as set out in the 2012 Outside Counsel Contract provided by the Attorney General of Texas, are not met, as follows:

**9.8.1** Funds appropriated by the General Appropriations Act may not be expended to pay the legal fees or expenses of Outside Counsel in representing Agency in a contested matter if Outside Counsel is representing a plaintiff in a proceeding seeking monetary damages from the State of Texas or any of its agencies. *See* General Appropriations Act, Art. IX, §16.01(j). For these purposes, “proceedings seeking monetary damages” do not include actions for tax refunds, compensation for exercise of eminent domain authority, or reimbursement of costs of litigation and attorney’s fees.

**9.8.2** Funds appropriated by the General Appropriations Act may not be used to pay the legal fees or expenses of Outside Counsel under this OCC if Outside Counsel currently represents, has represented in the six months preceding this OCC, or will represent in the six months following the termination of this OCC, a client before the Agency. *See* General Appropriations Act, Art. IX, §16.01(a)(4).

**9.8.3** Outside Counsel shall regularly conduct conflicts analyses on its interests and those of its clients and any subcontractor and disclose any actual or potential conflict to Agency.

**VI. ADDITIONAL INFORMATION.**

For additional information concerning the requirements of this request for qualifications, please contact Mr. Jeffrey Pender, Deputy General Counsel, at (512) 475-4752. Communication with any member of the Governing Board of the Department, the Executive Director, or the Department staff other than Mr. Pender, or his assistant, concerning any matter relating to this request for qualifications is grounds for immediate disqualification.

Issued in Austin, Texas on \_\_\_\_\_

\_\_\_\_\_  
Timothy K. Irvine, Executive Director

**Exhibit A**

**HUB SUBCONTRACTING PLAN (HSP) QUICK CHECKLIST**

*Attached*

1c

**BOARD ACTION REQUEST**  
**TEXAS HOMEOWNERSHIP DIVISION**  
**JUNE 14, 2012**

Presentation, Discussion, and Possible Action to approve the Single Family Mortgage Revenue Bond (MRB) and Mortgage Credit Certificate (MCC) Participating Lender List

**Recommended Action**

Approve the attached Participating Lender List for the Single Family Mortgage Revenue Bond (MRB) and Mortgage Credit Certificate (MCC) Program(s).

**RESOLVED**, that the Participating Lender List for the Single Family Mortgage Revenue Bond and Mortgage Credit Certificate Programs, in the form presented to this meeting, is hereby approved.

**Background**

Invitations to originate mortgage loans are sent out to our existing lender network and other interested lenders when MRB and MCC Programs are released. At any time, new mortgage lenders interested in participating in an existing program are allowed to complete documentation for consideration and approval. To date, 89 lending institutions serving locations throughout the state have signed documents to participate in one or both of the programs.

In an effort to maintain a well trained and knowledgeable lender network, webinar lender trainings are periodically conducted by our compliance agent's staff on any current MRB Program to any existing and or new participating lender. Additionally, TDHCA staff conducts webinars or on-site lender trainings for any new MCC participant upon request.

In accordance with Texas Government Code, Chapter 2306.149, staff is requesting the Board approve a list of mortgage lenders for use in conjunction with the Single Family MRB and MCC Program(s). We recommend the following list of participating lenders be approved by the Board.

## APPROVED LENDERS

Academy Mortgage Corp.	imortgage.com
Affiliated Bank	Interlinc Mortgage Services
Affiliated Mortgage Company	K. Hovnanian American Mortgage, LLC.
Allied Home Mortgage Copr.	Leader One Financial Corp.
Amarillo National Bank	Liberty Mortgage (Wendeburg Interests, Inc.)
Amcap Mortgage, Ltd.	MI Financial Corp.
AmericaHomeKey, Inc.	Mission Mortgage of Texas, Inc.
American Southwest Mortgage Corp.	National Bank
America's Choice Home Loans	Nations Reliable Lending
AmeriPro Funding, Inc.	NationStar Mortgage
Aspire Financial, Inc. DBA TexasLending.com	Network Funding, L.P.
Bank of America	Nova Financial and Investment Corporation
Bank of Oklahoma dba Bank of Texas	Patriot Bank Mortgage, Inc.
Calvert Mortgage Company	PNC Mortgage
Capstar Lending, LLC	Premier Nationwide Lending (NTFN, Inc.)
Castle & Cooke Mortgage, LLC	Primary Residential Mortgage, Inc.
Cendera Funding	PrimeLending, a Plains Capital Company
Chase	PrimeWest Mortgage Corp.
Churchill Mortgage Corp.	Prospect Mortgage fka Metrocities Mortgage, LLC
Classic Home Financial, Inc. (Finance Home America)	Pulte Mortgage
Coastal Bend Mtg. Inc., dba Global Mortgage Group	RANLife, Inc.
Colonial National Mortgage (Colonial Savings, F.A.)	Real Estate Mortgage Network, Inc.
Colonial Savings, F.A./Colonial National Mortgage	Republic State Mortgage Company
Community Development Corporation of Brownsville	Rocky Mountain Mortgage Company
Cornerstone Mortgage Company	Ryland Mortgage Company
DHI Mortgage Company	Schmidt Mortgage Co.
Elite Financing Group	Security National Mortgage Co.
Envoy Mortgage	Sente Mortgage
Fairway Independent Mortgage Corp.	Service First Mortgage Co. (SFMC)
First Community Bank - Home Loan Center	Standard Pacific Mortgage, Inc.
First Continental Mortgage Co.	Supreme Lending (aka Everett Financial, Inc.)
First National Bank Texas dba First Community Mortgage	SWBC Mortgage Corporation
Gateway Mortgage Group, LLC	The Lending Partners, LLC
Georgetown Mortgage, LLC	TXL Mortgage Corporation
Great Plains National Bank	U.S. Bank Home Mortgage
Guaranteed Rate Inc.	Universal American Mortgage Company
Guild Mortgage Company	Venta Financial Group, Inc. (Alterra Mortgage)
Hamilton Group Funding, Inc.	Victorian Finance, LLC
Hancock Mortgage Partners	ViewPoint Bankers Mortgage, Inc.
High Point Mortgage Corp.	Wells Fargo Home Mortgage
Highlands Residential Mortgage	WestStar Mortgage Corp.
Hometruster Mortgage Company	Whitney National Bank
Homeway Mortgage fka Stanford Lending, LLC	Willow Bend Mortgage
Houstonian Mortgage Group, Inc.	WR Starkey Mortgage
IHS Mortgage, LLC	

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**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action on Resolution 12-031 authorizing the increase of Program 77 from \$500 million to \$600 million.

**RECOMMENDED ACTION**

Approve Resolution No. 12-031 authorizing the increase of Program 77 from \$500 million to \$600 million.

**WHEREAS**, the Department has implemented its single family mortgage purchase program designated as Program 77 in the amount of \$500 million; and

**RESOLVED**, that all prior resolutions regarding the matter are amended to increase the amount to \$600 million and authorize execution of any and all amendments to documents necessary to accomplish that purpose; and

**FURTHER RESOLVED**, that Resolution No. 12-031 is hereby adopted in the form presented to this meeting.

**BACKGROUND**

In May 2010, TDHCA released Program 77 in the amount of \$500 million. Since then, TDHCA has been originating and purchasing mortgage-backed securities backed by these mortgage loans into our warehouse facility. As of May 28, 2012, \$373.4 million in securities have been purchased by the trustee and approximately \$12 million is being held by the Warehouse Provider.

Program 77 has been very successful and staff anticipates exceeding the \$500 million program size by the end of June 2012. Therefore, staff is requesting authority to provide financing for up to \$600 million in mortgage loans (along with a total amount not-to-exceed \$28 million of Down Payment Assistance which is approximately \$11.25 million in additional down payment assistance from RMRB Indenture resources – based upon data as of the end of May 2012.



## Resolution No. 12-031

RESOLUTION AUTHORIZING AN INCREASE IN PROGRAM 77 TO \$600,000,000; AUTHORIZING A THIRD AMENDED AND RESTATED WAREHOUSING AGREEMENT WITH FIRST SOUTHWEST COMPANY AND PLAINSCAPITAL BANK; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS RELATING TO THE FOREGOING; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

WHEREAS, the Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Department has implemented its single family mortgage purchase program designated as "Program 77" through the issuance of its Residential Mortgage Revenue Bonds, Series 2009C (the "Series 2009C Bonds") and additional series of its Residential Mortgage Revenue Bonds issued or to be issued simultaneous with the conversion of the Series 2009C Bonds from taxable bonds to tax-exempt bonds and the release of Series 2009C Bond proceeds from escrow; and

WHEREAS, the Department has previously entered into a Warehousing Agreement dated as of April 8, 2010, as amended and restated by an Amended and Restated Warehousing Agreement dated as of January 1, 2011 and a Second Amended and Restated Warehousing Agreement dated as of December 1, 2011 (the "Warehousing Agreement") with The Bank of New York Mellon Trust Company, N.A., as indenture trustee (the "Trustee"), First Southwest Company and PlainsCapital Bank (collectively, the "Warehouse Provider") and The Bank of New York Mellon Trust Company, N.A., as custodian (the "Custodian"), providing for the acquisition and temporary warehousing by the Warehouse Provider of up to \$500,000,000 of qualifying mortgage-backed securities ("Mortgage Certificates") acquired under the Department's single family mortgage purchase program; and

WHEREAS, the Department desires to increase the authorized size of Program 77 from \$500,000,000 to \$600,000,000 and to authorize additional down payment assistance related to that increase; and

WHEREAS, the Department, the Trustee, the Warehouse Provider and the Custodian now desire to amend the Warehousing Agreement pursuant to the terms of the Third Amended and Restated Warehousing Agreement (the "Amended Warehousing Agreement"); and

WHEREAS, pursuant to Chapter 1371, Texas Government Code, as amended ("Chapter 1371"), the Department is authorized to enter into "credit agreements" as defined in Chapter 1371; and

WHEREAS, the Governing Board has determined that the Amended Warehousing Agreement is a “credit agreement” under Section 1371.001 of the Texas Government Code, as amended, relating to the Series 2009C Bonds and related market bonds; and

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

WHEREAS, the Governing Board has examined the Amended Warehousing Agreement and has found the form and substance thereof to be satisfactory and proper, and has determined to authorize the execution and delivery of such document and the taking of such other action as may be necessary or convenient in connection therewith;

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

ARTICLE I  
APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1--Authority to Increase Program Size and Approval of Additional Down Payment Assistance. The Board hereby approves the increase of the authorized amount of its single family mortgage purchase Program 77 from \$500,000,000 to \$600,000,000 and also authorizes providing an amount not to exceed \$28,000,000 of down payment assistance in connection with Program 77.

Section 1.2--Authority to Approve Form and Certain Terms of Amended Warehousing Agreement. The Executive Director, the Chief of Agency Administration or the Director of Bond Finance of the Department are hereby authorized and empowered, in accordance with Chapter 1371, to fix and determine the terms of the Amended Warehousing Agreement, all of which determinations shall be conclusively evidenced by the execution and delivery by the Executive Director, the Chief of Agency Administration or the Director of Bond Finance of the Amended Warehousing Agreement; provided, however, that the principal amount of Mortgage Certificates to be warehoused under the Warehousing Agreement, as amended by the Amended Warehousing Agreement, shall not exceed \$600,000,000. The Governing Board’s authorizations contained in Resolutions No. 10-019, 11-012 and 12-017 with respect to the additional matters required by Section 1371.056(c), Texas Government Code, as amended, remain in effect except as modified by this Resolution.

Section 1.3--Approval, Execution and Delivery of Amended Warehousing Agreement. The Amended Warehousing Agreement, in substantially the form presented to the Governing Board, is hereby approved and the authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department’s seal to the Amended Warehousing Agreement and to deliver the Amended Warehousing Agreement to the Trustee, the Warehouse Provider and the Custodian.

Section 1.4--Amendment of Prior Resolutions and Documents. All other prior resolutions and documents regarding Program 77 are amended to increase the size of Program 77 to \$600,000,000 and the authorized representatives of the Department named in this Resolution are each hereby authorized to execute and deliver any and all amendments necessary to accomplish the purpose.

Section 1.5--Execution and Delivery of Other Documents. The authorized representatives of the Department named in this Resolution are each hereby authorized to execute and deliver all agreements, including, without limitation, any amendment to the Amended and Restated Escrow Agreement dated as of January 1, 2011, relating to the deposit of collateral under the Warehousing Agreement, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.6--Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the authorized representatives of the Department named in this Resolution each are hereby authorized to make or approve such revisions in the form of the Amended Warehousing Agreement as, in the judgment of such authorized representative, and in the opinion of Bracewell & Giuliani LLP, Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the authorized representatives of the Department named in this Resolution.

Section 1.7--Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article I: Chair or Vice Chair of the Governing Board, Executive Director of the Department, Chief of Agency Administration of the Department, Director of Bond Finance of the Department, Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Governing Board.

Section 1.8--Submission to the Attorney General of Texas. The Board hereby ratifies the submission by the Department's Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the authorization of the Amended Warehousing Agreement.

Section 1.9--Ratifying Other Actions. All other actions taken or to be taken by the Executive Director and the Department's staff in connection with the increase in the size of Program 77 and the Amended Warehousing Agreement are hereby ratified and confirmed.

Section 1.10--Board Determination. The Governing Board has determined that the Amended Warehousing Agreement is a "credit agreement" under Section 1371.001 of the Texas Government Code, as amended.

## ARTICLE II GENERAL PROVISIONS

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

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

*[Execution page follows]*

PASSED AND APPROVED this 14th day of June, 2012.

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Chair, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)

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**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action on Resolution No. 12-032 authorizing the investment of the Escrow Funds in mortgage backed securities.

**RECOMMENDED ACTION**

Approve Resolution No. 12-032 authorizing the investment of the Escrow Funds in mortgage backed securities.

**WHEREAS**, the Department previously entered into the Universal Cap Escrow Agreement dated March 12, 2012, relating to Residential Mortgage Revenue Bonds, Series 2009A/B; and

**WHEREAS**, the Department previously entered into the Warehousing Escrow Agreement dated April 8, 2010, as amended January 1 2011, relating to the Warehousing Agreement for Program 77;

**WHEREAS**, on April 12, 2012, the Governing Board approved Resolution No. 12-022 and the Department's Investment Policy;

**RESOLVED**, that as approved and presented at the TDHCA Board meeting, the Department is hereby authorized to invest Escrow Funds in mortgage backed securities; and

**FURTHER RESOLVED**, that Resolution No. 12-032 is hereby adopted in the form presented to this meeting.

**BACKGROUND**

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

The Universal Cap Escrow Agreement and the Warehousing Escrow Agreement are currently invested in overnight repurchase agreements. Staff is requesting authorization to invest funds held under the Escrow Agreements in residual mortgage backed securities (MBSs) attached in Exhibit A at an approximate value of \$4.3 million from Residential Mortgage Revenue Bonds, Series 1998A/B and Residential Mortgage Revenue Bonds Series 2001A/B/C. This transfer would effectively produce a sale of the residual MBSs into the Escrow Accounts at a price no less than 107.7%. All bonds associated with these mortgage backed securities have been redeemed.

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

**EXHIBIT A**  
**Residual Mortgage Backed Securities**

Below is a listing, by pool number, of each mortgage backed security to be held in escrow. FN prefixes indicate Fannie Mae MBS's and G2 prefixes indicate Ginnie Mae MBS's.

<b>POOL NUMBER</b>	<b>6/1/2012 BALANCE</b>	<b>MORTGAGE RATE</b>	<b>MBS RATE</b>	<b>MATURITY DATE</b>
FN 572356	124,780.73	5.85	5.35	10/1/2030
FN 581675	46,630.75	5.85	5.35	3/1/2031
G2 545396	41,201.49	5.85	5.35	1/20/2031
G2 584702	34,849.38	5.85	5.35	2/20/2032
G2 277293	162,251.55	8.00	7.50	7/20/2018
G2 281853	258,865.18	8.00	7.50	9/20/2018
G2 281856	281,972.95	8.00	7.50	10/20/2018
G2 281860	130,232.11	8.00	7.50	11/20/2018
G2 281863	100,038.30	8.00	7.50	12/20/2018
G2 281865	10,628.94	8.00	7.50	12/20/2018
G2 281868	118,020.79	8.00	7.50	1/20/2019
G2 281871	114,601.71	8.00	7.50	3/20/2019
G2 281873	150,412.59	8.00	7.50	4/20/2019
G2 295535	24,047.97	8.00	7.50	7/20/2019
G2 295548	17,213.98	8.00	7.50	8/20/2019
G2 302279	12,420.84	8.00	7.50	11/20/2019
G2 281854	19,882.26	9.25	8.75	9/20/2018
G2 281857	18,824.97	9.25	8.75	9/20/2018
G2 281861	60,290.10	9.25	8.75	11/20/2018
G2 281866	15,081.77	9.25	8.75	2/20/2019
G2 281872	78,934.71	9.25	8.75	3/20/2019
G2 281877	8,717.00	9.25	8.75	4/20/2019
G2 302291	53,568.45	9.25	8.75	1/20/2020
G2 295526	22,792.43	7.69	7.19	7/20/2015
G2 295532	33,874.00	7.69	7.19	8/20/2015
G2 295537	3,833.11	7.69	7.19	8/20/2015
G2 295540	2,483.06	7.69	7.19	9/20/2015
G2 295551	23,015.26	7.69	7.19	10/20/2015
G2 302287	80,152.17	7.69	7.19	2/20/2016
G2 302290	16,688.09	7.69	7.19	4/20/2016
G2 311093	117,295.68	7.69	7.19	8/20/2017
G2 220387	37,042.37	8.69	8.19	6/20/2015
G2 281881	20,579.99	8.69	8.19	6/20/2015



<b>POOL NUMBER</b>	<b>6/1/2012 BALANCE</b>	<b>MORTGAGE RATE</b>	<b>MBS RATE</b>	<b>MATURITY DATE</b>
G2 281884	6,292.38	8.69	8.19	11/20/2014
G2 281886	11,652.74	8.69	8.19	11/20/2014
G2 281888	23,097.31	8.69	8.19	12/20/2014
G2 281890	46,650.74	8.69	8.19	1/20/2015
G2 281892	13,822.83	8.69	8.19	12/20/2014
G2 281894	36,106.86	8.69	8.19	1/20/2015
G2 281896	26,474.60	8.69	8.19	1/20/2015
G2 281898	39,822.04	8.69	8.19	2/20/2015
G2 281900	25,366.53	8.69	8.19	3/20/2015
G2 281902	109,209.48	8.69	8.19	3/20/2015
G2 281904	13,598.47	8.69	8.19	3/20/2015
G2 281906	139,484.21	8.69	8.19	4/20/2015
G2 281908	21,340.26	8.69	8.19	5/20/2015
G2 281910	69,518.06	8.69	8.19	5/20/2015
G2 295525	28,378.74	8.69	8.19	7/20/2015
G2 295527	35,380.35	8.69	8.19	8/20/2015
G2 295530	29,935.02	8.69	8.19	8/20/2015
G2 295533	67,909.66	8.69	8.19	8/20/2015
G2 295538	29,543.60	8.69	8.19	9/20/2015
G2 295541	68,595.54	8.69	8.19	9/20/2015
G2 295547	114,863.69	8.69	8.19	10/20/2015
G2 295552	32,445.66	8.69	8.19	11/20/2015
G2 302271	8,994.88	8.69	8.19	10/20/2015
G2 302274	12,916.51	8.69	8.19	11/20/2015
G2 302275	19,187.29	8.69	8.19	1/20/2016
G2 302282	24,181.43	8.69	8.19	2/20/2016
G2 302286	40,418.32	8.69	8.19	4/20/2016
G2 311092	7,577.80	8.69	8.19	1/20/2017
G2 302285	67,404.05	9.25	8.75	2/20/2020
G2 630282	45,755.68	5.99	5.49	4/20/2034
G2 311094	71,907.48	6.50	6.00	9/20/2017
G2 281911	19,880.11	6.69	6.19	5/20/2015
G2 295528	16,583.69	6.69	6.19	7/20/2015
G2 295531	42,317.02	6.69	6.19	8/20/2015
G2 295539	30,367.09	6.69	6.19	9/20/2015
G2 295546	40,590.94	6.69	6.19	10/20/2015
G2 302272	35,849.24	6.69	6.19	11/20/2015
G2 302288	84,407.25	6.69	6.19	4/20/2016

<b>POOL NUMBER</b>	<b>6/1/2012 BALANCE</b>	<b>MORTGAGE RATE</b>	<b>MBS RATE</b>	<b>MATURITY DATE</b>
G2 311091	88,879.22	6.69	6.19	9/20/2017
G2 281883	41,339.54	7.69	7.19	11/20/2014
G2 281885	15,291.31	7.69	7.19	11/20/2014
G2 281887	21,566.62	7.69	7.19	12/20/2014
G2 281889	55,843.02	7.69	7.19	1/20/2015
G2 281891	26,842.65	7.69	7.19	1/20/2015
G2 281893	38,775.26	7.69	7.19	1/20/2015
G2 281895	15,537.01	7.69	7.19	1/20/2015
G2 281897	8,167.85	7.69	7.19	2/20/2015
G2 281899	53,392.04	7.69	7.19	3/20/2015
G2 281901	29,864.53	7.69	7.19	3/20/2015
G2 281903	15,044.87	7.69	7.19	4/20/2015
G2 281905	30,304.91	7.69	7.19	4/20/2015
G2 281907	16,102.47	7.69	7.19	5/20/2015
G2 281909	17,627.58	7.69	7.19	5/20/2015
G2 281912	9,849.57	7.69	7.19	6/20/2015
G2 295524	11,247.89	7.69	7.19	6/20/2015
	<hr/> 4,294,728.55			

## **Resolution No. 12-032**

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

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

WHEREAS, the Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Department has previously entered into an Amended and Restated Escrow Agreement dated January 1, 2011 (the "Warehouse Escrow Agreement") among the Department, the Texas Treasury Safekeeping Trust Company (the "Trust Company") and First Southwest Company and PlainsCapitalBank, as warehouse providers relating to the escrow of collateral under the Second Amended and Restated Warehousing Agreement dated as of December 1, 2011 relating to the Department's Residential Mortgage Revenue Bonds, Series 2009C and related market bonds; and

WHEREAS, the Department has previously entered into an Escrow Agreement dated as of March 12, 2012 (the "Universal Cap Escrow Agreement" and together with the Warehousing Escrow Agreement, collectively, the "Escrow Agreements") between the Department and the Trust Company for the purpose of providing additional security for the Department's Residential Mortgage Revenue Bonds, Series 2009A and its Residential Mortgage Revenue Refunding Bonds, Series 2009B; and

WHEREAS, on April 12, 2012, the Governing Board adopted Resolution No. 12-022 approving the Department's Investment Policy (the "2012 Investment Policy") which authorized the Department to invest escrow funds in mortgage-backed securities exceeding five years; and

WHEREAS, there are currently on deposit in the 1998/1999A Residual Revenues Account and in the 2001 A/B/C Residual Revenues Account under the Department's Residential Mortgage Revenue Bond Trust Indenture dated as of November 1, 1987 (as heretofore amended and supplemented, the "RMRB Indenture") between the Department and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), certain mortgage backed securities (the "Residual MBSs") relating to the Department's Series 1998/1999A Residential Mortgage Revenue Bonds and the Department's Series 2001 A/B/C Residential Mortgage Revenue Bonds, respectively, which Bonds have been redeemed and are no longer outstanding; and

WHEREAS, the Governing Board desires to authorize the investment of funds held under the Escrow Agreements (the "Escrow Funds") in the Residual MBSs and authorizes the sale of the Residual MBS's in accordance with the terms of the RMRB Indenture; and

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

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

## ARTICLE I

### APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

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

Section 1.2--Sale of Residual MBSs. The sale of the Residual MBSs identified on Exhibit A at a price of no less than 107.7% in accordance with the terms of the RMRB Indenture is hereby authorized.

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

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

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

## ARTICLE II

### GENERAL PROVISIONS

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

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

*[Execution page follows]*

PASSED AND APPROVED this 14th day of June, 2012.

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Chair, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)

EXHIBIT A

Residual MBSs

<u>Pool ID</u>	<u>Pool ID</u>	<u>Pool ID</u>
FN 572356	G2 311093	G2 311092
FN 581675	G2 220387	G2 302285
G2 545396	G2 281881	G2 630282
G2 584702	G2 281884	G2 311094
G2 277293	G2 281886	G2 281911
G2 281853	G2 281888	G2 295528
G2 281856	G2 281890	G2 295531
G2 281860	G2 281892	G2 295539
G2 281863	G2 281894	G2 295546
G2 281865	G2 281896	G2 302272
G2 281868	G2 281898	G2 302288
G2 281871	G2 281900	G2 311091
G2 281873	G2 281902	G2 281883
G2 295535	G2 281904	G2 281885
G2 295548	G2 281906	G2 281887
G2 302279	G2 281908	G2 281889
G2 281854	G2 281910	G2 281891
G2 281857	G2 295525	G2 281893
G2 281861	G2 295527	G2 281895
G2 281866	G2 295530	G2 281897
G2 281872	G2 295533	G2 281899
G2 281877	G2 295538	G2 281901
G2 302291	G2 295541	G2 281903
G2 295526	G2 295547	G2 281905
G2 295532	G2 295552	G2 281907
G2 295537	G2 302271	G2 281909
G2 295540	G2 302274	G2 281912
G2 295551	G2 302275	G2 295524
G2 302287	G2 302282	
G2 302290	G2 302286	

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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action on Approval of awards from the Notice of Funding Availability (NOFA) for the Fiscal Year 2012 Emergency Solutions Grants Program (ESG)

**Recommended Action**

Approve the Emergency Solutions Grants Program (ESG) Awards for Fiscal Year 2012. Based on the Department's scoring and ranking of the 2012 ESG applications, staff recommends that the Board approve the staff recommendations. A total of 38 applicants are recommended to receive funding totaling \$8,787,155, which includes \$342,356 in State administrative funds which will be shared with awardees.

**RESOLVED**, that the 2012 Emergency Solutions Grants Program (ESG) Awards totaling \$8,787,155 be and they are hereby approved as presented to this meeting, and

**FURTHER RESOLVED**, that the minimum scoring threshold requirement in the NOFA is waived for the Salvation Army Odessa to ensure that statutory regional allocation goals are achieved.

**Background**

The Emergency Solutions Grants Program (ESG) is funded by the U.S. Department of Housing and Urban Development (HUD). For Program Year 2012 the Department has received \$9,129,511, of which 96.25%, or \$8,787,155, will be awarded and \$342,356 will be retained for State administration of the program.

The list of awardees includes a staff recommendation to provide \$128,490 to The Salvation Army Odessa, the only applicant in Region 12, which scored 341 points. Region 12 is composed of 30 counties in the Southern Plains of West Texas. While the application from the Salvation Army Odessa scored below the funding threshold, 50% of the highest score statewide, staff is recommending funding the application in order to meet the statutory requirement of the Regional Allocation Formula. The highest score statewide was 895 points out of a maximum score of 1,000 points and the lowest scored 474 points.

The ESG program's focus is to assist people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness. ESG funds can be utilized for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless; the payment of certain expenses related to operating emergency shelters; essential services related to emergency shelters and street outreach for the homeless; and, homelessness prevention and rapid re-housing assistance.



The Emergency Solutions Grants Program is a limited program designed to provide additional resources and operational support to agencies assisting homeless individuals and families and those who may become homeless. Successful applicants must provide a match of 100% of the ESG award, with the exception of \$100,000 which is available for applicants that are unable to meet the match requirement.

On February 16, 2012, the Department released a Notice of Fund Availability (NOFA) notifying prospective applicants of the availability of ESG funds for Program Year 2012. Applications were due on April 10, 2012. The Department received 96 applications from the 13 Service Regions. Funds were assigned to each region according to the region's proportionate share of people living in poverty based on 2009 Census Bureau poverty information available through the Small Area Income and Poverty Estimates (SAIPE) program. Applicants were chosen based on a standardized scoring instrument that evaluated and scored eligible proposals. The attached table reflects all applications and denotes the recommended awardees, their original request and the recommended award amount. Some fund request amounts were adjusted based on NOFA requirements. The process of distributing funding to eligible applicants is iterative, beginning with funding applications in each region, up to but not going over, the funds available for the region. After the first round of fund distribution, remaining funds unallocated were reallocated to all the regions with eligible applicants. In the third round of fund distribution, remaining funds were awarded to the highest ranking applications statewide.

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
1	1-2	Panhandle Crisis Center, Inc.		659	Yes	\$75,102	\$75,102.00
1	1-1	City of Amarillo	Texas Panhandle Centers for Behavioral and Mental Health, Family Support Services, Guyon Saunders Resource Center	544.25	Yes	\$287,692	\$242,247.79
1	1-5	Women's Protective Services of Lubbock, Inc.		543	Yes	\$100,000	\$0.00
1	1-3	The Salvation Army - Lubbock		433	No	\$150,000	\$0.00
1	1-4	South Plains Community Action Agency		0	No	\$0	\$0.00
2	2-2	The Salvation Army - Abilene		519	Yes	\$150,000	\$150,000.00
2	2-1	Central Texas Opportunities	Center for Life Resources, Family Services Center	394	No	\$177,719	\$0.00
3	3-14	The Salvation Army - Forth Worth Mabee Center		828	Yes	\$100,000	\$100,000.00
3	3-16	The Family Place	Metrocare Services Promise House	707	Yes	\$450,000	\$452,685.15

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
3	3-8	Johnson County Family Crisis Center		625	Yes	\$100,000	\$100,000.00
3	3-15	SafeHaven of Tarrant County		610	Yes	\$150,000	\$150,000.00
3	3-4	City of Denton	Christian Community Action Giving Hope, Inc. The Salvation Army - Denton Denton County Friends of the Family	586	Yes	\$469,455	\$472,140.15
3	3-11	Grayson County Juveniles Alternatives dba North Texas Youth Connection	Grayson County Homeless Shelter Texoma Council of Governments, Grayson County Women's Crisis Center Four Rivers Outreach Salvation Army - Sherman	540.99	Yes	\$600,000	\$602,685.15
3	3-7	Grapevine Relief And Community Exchange (GRACE)		504	Yes	\$79,854	\$79,854.00
3	3-6	Family Gateway	Wilkinson Center Community Crossroads ArtReach	453.5	Yes	\$554,944	\$0.00
3	3-12	Presbyterian Night Shelter		327	No	\$126,481	\$0.00
3	3-3	City Square		270	No	\$99,856	\$0.00

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
3	3-17	Urban League of Greater Dallas and North Central Texas dba Dallas Urban League		264	No	\$150,000	\$0.00
3	3-13	The Salvation Army - Arlington		232	No	\$150,000	\$0.00
3	3-5	City of Dallas		225	No	\$150,000	\$0.00
3	3-2	Catholic Charities Diocese of Fort Worth		221	No	\$150,000	\$0.00
3	3-1	Bridge Steps dba The Bridge	City of Dallas - Department of Housing and Community Services	0	No	\$300,000	\$0.00
3	3-9	Kauanna's Kitchen, Inc		0	No	\$0	\$0.00
3	3-10	Need A Break Inc		0	No	\$0	\$0.00
4	4-3	The Salvation Army - Texarkana		691	Yes	\$150,000	\$150,000.00
4	4-4	Shelter agencies For Families in East Texas dba SAFE-T		630	Yes	\$149,380	\$149,380.00
4	4-1	East Texas Crisis Center, Inc		614	Yes	\$149,893	\$114,747.60

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
4	4-2	Randy Sams' Outreach Shelter, Inc		590	Yes	\$150,000	\$0.00
4	4-5	The Salvation Army- Tyler		527	Yes	\$150,000	\$0.00
5	5-4	Women's Shelter of East Texas, Inc. dba Janelle Grum Family Crisis Center of East Texas		762	Yes	\$75,000	\$75,000.00
5	5-2	Love In the Name of Christ of Nacogdoches		516.0	Yes	\$150,000	\$150,000.00
5	5-1	City of Beaumont	Catholic Charities of Southeast Texas Family Services of Southeast Texas H.O.W. Center Some Other Place/Henry's Place	507	Yes	\$338,905	\$0.00
5	5-3	Port Cities Rescue Mission Ministries		351	No	\$100,000	\$0.00
6	6-7	Career and Recovery Resources	Stop Turning Entering Prison aka Shay's House, Redemption Transformation Center dba Fertile Ground CTC	679	Yes	\$450,000	\$452,685.15

**Texas Department of Housing and Community Affairs**  
**Emergency Solutions Grants Program (ESG)**  
**Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
6	6-2	Bay Area Homeless Services, Inc.		675	Yes	\$145,685	\$145,685.00
6	6-24	The Children's Center, Inc.	St. Vincent's House, Young Men's Christian Association	670	No	\$400,000	\$0.00
6	6-8	Fort Bend County Women's Center, Inc.	Fort Bend Salvation Army, Fort Bend Family Health Center, Fort Bend Regional Council on Substance Abuse	649	Yes	\$536,843	\$539,528.15
6	6-22	SEARCH Homeless Services	Healthcare for the Homeless, The Salvation Army - Houston	587.65	Yes	\$450,000	\$452,685.15
6	6-4	Catholic Charities Archdiocese of Galveston-Houston		582	Yes	\$149,949	\$149,949.00
6	6-12	Houston Area Women's Center		562	Yes	\$150,000	\$150,000.00
6	6-9	Humble Area Assistance Ministries, Inc		558	Yes	\$150,000	\$0.00
6	6-3	Bread of Life, Inc.	The Beacon, Temenos Community Development Corporation	548.67	Yes	\$450,000	\$0.00
6	6-20	The Salvation Army - Freeport		524	Yes	\$150,000	\$0.00
6	6-23	The Bridge Over Troubled Waters, Inc.	The Salvation Army - Pasadena	503.5	Yes	\$300,000	\$0.00

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
6	6-16	Matagorda County Women's Crisis Center dba The Crisis Center		502	Yes	\$150,000	\$0.00
6	6-19	Resource and Crisis Center of Galveston County		495	Yes	\$150,000	\$0.00
6	6-14	Memorial Assistance Ministries Inc		464	Yes	\$150,000	\$0.00
6	6-26	Ultimate Changes, Inc.	The Houston Umbrella, Heart Reaching Out	449.0	Yes	\$201,465	\$0.00
6	6-18	Northwest Assistance Ministries		431	No	\$150,000	\$0.00
6	6-17	New Hope Counseling Center, Inc.	God's Grace Community Church	420.0	No	\$600,000	\$0.00
6	6-6	Covenant House Texas		416	No	\$149,521	\$0.00
6	6-25	The Women's Home		415	No	\$78,125	\$0.00
6	6-28	Westside Homeless Partnership		409.0	No	\$150,000	\$0.00
6	6-13	Haven of Hope of Houston, Inc		395.0	No	\$84,000	\$0.00

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
6	6-15	Montrose Counseling Center, Inc		324	No	\$150,000	\$0.00
6	6-27	Wesley Community Center, Inc. of Houston		316	No	\$150,000	\$0.00
6	6-10	Harris County		312	No	\$150,000	\$0.00
6	6-11	Houston Area Urban League		260	No	\$149,999	\$0.00
6	6-5	Coalition for the Homeless of Houston/Harris County		230	No	\$150,000	\$0.00
6	6-1	Alliance of Multicultural Community Services		205	No	\$150,000	\$0.00
6	6-21	The Salvation Army - Galveston		0	No	\$150,000	\$0.00
7	7-1	Advocacy Outreach	Bastrop County Women's Shelter dba Family Crisis Center, Bastrop County Emergency Food Pantry & Support Center	724.33	Yes	\$340,551	\$343,236.15
7	7-4	Youth and Family Alliance dba LifeWorks	Safeplace, Ending Community Homelessness Coalition	647	Yes	\$390,450	\$211,690.36



**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
7	7-3	Williamson-Burnet County Opportunities, Inc. dba WBC Opportunities	Williamson County Crisis Center dba Hope Alliance, Highland Lakes Family Crisis Center, Children at Heart Ministries dba Texas Baptist Children's Home	553.75	Yes	\$257,498	\$0.00
7	7-2	SerenityStar, Inc		418	No	\$94,557	\$0.00
8	8-1	Family Abuse Center, Inc.	The Salvation Army - Waco	764	Yes	\$281,458	\$284,143.15
8	8-2	Family in Crisis		576	Yes	\$149,995	\$149,995.00
8	8-3	Twin City Mission, Inc.		510.0	Yes	\$93,132	\$0.00
9	9-6	San Antonio Metropolitan Ministries, Inc	Haven for Hope, Center for Health Care Services, San Antonio Food Bank	706.25	Yes	\$600,000	\$602,685.15
9	9-3	Family Violence Prevention Services, Inc.		695	Yes	\$150,000	\$150,000.00
9	9-4	Family Endeavors, Inc	The Salvation Army - San Antonio, American G.I. Forum	680	Yes	\$450,000	\$97,652.90
9	9-7	Seton Home for Pregnant Women	St. Peter - Joseph Children's Home	596.5	Yes	\$350,595	\$0.00

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
9	9-1	Christian Community Development Corporation of the Big Country (CCDC)	BSFS Health and Human Services	534	Yes	\$175,663	\$0.00
9	9-8	Society of St. Vincent de Paul of the Archdiocese of San Antonio		463	Yes	\$150,000	\$0.00
9	9-5	The Salvation Army - Kerrville		449	Yes	\$150,000	\$0.00
9	9-2	Family Service Association of San Antonio, Inc.		265	No	\$345,697	\$0.00
10	10-3	Mid-Coast Family Services		895	Yes	\$150,000	\$150,000.00
10	10-2	Corpus Christi Metro Ministries, Inc.		534	Yes	\$150,000	\$150,000.00
10	10-4	The Salvation Army - Corpus Christi		520	Yes	\$150,000	\$0.00
10	10-1	Corpus Christi Hope House, Inc.		442	No	\$143,520	\$0.00

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
11	11-4	Friendship of Women, Inc.	Browsville Adult Literacy Council, Inc	588	Yes	\$296,207	\$298,892.15
11	11-3	Family Crisis Center, Inc.	Loaves and Fishes of the Rio Grande Valley, Inc	582	Yes	\$268,420	\$271,105.15
11	11-1	Advocacy Resource Center for Housing (ARCH)		563	Yes	\$150,000	\$150,000.00
11	11-6	La Posada Providencia	South Texas Adult Resource and Training Center	549	Yes	\$277,597	\$280,282.15
11	11-7	The Salvation Army - McAllen		474	Yes	\$150,000	\$150,000.00
11	11-8	The Bishop E. San Pedro Ozanam Center		439	No	\$150,000	\$0.00
11	11-5	Good Neighbor Settlement House, Inc. of Brownsville, Texas		414	No	\$150,000	\$0.00
11	11-9	Women Together Foundation Inc.		352	No	\$136,981	\$0.00
11	11-2	Catholic Charities of the Rio Grande Valley		324	No	\$150,000	\$0.00

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
11	11-10	Wintergarden Women's Shelter, Inc	United Methodist Church	0	No	\$0	\$0.00
12	12-1	The Salvation Army - Odessa		341	No	\$128,490	\$128,490.00
13	13-4	Project Vida	La Posada Home, Inc	695	Yes	\$151,000	\$153,685.15
13	13-3	Opportunity Center for the Homeless	El Paso Villa Maria, Reynolds House Non Profit, TVP Non Profit Corporation, Sin Fronteras	677	Yes	\$381,085	\$260,922.74

**Texas Department of Housing and Community Affairs  
Emergency Solutions Grants Program (ESG)  
Recommended 2012 ESG Applicants**

Region	App #	Applicant Name	Partners (if applicable)	Final Score	Final Eligibility	Requested Amount	Final Award Recommendation
13	13-2	County of El Paso	Child Crisis Center, YWCA El Paso del Norte, Recovery Alliance, El Paso Human Services, Emergence Health Network	458.8333333	Yes	\$381,085.00	\$0.00
13	13-5	Van Horn Community Christain Shelter		243	No	\$75,000.00	\$0.00
13	13-1	Center	Sexual Trauma & Assault	227.5	No	\$78,205.00	\$0.00
<b>Total</b>						<b>\$19,727,054.00</b>	<b>\$8,787,154.34</b>

**Summary**

Percentage of Statewide Poverty Population	Funds Available by Region	Region	Sum of Requested Amount	Sum of Final Award Recommendation
3.33%	\$291,496.09	1	\$612,794.00	\$317,349.79
2.01%	\$175,613.75	2	\$327,719.00	\$150,000.00
23.09%	\$2,018,164.58	3	\$3,630,590.00	\$1,957,364.45
4.39%	\$383,635.66	4	\$749,273.00	\$414,127.60
3.25%	\$283,676.78	5	\$663,905.00	\$225,000.00
21.81%	\$1,906,141.27	6	\$6,245,587.00	\$1,890,532.45
5.82%	\$509,092.74	7	\$1,083,056.00	\$554,926.51
4.86%	\$425,076.31	8	\$524,585.00	\$434,138.15
8.50%	\$743,275.36	9	\$2,371,955.00	\$850,338.05
3.34%	\$291,998.25	10	\$593,520.00	\$300,000.00
13.22%	\$1,155,873.68	11	\$1,729,205.00	\$1,150,279.45
2.04%	\$178,356.63	12	\$128,490.00	\$128,490.00
4.34%	\$379,105.69	13	\$1,066,375.00	\$414,607.89
<b>100.00%</b>	<b>\$8,741,506.78</b>	Grand Total	<b>\$19,727,054.00</b>	<b>\$8,787,154.34</b>

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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action on Approval of the Draft Federal Fiscal Year 2013 Low Income Home Energy Assistance Program (LIHEAP) State Plan for Public Comment

**Recommended Action**

Approve the draft of the Program Year 2013 Low Income Home Energy Assistance Program (LIHEAP) State Plan for posting to the Department website, hosting of a public hearing to receive Public Comment and notification of the hearing published in the *Texas Register*.

**RESOLVED**, that the Program Year 2013 Low Income Home Energy Assistance Program (LIHEAP) State Plan is approved in the form presented to this meeting and staff is hereby authorized and directed to post said Plan to the Department's website, to hold a public hearing to receive Public Comment, and to publish notice of said hearing in the *Texas Register*.

**FURTHER RESOLVED** that if the Department does not receive significant public comment, the Board grant the Executive Director the authority to submit the State Plan to HHS as drafted without further authorization by the Board.

**Background**

The Texas Department of Housing and Community Affairs (the Department) develops and submits a Low Income Home Energy Assistance Program (LIHEAP) Plan each year on or before September 1 to the U.S. Department of Health and Human Services (HHS). HHS provides a model plan to guide the format and content. The draft, upon approval by the Board, will be released for public comment and a public hearing held. The public hearing provides the opportunity for comment from the public and the subrecipient network. Upon completion of the public hearing and public comment period, staff will modify the Plan, if appropriate, based on public comment. Staff will present the revised Plan to the Board for review and final approval on July 26, 2012.

LIHEAP funds, as reflected in the Plan, are utilized in the following three ways:

- The Department allocates 65% of the LIHEAP funds to the Comprehensive Energy Assistance Program (CEAP) which provides utility assistance to eligible households.
- The Department allocates 25% of the LIHEAP funds to the Weatherization Assistance Program (WAP). It should be noted that there is greater flexibility with LIHEAP weatherization funds than Department of Energy (DOE) weatherization funds, so continuing to allocate some portion of these funds for this activity allows some households to receive more comprehensive assistance than were they served solely by DOE WAP.

- 10% of LIHEAP funds are used for Department and Subrecipient administration.



**LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)**



**DETAILED PLAN  
PUBLIC LAW 97-35,  
AS AMENDED  
FISCAL YEAR (FY) 2013  
DRAFT AS OF 5/23/12**

**GRANTEE: TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**EIN: ..... 17426105429**

**ADDRESS:..... P.O. Box 13941  
..... Austin, TX 78711-3941**

**NAME OF LIHEAP COORDINATOR: ..... Alfredo Mycue**

**EMAIL:..... [alfredo.mycue@tdhca.state.tx.us](mailto:alfredo.mycue@tdhca.state.tx.us)**

**TELEPHONE: ..... (512) 475-7823 FAX: (512) 475-3935**

**PLEASE CHECK ONE:  TRIBE  STATE  INSULAR AREA**

**[Department of Health and Human Services \(Federal government web site:](http://www.acf.hhs.gov/programs/ocs/liheap/)**

**[http://www.acf.hhs.gov/programs/ocs/liheap/\)](http://www.acf.hhs.gov/programs/ocs/liheap/)**

**Administration for Children and Families**

**Office of Community Services**

**Washington, DC 20447**

**August 1987, revised 05/92, 02/95, 03/96, 12/98, 11/01**

**OMB Approval No. 0970-0075**

**Expiration Date: 04/30/2014**

**THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)**

Use of this model plan is optional. However, the information requested is required in order to receive a Low Income Home Energy Assistance Program (LIHEAP) grant in years in which the grantee is not permitted to file an abbreviated plan. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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## **Assurances**

The Texas Department of Housing & Community Affairs agrees to:

*(Grantee Name)*

(1) use the funds available under this title to –

- (A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);
- (B) intervene in energy crisis situations;
- (C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and
- (D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to –

(A) households in which one or more individuals are receiving –

- (i) assistance under the State program funded under part A of title IV of the Social Security Act;
- (ii) supplemental security income payments under title XVI of the Social Security Act;
- (iii) food stamps under the Food Stamp Act of 1977; or
- (iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of –

- (i) an amount equal to 150 percent of the poverty level for such State; or
- (ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income.

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

- (4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;
- (5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses 2(A) and 2(B) of this subsection;
- (6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that –
  - (A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and
  - (B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made;
- (7) if the State chooses to pay home energy suppliers directly, establish procedures to –
  - (A) notify each participating household of the amount of assistance paid on its behalf;
  - (B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;
  - (C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and
  - (D) ensure that the provision of vendor payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;
- (8) provide assurances that,

- (A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and
  - (B) the State will treat owners and renters equitably under the program assisted under this title;
- (9) provide that –
- (A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a fiscal year; and
  - (B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining cost (except for the costs of the activities described in paragraph (16));
- (10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");
- (11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;
- (12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);
- (13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness; and
- (14) cooperate with the Secretary with respect to data collecting and reporting under section 2610.
- (15) \* beginning in fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.
- \* This assurance is applicable only to States, and to territories whose annual regular LIHEAP allotments exceed \$200,000. Neither territories with annual allotments of \$200,000 or less nor Indian tribes/tribal organizations are subject to Assurance 15.**
- (16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.

## **Certification to the Assurances**

As Chief Executive Officer, I agree to comply with the sixteen assurances contained in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended. By signing these assurances, I also agree to abide by the standard assurances on lobbying, debarment and suspension, and a drug-free workplace.

Signature of the Tribal or Board Chairperson or Chief Executive Officer of the State or Territory.

Signature: \_\_\_\_\_

Title: Executive Director

Date: August , 2012

**The Governor of Texas has delegated the responsibility of signing this document to the Executive Director of the Texas Department of Housing and Community Affairs. A copy of the letter is attached.**

**The EIN (Entity Identification Number) of the Texas Department of Housing & Community Affairs, which receives the grant funds, appears on the cover of this application.**

In the above assurances which are quoted from the law, "State" means the 50 States, the District of Columbia, an Indian Tribe or Tribal Organization, or a Territory; "title" of the Act refers to Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, the "Low Income Home Energy Assistance Act"; "section" means Section 2605 of OBRA; and, "subsection" refers to Section 2605(b) of OBRA.

## Components Operated Under LIHEAP

Statutory Reference 2605(a) and 2605(b)(1)

Please check which components you will operate under the LIHEAP program. (Note: You must provide information for each component designated here as requested elsewhere in this plan.)

### Use of Funds

Program Component	Dates of Operation
heating assistance	December – February
cooling assistance	March – November
crisis assistance	January – December
weatherization assistance	April – March

Statutory Reference 2605(c)(1)(C)

Please estimate what amount of available LIHEAP funds will be used for each component that you will operate: The total of all percentages must add up to 100%.

Statutory Reference	Percentage of Funds	Program Component
	10%	heating assistance
	40%	cooling assistance
	10%	crisis assistance
2605(k)(1)	25%	weatherization assistance
2605(b)(9)	0%	carryover to the following fiscal year
	10%	administrative and planning costs
2605(b)(16)	5%	services to reduce home energy needs including needs assessment (assurance 16)
	0%	used to develop and implement leveraging activities (limited to the greater of 0.08% or \$35,000 for States, the greater of 2% or \$100 for territories, tribes and tribal organizations).
	100%	<b>TOTAL</b>

### Alternate Use of Crisis Assistance Funds

Statutory Reference 2605(c)(1)(C)

The funds reserved for winter crisis assistance that have not been expended by March 15 will be reprogrammed to:

Program Component	Yes/No
Heating assistance	No
Cooling assistance	No
weatherization assistance	No
Other(specify): Year-round crisis	Yes

Do you accept applications for energy crisis assistance at sites that are geographically accessible to all households in the area to be served? (This is required by the statute.)

Yes

## Eligibility

Statutory Reference 2605(b)(2) and 2605(c)(1)(A)

What are your maximum eligibility limits? (Please check the components to which they apply.) Current year guidelines must be used.

Maximum Eligibility Limit	Heating Component	Cooling Component	Crisis Component	Weatherization Component
150% of the poverty guidelines				
125% of the poverty guidelines	X	X	X	X
111% of the poverty guidelines				
60% of the State's median income				

Subrecipient agencies will base applicant household eligibility on Texas Administrative Code Title 10, Part 1, Chapter 5, Subchapter A, §5.19 Client Income Guidelines and §5.20 Determining Income Eligibility.

Households are not automatically eligible if one person is receiving TANF, SSI, Food Stamps, or Certain means-tested veterans programs for any Program Component.

Statutory Reference 2605(c)(1)(A) and 2605(b)(2)

Additional eligibility requirements for Heating Component and Cooling Component.

Additional Eligibility Criteria	Heating Component (Yes or No)	Cooling Component (Yes or No)
Do you have additional eligibility requirements?	No	No
Do you use assets test?	No	No
Do you give priority eligibility to elderly?	Yes	Yes
Do you give priority eligibility to disabled?	Yes	Yes
Do you give priority eligibility to young children?	Yes	Yes
Other: High Energy Burden and High Energy Consumption	Yes	Yes

Statutory Reference 2604(c) and 2605(c)(1)(A)

Additional eligibility requirements for Crisis component.



<b>Additional Eligibility Criteria</b>	<b>Crisis Component (Yes or No)</b>
Do you have additional eligibility requirements?	No
Do you use assets test?	No
Must the household have received a shut-off notice or have an empty tank?	No
Must the household have exhausted regular benefit?	No
Must the household have received a rent eviction notice?	No
Must heating/cooling be medically necessary?	No

*What constitutes a crisis? Please describe*

A utility disconnection notice may constitute an energy crisis. Extreme hot or cold weather, defined at the local level.

[Statutory Reference 2605\(c\)\(1\)\(A\)](#)

*Additional eligibility requirements for Weatherization.*

<b>Additional Eligibility Criteria</b>	<b>Weatherization (Yes or No)</b>
Do you have additional eligibility requirements?	No
Do you use assets test?	No
Do you give priority eligibility to elderly?	No
Do you give priority eligibility to disabled?	No
Do you give priority eligibility to young children?	No
Other: High Energy Burden and High Energy Consumption	No

*Are you using Department of Energy (DOE) Low Income Weatherization Assistance Program (LIWAP) rules (<http://apps1.eere.energy.gov/weatherization/>) to establish eligibility or to establish priority eligibility for households with certain characteristics?*

Yes

*If Yes, are there exceptions? Please list below.*

Texas Administrative Code Title 10, Part 1, Chapter 5, Subchapter E. Weatherization Assistance Program General ([http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=5&sch=E&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=5&sch=E&rl=Y)) RULE §5.507 - Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria

## **Outreach Activities**

[Statutory Reference 2605\(b\)\(3\) and 2605\(c\)\(3\)\(A\)](#)

*Please indicate the outreach activities that you conduct that are designed to assure that eligible households are made aware of all LIHEAP assistance available:*

<b>Outreach Activity</b>	<b>Do you conduct this activity? (Yes or No)</b>
Provide intake service through home visits or by telephone for the physically infirm (i.e. elderly or disabled).	Yes
Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.	Yes
Publish articles in local newspapers or broadcast media announcements.	Yes
Include inserts in energy vendor billings to inform individuals of the availability of all types of LIHEAP assistance.	Yes
Make mass mailing to past recipients of LIHEAP.	No
Inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.	Yes
Execute interagency agreements with other low-income program offices to perform outreach to target groups.	No

## **Coordination**

### [Statutory Reference 2605\(b\)\(4\)](#)

*Please describe how you will assure that LIHEAP is coordinated with similar and related programs. The description provided applies to all components unless specifically noted.*

Subrecipients coordinate with other social service agencies to provide services to eligible households. In particular, subrecipients make documented referrals to the local WAP subrecipient.

Subrecipients coordinate with local energy vendors to arrange for arrearage reduction, reasonably reduced payment schedules, or cost reductions.

Community Action Agencies, local government entities, and private nonprofit agencies, administer the LIHEAP program. To share information, enhance and develop service capacities, and integrate resources, The Department works with the Texas Association of Community Action Agencies, the Public Utility Commission, the Texas Railroad Commission, utility companies, and other State entities serving the low-income population.

## **Benefit Levels: Equal Treatment**

### [Statutory Reference 2605\(b\)\(5\), 2605\(b\)\(2\), and 2605\(b\)\(8A\)](#)

*The statute requires that there be no difference in the treatment of households eligible because of their income and those eligible because they receive benefits under TANF, Food Stamps, SSI, or certain means-tested veterans programs ("categorically eligible"). How do you ensure there is no difference when determining eligibility and benefit amounts? This applies to all components unless specifically noted below.*

There is no difference in treatment based on the receipt or non-receipt of public assistance benefits. Subrecipients will base applicant household eligibility on TAC Title 10, Part 1, §5.19 (Client Income Guidelines) and §5.20 (Determining Income Eligibility) for all Community Affairs programs.

**Determination of Benefits**

**Heating Component and Cooling Component**

Statutory Reference 2605(b)(5)

*Please check the variables you use to determine your benefit levels (check all that apply.)*

<b>Variable</b>	<b>Heating benefit</b>	<b>Cooling benefit</b>
Income	X	X
family (household) size	X	X
home energy cost or need	X	X
fuel type		
climate/region		
individual bill	X	X
dwelling type		
energy burden (% of income spent on home energy)	X	X
energy need	X	X
other (describe):		

**Benefit Levels**

Statutory Reference 2605(b)(5) and 2605(c)(1)(B)

*Describe how you will assure that the highest benefits go to households with the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size.*

*Please describe benefit levels or attach a copy of your payment matrix.*

Household may receive an amount needed to address their energy payment shortfall not to exceed the following amounts:

<b>Households Incomes</b>	<b>Maximum Heating Component Benefit</b>	<b>Maximum Cooling Component Benefit</b>
0 to 50% of Poverty	\$1,200.00	\$1,200.00
50% to 75% of Poverty	\$1,100.00	\$1,100.00
75% to 125% of Poverty	\$1,000.00	\$1,000.00

*Do you provide in-kind (e.g., blankets, space heaters) and/or other forms of benefits?*

No

**Crisis Component**

Statutory Reference 2605(b)(5) and 2605(c)(1)(B)

*How do you handle crisis situations?*

Crisis situations are handled as a separate component.

*If you have a separate component, how do you determine crisis assistance benefits?*

Crisis assistance benefit is the amount needed to resolve crisis, up to the maximum.

**Benefit Levels**

*Please indicate the maximum benefit for each type of crisis assistance offered.*

<b>Type of crisis assistance offered</b>	<b>Maximum Benefit</b>
Heating	n/a
Cooling	n/a
Year-round	\$3,700

*Do you provide in-kind (e.g., blankets, space heaters) and/or other forms of benefits?*

No

**WEATHERIZATION & OTHER ENERGY RELATED HOME REPAIR AND IMPROVEMENTS**

**Types of Assistance**

Statutory Reference 2605(b)(5), 2605(c)(1), (B) & (D)

*What LIHEAP weatherization services/materials do you provide? (Check all categories that apply.)*

<b>LIHEAP weatherization services/materials</b>	<b>Provided</b>
Weatherization needs assessments/audits.	X
Caulking, insulation, storm windows, etc.	X
Furnace/heating system modifications/repairs	X
Furnace replacement	X
Cooling efficiency modifications/repairs/replacement	X
Other <u>Energy Related Home Repair</u> (Please describe) (1) roof, wall, and floor repair to complete weatherization measures; (2) repair or replace essential electrical wiring to complete related weatherization measures, while complying with safety codes; (3) solar screens or window film (where appropriate); (4) replacement of refrigerators 1993 or older or metered to have an SIR of 1 or greater on the Departments refrigerator tool; (5) mobile home skirting to protect belly insulation; (6) overhangs to protect mobile home doors; (7) carpentry work to protect outside water heater from exposure; and (8) Weatherization-related health and safety safeguards as defined by DOE.	X

**Benefit Levels**

Do you have a maximum LIHEAP weatherization benefit/expenditure per household?

Yes

If yes, what is the maximum amount?

**\$5,000**

**Types of Rules (DOE or LIHEAP)**

Under what rules do you administer LIHEAP weatherization?

Type of Rules	Used to Administer LIHEAP Weatherization
Entirely under LIHEAP (not DOE) rules	
Entirely under DOE LIWAP rules	
Mostly under LIHEAP rules with the following DOE LIWAP rule(s) where LIHEAP and LIWAP rules differ (Check all that apply):	X
Weatherize buildings if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days	X
Weatherize shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities).	X
Mostly under DOE LIWAP rules, with the following LIHEAP rule(s) where LIHEAP and LIWAP rules differ (Check all that apply.)	
Weatherization not subject to DOE LIWAP maximum statewide average cost per dwelling unit.	X
Other (Please describe.) <u>Energy Related Home Repair</u> . TDHCA will allow the use of a client's LIHEAP weatherization award for structural and ancillary repairs only if required to enable effective weatherization.	X

**Agency Designation**

Statutory Reference 2605(b)(6)

The state administers LIHEAP through the following types of local agencies:

Agency Type	Designated for LIHEAP
county welfare offices	
community action agencies (weatherization component only)	X
community action agencies (heating, cooling or crisis)	X
charitable organizations (nonprofit)	X
not applicable (i.e. state energy office)	
tribal office	
other, describe: Units of local government and Councils of Government.	X

Have you changed local administering agencies from last year?

Yes

If Yes, please describe how you selected them.

Request for Application (RFA)

What components are affected by the change?

Heating, cooling, crisis, weatherization.

## Targeting of Assistance

Statutory Reference 2605(c)(1)(E)

Please describe any additional steps (other than those described elsewhere in this plan) that will be taken to target assistance to households with high home energy burdens. (This applies to all components. If all steps to target households with high home energy burdens are described elsewhere in the plan, no further information is required here.)

N/A

## Energy Suppliers

Statutory Reference 2605(b)(7)

Do you make payments directly to home energy suppliers?

Program Component	Payment to Supplier? (Yes or No)
Heating	Yes
Cooling	Yes
Crisis	Yes
If yes, are there exceptions? If yes, please describe.	No

Statutory Reference 2605(b)(7)(A)

If you make payments directly to home energy suppliers, how do you notify the client of the amount of assistance paid? (Please describe)

When the client applies for assistance, the subrecipient determines eligibility, the amount of assistance, and the appropriate component. This information is given to the client along with the client agreement.

Statutory Reference 2605(b)(7), (B) & (C)

How do you make sure the home energy supplier performs what is required in this assurance? If vendor agreements are used, they may be attached. Indicate each component for which this description applies.

Vendor agreements are used in all components. A sample copy is attached.

## Owners & Renters

Statutory Reference 2605(b)(8)(B)

*Is there any difference in the way owners and renters are treated? If Yes, please describe.*

<b>Program Component</b>	<b>Difference for owners and Renters? (Yes or No)</b>
Heating	No
Cooling	No
Crisis	No
Weatherization	No

## Program, Fiscal Monitoring, and Audit

Statutory Reference 2605(b)(10)

*How do you ensure good fiscal accounting and tracking of LIHEAP funds? (Please describe. Include a description of how you monitor fiscal activities.)*

- (1) review annual audits;
- (2) monitor fiscal records;
- (3) review Monthly Expenditure and Performance Reports.

*How do you monitor program activities? (Please be sure to include a description of how you monitor eligibility and benefit determination.)*

- The Department requires each subrecipient to submit monthly funding and performance reports. Reports are due on the fifteenth of the following month.
- The Contract Specialist will complete a desk monitoring review of monthly funding and performance reports to ensure the subrecipient has the capacity to carry out program activities in a timely manner.
- Assigned Program Officer for each subrecipient will track program compliance and performance activities.
- Program Officers will perform an onsite monitoring visit of each subrecipient at least once every two years based on a Risk Assessment Module. On-site monitoring will be performed in conjunction with the Division’s Community Service Block Grant whenever possible. TDHCA may monitor a subrecipient more than once based on the previous monitoring report and current contract performance.
- Program Officer will review the subrecipient’s financial records such as the single audit, general ledgers, receipts, bank statements, bank reconciliation reports, and checks to ensure that program funds are being expended on allowable program activities.
- Program Officer will review individual client records to ensure the clients are eligible, prioritized, and served within the contract and TDHCA established guidelines. Client files will also be reviewed to ensure household needs have been identified, the client has been provided client education, and referred to other programs that have been identified by the subrecipient.
- Program Officer will complete a monitoring check list and report that outlines findings and recommendations.
- Upon the Manager’s review a report will be mailed to each subrecipient.
- Subrecipient must submit a written response within 45 days of the report. The response must address any possible corrective actions if any.

- A review of the response in order to ensure all possible corrective actions has been implemented by the subrecipient.

*How is your LIHEAP program audited? Under the Single Audit Act?*

Yes

*If not, please describe:*

N/A

*For States and Territories, is there an annual audit of local administering agencies?*

Yes. TDHCA contract requires subrecipients that exceed \$500,000 in expenditures to follow the single Audit procedures and submit a copy of the Audit to the Department for review.

*If not, please explain.*

N/A

## **Timely and Meaningful Public Participation**

*Statutory Reference 2605(b)(12)*

*How did you get timely and meaningful public participation in the development of the plan? (Please describe.)*

The Department prepared a Draft LIHEAP Plan for FFY 2013 as a means of informing interested parties prior to the annual LIHEAP Public Hearing on July 12, 2012.

The draft plan was submitted for The Department Board approval at the June 14, 2012 meeting – prior to publication.

A Texas Register announcement (see appendix), the Department website, and opt-in email distribution publication informed the Texas Legislature and general public about the public hearing.

The Draft LIHEAP Plan appeared on the Department website beginning June 18, 2012.

The Department transmitted the Draft LIHEAP Plan by e-mail to all TDHCA Energy Assistance subrecipients, Weatherization Policy Advisory Committee members, and other interested parties and let them know the document's internet location (<http://www.tdhca.state.tx.us/ea.htm>).

The Department accepted written and verbal comments within the public participation process through July 15, 2012, 5:00 p.m. The Department requested that comments be sent by e-mail to [cate.taylor@tdhca.state.tx.us](mailto:cate.taylor@tdhca.state.tx.us) or by fax (512) 475-3935 or by postal service to TDHCA, Energy Assistance Section, P.O. Box 13941, Austin, Texas 78711-3941.

The Department incorporates public comments, including workable suggestions that do not alter the intent of LIHEAP, into the final plan.

The Department Board receives the final plan for approval on July 27, 2012.



## **Public Hearings**

Statutory Reference 2605(a)(2)

*Did you conduct public hearings on the proposed use and distribution of your LIHEAP funds?*

Yes

*When and where?*

July 12, 2012; 9:00 a.m. – 11:00 a.m.  
Texas Department of Housing and Community Affairs  
221 East 11th Street, Room 116  
Austin, Texas 78701

## **Fair Hearing Procedures**

Statutory Reference 2605(b)(13)

*Describe your fair hearing procedures for households whose applications are denied or not acted on in a timely manner. When are applicants informed of these rights?*

The Department will ensure that subrecipients provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied or not acted upon in a timely manner by requiring subrecipients to:

- print information about clients' rights on the application forms and information sheets;
- provide opportunity for fair administrative hearings in cases of application denial, delay, or inaction;
- Provide written notification to applicant of denial of assistance within ten (10) days of the adverse determination. Notification includes written instructions of the appeals process and specific reasons for the denial. Applicants wishing to appeal a decision must provide written notice to subrecipient within 10 days of receipt of the denial notice. Subrecipient maintains documentation of appeals in the client files.

Applicants may subsequently appeal to the Department. An applicant must provide a written appeal request to the Department within 10 days of receiving the subrecipient's second determination. The Department appeals committee composed of at least three persons hears the appeal within 10 days of receiving the appeal. The subrecipient provides to the Department an audio tape recording or detailed notes of its hearing and pertinent client files. The Department will review the recording and notes from the hearing, the committee's decision and any other relevant information. The Department will not take additional oral testimony. The Department will notify all parties in writing of its decision within 30 days of the receipt of the appeal.

## **Alternate Outreach and Intake**

Statutory Reference 2605(b)(15)

*For States and Puerto Rico only (not applicable to Tribes and tribal organizations or to territories whose annual regular LIHEAP allotments are \$200,000 or less):*

*Does the State agency that administers the following LIHEAP component also administer the State's welfare program?*

<b>Program Component</b>	<b>State Welfare Program administered at State LIHEAP agency? (Yes or No)</b>
Heating	No
Cooling	No
Crisis	No

*If Yes, describe alternate process for outreach and intake.*

N/A

## **Assurance 16 Activities**

Statutory Reference 2605(b)(16)

*Do you use LIHEAP funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance? (This assurance refers to activities such as needs assessments, counseling, and assistance with energy vendors.)*

Yes

*If Yes, please describe these activities.*

1. Identify household needs.
2. Provide literature and energy conservation education.
3. Refer client to other appropriate programs.
4. Encourage responsible vendor and consumer behavior.

Subrecipients provide applications, forms, and energy education materials in Spanish, English, or other language when appropriate.

*If Yes, how do you ensure that you don't use more than 5% (statutory ceiling) of your LIHEAP funds for these activities?*

Assurance 16 activities are a separate budget category at both the state and subrecipient levels. Both the accounting and the reporting systems do not allow expenditures over the 5% cap.

## Leveraging

### Statutory Reference 2607A

Please describe leveraging activities planned for the fiscal year. (*This entry is optional.*\*) Complete this entry if you plan to apply for LIHEAP leveraging incentive funds and to include in your leveraging report resources/benefits provided to low income households this fiscal year under criterion (iii) in 45 CFR 96.87(d)(2). Provide the following information for each:

- (1) Identify and described each resource/benefit;
- (2) Identify the source(s) of each resource; and
- (3) Describe the integration/coordination of each resource/benefit with the LIHEAP program, consistent with 1 or more of conditions A-H in 45 CFR 96.87(d)(2)(iii).

45 CFR 96 Section Reference	Leveraging Activities
96.87(d)(2)(i)	In order for subrecipients to serve eligible households in a comprehensive manner, creation of partnerships with private industries and utility vendors is essential. LIHEAP staff members, both at the grantee and the subrecipient level, have devoted substantial time and resources in the negotiation and design of these partnerships.
96.87(d)(1)	The resources leveraged by these activities are from non-federal sources such as utility companies. They are provided to the LIHEAP grantee or only accessible to LIHEAP clients. They represent a net addition to the total home energy resources available to low-income households, are measurable and quantifiable, and meet the requirements for countable resources.
96.87(d)(2)(iii)(D), 96.87(d)(2)(iii)(E), 96.87(d)(2)(iii)(F), and 96.87(e)(1)(i)	The following resources have been leveraged on behalf of LIHEAP clients. Subrecipients utilize state approved vendor agreements with energy providers. These agreements may provide for waivers on reconnection fees and waivers on deposits. These agreements ensure that the energy vendor will charge the eligible household only the difference between the cost of home energy actually consumed and the amount of the payment made by TDHCA through LIHEAP. Agreements ensure that energy vendors will treat LIHEAP clients with no disadvantage relative to all other customers.
96.87(d)(2)(ii), 96.87(e)(1)(iii), 96.87(e)(1)(vi)	TDHCA administers the funds through its LIHEAP WAP network of weatherization contractors. These contractors leverage DOE WAP funds for Weatherization activities.

\* Leveraged resources/benefits that are counted under criterion (iii) in 45 CFR 96.87(d)(2) must be identified and described in the grantee's LIHEAP plan and distributed as indicated in the plan. In addition, leveraging resources/benefits that are counted under criterion (ii) must be carried out under one or more components of the grantee's regular LIHEAP program.

## **ADDITIONAL CERTIFICATIONS AND REQUIREMENTS**

Attached are additional certifications required as follows:

- **Lobbying certification**, which must be filed by all States and territories. If applicable, Form LLL, which discloses lobbying payments, must be submitted. (**Tribes and tribal organizations are EXEMPT**) (Above link shows source document only.)
- **Debarment and suspension certification**, which must be filed by all grantees. (Above link shows source document only.)
- **Drug-free workplace requirement certification**, which must be filed by all grantees, unless the grantee has filed a statewide certification with the Department of Health and Human Services. **STATES ONLY:** If you have filed a statewide certification for the drug-free workplace requirement, please check here:  (Above link shows source document only.)
- One of the new requirements included in the 1994 reauthorization of the statute is that grantees must include in their annual application for funds a report on the number and income levels of households applying for and receiving LIHEAP assistance, and on the number of recipient households that have members who are elderly, disabled, or young children.

**All Tribes and those territories with allotments of less than \$200,000** need only submit data on the number of households served by each component (heating, cooling, weatherization and crisis). The approval for the collection of information contained in the **LIHEAP Household Report** is covered by OMB approval number 0970-0060.

- Though not a part of this application, the report on funds to be carried over or available for reallocation as required by section 2607(a) for the preceding year must be submitted by August 1 of each year. A grant award for the current fiscal year may not be made until the carryover/reallotment report is received. The approval for the collection of information contained in the **LIHEAP Carryover and Reallocation Report** is covered by OMB approval number 0970-0106.

## **Attachments**

1. FFY 2013 LIHEAP Program Integrity Assessment Supplement
  - A. TDHCA Recommended Practice on Fraud, Waste, and Abuse
  - B. Texas Administrative Code for TDHCA's LIHEAP programs
  - C. Sample Vendor Agreement
  - D. Sample of Department approved Declaration of Income Statement
  - E. Sample TDHCA contract for PY 2012 CEAP Subrecipients
  - F. Sample TDHCA contract for PY 2012 LIHEAP WAP Subrecipients
  - G. Texas Register Notice of Public Hearing for FY 2013 LIHEAP Plan
2. Preliminary FFY 2012 LIHEAP Household Report
3. [Contractors \(Subrecipient Agencies\)](http://www.tdhca.state.tx.us/ea/index.htm) <http://www.tdhca.state.tx.us/ea/index.htm>
4. Required Certifications
  - A. Lobbying Certification
  - B. Debarment and Suspension Certification
  - C. Drug-free Workplace requirement Certification
5. PY 2012 DOE WAP State Plan <http://www.tdhca.state.tx.us/ea/docs.htm>
6. LIHEAP Designation Letter for TDHCA



## PROGRAM INTEGRITY ASSESSMENT SUPPLEMENT

### TEXAS FFY 2013 LIHEAP PLAN

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## ABSTRACT:

HHS is requiring further detail from Grantees on their FY2013 plans for preventing and detecting fraud, abuse, and improper payments. HHS is also requiring that Grantees highlight and describe all elements of this FY2013 plan which represent improvements or changes to the Grantees' FY2012 plan for preventing and detecting fraud, abuse and improper payment prevention.

## INSTRUCTIONS:

Please provide full descriptions of the Grantee's plans and strategy for each area, and attach/reference excerpts from relevant policy documents for each question/column. Responses must explicitly explain whether any changes are planned for the new FY.

### 1. RECENT AUDIT FINDINGS

*Necessary outcomes from these systems and strategies: The timely and thorough resolution of weaknesses or reportable conditions as revealed by the audit.*

- a. **Describe any audit findings of material weaknesses and reportable conditions, questioned costs and other findings cited in FY2012 or the prior three years, in annual audits, Grantee monitoring assessments, Inspector General reviews, or other Government Agency reviews of LIHEAP agency finances.**

During the 2009 Audit by the State Auditor's office (through KPMG) an audit finding was received regarding administrative privileges within the Genesis Community Affairs Contract System and the PeopleSoft system.

In FY 2010, Grantee monitoring assessment revealed inadequate management of LIHEAP programs by two subrecipient organizations. LIHEAP contracts with both organizations were terminated.

- b. **Please describe whether the cited audit findings or relevant operations have been resolved or corrected. If not, please describe the plan and timeline for doing so in FY2013.**

Resolved – The Texas Department of Housing and Community Affairs (TDHCA or the Department) has resolved the 2009 finding by establishing a new Community Affairs Contract System which replaced the Genesis Community Affairs Contract System in April 2009. No developers have production update access in the new system.

Resolved – Termination of contracts for the inadequate management of LIHEAP programs by two subrecipient organizations.

**c. If there is no plan in place, please explain why not.**

For the 2009 PeopleSoft finding, TDHCA removed production/database administration access from the developers as noted in the finding. This occurred in May 2009.

**2. COMPLIANCE MONITORING**

*Necessary outcomes from these systems and strategies: A sound methodology, with a schedule for regular monitoring and a more effective monitoring tool to gather information.*

**a. Describe the Grantee's FY 2012 strategies that will continue in FY 2013 for monitoring compliance with State and Federal LIHEAP policies and procedures by the Grantee and local administering agencies.**

The Department requires each subrecipient to submit monthly funding and performance reports. Reports are due on the fifteenth of each month.

Contract Specialists will complete a desk monitoring review of monthly funding and performance reports to ensure the subrecipient has the capacity to carry out program activities in a timely manner.

The assigned Program Officer for each subrecipient will track program compliance and performance activities.

Program Officers will perform an onsite monitoring visit of each subrecipient at least once every two years based on a Risk Assessment Module. TDHCA may monitor a subrecipient more than once based on the previous monitoring report and current contract performance.

Program Officers will review the subrecipient's financial records such as the single audit, general ledgers, receipts, bank statements, bank reconciliation reports, and checks to ensure that program funds are being expended on allowable program activities.

Program Officers will review individual client records to ensure the clients are eligible, prioritized, and served within the contract and TDHCA established guidelines. Client files will also be reviewed to ensure household needs have been identified, the client has been provided client education, and referred to other programs that have been identified by the subrecipient.

Program Officers will complete a monitoring check list and report that outlines findings and recommendations. Upon the Manager's review, a report will be mailed to each subrecipient.

Subrecipient must submit a written response within 45 days of the report. The response must address any possible corrective actions if any.

Program Officers will perform a review of the response in order to ensure all possible corrective actions have been implemented by the subrecipient.



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Subrecipient monitoring policies are documented in the Texas Administrative Code (TAC) Title 10, Part 1, Chapter 5, Subchapter A, Rule 5.16: Monitoring of Subrecipients. All TAC rules referenced in the Program Integrity Assessment Supplement are included in Attachment B.

The Department has developed a monitoring results database for department staff to track subrecipient monitoring visits, reports, findings, and any action required by the Department and Subrecipient staff. Reports can be generated from this database to track subrecipient monitoring status and risk assessment.

This database was developed and tested for Weatherization Assistance Program subrecipients (some of which administer a LIHEAP funds for Weatherization) in FFY 2010 and 2011. Use of this monitoring results database will continue in FFY 2013.

**b. Please highlight any strategies for compliance monitoring from your plan which will be newly implemented as of FY 2013.**

The Department will continue strategies for compliance monitoring as described above in FFY 2013.

**c. If you don't have a firm compliance monitoring system in place for FY 2012, please describe how the State is verifying that LIHEAP policy and procedures are being followed.**

n/a

**3. FRAUD REPORTING MECHANISMS**

*Necessary outcomes of these strategies and systems: Clear lines of communication for citizens, grantees, clients, and employees to use in pointing out potential cases of fraud or improper payments to State administrators.*

**a. For FY 2012 activities continuing in FY 2013, please describe all (a) mechanisms available to the public for reporting cases of suspected LIHEAP fraud, waste or abuse [These may include telephone hotlines, websites, email addresses, etc.]; (b) strategies for advertising these resources.**

The Internal Audit Division of TDHCA has initiated a toll free hotline that can be used by the general public or other stakeholders, as well as the Department's employees, to anonymously report instances of fraud, waste and abuse.

Internal Audit contracts with The Network to provide the hotline services. The Network is a third-party administrator of anonymous hotlines. The hotline is available 24 hours a day, 365 days a year and calls are answered by employees of The Network. Information can be provided anonymously via a telephone call, a fax, a letter or an e-mail. If reports are made by fax or e-mail, The Network will ensure that the complaint remains anonymous.

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Matters brought to the attention of the Department in which fraud, waste or abuse of funds may have occurred will be forwarded to the State Auditor's Office as required by the Texas Government Code, Section 321.022.

(1) If the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the state auditor.

The state auditor may investigate the report or may monitor any investigation conducted by the department or entity.

(2) The state auditor, in consultation with state agencies and institutions, shall prescribe the form, content, and timing of a report required by this section.

(3) All records of a communication by or to the state auditor relating to a report to the state auditor under Subsection (a) are audit working papers of the state auditor.

As posted on the TDHCA website at <http://www.tdhca.state.tx.us/fraud-waste-abuse.htm>, an incident of fraud, waste or abuse at the Texas Department of Housing and Community Affairs, can be reported in any of the following ways:

**By Phone**

Call toll free: 877-749-3316

**By Mail**

The Network

ATTN: Texas Department of Housing and Community Affairs

333 Research Court

Norcross, GA 30092

**By Fax**

770-409-5008

Faxes need to include the following information on the cover sheet:

TO: The Network

ATTN: The Texas Department of Housing and Community Affairs

**By E-Mail**

[Reportline@tnwinc.com](mailto:Reportline@tnwinc.com)

Please include "Texas Department of Housing and Community Affairs" in the email text.

The public can also directly file a complaint with the State Auditor's Office at 1-800-TX-AUDIT or online at <https://sao.fraud.state.tx.us/Hotline.aspx>.

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In October 2010, TDHCA developed and distributed its Recommended Practice on Fraud, Waste, and Abuse to all TDHCA Employees, posted on the Department's website and distributed via the TDHCA ListServ email system.

This email system is open to the public but subscription is required of subrecipients for all Community Affairs programs, including all LIHEAP funded programs. Program-specific announcements, policy updates, changes in requirements, and other notifications are sent via this email system.

In July 2010, the Department created The Previously Weatherized Units (PW Units) module that is used to collect the address, city, zip, date weatherized, and subrecipient name for houses and units weatherized since September 30, 1994 through non-ARRA Department of Energy (DOE) WAP funds and Low Income Housing Energy Assistance Program (LIHEAP) WAP funds. This database is only available to subrecipient agencies of LIHEAP and DOE funds.

The data collected through this module will be used to ensure no houses or units in Texas have been weatherized twice since 1994 using non-ARRA DOE WAP or LIHEAP WAP funds. Subrecipients must search using this module prior to weatherizing units.

**b. Please highlight any tools or mechanisms from your plan which will be newly implemented in FY 2013, and the timeline for that implementation.**

TDHCA will continue to post information on the Department website and distribute Listserv announcements about fraud, waste, and abuse policies. Further, Program Integrity workshops will be held at statewide conferences for all LIHEAP subrecipient attendees.

The Department's Community Affairs Training Team is working to enhance training for LIHEAP subrecipient Board of Directors. Training curriculum will include fraud prevention and detection, strengthened financial controls, and overall increased program integrity at the local subrecipient level.

**c. If you don't have any tools or mechanisms available to the public to prevent fraud or improper payments, please describe your plan for involving all citizens and stakeholders involved with your program in detecting fraud.**

n/a

**4. VERIFYING APPLICANT IDENTITIES**

*Necessary outcomes from these systems and strategies: Income and energy supplier data that allow program benefits to be provided to eligible individuals.*

**a. Describe all FY 2012 Grantee policies continuing in FY2013 for how identities of applicants and household members are verified.**

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TDHCA policies for how identities of applicants and household members are documented are detailed in TAC Title 10, Part 1, Chapter 5:

- (1) Subchapter A, Rule 5.19: Client Income Guidelines,
- (2) Subchapter A, Rule 5.20: Determining Income Eligibility, and
- (3) Subchapter D, Rule 5.407: Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria.

TAC Rules are attached.

At this time, there are no policies in place for how identities of applicants and household members are verified.

TDHCA staff members have been actively participating in the National Program Integrity Workgroup and the Department has formed its own TX LIHEAP Program Integrity Workgroup comprised of members of the network of LIHEAP providers statewide, the Texas Association of Community Action Agencies (TACAA), and Department staff members. This workgroup is working to develop a system to verify identities of applicants and household members and will also look at implementation of the recommendations from HHS IM 2010-06 as described in the following sections.

Since the Program Integrity Assessment Supplement will be a required part of the annual State LIHEAP plan going forward, TDHCA will reconvene the LIHEAP Program Integrity Workgroup annually to review the Supplement and related program integrity policies. The first meeting of the TX LIHEAP program administrators will take place on June 19, 2012.

**b. Please highlight any policy or strategy from your plan which will be newly implemented in FY 2013.**

In addition to the continuing work of the TX LIHEAP Program Integrity Workgroup described above, the Department is seeking partnerships with other state agencies that maintain systems and databases to verify individual or household member identities. Discussions have begun with The Texas Health and Human Services Commission, the state designated hub for Social Security Administration data.

Partnerships are being sought with agencies such as the Texas Workforce Commission, the Texas Department of State Health Services, and the Texas Department of Criminal Justice for linkages to new hire databases, state death records, and prisoner databases respectively.

The Department is also planning to move to a statewide database for all Community Affairs Division Programs, LIHEAP included. Currently, application intake and income verification are handled by the local subrecipient agencies. By centralizing this information in a statewide database, the Department will be able to more effectively and efficiently verify LIHEAP

individual applicants and households. The Department is using the three year timeline for implementation that has been adopted by the National LIHEAP Program Integrity Workgroup.

TDHCA has also been working to assist LIHEAP subrecipient agencies that must meet the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) to gain access to the Department of Homeland Security's SAVE Verification system.

- c. If you don't have a system in place for verifying applicant's identities, please explain why and how the Grantee is ensuring that only authentic and eligible applicants are receiving benefits.**

TDHCA does not have a system in place for verification of applicant's identities as there has previously been no requirement nationally. The Department has informed the statewide LIHEAP network that the LIHEAP program is moving towards the implementation of the recommendations in IM-06.

With the achievement of the partnerships and statewide database described above, TDHCA will have more tools available to check the identity and eligibility of applicants receiving LIHEAP benefits statewide.

## 5. SOCIAL SECURITY NUMBER REQUESTS

*Necessary outcomes from these systems and strategies: All valid household members are reported for correct benefit determination.*

- a. Describe the Grantee's FY 2013 policy in regards to requiring Social Security Numbers from applicants and/or household members applying for LIHEAP benefits.**

According to the Texas Administrative Code (TAC), the Department does not currently require SSNs to verify eligibility of applicants and/or household members applying for LIHEAP benefits. See Subchapter D, Rule 5.407: Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria in the attached TAC Rules.

- b. Please describe whether the State's policy for requiring or not requiring Social Security numbers is new as of FY2013, or remaining the same.**

The Department's policy for not requiring Social Security numbers will remain the same for PY 2013.

- c. If the Grantee is not requiring Social Security Numbers of LIHEAP applicants and/or household members, please explain what supplementary measures are being employed to prevent fraud.**

As described in sections 2 and 3 above, the Department has a robust and effective compliance monitoring system and fraud reporting system in place. These systems will continue to be enhanced. TDHCA has also been working to assist LIHEAP subrecipient agencies that must meet

the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) to gain access to the Department of Homeland Security's SAVE Verification system.

## 6. *CROSS-CHECKING SOCIAL SECURITY NUMBERS AGAINST GOVERNMENT SYSTEMS/DATABASES*

*Necessary outcomes from these systems and strategies: Use of all available database systems to make sound eligibility determination.*

- a. **Describe if and how the Grantee used existing government systems and databases to verify applicant or household member identities in FY 2012 and continuing in FY 2013. (Social Security Administration Enumeration Verification System, prisoner databases, Government death records, etc.)**

The Department does not currently use existing government systems and databases to verify applicant or household member identities.

As described above in Section 3, the Department uses its internal Previously Weatherized Units database to ensure no houses or units in Texas have been weatherized twice since 1994 using non-ARRA DOE WAP or LIHEAP WAP funds.

- b. **Please highlight which, if any, policies or strategies for using existing government databases will be newly implemented in FY 2013.**

As described above in section 4b, TDHCA has been working to assist LIHEAP subrecipient agencies that must meet the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) to gain access to the Department of Homeland Security's SAVE Verification system.

- c. **If the Grantee won't be cross checking Social Security Numbers and ID information with existing government databases, please describe how the Grantee will supplement this fraud prevention strategy.**

In addition to the SAVE Verification System described above, the Department will supplement the fraud prevention strategy by continuing the LIHEAP Program Integrity Workgroup. Continuing this workgroup will ensure that the newly implemented strategy is suitable for the Department, LIHEAP subrecipients, vendors, and clients.

The fraud, waste, and abuse policies described in section 3 will also continue to be practiced and enhanced as the LIHEAP program in administered statewide.

## 7. *VERIFYING APPLICANT INCOME*

*Necessary outcomes from these systems and strategies: Effective income determination achieved through coordination across program lines.*

**a. Describe how the Grantee or designee used State Directories of new hires or similar systems to confirm income eligibility in FY 2012 and continuing in FY 2013.**

The Department does not currently use State Directories of new hires or similar systems to confirm income eligibility in FY2012.

To determine income eligibility for program services, subrecipients must base annualized eligibility determinations on household income from thirty (30) days prior to the date of application for assistance. Each subrecipient must maintain documentation of income from all sources for all household members for the entire thirty (30) day period prior to the date of application and multiply the monthly amount by twelve (12) to annualize income. Income documentation must be collected from all income sources for all household members eighteen (18) years and older for the entire thirty (30) day period.

If proof of income is unavailable, the applicant must complete and sign a Department approved Declaration of Income Statement (DIS). A sample Declaration of Income Statement is attached.

**b. Please highlight any policies or strategies for using new hire directories which will be newly implemented in FY 2013.**

As stated in previous sections, the Department is seeking partnerships with other state agencies that maintain systems and databases to verify individual or household member identities.

**c. If the Grantee won't be using new hire directories to verify applicant and household member incomes how will the Grantee be verifying the that information?**

Beginning in PY 2012, in an attempt to limit use of the DIS described above, all self-certifications of client income must include a notarized statement signed by the potential applicant indicating that the client has no other proof of income. Each affected client file must include evidence of the various attempts at proving eligibility.

All Declaration of Income Statements must be accompanied by a statement written by the client indicating that the client has no other proof of income and documenting efforts made to obtain income statements. The client statement must include a notarized signature.

**8. PRIVACY-PROTECTION AND CONFIDENTIALITY**

*Necessary outcomes from these systems and strategies: Clear and secure methods that maintain confidentiality and safeguard the private information of applicants.*

**a. Describe the financial and operating controls in place in FY 2012 that will continue in FY 2013 to protect client information against improper use or disclosure.**

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Subrecipients maintain client information onsite. Each has policies and procedures in place to protect client confidentiality. Data submitted to TDHCA electronically is stored on a secure server.

The Department has a coding system in place for all monitoring reports that reference client data to ensure that no client information is released.

**b. Please highlight any controls or strategies from your plan which will be newly implemented as of FY 2013.**

The workgroup as described in the previous sections will address further controls to ensure the security and confidentiality of private information disclosed by applicants.

All agreements with statewide partners will require built in controls to ensure client confidentiality during data transfer.

**c. If you don't have relevant physical or operational controls in place to ensure the security and confidentiality of private information disclosed by applicants, please explain why.**

n/a

**9. LIHEAP BENEFITS POLICY**

*Necessary outcomes from these systems and strategies: Authorized energy vendors are receiving payments on behalf of LIHEAP eligible clients.*

**a. Describe FY 2012 Grantee policies continuing in FY 2013 for protecting against fraud when making payments, or providing benefits to energy vendors on behalf of clients.**

Federal law requires that all LIHEAP subrecipients have vendor agreements in place with energy vendors. The Department monitors each subrecipient to ensure that vendor agreements are in place. Monitoring practices are described in Section 2 above.

These vendor agreements ensure that no LIHEAP benefit payments are made directly to clients or to vendors without agreements.

**b. Please highlight any fraud prevention efforts relating to making payments or providing benefits which will be newly implemented in FY 2013.**

All policies described above will continue in FFY 2013.

**c. If the Grantee doesn't have policy in place to protect against improper payments when making payments or providing benefits on behalf of clients, what supplementary steps is the Grantee taking to ensure program integrity.**

n/a

**10. PROCEDURES FOR UNREGULATED ENERGY VENDORS**



*Necessary outcomes from these systems and strategies: Participating vendors are thoroughly researched and inspected before benefits are issued.*

- a. Describe the Grantee's FY 2012 procedures continuing in FY 2013 for averting fraud and improper payments when dealing with bulk fuel dealers of heating oil, propane, wood and other un-regulated energy utilities.**

As above, Federal law requires that all LIHEAP subrecipients have vendor agreements in place with energy vendors. The Department monitors each subrecipient to ensure that vendor agreements are in place.

- b. Please highlight any strategies policy in this area which will be newly implemented in FY 2013.**

All policies described above will continue in FFY 2013.

- c. If you don't have a firm plan for averting fraud when dealing with unregulated energy vendors, please describe how the Grantee is ensuring program integrity.**

n/a

#### **11. VERIFYING THE AUTHENTICITY OF ENERGY VENDORS**

*Necessary outcomes from these systems and strategies: An effective process that effectively confirms the existence of entities receiving federal funds.*

- a. Describe Grantee FY 2012 policies continuing in FY 2013 for verifying the authenticity of energy vendors being paid under LIHEAP, as part of the Grantee's procedure for averting fraud.**

As above, Federal law requires that all LIHEAP subrecipients have vendor agreements in place with energy vendors. The Department monitors each subrecipient to ensure that vendor agreements are in place

- b. Please highlight any policies for verifying vendor authenticity which will be newly implemented in FY 2013.**

Vendor agreements will be amended to require a Tax Identification Number (TIN) from each vendor. This TIN will be verified with the Texas Comptroller and/or Secretary of State.

Further, the Department will begin to verify energy vendors through the Public Utilities Commission database of regulated electric vendors and the Texas Railroad Commission database of regulated propane vendors.

- c. If you don't have a system in place for verifying vendor authenticity, please describe how the Grantee can ensure that funds are being distributed through valid intermediaries?**

n/a

## 12. TRAINING AND TECHNICAL ASSISTANCE

*Necessary outcomes from these systems and strategies: The timely and thorough resolution of weaknesses or reportable conditions as revealed by the audit.*

- a. **In regards to fraud prevention, please describe elements of your FY 2012 plan continuing in FY 2013 for training and providing technical assistance to (a) employees, (b) non-governmental staff involved in the eligibility process, (c) clients, and (d) energy vendors.**

The Department provides training and technical assistance to employees, non-governmental staff involved in the eligibility process, clients, and energy vendors as requested. Further, the Department provides in person training and technical assistance at statewide conferences.

- b. **Please highlight specific elements of your training regiment and technical assistance resources from your plan which will represent newly implemented in FY 2013.**

The Fraud Prevention training class developed for the Department's Weatherization Assistance Program will be made available online.

Subrecipient agencies will be required to post Fraud, Waste and Abuse posters where non-governmental staff involved in the eligibility process, (c) clients, and (d) energy vendors are present.

Any entity that has signed a vendor agreement will receive the Department's monitoring practices for fraud compliance.

- a. **If you don't have a system in place for anti-fraud training or technical assistance for employees, clients or energy vendors, please describe your strategy for ensuring all employees understand what is expected of them and what tactics they are permitted to employ.**

n/a

## 13. AUDITS OF LOCAL ADMINISTERING AGENCIES

*Necessary outcomes from these systems and strategies: Reduce improper payments, maintain local agency integrity, and benefits awarded to eligible households.*

- a. **Please describe the annual audit requirements in place for local administering agencies in FY 2012 that will continue into FY 2013.**

The Department's LIHEAP program is audited under the Single Audit Act. TDHCA contracts require subrecipients that exceed \$500,000 in expenditures to follow the single Audit procedures and submit a copy of the Audit to the Department for review.

Subrecipients not exempt from the single audit requirements are responsible for submitting their Single Audit Report within thirty (30) days of completion of their audit and no later than

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nine (9) months after the end of the audit period (fiscal year end) to the Department's Portfolio Management and Compliance Division as well as to the CA Division. Refer to 31 U.S.C. §7502.

In addition to the Audit requirement described above, subrecipients are also subject to monitoring visits from the Department as described in section 2. Compliance Monitoring.

**b. Please describe new policies or strategies to be implemented in FY 2013.**

All policies described above will continue. There is nothing new for the 2013 plan.

**c. If you don't have specific audit requirements for local administering agencies, please explain how the Grantee will ensure that LIHEAP funds are properly audited under the Single Audit Act requirements.**

n/a

**ADDITIONAL INFORMATION**

Please attach further information that describes the Grantee's Program Integrity Policies, including supporting documentation from program manuals, including pages/sections from established LIHEAP policies and procedures.

**Supplement Attachments**

- A) TDHCA Recommended Practice on Fraud, Waste, and Abuse
- B) Texas Administrative Code for TDHCA's LIHEAP programs
- C) Sample of Vendor Agreement
- D) Sample of Department approved Declaration of Income Statement
- E) Sample TDHCA contract for PY 2011 CEAP Subrecipients
- F) Sample TDHCA contract for PY 2011 LIHEAP WAP Subrecipients



## TDHCA Recommended Practice on Fraud, Waste, and Abuse

Distributed October 19, 2010

### 1.0. Guideline.

The Fraud, Waste, and Abuse Guideline was established to provide guidance to TDHCA Subrecipient employees that observe, have knowledge of, or suspect that fraud, waste, or abuse of public funds is occurring or has occurred. It is the intent of this guideline to promote awareness of the potential for fraud, waste, and abuse and to provide guidelines for Subrecipient employees to follow that will help ensure incidents of this nature are handled in an appropriate manner.

### 2.0. Definitions.

- 2.1. **Fraud** – Any intentional act or omission designed to deceive, resulting in a loss to an individual or entity and a gain for the perpetrator.

General Examples:

- Theft or misuse of money, equipment, supplies and/or other materials
- Falsifying financial records to conceal the theft of money or property
- Intentionally misrepresenting goods provided or services rendered or the cost of goods and services
- Soliciting or accepting a bribe or kickback
- Falsifying payroll information

Specific Examples:

- Billing for goods or services not rendered
- Billing for unnecessary goods or services
- Duplicate billing
- Intentionally performing inadequate inspection of properties to allow a contractor to get away with shoddy workmanship or non-performance
- Removing or using surplus construction supplies for personal use or other construction jobs
- Maintaining fictitious clients, jobs, vendors, or employees
- Bid rigging, where a contract is promised to one party even though, for the sake of appearance, several other parties are invited to present a bid
- Underbidding a contract, where a contractor bids less than the amount the contract will actually cost to perform. Contractors often find ways to recover the money that was lost in the underbid (e.g., scope creep).
- Businesses posing as a Historically Underutilized Businesses (HUB), defined as businesses owned by women, minorities, and service disabled veterans, to increase

their chances of being awarded a contract.

- Contractor paying a bribe to a Subrecipient or an employee of a Subrecipient in exchange for preferential treatment such as a contract award or an inadequate inspection.

2.2. **Waste** – The intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of resources. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls.

General Examples:

- Purchasing unnecessary supplies, materials, and equipment
- Purchasing supplies without regard for cost
- Using supplies, materials, and equipment carelessly resulting in unnecessary waste and replacement
- Failure to reuse or recycle major resources or reduce waste generation

2.3. **Abuse** – Intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of resources. Extravagant or excessive use as to abuse one's position or authority. Abuse can occur in financial or non-financial settings.

General Examples:

- Making procurement or vendor selections that are contrary to existing policies or are unnecessarily extravagant or expensive.
- Receiving favor for awarding contracts to certain vendors.
- Using one's position for personal gain or to gain an advantage over another.
- Failure to report damage to equipment or property.
- Creating unneeded overtime.
- Requesting staff to perform personal errands or work tasks for a supervisor or manager.
- Travel choices that are contrary to existing travel policies or are unnecessarily extravagant or expensive.

Additional Example Specific to Community Affairs:

- Using State or Federal funds or equipment for non-State or Federal purposes

### **3.0. Suggested Procedures.**

3.1 A Subrecipient employee who observes, has knowledge of, or suspects that fraud, waste, or abuse is occurring or has occurred, and **does not desire anonymity**, should:

a) Immediately report the incident to the appropriate TDHCA Program Manager (Energy Assistance or Community Services) in person or by phone. The Program Manager will be responsible for notifying the Director of Community Affairs, the Deputy Executive Director for Community Based Programs, and the TDHCA Director of Internal Audit, or his/her designee, in person or by phone of the suspected activity.

b) The employee should be prepared to provide the following information verbally or in writing, to the extent known, regarding the incident:

- i. Who was involved? (Names and phone numbers, if available)

- ii. What happened? (Summary of events, additional sources of evidence)
  - iii. When did it happen? (Date, time, frequency)
  - iv. Where did it happen? (Location, city, state)
  - v. Why was it done? (Estimated loss to the government, gain to violator)
  - vi. How did it happen? (What scheme was used)
  - vii. Who else is aware of the incident, to your knowledge? (Names and phone numbers, if available)
  - viii. What is the source of the information? (Personal observation, employee compliant, monitoring results)
- c) Follow any instructions provided by TDHCA management and the TDHCA Director of Internal Audit, or his/her designee, regarding "Next Steps" in the investigation.
- 3.2. A Subrecipient employee who observes, has knowledge of, or suspects that fraud, waste, or abuse is occurring or has occurred, and **wishes to remain anonymous**, should:
- a) Immediately report the incident to TDHCA's Fraud \* Waste \* Abuse Hotline, which can be accessed via TDHCA's website (lower left side) **-OR-** contact the State Auditor's Office via TDHCA's website (lower left side) or call their Hotline at 1-800-TX-AUDIT (892-8348).
  - b) The employee, though anonymous, must be willing to share specific information regarding the incident. The employee should be prepared to provide the following information, to the extent known, regarding the incident:
    - i. Who was involved? (Names, addresses, phone numbers, if available)
    - ii. What happened? (Summary of events, additional sources of evidence)
    - iii. When did it happen? (Date, time, frequency)
    - iv. Where did it happen? (Location, city, state)
    - v. Why was it done? (Estimated loss to the government, gain to violator)
    - vi. How did it happen? (What scheme was used)
    - vii. Who else is aware of the incident, to your knowledge? (Names and phone numbers, if available)
    - ix. What is the source of the information? (Personal observation, employee compliant, monitoring results)

#### **4.0. Confidentiality.**

- 4.1 Subrecipient employees that are aware of a fraud, waste, or abuse incident are discouraged from discussing the case, facts, suspicions, or allegations with anyone outside the organization **-OR-** with anyone within the organization that does not have a legitimate need to know.
- 4.2 Until an incident is fully investigated and resolved, it is critical to refrain from discussing it with the suspected individual(s) or anyone not directly involved in the investigation to avoid alerting the individual(s) that an investigation is under way and to minimize the impact of any mistaken accusations.
- 4.3 Any inquiries from the suspected individual(s) or their attorneys or representatives should be directed to TDHCA Management or TDHCA Internal Audit.
- a) The proper response to such an inquiry is: "I am not at liberty to discuss this matter."

- b) Under no circumstances should any reference be made to what a person is known or suspected of doing.
  - c) No promises of any kind should be made.
- 4 No Subrecipient employee should contact the suspected individual(s) in an effort to determine facts or demand restitution.



**Texas Administrative Code Rules referenced in the  
FFY 2013 LIHEAP Plan Program Integrity Supplement**

TITLE 10. COMMUNITY DEVELOPMENT.  
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.  
CHAPTER 5. COMMUNITY AFFAIRS PROGRAMS.

SUBCHAPTER A. GENERAL PROVISIONS.

§5.16. Monitoring of Subrecipients.  
§5.19. Client Income Guidelines.  
§5.20. Determining Income Eligibility.

**§5.16. Monitoring of Subrecipients.**

(a) The Department's Community Affairs Division (CAD) is responsible for ensuring that the Community Services Block Grant (CSBG), Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP), and Emergency Shelter Grant Program (ESGP) program activities are completed and that the funds are expended in accordance with the contract provisions and applicable State and Federal rules, regulations, policies, and related statutes. In order to ensure such, the Department will conduct monitoring reviews of the subrecipients to evaluate the effectiveness of subrecipient's performance and program compliance through on-site and desk monitoring as described in §5.15 of this chapter (relating to Federal Funding Accountability and Transparency Act (FFATA)) following the requirements of §678B of PL 105-285 Subtitle B, §2605(B)(10) of PL 97-35, as amended, 10 CFR §440.23(d), and 24 CFR §576.61 and §576.57(f) and (g), respectively.

(1) CAD employs a subrecipient monitoring procedure that is based upon an assessment of associated risks. The factors may include but are not limited to the status of the most recent monitoring report, timeliness of grant reporting, results of the last on-site monitoring review, number and funding amount of Department funded contracts, final expenditure rate, and single audit status or other factors. Ranking of subrecipients will determine whether an on-site review or a desk review is completed unless Department management determines an on-site review is needed.

(2) CAD may conduct unannounced on-site monitoring reviews of subrecipients identified as at risk for contract termination, if deficiencies identified from prior monitoring activities persist or remain unresolved for an unreasonable period of time. In the event of reports of fraud and abuse or other extenuating circumstances the Department may make an unannounced on-site monitoring review.

(3) Follow-up reviews may be performed to ensure implementation of corrective action of subrecipients that failed to meet the goals, standards, and requirements established by the Department.

(4) Technical assistance and training will be provided to the subrecipient to address program deficiencies.

(5) A monitoring instrument is used to perform monitoring reviews. Support documentation is retained by the Department to verify: the achievement of performance goals; conduct of eligible activities; and compliance with other contractual regulatory provisions and financial accountability. Monitoring reviews of subrecipients also include reviewing annual financial reports and any related management letters and financial documents.

(6) Following the onsite monitoring review, a monitoring report is prepared and submitted to the subrecipients outlining any administrative, program, and financial deficiencies. The monitoring report also includes notes, recommended improvements, corrective actions or a corrective action plan. Subrecipients must respond to the monitoring report within forty-five (45)

calendar days from the date of the monitoring report except for WAP subrecipients whom must respond within thirty (30) calendar days.

(A) Finding--The written description of a deficient condition which is significantly substandard according to the monitoring standards. Findings may also be deficiencies found with regard to compliance with program rules, required cost principles, federal, state and/or local laws, and generally accepted accounting procedures or Generally Accepted Accounting Principles. In general, findings require corrective action to create an acceptable level of risk for disbursement of funds. The description of a finding might include the cause and effect of the deficient condition.

(B) Recommended Improvement--Suggested best practice(s) to enhance program, operational, financial, or administrative practices.

(C) Note--An explanatory tool to further describe and clarify findings or recommended improvements. A note may also be used to include additional information related to the monitoring review but not related to a finding or recommended improvement.

(7) Subrecipients are required to have at a minimum the following documents available, and any other requested documents, for the monitoring review:

(A) Roster of staff (name, title, salary and status)--All Community Affairs programs;

(B) Current agency organization chart;

(C) List of Board of Directors to include: names, addresses and telephone numbers, tenure on the board, section represented by the board member, list of committees--CSBG and ESGP;

(D) Board election/selection materials--CSBG;

(E) Board minutes (previous six meetings) and attendance roster--CSBG and ESGP;

(F) List of neighborhood centers with names of staff--CSBG and CEAP;

(G) Personnel policies;

(H) Bylaws--CSBG and ESGP;

(I) Travel policies and records;

(J) Chart of accounts;

(K) Accounting records (journals/ledgers) and support documentation;

(L) Amount of Cash on Hand (at time of monitoring);

(M) Bank reconciliation records;

(N) Agency's proof of fidelity bond coverage;

(O) Documentation of match requirements--ESGP;

(P) Closeout data for prior program year--CEAP and WAP;

(Q) Access to client files and documentation of performance--All Community Affairs programs;

(R) Declaration of Income Statement (DIS) Policy/Procedure--All Community Affairs programs;

(S) Appeals Procedures--CEAP and WAP;

(T) Subcontract agreements with appropriate procurement packages (if applicable)--All Community Affairs programs;

(U) Procurement policy;

(V) Documentation of current contract inventory--All Community Affairs programs;

(W) Documentation of coordination with other local programs (including contact person and phone numbers)--CSBG;

(X) Copies of most recent monitoring reports and/or performance reviews of all programs administered by the organization;

(Y) Copy of the most recent Single Audit Report--Organizations that expend more than \$500,000 in federal funds during a fiscal year must have a single audit conducted for that year (A-133 Subpart B.200). Organizations that do not exceed the \$500,000 federal fund expenditure threshold are exempt from the single audit requirements. If an organization is not required to

have a single audit performed, the organization must provide the end-of-the-year financial statements (balance sheet, income statement, and statement of cash flow); and

(Z) If applicable, documentation of the most recent Head Start Onsite Monitoring Document review, including results, responses, and current status--CSBG.

(b) Subrecipients not exempt from the single audit requirements are responsible for submitting their Single Audit Report within thirty (30) days of completion of their audit and no later than nine (9) months after the end of the audit period (fiscal year end) to the Department's Portfolio Management and Compliance Division as well as to the CA Division. Refer to 31 U.S.C. §7502.

(c) Monitoring reviews of subrecipients will include a review of the subrecipients annual financial reports and any related management letters and financial documents.

#### **§5.19. Client Income Guidelines.**

(a) The Department has defined eligibility for program assistance under the poverty income guidelines provided annually by the Secretary of the U.S. Department of Health and Human Services.

(b) The Department will use the following list of included and excluded income to determine eligibility for all programs.

(1) Included Income:

(A) Temporary Assistance for Needy Families (TANF);

(B) Money, wages and salaries before any deductions;

(C) Net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);

(D) Regular payments from social security;

(E) Railroad retirement;

(F) Unemployment compensation;

(G) Strike benefits from union funds;

(H) Worker's compensation;

(I) Training stipends;

(J) Alimony;

(K) Military family allotments;

(L) Private pensions;

(M) Government employee pensions (including military retirement pay);

(N) Regular insurance or annuity payments; and

(O) Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.

(2) Excluded Income:

(A) Social Security Disability Insurance (SSDI) payments;

(B) Supplemental Security Income (SSI) payments;

(C) Capital gains; any assets drawn down as withdrawals from a bank;

(D) The sale of property, a house, or a car;

(E) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;

(F) Tax refunds, gifts, loans, and lump-sum inheritances;

(G) One-time insurance payments, or compensation for injury;

(H) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;

(I) Food or housing received in lieu of wages;

(J) The value of food and fuel produced and consumed on farms;

(K) The imputed value of rent from owner-occupied non-farm or farm housing;

- (L) Federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches;
- (M) Housing assistance and combat zone pay to the military;
- (N) Veterans (VA) Disability Payments;
- (O) College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits (GI Bill); and
- (P) Child support payments.

**§5.20. Determining Income Eligibility.**

(a) The U.S. Department of Health and Human Services (USDHHS) annually provides poverty income guidelines for use in determining client eligibility. Community Affairs Division programs are required to follow these income guidelines for the programs listed in subsections (b) - (d) of this section.

(b) The following client eligibility levels (until superseded) shall apply to clients at the time the client makes an application for services:

- (1) Community Services Block Grant (CSBG)--125% of the current federal poverty level;
- (2) Emergency Shelter Grants Program (ESGP)--100% of the current federal poverty level;
- (3) Homelessness Prevention and Rapid Re-Housing Program (HPRP)--50% of Area Median Income as defined by USDHUD;
- (4) Weatherization Assistance Program (WAP) and ARRA WAP--200% of the current federal poverty level; and
- (5) Comprehensive Energy Assistance Program (CEAP)--200% of the current federal poverty level.

(c) To determine income eligibility for program services, subrecipients must base annualized eligibility determinations on household income from thirty (30) days prior to the date of application for assistance. Each subrecipient must maintain documentation of income from all sources for all household members for the entire thirty (30) day period prior to the date of application and multiply the monthly amount by twelve (12) to annualize income. Income documentation must be collected from all income sources for all household members eighteen (18) years and older for the entire thirty (30) day period.

(d) If proof of income is unavailable, the applicant must complete and sign a Department approved Declaration of Income Statement.

**SUBCHAPTER D. COMPREHENSIVE ENERGY ASSISTANCE PROGRAM.**

**§5.407. Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria.**

(a) The subrecipients shall set the client income eligibility level at or below 125% of the federal poverty level in effect at the time the client makes an application for services.

(b) Subrecipient shall determine client income. Income inclusions and exclusions to be used to determine total household income are those noted in §5.19 of this chapter (relating to Client Income Guidelines).

(c) Subrecipients shall base annualized eligibility determinations on household income from the thirty (30) day period prior to the date of application for assistance. Each subrecipient shall document and retain proof of income from all sources for all household members eighteen (18) years and older for the entire thirty (30) day period prior to the date of application and multiply by twelve (12) to annualize income.

(d) In the case of migrant, or seasonal workers, or similarly situated workers, a longer period than thirty (30) days may be used for annualizing income.

(e) If proof of income is unavailable, the applicant must complete and sign a Declaration of Income Statement (DIS). In order to use the DIS form, each subrecipient shall develop and implement a written policy and procedure on the use of the DIS form, including policies requiring a client statement of efforts to obtain documentation of income with a notarized client signature. In developing the policy and procedure, subrecipients shall give consideration to limiting the use of the DIS form to cases where there are serious extenuating circumstances that justify the use of the form. Such circumstances might include crisis situations such as applicants that are affected by natural disaster which prevents the applicant from obtaining income documentation, applicants that flee a home due to physical abuse, applicants who are unable to locate income documentation of a recently deceased spouse, or whose work is migratory, part-time, temporary, self-employed or seasonal in nature. To ensure limited use, the Department will review the written policy and its use, as well as client-provided descriptions of the circumstances requiring use of the form, during on-site monitoring visits.

(f) Social security numbers are not required for applicants for CEAP.

(g) The subrecipients shall establish priority criteria to serve persons in households who are particularly vulnerable such as the elderly, persons with disabilities, families with young children, high residential energy users, and households with high energy burden. High residential energy users and households with high energy burden are defined as follows:

(1) Households with Energy Burden which exceeds the median energy burden of income-eligible households characterized by the Department as experiencing high energy burden. The Department calculates energy burden by dividing home energy costs by the household's gross income.

(2) Households with annual energy expenditures which exceed the median home expenditures for income-eligible households are characterized by the Department as high energy consumers.

(h) Homeowners and renters will be treated equitably under all programs funded in whole or in part from LIHEAP funds. For those renters who pay heating and/or cooling bills as part of their rent, the subrecipient shall make special efforts to determine the portion of the rent that constitutes the fuel heating and/or cooling payment. If "sub metering" is not available, the subrecipient shall exercise care when negotiating with the landlords so the cost of utilities quoted is in line with the consumption for similar residents of the community. If the subrecipient pays the landlord, then the landlord shall furnish evidence that he/she has paid the bill and the amount of assistance must be deducted from the rent, if the utility payment is not stated separately from the rent. An agreement stating the terms of the payment negotiations must be signed by the landlord.

(i) A household unit cannot be served if the meter is utilized by another household.

VENDOR AGREEMENT  
COMPREHENSIVE ENERGY ASSISTANCE PROGRAM

The purpose of the Comprehensive Energy Assistance Program (CEAP) funded from the Low-Income Home Energy Assistance Program (LIHEAP) grant is to maintain an energy supply to heat and cool the residences of eligible low-income clients.

For purposes of this agreement, a Retail Energy Provider is defined as an electricity, natural gas, propane, or wood vendor who sells the energy product to residential customers of energy for the purposes of heating or cooling the residence.

The Retail Energy Provider (Vendor) agrees to honor the purpose of the CEAP and to accept pledges of payment from CEAP Agencies only for certified customers to whom Vendor continues to provide energy services. The Energy Assistance Provider (Agency) agrees to make payments only for eligible low-income clients.

This vendor agreement is by and between:

\_\_\_\_\_ and  
Energy Assistance Provider (Agency)

\_\_\_\_\_ and  
Retail Energy Provider (Vendor)

Vendor and Agency agree to assist customers in the following counties:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This agreement shall be effective from the \_\_\_ day of \_\_\_\_\_ 20\_\_ for a period not to exceed two years from the effective date. Either party may terminate this agreement by written notice. Such written notice of termination shall not be effect any obligation by either party incurred prior to the receipt of such notice. Notice shall be sent via certified mail with return receipt requested.

\_\_\_\_\_  
(Vendor Name)

\_\_\_\_\_  
(Vendor Mailing Address)

\_\_\_\_\_  
(Name of Agency)

\_\_\_\_\_  
(Agency Mailing Address)

\_\_\_\_\_

The Agency named above represents and warrants to Vendor that it is a subrecipient of the Texas Department of Housing and Community Affairs ("TDHCA") and as such is authorized and has received funding from the TDHCA to provide bill payment assistance service for eligible low-income households.

The Vendor named above is a Retail Energy Provider who represents and warrants that it is authorized to receive payment from Agency on behalf of a customer that the Agency has determined to be eligible under the CEAP guidelines and as such is a "Certified Customer".

**Vendor will, with reference to a Certified Customer:**

- Extend the CEAP applicants energy service for up to five (5) business days while the Agency determines whether the CEAP applicant is eligible pursuant to the CEAP guidelines;
- Upon receipt of a completed and signed Energy Assistance Pledge Agreement (the form of which is attached hereto and incorporated herein as Exhibit "A") (Pledge Agreement) continue or restore energy service to Certified Customer without any increase in energy charges, service charges, or other charges affecting the total cost of the bill excluding disconnect/reconnect fees and tampering fees;
- Invoice the Certified Customer in accordance with Vendor's normal billing practices;
- Upon verbal or written request from Agency, provide at no cost to the Agency the Certified Customer's billing history for the previous twelve (12) months, or available history plus estimates if less than 12 months of billing history and usage is available. Vendor will transmit such billing history via electronic mail or facsimile no later than the end of the next business day following the request.
- Work with Agency and Certified Customer to explore the feasibility of offering flexible payment arrangements that may include, without limitation, waiving security deposits, reconnect fees, application fees, and all other fees whenever possible;
- Not discriminate against Certified Customer in price or services, including the availability of deferred payment plans, level or average payment plans, discount, budget, advance payment or other credit plans; provided, however, that the Certified Customer must meet the qualification criteria of Vendor for any such plans.
- Not refuse to provide energy service or otherwise discriminate in the marketing and provision of energy service to any Certified Customer because of race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability financial status, location of customer in an economically distressed geographic area, or qualification for low-income or energy efficiency services;
- Allow Agency forty-five (45) days from the date of the pledge to forward payment to the vendor. Vendor agrees not to consider the portion of the Certified Customer's account to be paid by the Agency delinquent if said payment is received within the above mentioned forty-five (45) day period and Vendor is provided with a signed pledge from the Agency within 5 days of identifying a Certified Customer and making a pledge;

- Not interrupt service if Certified Customer enters into an agreement with the Vendor concerning how the Certified Customer will pay the balance owed Vendor and the Certified Customer is meeting the obligations under such agreement.
- **The Agency will:**
- Not provide pledges on behalf of a Certified Customer to Vendor without having adequate funds to pay such pledge;
- Pay pledges within forty-five (45) of making pledge to Vendor;
- Determine if a customer is a Certified Customer within five (5) business days of contacting Vendor.
- Provide Vendor a list of names, telephone numbers and email addresses of Agency staff designated to make pledges on behalf of the Agency in Certified Clients.

\_\_\_\_\_  
 Authorized Vendor Signature

\_\_\_\_\_  
 Date Agreement Signed

\_\_\_\_\_  
 Typed Name of Authorized Signature

\_\_\_\_\_  
 Title of Authorized Signature

\_\_\_\_\_  
 (Area Code) Telephone Number

\_\_\_\_\_  
 Authorized Agency Signature

\_\_\_\_\_  
 Date Agreement Signed

\_\_\_\_\_  
 Typed Name of Authorized Signature

\_\_\_\_\_  
 Title of Authorized Signature

\_\_\_\_\_  
 (Area Code) Telephone Number



DECLARATION OF INCOME STATEMENT  
(DECLARACION DE INGRESOS)

Attachment 1 D

I, \_\_\_\_\_, do hereby declare on \_\_\_\_\_ (date) that:  
(Yo) (Applicant's Name/Nombre del Solicitante) (declaro que:) en esta fecha

- I have no documented proof of income due to the following situation \_\_\_\_\_  
\_\_\_\_\_  
(No tengo prueba para documentar mis ingresos por medio de tal razones)
- I am applying for assistance from \_\_\_\_\_:  
(Yo deseo aplicar para asistencia con \_\_\_\_\_ (agencia):) (Agency Name)

My household consists of \_\_\_\_\_ number of persons and the following household members, 18 years and older, have earned the following gross income during the 30 day period prior to the date of application for assistance:

Name: _____	Gross Amount Earned: _____
Name: _____	Gross Amount Earned: _____
Name: _____	Gross Amount Earned: _____
Name: _____	Gross Amount Earned: _____

(En mi hogar radican (¿cuántas?) personas, y los siguientes miembros que tienen 18 años de edad ó mas que han ganado dinero durante los pasados 30 dias antes de aplicar para asistencia. Indique el nombre y los ingresos ganados de cada miembro.)

- My household's gross income, for all household members 18 years and older, for the 30 day period prior to the date of application for assistance is \$ \_\_\_\_\_  
(El total de los ingresos de mi hogar, para los miembros que tienen 18 años de edad ó mas por los pasados 30 dias pasados, antes de aplicar por asistencia es (¿cuánto?))
- and my household's gross annualized income based on the 30 day period prior to the date of application for assistance is \$ \_\_\_\_\_  
(y el ingreso anual de mi hogar ha sido calculado para el año, según los pasados 30 dias, antes de aplicar para asistencia, llegan a (¿cuántos dólares?))

I certify that the above information for the income of all household members 18 years and older is true and correct to the best of my knowledge and belief. (Yo certifico que la información proveida de los ingresos de los miembros de mi hogar que tienen 18 años ó mas es verdadera y correcta según mi saber y creencia.)

I understand that the information will be verified to the extent possible; and that I may be subject to prosecution for providing false or fraudulent information. (Comprendo que la información será verificada hasta donde sea posible y que puedo ser enjuiciado por haber proveido información falsa ó fraudulenta.)

\_\_\_\_\_  
(Applicant Signature/Firma del Solicitante)

\_\_\_\_\_  
(Date/Fecha)

\_\_\_\_\_  
(Street Address/Dirección)

\_\_\_\_\_  
(City/Ciudad)

\_\_\_\_\_  
(County/Condado)

\_\_\_\_\_  
(Zip/Código Postal)

\_\_\_\_\_  
(Subrecipient Representative's Signature and Title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Reviewed & Approved (Ex.Dir. or Prog. Dir. Name & Title)

\_\_\_\_\_  
Date

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
 CONTRACT NO. \_\_\_\_\_ FOR THE FY 2012  
 COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)  
 (CFDA # 93.568)

**SECTION 1. PARTIES TO THE CONTRACT**

This CEAP Contract No. \_\_\_\_\_ (the "Contract") is made by and between the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the "Department"), an agency of the State of Texas and \_\_\_\_\_ (the "Subrecipient"), hereinafter the Parties .

**SECTION 2. CONTRACT PERIOD**

The period for performance of this contract, unless earlier terminated, is **January 01, 2012** through **December 31, 2012**.

**SECTION 3. SUBRECIPIENT PERFORMANCE**

Subrecipient shall, on an equitable basis throughout its service area, operate a Comprehensive Energy Assistance Program, (the "CEAP"), in accordance with the terms of this Contract and all applicable state and federal regulations. Subrecipient shall assist low-income households, with priority being given to elderly, persons with disabilities, households with a young child 5 years of age or under, households with high energy burden and households with high energy consumption. Subrecipient shall provide services in relation to the current census demographics for age, income, and ethnicity for Subrecipient's service area. Subrecipient shall implement the CEAP in accordance with Economic Opportunity Act of 1964 (Public Law 88-452), the Low-Income Home Energy Assistance Act of 1981 as amended (42 U.S.C. Sec. 8621 et seq.) (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended) (the "LIHEAP Act"), Chapter 2306 of the Texas Government Code (herein the "State Act"), the implementing State regulations under Title 10, Part 1, Chapter 5, Subchapter D of the Texas Administrative Code, as amended or supplemented from time to time (herein the "CEAP State Rules"), the LIHEAP State Plan, Subrecipient's Service Delivery Plan as defined in the CEAP State Rules and and the Department's guidance related to CEAP. Services shall include the following categories of assistance pursuant to the CEAP State Rules as further specified in the Budget attached hereto as Exhibit A and incorporated herein for relevant purposes: (1) Household Crisis, (2) Co-Payment, (3) Elderly and Disabled, and (4) LIHEAP Assurance 16 activities.

**SECTION 4. DEPARTMENT OBLIGATIONS**

- A. In consideration of Subrecipient's satisfactory performance of this Contract, Department shall reimburse Subrecipient for the actual allowable costs incurred by Subrecipient in the amount specified in Attachment A of this Contract. Any decision to obligate additional funds or deobligate funds shall be made in writing by Department in its sole discretion based upon factors including, but not limited to, the status of funding under grants to Department, the rate of Subrecipient's utilization of funds under this or previous contracts, the existence of questioned or disallowed costs under this or other contracts between the Parties, and Subrecipient's overall compliance with the terms of this Contract.
- B. Department's obligations under this Contract are contingent upon the actual receipt of funds from the U.S. Department of Health and Human Services and the State of Texas. Department acknowledges that it has received obligations from those sources, which, if paid, will be sufficient to pay the allowable costs incurred by Subrecipient under this Contract.
- C. Department is not liable for any cost incurred by Subrecipient which:
- a. is subject to reimbursement by a source other than Department;
  - b. is for performance of services or activities not authorized by the LIHEAP Act, or which is not in accordance with the terms of this Contract;
  - c. is not reported to Department on a Monthly funding/Financial/Performance Report within sixty (60) days following the termination of the Contract Period;
  - d. is not incurred during the Contract Period; or
  - e. is incurred for the purchase or permanent improvement of real property (other than low-cost residential weatherization or other energy-related home repairs).

- D Notwithstanding any other provision of this Contract, the total of all payments and other obligations incurred by Department under this Contract shall not exceed the sum of \$

#### **SECTION 5. METHOD OF PAYMENT/CASH BALANCES**

- A. Each month, Subrecipient may request an advance payment by electronically submitting to Department at its offices in Travis County, Texas, no later than the fifteenth (15th) day of the month prior to the month for which advance payment is sought, a properly completed Funding Report for an amount not to exceed Subrecipient's actual cash needs for the month for which such advance is sought.
- B. Subrecipient's requests for advances shall be limited to the amount needed and be timed to be in accordance with actual immediate cash requirements of the Subrecipient in carrying out the purpose of this Contract. The timing and amount of cash advances shall be as close as administratively feasible to the actual disbursement by the Subrecipient for direct program costs and the proportionate share of any allowable indirect costs. Subrecipient shall establish procedures to minimize the time elapsing between the disbursement of funds from Department to Subrecipient and the expenditure of such funds by Subrecipient.
- C. Subsection 5(A) notwithstanding, Department reserves the right to utilize a cost reimbursement method of payment if (1) Subrecipient maintains excessive cash balances or requests advance payments in excess of thirty (30) days need; (2) Department identifies any deficiency in the internal controls or financial management system used by Subrecipient; (3) Subrecipient violates any of the terms of this Contract; (4) Department's funding sources require the use of a cost reimbursement method of payment or (5) Subrecipient owes the Department funds.
- D. Department may offset or withhold any amounts otherwise owed to Subrecipient under this Contract against any amount owed by Subrecipient to Department arising under this Contract.
- E. All funds paid to Subrecipient under this Contract are paid in trust for the exclusive benefit of the eligible clients of the CEAP and for allowable administrative, direct services support, assurance 16 activities, direct services, and training/travel expenditures.

#### **SECTION 6. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- A. Uniform cost principles for local governments are set forth in OMB Circular A-87, and for non-profit organizations in OMB Circular A-122. Uniform administrative requirements for local governments are set forth in OMB Circular A-102, and for non-profits in OMB Circular A-110. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," sets forth audit standards for governmental organizations and other organizations expending Federal funds. The expenditure threshold requiring an audit under Circular A-133 is \$500,000.
- B. Use of Alcohol Beverages. None of the funds provided under this contract shall be used for the payment of salaries to any employee who uses alcoholic beverages during normal work hours as defined by the agency. No funds provided under this contract for travel expenses shall be used for the purchase of alcoholic beverages.
- C. Notwithstanding any other provision of this Contract, Department shall only be liable to Subrecipient for costs incurred or performances rendered for activities specified in the LIHEAP Act.

**SECTION 7. TERMINATION AND SUSPENSION**

- A. Department may terminate this Contract, in whole or in part, at any time Department determines that there is cause for termination. Cause for termination includes, but is not limited to, Subrecipient's failure to comply with any term of this Contract. Department shall notify Subrecipient in writing at least thirty (30) days before the date of termination.
- B. Nothing in this Section shall be construed to limit Department's authority to withhold payment and immediately suspend this Contract if Department identifies possible instances of fraud, abuse, waste, fiscal mismanagement, or other deficiencies in Subrecipient's performance. Suspension shall be a temporary measure pending either corrective action by Subrecipient or a decision by Department to terminate this Contract.
- C. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this contract by Subrecipient. Department may withhold any payment due to Subrecipient until such time as the exact amount of damages due to Department is agreed upon or is otherwise determined in writing between Parties.
- D. Department shall not be liable for any costs incurred by Subrecipient after termination or during suspension of this Contract.
- E. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this Contract by Subrecipient.
- F. Subrecipient's failure to expend the funds provided under this Contract in a timely manner may result in either the termination of this Contract or Subrecipient's ineligibility to receive additional funding under CEAP, or a reduction in the original allocation of funds to Subrecipient.

**SECTION 8. CHANGES AND AMENDMENTS**

- A. Any change, addition or deletion to the terms of this Contract required by a change in federal or state law or regulation is automatically incorporated herein and is effective on the date designated by such law or regulation.
- B. Except as specifically provided otherwise in this Contract, any changes, additions, or deletions to the terms of this Contract shall be in writing and executed by both Parties to this Contract. If any Party returns an executed copy by facsimile machine or electronic transmission, the signing party intends the copy of its authorized signature printed by the receiving machine or the electronic transmission, to be its original signature..

**SECTION 9. TECHNICAL ASSISTANCE AND MONITORING**

Department or its designee may conduct on and off-site monitoring and evaluation of Subrecipient's compliance with the terms of this Contract. Department's monitoring may include a review of the efficiency, economy, and efficacy of Subrecipient's performance. Department will notify Subrecipient in writing of any deficiencies noted during such monitoring. Department may provide training and technical assistance to Subrecipient in correcting the deficiencies noted. Department may require corrective action to remedy deficiencies noted in Subrecipient's accounting, personnel, procurement, and management procedures and systems in order to comply with State or Federal requirements. Department may conduct follow-up visits to review the previously noted deficiencies and to assess the Subrecipient's efforts made to correct them. Repeated deficiencies may result in disallowed costs. Department may terminate or suspend this Contract or invoke other remedies Department determines to be appropriate in the event monitoring reveals material deficiencies in Subrecipient's performance, or Subrecipient fails to correct any deficiency within a reasonable period of time, as determined by the Department. Department or its designee may conduct an ongoing program evaluation throughout the Contract Period.

**SECTION 10. RETENTION AND ACCESSIBILITY OF RECORDS AND FILE MAINTENANCE**

- A. Subrecipient shall maintain fiscal and programmatic records and supporting documentation for all expenditures of funds made under this Contract in accordance with the Uniform Grant Management Standards, Section III, Common Rule: State Uniform Administrative Requirements for Grants and Cooperative Agreements, Subpart C -Post Award Requirements, \_42.
- B. Open Records. Subrecipient acknowledges that all information collected, assembled, or maintained by Subrecipient pertaining to this Contract is subject to the Texas Public Information Act, Chapter 552 of Texas Government Code and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

- C. Subrecipient shall give the U.S. Department of Health and Human Services, the U.S. General Accounting Office, the Texas Comptroller, the State Auditor's Office, and Department, or any of their duly authorized representatives, access to and the right to examine and copy, on or off the premises of Subrecipient, all records pertaining to this Contract. Such right to access shall continue as long as the records are retained by Subrecipient. Subrecipient agrees to maintain such records in an accessible location for the greater of: (i) four (4) years; (ii) if notified by the Department in writing, the date that the final audit is accepted with all audit issues resolved to the Department's satisfaction; (iii) if any litigation claim, negotiation, inspection, or other action has started before the expiration of the required retention period records must be retained until completion of the action and resolution of all issues which arise under it; (iv) a date consistent with any other period required by federal or state law or regulation. Subrecipient agrees to cooperate with any examination conducted pursuant to this Subsection. Upon termination of this Contract, all records are property of the Department.
- D. Subrecipient shall maintain a client file system to document direct services rendered. Each client file shall contain the following:
- (1) Client application containing all Department requirements;
  - (2) Documentation/verification of client income for the 30 days preceding their application for all household members 18 years and older, or Declaration of Income Statement (DIS) (if applicable). In order to use the DIS form, each subrecipient shall develop and implement a written policy and procedure on the use of the form, including policies requiring a client statement of efforts to obtain documentation of income with a notarized client signature; as outlined in § 5.407(c) of the CEAP State Rules.
  - (3) Copy of client's utility bill(s);
  - (4) Energy consumption history for previous 12 months (when available) (all fuel types) for Co-Payment and Elderly and Disabled;
  - (5) Documentation of payment (Documentation of payment may be maintained in a separate file, but must be accessible to the Department.);
  - (6) Documentation of benefits determination;
  - (7) Notice of Denial Form (if applicable);
  - (8) Right of appeal and procedures (if applicable) for denial or termination of services;
  - (9) Any documentation required by directives; and
  - (10) Client service agreement (as required by component).
  - (11) Case notes sufficient to document that Assurance 16 activities (needs assessment, referrals, budget counseling, energy conservation education and assistance with energy vendors) have occurred.
  - (12) Priority rating form.
- E. Subrecipient shall maintain complete client files at all times. Costs associated with incomplete files found at the time of program monitoring may be disallowed.

#### **SECTION 11. REPORTING REQUIREMENTS**

- A. Subrecipient shall electronically submit to Department, no later than fifteen (15) days after the end of each month of the Contract Period, a Funding Report of all expenditures of funds and clients served under this Contract during the previous month.
- B. Subrecipient shall submit to Department, no later than sixty (60) days after the end of the Contract Period, an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000 and /or a useful life of more than one year, if purchased in whole or in part with funds received under this Contract or previous Comprehensive Energy Assistance Program contracts. The inventory shall include the vehicles, tools, equipment, and appliances purchased with heating and cooling funds on hand as of the last day of the Contract Period. Subrecipient acknowledges that all equipment and supplies purchased with funds from the CEAP are the property of CEAP and as such, stay with the subrecipient which provides CEAP services in the service area.

- C. Subrecipient shall electronically submit to Department, no later than sixty (60) days after the end of the Contract Period, a final Funding Report of all expenditures of funds and clients served under this Contract. Failure of Subrecipient to provide a full accounting of funds expended under this Contract may result in the termination of this Contract and ineligibility to receive additional funds. If Subrecipient fails to submit a final expenditure/performance report within 60 days of the end of the Contract Period, Department will use the last report submitted by Subrecipient as the final report.
- D. If Subrecipient fails to submit, in a timely and satisfactory manner, any report or response required by this Contract, Department may withhold any or all payments otherwise due or requested by Subrecipient hereunder. Payments may be withheld until such time as the delinquent report or response is received by Department. If the delinquent report or response is not received within forty-five (45) days of its due date, Department may suspend or terminate this Contract. If Subrecipient receives funds from Department over two or more Contract Periods, funds may be withheld or this Contract suspended or terminated for Subrecipient's failure to submit a past due report or response (including an audit report) from a prior contract or Contract Period.
- E. Subrecipient shall provide the Department with a Data Universal Numbering System (DUNS) number and a Central Contractor Registration (CCR) System number. The DUNS number must be provided in a document from Dun and Bradstreet and the current CCR number must be submitted from a document retrieved from the <https://www.bpn.gov/ccr/default.aspx> website. These documents must be provided to the Department prior to the processing first payment to Subrecipient. Subrecipient shall maintain a current DUNS number and CCR number for the entire Contract Period.

#### **SECTION 12. PROCUREMENT STANDARDS**

- A. Subrecipient shall comply with OMB Circular A-102, 10 C.F.R. § 600.236(b-i) and 10 T.A.C. § 5.10.
- B. Subrecipient may not use funds provided under this Contract to purchase personal property, equipment, goods, or services with a unit acquisition cost (the net invoice unit price of an item of equipment) of more than \$5,000 unless Subrecipient has received the prior written approval of Department for such purchase.
- C. Upon the termination or non-renewal of this Contract, Department may transfer title to any such property or equipment having a unit acquisition cost (the net invoice unit price of an item of equipment) of \$5,000 or more to itself or to any other entity receiving Department funding.

#### **SECTION 13. INDEPENDENT SUBRECIPIENT**

Subrecipient is an independent contractor. Subrecipient agrees to hold Department harmless and, to the extent allowed by law, indemnify it against any disallowed costs or other claims which may be asserted by any third party in connection with Subrecipient's performance of this Contract.

#### **SECTION 14. SUBCONTRACTS**

- A. Subrecipient may not subcontract the primary performance of this Contract and only may enter into properly procured contractual agreements for consulting and other professional services, if Subrecipient has received Department's prior written approval. Subrecipient may subcontract for the delivery of client assistance without obtaining Department's prior approval. Any subcontract for the delivery of client assistance will be subject to monitoring by the Department as per Section 9.
- B. In no event shall any provision of this Section 14, specifically the requirement that Subrecipient obtain Department's prior written approval of a subcontractor, be construed as relieving Subrecipient of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all of the terms of this Contract, as if such performances rendered were rendered by Subrecipient. Department's approval under Section 14 does not constitute adoption, ratification, or acceptance of Subrecipient's or subcontractor's performance hereunder. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract. Department's approval under this Section 14 does not waive any right of action which may exist or which may subsequently accrue to Department under this Contract.

**SECTION 15. CONFLICT OF INTEREST/NEPOTISM**

- A. Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.
- B. No employee, officer, or agent of Subrecipient shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the Parties indicated herein, has a financial or other interest in the firm selected for an award.
- C. The officers, employees, and agents of the Subrecipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. Subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient.
- D. Subrecipients who are local governmental entities shall, in addition to the requirements of this Section, follow the requirements of Chapter 171 of the Local Government Code regarding conflicts of interest of officers of municipalities, counties, and certain other local governments.
- E. Failure to maintain written standards of conduct and to follow and enforce the written standards is a condition of default under this Contract and may result in termination of the Contract or deobligation of funds.

**SECTION 16. COMPLIANCE WITH LAWS**

- A. FEDERAL, STATE AND LOCAL LAW. Subrecipient shall comply with the LIHEAP Act, the federal rules and regulations promulgated under the LIHEAP Act, the State Act, the State CEAP Rules, LIHEAP State Plan, and all federal, state, and local laws and regulations applicable to the performance of this Contract.
- B. DRUG-FREE WORKPLACE ACT OF 1988. The Subrecipient affirms by signing this contract that it is implementing the Drug-Free Workplace Act of 1988.
- C. PRO-CHILDREN ACT OF 1994. Subrecipient shall follow the requirements of the Pro-Children Act of 1994, (20 U.S.C. Sec. 6081 et seq.) which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through States or local governments by Federal grant, contract, loan or loan guarantee.
- D. LIMITED ENGLISH PROFICIENCY (LEP). Subrecipients must provide program applications, forms, and educational materials in English, Spanish, and any appropriate language, based on the needs of the service area and in compliance with the requirements in Executive Order 13166 of August 11, 2000. To ensure compliance, the Subrecipient must take reasonable steps to insure that persons with Limited English Proficiency have meaningful access to the program. Meaningful access may entail provide language assistance services, including oral and written translation, where necessary.

**SECTION 17. PROGRAM INCOME**

Subrecipient shall account for and expend program income derived from activities financed in whole or in part with funds provided under this Contract in accordance with the Uniform Grant Management Standards, Common Rule, §\_25, OMB Circular A-110 §\_24, and OMB Circular A-102, Attachment, 2e.

**SECTION 18. NON-BINDING GUIDANCE**

Department may issue technical guidance to explain the rules and provide directions on terms of this Contract.

**SECTION 19. NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

- A. A person shall not be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Contract, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief.
- B. Subrecipient agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- C. Subrecipient will include the substance of Section 19 in all subcontracts.

## SECTION 20. LEGAL AUTHORITY

- A. Subrecipient assures and guarantees that it possesses the legal authority to enter into this Contract, to receive and manage the funds authorized by this Contract, and to perform the services Subrecipient has obligated itself to perform hereunder. The execution, delivery, and performance of this Contract will not violate Subrecipient's constitutive documents or any requirement to which Subrecipient is subject and represents the legal, valid, and binding agreement of Subrecipient, enforceable in accordance with its terms.
- B. The person signing this Contract on behalf of Subrecipient hereby warrants that he/she has been duly authorized by Contract to execute this Contract on behalf of Subrecipient and to validly and legally bind Subrecipient to the terms, provisions and performances herein.
- C. Department shall have the right to suspend or terminate this Contract if there is a dispute as to the legal authority of either Subrecipient, or the person signing this Contract on behalf of Subrecipient, to enter into this Contract or to render performances hereunder. Subrecipient is liable to Department for any money it has received from Department for performance of the provisions of this Contract, if the Department has terminated this Contract for reasons enumerated in this Section 20.

## SECTION 21. AUDIT

- A. Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Contract, subject to the following conditions and limitations:
  - (1) Subrecipient expending \$500,000 or more in total Federal awards or \$500,000 in total state financial assistance shall have an audit performed in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501, and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations" issued June 30, 1997. For purposes of Section 21, "Federal financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance or direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with OMB guidelines. The term includes awards of Federal financial assistance received directly from Federal agencies, or indirectly through other units of State and local government;
  - (2) Sections 4 D (3) and (4) above notwithstanding, Subrecipient may utilize funds budgeted under this Contract to pay for that portion of the cost of such audit services properly allocable to the activities funded by Department under this Contract.
  - (3) Subrecipient shall submit three (3) copies of such audit report and any associated management letter to the Department, two (2) copies of the audit report to Department's Compliance and Asset Oversight Division and one (1) copy of the audit report to the Department's Community Affairs Division within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subrecipient shall make audit report available for public inspection within thirty (30) days after receipt of the audit report(s). Audits performed under this Section are subject to review and resolution by Department or its authorized representative. Subrecipient shall submit such audit report to the Federal clearinghouse designated by OMB in accordance with OMB A-133.
  - (4) The audit report must include verification of all expenditures by budget category, in accordance with "Attachment A-Budget" of this Contract.
- B. The cost of auditing services for a Subrecipient expending less than \$500,000 in total Federal awards per fiscal year is not an allowable charge under Federal awards.
- C. Subsection A of this Section 21 notwithstanding, Department reserves the right to conduct an annual financial and compliance audit of funds received and performance rendered under this Contract. Subrecipient agrees to permit Department or its authorized representative to audit Subrecipient's records and obtain any documents, materials, or information necessary to facilitate such audit.
- D. Subrecipient understands and agrees that it shall be liable to the Department for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Subrecipient further understands and agrees that reimbursement to Department of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this Contract.
- E. Subrecipient shall facilitate the performance of such audit or audits conducted pursuant to this Section 21 as Department may require of Subrecipient.



- F. Subrecipient shall procure audit services through an open, competitive process at least once every four years. The auditor shall retain working papers and reports for a minimum of the three years after the date of directive of the auditor's report to the Subrecipient. Audit working papers shall be made available upon request to Department at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this Section. Access to working papers includes the right to obtain copies of working papers, as is reasonable and necessary.
- G. For any fiscal year ending within or immediately after the Contract Period, Subrecipient must submit an "Audit Certification Form" (available from the Department) within sixty (60) days after the Subrecipient's fiscal year end.

## **SECTION 22. DEPARTMENT/CEAP TRAVEL AND TRAINING**

The travel funds are to be used only for Department-approved training events. Subrecipient shall adhere to OMB Circulars (A-87 {2 CFR 225} and A-122 {2 CFR 230} as appropriate), and either its board-approved travel policy, or in the absence of such a policy, the State of Texas travel policies.

## **SECTION 23. POLITICAL ACTIVITY PROHIBITED**

- A. Funds provided under this Contract shall not be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Subrecipient from furnishing to any member of its governing body upon request, or to any other local or state official or employee, or to any citizen, information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.
- B. Funds provided under this Contract may not be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Subrecipient, the State of Texas, or the government of the United States.

## **SECTION 24. FAITH BASED AND SECTARIAN ACTIVITY**

Funds provided under this Contract may not be used for sectarian or inherently religious activities such as worship, religious instruction or proselytization, and must be for the benefit of persons regardless of religious affiliation. Subrecipient shall comply with the regulations promulgated by the HHS at 45 C.F.R. §87.2.

## **SECTION 25. COPYRIGHT**

Subrecipient may copyright materials developed in the performance of this Contract or with funds expended under this Contract. Department and HHS shall each have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the copyrighted work for government purposes.

## **SECTION 26. PREVENTION OF WASTE, FRAUD, AND ABUSE**

- A. Subrecipient shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this Contract. The systems and procedures shall address possible waste, fraud, and abuse by Subrecipient, its employees, clients, vendors, subcontractors and administering agencies. Subrecipient's internal control systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by Department.
- B. Subrecipient shall give Department complete access to all of its records, employees, and agents for the purposes of any investigation of the Comprehensive Energy Assistance Program. Subrecipient shall immediately notify Department of any discovery of waste, fraud, or abuse. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse in the Comprehensive Energy Assistance Program.
- C. Subrecipient may not discriminate against any employee or other person who reports a violation of the terms of this Contract, or of any law or regulation, to Department or to any appropriate law enforcement authority, if the report is made in good faith.

**SECTION 27. HB 1196 CERTIFICATION AGAINST UNDOCUMENTED WORKERS**

Pursuant to Chapter 2264 of the Texas Government Code, by execution of this Contract, Subrecipient hereby certifies that Subrecipient/Local Operator, or a branch, division, or department of Subrecipient does not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Subrecipient, or a branch, division, or department of Subrecipient is convicted of a violation under 8 U.S.C. Section 1324a(f), Subrecipient shall repay the public subsidy with interest, at a rate of five percent (5%) per annum, not later than the 120th day after the date the Department notifies Subrecipient of the violation.

**SECTION 28. SB 608 CERTIFICATION OF ELIGIBILITY**

The Department may not award a Contract that includes proposed financial participation by a person who, during the five year period preceding the date of this Contract, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or assessed a penalty in a federal, civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

By execution of this Contract, the Subrecipient/Local Operator hereby certifies that it is eligible to participate in this Program and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**SECTION 29. MAINTENANCE OF EFFORT**

Funds provided to Subrecipient under this Contract may not be substituted for funds or resources from any other source nor in any way serve to reduce the funds or resources which would have been available to, or provided through, Subrecipient had this Contract never been executed.

**SECTION 30. NO WAIVER**

Any right or remedy given to Department by this Contract shall not preclude the existence of any other right or remedy, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other right or remedy. The failure of Department to exercise any right or remedy on any occasion shall not constitute a waiver of Department's right to exercise that or any other right or remedy at a later time.

**SECTION 31. SEVERABILITY**

If any section or provision of this Contract is held to be invalid or unenforceable by a court or administrative tribunal of competent jurisdiction, the remainder shall remain valid and binding.

**SECTION 32. ORAL AND WRITTEN AGREEMENTS**

- A. All oral and written agreements between the Parties relating to the subject matter of this Contract have been reduced to writing and are contained in this Contract.
- B. The attachments enumerated and denominated below are a part of this Contract and constitute promised performances under this Contract:
  - 1 Exhibit A, Budget
  - 2 Exhibit B, Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements
  - 3 Exhibit C, \_PRWORA Requirements
  - 4 Exhip D, Documentation of Disability

**SECTION 33. VENDOR AGREEMENTS**

For each of Subrecipient's vendors, Subrecipient shall implement and maintain a vendor agreement that contains assurances relating to fair billing practices, delivery procedures, and pricing procedures for business transactions involving CEAP clients. All vendor agreements are subject to monitoring procedures performed by TDHCA. All vendor agreements must be renegotiated every two years.

**SECTION 34. SPECIAL CONDITIONS**

The Pro-Children Act of 1994, [20 U.S.C. Sec. 6081 et seq.] requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through States or local governments by Federal grant, contract, loan or loan guarantee.

**SECTION 35. EXCLUDED PARTIES LIST SYSTEM**

By signing this Contract, Subrecipient certifies that neither it nor its current principle parties are included in the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). Subrecipient also certifies that it will not award any funds provided by this Contract to any party that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. Subrecipient agrees that prior to entering into any agreement with a potential subcontractor that the verification process to comply with this requirement will be accomplished by checking the Excluded Parties List System at <http://www.epls.gov/> or by collecting a certification from the potential subcontractor.

**SECTION 36. ALLOWABLE ADMINISTRATIVE, ASSURANCE 16 ACTIVITIES, AND DIRECT SERVICES SUPPORT EXPENDITURES**

- A. Administrative and Assurance 16 Activities funds as defined under and in accordance with the CEAP State Rules are earned through provision of direct services to clients. Subrecipient may choose to submit a final budget revision in November of each year to use its administration, Assurance 16 Activities, and direct services support dollars for direct service categories; however, Subrecipient is still required to perform Assurance 16 Activities and Direct Service Support activities.
  
- B. Direct Services Support expenditures as defined under and in accordance with the CEAP State Rules are earned through provision of direct services to clients and must be supported by appropriate documentation of the allowable activities. Direct Service Support includes costs not administrative in nature but those used for outreach and targeting only to eligible households. Allowable expenditures include but are not limited to salaries, fringe benefits, and travel expenditures of staff when conducting outreach, and application intake. Subrecipient may opt to use LIHEAP Direct Service Support allocation for direct client services if they have used non-LIHEAP resources to serve the requirements of Direct Service Support. Computer purchases and any related expenditures must be charged to Administration, not Direct Services Support.
  
- C. In order to achieve compliance with the LIHEAP Act, Subrecipient must coordinate with other energy related programs. Specifically, Subrecipient must make documented referrals to the local WAP subrecipient.
  
- D. Subrecipient shall accept applications for CEAP benefits at sites that are geographically accessible to all households in the service area. Subrecipient shall provide elderly and disabled individuals the means to submit applications for CEAP benefits without leaving their residence or by securing transportation for them to the sites that accept such applications.

**SECTION 37. APPEALS PROCESS**

In compliance with the LIHEAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner, according to the CEAP State Rules.

**SECTION 38. USE OF ALCOHOLIC BEVERAGE**

Funds provided under this Contract may not be used for the payment of salaries to any Subrecipient's employees who use alcoholic beverages while on active duty, for travel expenses expended for alcoholic beverages, or for the purchase of alcoholic beverages.

**SECTION 39. FORCE MAJURE**

If the obligations are delayed by the following, an equitable adjustment will be made for delay or failure to perform hereunder:

- A. Any of the following events: (i) catastrophic weather conditions or other extraordinary elements of nature or acts of God; (ii) acts of war (declared or undeclared), (iii) acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; and (iv) quarantines, embargoes and other similar unusual actions of federal, provincial, local or foreign Governmental Authorities; and
- B. The non-performing party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

**SECTION 40. TIME IS OF THE ESSENCE**

Time is of the essence with respect to Subrecipient's compliance with all covenants, agreements, terms and conditions of this Contract.

**SECTION 41. COUNTERPARTS AND FACSIMILE SIGNATURES**

This Contract may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or other electronic transmission, and any such signature shall have the same legal effect as an original.

**SECTION 42. NUMBER, GENDER**

Unless the context requires otherwise, the words of the masculine gender shall include the feminine, and singular words shall include the plural.

**SECTION 43. NOTICE**

- A. If notice is provided concerning this Contract, notice may be given at the following (herein referred to as "Notice Address"):

**As to Department:**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
 P. O. Box 13941  
 Austin, Texas 78711-3941  
 Attention: Sharon D. Gamble  
 Telephone: (512)- 475-0471  
 Fax: (512) - 475-3935  
 E-mail address: Sharon.gamble@tdhca.state.tx.us

**As to Subrecipient:**



- B. All notices or other communications hereunder shall be deemed given when delivered, mailed by overnight service, or five days after mailing by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address as defined in the above Subsection A of this Section 43.

**SECTION 44. VENUE AND JURISDICTION**

This Contract is delivered and intended to be performed in the State of Texas. For purposes of litigation pursuant to this Contract, venue shall lie in Travis County, Texas.

EXECUTED to be effective on : [1/1/2012 12:00:00AM](#)

Dallas County Department of Health and Human Services  
a political subdivision of the State of Texas

By:

Title:

Date:

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

a public and official agency of the State of Texas

By: [Timothy K. Irvine](#)

Title Its duly authorized officer or representative

Date:

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
 CONTRACT NO. \_\_\_\_\_ FOR THE FY 2012  
 COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)  
 (CFDA # 93.568)  
 EXHIBIT A BUDGET  
 a political subdivision of the State of Texas

**DEPARTMENT FINANCIAL OBLIGATIONS**

\_\_\_\_\_ \$ CEAP FUNDS CURRENTLY AVAILABLE  
 \_\_\_\_\_ \$ TRAINING TRAVEL ALLOWANCE FUNDS CURRENTLY AVAILABLE

**BUDGET FOR AVAILABLE ALLOCATIONS**

BUDGET CATEGORY	FUNDS	%
Administration	\$	-
Assurance 16	\$	-
Direct Services	\$	-
<b>TOTAL CEAP BUDGET</b>	<b>\$</b>	<b>-</b>

BUDGET CATEGORY	FUNDS	%
Household Crisis	\$	
Co-payment	\$	
Elderly and Disabled	\$	
Direct Service Support	\$	
<b>TOTAL DIRECT SERVICES</b>	<b>\$</b>	<b>100.00</b>

Subrecipient's service area consists of the following Texas counties:



Administrative costs, salaries, fringe benefits, non-training travel, equipment, supplies, audit and office space are limited to 6.00% of the contract expenditures, excluding Training/Travel costs.

Assurance 16 Activities costs are limited to 5.00% of the contract expenditures excluding Training and Travel costs. Direct Services Support costs are limited to 5.00% of total Direct Services expenditures.

Expenditures for Elderly/Disabled must be at least 10% of Direct Service Dollars expended. Household Crisis and Co-Payment Percentage will be established by Subrecipient. Direct Services Support (may not exceed 5% of Direct Services dollars expended).

Department's prior written approval for purchase or lease of equipment with an acquisition cost of \$5,000 and over is required. Approval of this budget does not constitute prior approval for such purchases..

Funds may not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement of any building or facility.

Subrecipient is limited to only one budget revision request during the first 6 months of the Contract Period. A second and final budget revision must be received by the Department on or before November 16, 2012.

Subrecipient shall provide outreach services under all components in this category. Failure to do so may result in contract termination. Subrecipient must document outreach, whether the outreach is conducted with "Direct Service Support" funds or other funds.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

CONTRACT NO. FOR THE FY 2012


COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)

(CFDA # 93.568)

EXHIBIT B

CERTIFICATION REGARDING LOBBYING FOR

CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

 a political subdivision of the State of Texas

The undersigned certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form -LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is material representation of fact on which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

a State non-profit corporation

By:

Title:

Date:

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

CONTRACT NO. FOR THE FY 2012  
COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)  
(CFDA # 93.568)

**EXHIBIT C  
PRWORA REQUIREMENTS**

, a political subdivision of the State of Texas

If an individual is applying for LIHEAP funds, a subrecipient must verify that the individual applying for LIHEAP funds is a qualified recipient for funding under the Personal Responsibility and Work Opportunity Act of 1996, ("PRWORA"), Pub. L. 104-193, 110 Stat. 2105, codified at 8 U.S.C. § 1601 et. seq., as amended by the Omnibus Appropriations Act, 1997, Pub. L. 104-208.

To ensure that a non-qualified applicant does not receive "federal public benefits," a unit of general purpose government that administers "federal public benefit programs" is required to determine, and to verify, the individual's alienage status before granting eligibility. 8 U.S.C. § 1642 (a) and (b). Subrecipient must use the SAVE verification system to verify and document qualified alien eligibility.

An exception to the requirement of verification of alienage status applies when the applicant's eligibility is determined by a non-profit charitable organization. To be eligible for this exemption, an organization must be both "nonprofit" and "charitable." An organization is "nonprofit" if it is organized and operated for purposes other than making gains or profits for the organization, its member or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders. An organization is "charitable" if it is organized and operated for charitable purposes. The term "charitable" should be interpreted in its generally accepted legal sense as developed by judicial decisions. It includes organizations dedicated to relief of the poor and distressed or the underprivileged, as well as religiously-affiliated organizations and educational organizations. Federal Register on November 17, 1997 at 62 Fed. Reg. 61344.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

CONTRACT NO. [REDACTED] FOR THE FY 2012  
COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)  
(CFDA # 93.568)

**EXHIBIT D  
DOCUMENTATION OF DISABILITY**

[REDACTED] a political subdivision of the State of Texas

1. All CEAP purchases of portable heating/cooling units are allowable only for households "that include at least one member that is elderly, disabled, or a child aged 5 or younger when Subrecipient has met local weather crisis criteria pursuant to 10 TAC 5.423(d)(4). No other reason for purchase, including medical reasons, shall be accepted. Notwithstanding the provisions under 10 TAC 5.423(d)(4), 10 TAC 5.423(d)(7), 10 TAC 5.402, 10 TAC 5.422(d)(3), 10 TAC 5.423(a), or 10 TAC 5.423(d)(6)-(7), under NO CIRCUMSTANCES should clients' medical information be collected or kept by Subrecipients.
2. Documentation of Disability must NOT include documentation from a medical professional such as a doctor's letter, but only other forms of documentation of disability such as Social Security or a Supplemental Security Income statement, and shall be kept in client's file to validate eligibility.



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
CONTRACT NUMBER. FOR THE  
LOW-INCOME HOME ENERGY ASSISTANCE ACT ("LIHEAP") WEATHERIZATION ASSISTANCE PROGRAM  
(CFDA# 93.568)

**SECTION 1. PARTIES TO THE CONTRACT**

This LIHEAP Weatherization Assistance Program Contract (hereinafter "Contract") is made by and between the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (hereinafter the "Department") and (hereinafter the "Subrecipient").

**SECTION 2. CONTRACT TERM**

The period for performance of this contract, unless earlier terminated, is [April 01, 2012](#) through [March 31, 2013](#) (hereinafter the "Contract Term").

**SECTION 3. SUBRECIPIENT PERFORMANCE**

Subrecipient shall, on an equitable basis throughout its service area, develop and implement a Weatherization Assistance Program (WAP) in the counties and in accordance with the term of the Contract and the "Budget and Performance Statement" attached as Exhibit A to the Contract and incorporated herein for all relevant purposes. Subrecipient shall develop and implement the WAP to assist in achieving a prescribed level of energy efficiency in the dwellings of low-income persons. WAP services will be provided to owner occupied units as well as rental units. Priority will be given to in no particular order (1) households with elderly persons, (2) persons with disabilities, (3) households with young children that are age five (5) or younger, and/or (4) households with a high energy burden and households with high energy consumption. Subrecipient shall implement WAP in accordance with the provisions of Part A of the Energy Conservation in Existing Buildings Act of 1976, as amended (42 U.S.C. §6861 et seq.) (herein, the "WAP Act"), the U.S. Department of Energy (DOE) implementing regulations codified in 10 C.F.R. Parts 440 and 600 (herein, the "WAP Regulations"), any applicable Office of Management and Budget (OMB) Circulars, the Texas WAP State Plan, the Texas LIHEAP State Plan; the implementing State regulations at Title 10, Part I, Chapter 5, Subchapters A, E and F of the Texas Administrative Code as amended or supplemented from time to time (herein, the "WAP and LIHEAP State Rules"), the Low-Income Home Energy Assistance Act of 1981 as amended (42 U.S.C. §8621 et seq.) (herein, the "LIHEAP Act"), and the implementing regulations codified in 45 C.F.R. Part 96 (herein, the "LIHEAP Regulations"). Before commencing any weatherization work, Subrecipients are required to complete energy audits. The work will be completed in accordance with the International Energy Conservation Code and the minimum requirements set in the State of Texas adopted International Residential Code or in jurisdictions authorized by State law to adopt later editions.

**SECTION 4. DEPARTMENT FINANCIAL OBLIGATIONS**

- A. In consideration of Subrecipient's satisfactory performance of this Contract, Department shall reimburse Subrecipient for the actual allowable costs incurred by Subrecipient in the amount specified in the "Budget and Performance Statement" attached hereto as Exhibit A.
- B. Department's obligations under this Contract are contingent upon the actual receipt by Department of adequate LIHEAP federal program funds. If sufficient funds are not available, Department shall notify Subrecipient in writing within a reasonable time after such fact is determined. Department shall then terminate this Contract and will not be liable for the failure to make any payment to Subrecipient under this Contract.
- C. Department is not liable for any cost incurred by Subrecipient which:
- (1) is incurred to weatherize a dwelling unit which is not an eligible dwelling unit as defined in §440.22 of the WAP Regulations;
  - (2) is incurred to weatherize a dwelling unit which is designated for acquisition or clearance by a federal, state, or local program within twelve months from the date weatherization of the dwelling unit is scheduled to be completed;
  - (3) is incurred to weatherize a dwelling unit previously weatherized with weatherization assistance program funds, except as provided for in §440.18(e)(2) of the WAP Regulations;

- (4) is for Subrecipient's administrative costs incurred in excess of the maximum limitation set forth in Section 9 of this Contract;
- (5) is not incurred during the Contract Term;
- (6) is not reported to Department on a monthly LIHEAP expenditure report and/or a monthly LIHEAP performance report within sixty (60) days of the termination of this Contract Term;
- (7) is subject to reimbursement by a source other than Department; or
- (8) is made in violation of any provision of this Contract or any provision of federal or state law or regulation, including, but not limited to those enumerated in this Contract.

D. Subrecipient shall refund, within fifteen (15) days of Department's request, any sum of money paid to Subrecipient which Department determines has resulted in an overpayment or has not been spent in accordance with the terms of this Contract. Department may offset or withhold any amount otherwise owed to Subrecipient under this Contract against any amount owed by Subrecipient to Department arising under this or any other Contract between the parties.

E. Notwithstanding any other provision of this Contract to the contrary, the total of all payments and other obligations incurred by Department under this Contract shall not exceed the sum of \$

#### **SECTION 5. METHOD OF PAYMENT/CASH BALANCES**

A. Each month, Subrecipient may request an advance payment of LIHEAP funds under this Contract by submitting a monthly expenditure report to Department (through the electronic reporting system) at its offices in Travis County, Texas. Subrecipient must maintain and follow written procedures to minimize the time elapsing between the transfer of funds from Department and the disbursement of such funds by Subrecipient.

B. Subrecipient's requests for advances shall be limited to the minimum amount needed to perform contractual obligations and timed to be in accordance with actual, immediate cash requirements of the Subrecipient in carrying out the purpose of this Contract. The timing and amount of cash advances shall be as close as administratively feasible, not to exceed a 30-day projection of the actual disbursements by the Subrecipient to direct program costs and the proportionate share of any allowable indirect costs.

C. Subsection 4(A) notwithstanding, Department reserves the right to use a cost reimbursement method of payment for all funds if (1) Department determines that Subrecipient has maintained excess cash balances; (2) Department identifies any deficiency in the cash controls or financial management system maintained by Subrecipient; (3) Department determines that a cost reimbursement method would benefit the program; (4) Department's funding sources require the use of a cost reimbursement method; or (5) Subrecipient fails to comply with any of the reporting requirements of Section 10.

D. All funds paid to Subrecipient under this Contract are paid in trust for the exclusive benefit of the eligible dwelling units of the weatherization assistance program and for the payment of the allowable expenditures identified in this Contract.

## **SECTION 6. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- A. Except as expressly modified by law or the terms of this Contract, Subrecipient shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards 1 T.A.C.§5.141 et seq. (the "Uniform Grant Management Standards") provided, however, that all references therein to "local government" shall be construed to mean Subrecipient.
- B. Uniform cost principles for governments are set forth in Office of Management and Budget ("OMB") Circular A-87 as implemented by 2 C.F.R. Part 225, and for private non-profit organizations in OMB Circular A-122 as implemented by 2 C.F.R. Part 230. Uniform administrative requirements for governments are set forth in OMB Circular A-102, and for private non-profits in OMB Circular A-110. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," sets forth audit standards for governmental organizations and other organizations expending Federal funds. The expenditure threshold requiring an audit under Circular A-133 is \$500,000.
- C. Notwithstanding any other provision of this Contract, Department shall only be liable to Subrecipient for costs incurred or performances rendered for activities specified in the WAP Act and LIHEAP Act.

## **SECTION 7. TERMINATION AND SUSPENSION**

- A. Department may terminate this Contract, in whole or in part, at any time Department determines that there is cause for termination. Cause for termination includes but is not limited to Subrecipient's failure to comply with any term of this Contract, the Texas Administrative Code: 10 TAC §5.17 (Sanctions and Contract Close Out), any State weatherization regulation, and the WAP State Plan. Department shall notify Subrecipient in writing no less than thirty (30) days prior to the date of termination.
- B. Nothing in this Section shall be construed to limit Department's authority to withhold payment and immediately suspend Subrecipient's performance under this Contract if Department identifies possible instances of fraud, abuse, waste, fiscal mismanagement, or other serious deficiencies in Subrecipient's performance. Suspension shall be a temporary measure pending either corrective action by Subrecipient or a decision by Department to terminate this Contract.
- C. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this Contract by Subrecipient. Department may withhold any payment due to Subrecipient until such time as the exact amount of damages due to Department is agreed upon or is otherwise determined in writing between Parties.
- D. Department shall not be liable for any costs incurred by Subrecipient after termination or during suspension of this Contract.
- E. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this Contract by Subrecipient.
- F. Subrecipient's failure to expend the funds provided under this Contract in a timely manner may result in either the termination of this Contract or Subrecipient's ineligibility to receive additional funding under WAP, or a reduction in the original allocation of funds to Subrecipient.

## **SECTION 8. ALLOWABLE EXPENDITURES**

- A. The allowance of Subrecipient's costs incurred in the performance of this Contract shall be determined in accordance with the provisions of Section 5 and the regulations set forth in §440.18 of the WAP Regulations, subject to the limitations and exceptions set forth in this Section.
- B. To the maximum extent practicable, Subrecipient shall utilize funds provided under this Contract for the purchase of weatherization materials. All weatherization measures installed must have an approved State of Texas Energy Audit savings-to-investment ratio (SIR) of one or greater unless otherwise indicated as health and safety or incidental repair items. Weatherization measures installed shall begin with those having the greatest SIR (on approved State of Texas Energy Audit) and proceed in descending order to the measures with the smallest SIR or until the maximum allowable per unit expenditures are achieved. Subrecipient shall weatherize eligible dwelling units using only weatherization materials which meet or exceed the standards prescribed by DOE in Appendix A to Part 440 of the WAP Regulations, State of Texas adopted International Residential Code (IRC) or jurisdictions authorized by State law to adopt later editions.

Allowable expenditures under this Contract include:

- (1) the purchase and delivery of weatherization materials as defined in §440.3 of the WAP Regulations;
- (2) labor costs for doors, primary windows and storm windows that will result in approved energy savings with a SIR of one or greater in accordance with §440.19 of the WAP Regulations;
- (3) the cost of weatherization materials and labor for heating and cooling system tune ups, repairs, modification, or replacements if such will result in improved energy efficiency as demonstrated by SIR of one or better in the approved State of Texas Energy Audit and, whenever available, heating and cooling systems must have an Energy Star rating;
- (4) transportation of weatherization and repair materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;
- (5) maintenance, operation, and insurance of vehicles used to transport weatherization materials;
- (6) maintenance of tools and equipment;
- (7) purchase or lease of tools or equipment;
- (8) employment of on-site supervisory personnel;
- (9) storage of weatherization materials, tools, and equipment;
- (10) incidental repairs (such as repairs to roofs, walls, floors, and other parts of a dwelling unit) if such repairs are necessary for the effective performance or preservation of weatherization measures (If incidental repairs are necessary to make the installation of the weatherization measures effective, the cost of incidental repair measures charged to WAP funds awarded under this Contract shall not exceed the cost of weatherization measures charged to WAP funds and shall have a whole house SIR of one or greater on the approved State of Texas Energy Audit.);
- (11) allowable health and safety measures; and
- (12) allowable base load reduction measures. Health and Safety funds not expended may be moved to the labor, materials, and program support category. These changes will require a Contract action; therefore, Subrecipient must provide written notification to the Department at least 90 days prior to the end of the Contract term before these funds can be moved.

C. Administrative costs incurred by Subrecipient in performing this Contract are to be based on actual programmatic expenditures and shall be allowed up to the amount outlined in the "Budget and Performance Statement" attached hereto as Exhibit A. Allowable administrative costs may include reasonable costs associated with Subrecipient's administrative personnel, travel, audit fees, office space, equipment, and supplies which are necessary for the administration of WAP. Administrative costs are earned based upon the allowable percentage of total allowable expenditures, excluding the allowance for Department / LIHEAP Training Travel or special equipment purchases. Subrecipient may use any or all of the funds allowed for administrative purposes under this Contract for the purchase and delivery of weatherization materials. These changes will require a contract action; therefore, Subrecipient must provide written notification to the Department at least 90 days prior to the end of the Contract Term before these funds can be moved.

D. To the maximum extent practicable, Subrecipient shall secure the services of volunteers to weatherize dwelling units under the direction of qualified supervisors.

#### **SECTION 9. RECORD KEEPING REQUIREMENTS**

A. Subrecipient shall comply with the record keeping requirements set forth at §440.24 of the WAP Regulations and with such additional record keeping requirements as specified by Department.

B. For each dwelling unit weatherized with funds received from LIHEAP WAP under this Contract, Subrecipient shall maintain a file containing the following information:

- (1) completed "Application for Weatherization Services" indicating the ages of the residents, presence in the household of children age five (5) or younger, elderly persons (60 years or older), and persons with disabilities;
  - (2) 12 month customer billing history for utilities or consumption disclosure release form;
  - (3) eligibility documentation (proof of income eligibility shall consist of checks, check stubs, award letters, employer statements, or other similar documents including total income and public assistance payments); no dwelling unit shall be weatherized without documentation that the dwelling unit is an eligible dwelling unit as defined in §440.22 of the WAP Regulations. All proof of income must reflect earnings from within 12 months of the start date indicated on the building weatherization report (BWR). Proof of income documentation requirements are the same for both single and multifamily housing; all new applications must have proof of income, or a complete, signed and notarized Declaration of Income Statement Form for the previous 30 days;
  - (4) BWR to include certification of final inspection and Justification for Omission of Priorities if applicable;
  - (5) invoices of materials purchased or inventory removal sheets;
  - (6) invoices of labor;
  - (7) if a rental unit, landlord agreement form (including Exhibits A and B), and landlord financial participation form and Permission to Conduct Energy Audit Form (Department form); and all other Landlord forms found in the Energy Assistance Section of the Departments website;
  - (8) Notice of Denial (Department form), if applicable;
  - (9) Signed and dated Building Assessment form, to include at a minimum, existing efficiencies of all heating and cooling appliances;
  - (10) Attic Inspection (local design allowed);
  - (11) Wall Inspection (local design allowed);
  - (12) Documentation of pre weatherization carbon monoxide readings for all combustible appliances;
  - (13) Documentation of post weatherization carbon monoxide readings for all combustible appliances;
  - (14) Blower Door Data Sheet;
  - (15) Duct Blower Data Sheet
  - (16) Refrigerator metering Information
  - (17) Signed client refrigerator replacement form (if applicable)
  - (18) Completed, Signed and Dated Priority List Form (if applicable)
  - (19) A complete copy of the approved State of Texas Energy Audit;
  - (20) A complete approved State of Texas Energy Audit back-up for all units weatherized
  - (21) Signed client receipt of the unified weatherization elements notification form that includes Lead Hazard Information, Identification of Mold Like Substance, and State Historical Preservation Information and
  - (22) Signed client receipt of Mold-Like Substance and Release For (if applicable).
- C. For each multi-family project weatherized with funds received from LIHEAP under this Contract, Subrecipient shall maintain a master file containing the following information:
- (1) Multifamily Pre-Project Form;
  - (2) Multifamily Post-Project Checklist Form;
  - (3) Permission to Perform an Assessment for Multifamily Project Form;

- (4) Landlord Agreement Form;
  - (5) Landlord Financial Participation Form;
  - (6) Significant Data Required in all Multifamily Projects
- D. Documentation for weatherization material standards purchased under this Contract must be maintained. These standards must meet the requirements according to Appendix A to Part 440 of the WAP Regulations.
- E. Subrecipient shall give the federal and state funding agencies, the Comptroller General of the United States, and Department access to and the right to reproduce all records pertaining to this Contract. All such records shall be maintained for at least three years after final payment has been made and all other pending matters are closed. Subrecipient shall include the requirements of this Subsection in all subcontracts.
- F. All LIHEAP WAP records maintained by Subrecipient, except records made confidential by law, shall be available for inspection by the public during Subrecipient's normal business hours to the extent required by the Texas Public Information Act (Chapter 552 of the Texas Government Code).
- G. All subrecipients must conduct a full household assessment addressing all possible allowable weatherization measures.

#### **SECTION 10. REPORTING REQUIREMENTS**

- A. Subrecipient shall electronically submit to Department no later than fifteen (15) days after the end of each month of the Contract term a Performance Report listing demographic information on all units completed in the previous month and an Expenditure Report listing all expenditures of funds under this Contract during the previous month. **These reports are due even if Subrecipient has no new activity to report during the month. Both reports shall be submitted electronically.**
- B. Subrecipient shall electronically submit to Department no later than sixty (60) days after the end of the Contract term a final expenditure and programmatic report utilizing the Monthly Expenditure Report. The failure of Subrecipient to provide a full accounting of all funds expended under this Contract may result in ineligibility to receive additional funds or additional contracts.
- C. Subrecipient shall submit to Department no later than sixty (60) days after the end of the Contract term an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000.00 or more and a useful life of more than one year, if purchased in whole or in part with funds received under this or previous weatherization assistance program Contracts. The inventory shall reflect the tools and equipment on hand as of the last day of the Contract term.
- D. Subrecipient shall submit other reports, data, and information on the performance of this Contract as may be required by DOE pursuant to §440.25 of the WAP Regulations, by U. S. Department of Health and Human Services (HHS), or by the Department.
- E. If Subrecipient fails to submit, in a timely and satisfactory manner, any report or response required by this Contract, including responses to monitoring reports, Department may withhold any and all payments otherwise due or requested by Subrecipient hereunder. Payments may be withheld until such time as the delinquent report or response is received by Department. If the delinquent report or response is not received within forty-five (45) days of its due date, Department may suspend or terminate this Contract. If Subrecipient receives LIHEAP WAP funds from the Department over two or more Contracts of subsequent terms, funds may be withheld or this Contract suspended or terminated by Subrecipient's failure to submit a past due report or response (including a report of audit) from a prior Contract Term.
- F. Subrecipient shall provide the Department with a Data Universal Numbering System (DUNS) number and a Central Contractor Registration (CCR) System number. The DUNS number must be provided in a document from Dun and Bradstreet and the current CCR number must be submitted from a document retrieved from the <https://www.bpn.gov/ccr/default.aspx> website. These documents must be provided to the Department prior to the processing first payment to Subrecipient. Subrecipient shall maintain a current DUNS number and CCR number for the entire Contract Term.

## **SECTION 11. CHANGES AND AMENDMENTS**

- A Any change, addition or deletion to the terms of this Contract required by a change in federal or state law or regulation is automatically incorporated herein and is effective on the date designated by such law or regulation, so long as approved by the Department.
- B. Except as specifically provided otherwise in this Contract, any changes, additions, or deletions to the terms of this Contract shall be in writing and executed by both Parties to this Contract. If any Party returns an executed copy by facsimile machine or electronic transmission, the signing party intends the copy of its authorized signature printed by the receiving machine or the electronic transmission, to be its original signature.

## **SECTION 12. PROGRAM INCOME**

Subrecipient shall account for and expend program income derived from activities financed in whole or in part with funds provided under this contract in accordance with the Uniform Grant Management Standards, Common Rule, §\_25, OMB Circular A-110 §\_24, and OMB Circular A-102, Attachment, 2e.

## **SECTION 13. TECHNICAL GUIDANCE**

Department may issue technical guidance to explain the rules and provide directions on the terms of this Contract. Installation of weatherization materials shall be in accordance with the Material Installation Standards/Manual.

## **SECTION 14. INDEPENDENT SUBRECIPIENT**

It is agreed that Department is contracting with Subrecipient as an independent contractor. Subrecipient agrees to indemnify Department against any disallowed costs or other claims, which may be asserted by any third party in connection with the services to be performed by Subrecipient under this Contract.

## **SECTION 15. PROCUREMENT STANDARDS**

- A. Subrecipient shall comply with OMB Circular A-102, 10 C.F.R. § 600.236(b-i) and 10 T.A.C. § 5.10.
- B. Subrecipient may not use funds provided under this Contract to purchase personal property, equipment, goods, or services with a unit acquisition cost (the net invoice unit price of an item of equipment) of more than \$5,000 unless Subrecipient has received the prior written approval of Department for such purchase
- C. Upon the termination or non-renewal of this Contract, Department may transfer title to any such property or equipment having a useful life of one year or more or a unit acquisition cost (the net invoice unit price of an item of equipment) of \$5,000 or more to itself or to any other entity receiving Department funding.

## **SECTION 16. SUBCONTRACTS**

- A. Subrecipient may not subcontract the primary performance of this Contract and only may enter into properly procured contractual agreements for consulting and other professional services, if Subrecipient has received Department's prior written approval. Subrecipient may subcontract for the delivery of client assistance without obtaining Department's prior approval. Any subcontract for the delivery of client assistance will be subject to monitoring by the Department as per Section 21.
- B. In no event shall any provision of this Section 16, specifically the requirement that Subrecipient obtain Department's prior written approval of a subcontractor, be construed as relieving Subrecipient of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all of the terms of this Contract, as if such performances rendered were rendered by Subrecipient. Department's approval under Section 16 does not constitute adoption, ratification, or acceptance of Subrecipient's or subcontractor's performance hereunder. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract. Department's approval under this Section 16 does not waive any right of action which may exist or which may subsequently accrue to Department under this Contract.

## **SECTION 17. AUDIT**

A. Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Contract, subject to the following conditions and limitations:

- (1) Subrecipients expending \$500,000 or more in federal financial assistance for any fiscal year ending on or after December 31, 2003, shall have an audit made in accordance with Department's supplemental audit guide, the Single Audit Act Amendments of 1996, 31 U.S.C. 7501, et seq. and OMB Circular No. 133 - Revised June 27, 2003, "Audits of States, Local Governments, and Non-Profit Organizations." For purposes of this Section 16, "federal financial assistance" means assistance provided by a federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance or direct appropriations, but does not include direct federal cash assistance to individuals. The term includes awards of federal financial assistance received directly from federal agencies, or indirectly through other units of state and local government.
- (2) Subrecipient shall utilize funds budgeted under this Contract to pay for that portion of the cost of such audit services properly allocable to the activities funded by Department under this Contract, provided however that Department shall not make payment for the cost of such audit services until Department has received a satisfactory audit report, as determined by Department, from Subrecipient.
- (3) Subrecipient shall submit three (3) copies of such audit report and any associated management letter to the Department, two (2) copies of the audit report to Department's Compliance and Asset Oversight Division and one (1) copy of the audit report to the Department's Community Affairs Division within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subrecipient shall make audit report available for public inspection within thirty (30) days after receipt of the audit report(s). Audits performed under this Section 17 are subject to review and resolution by Department or its authorized representative. Subrecipient shall submit such audit report to the Federal clearinghouse designated by OMB in accordance with OMB A-133.
- (4) The audit report must include verification of all expenditures by budget category, in accordance with the final "Monthly Expenditure Report" submitted to close out each year during the Contract Term.

B. Subsection A of this Section 17 notwithstanding, Subrecipients expending less than \$500,000 in Federal financial assistance may arrange for the performance of an annual financial statement audit. Such audit should include verification as required in Subsection 17(A)(4) of this Section 17.

C. Subsection A of this Section 17 notwithstanding, Department reserves the right to conduct an annual financial and compliance audit of funds received and performances rendered under this Contract. Subrecipient agrees to permit Department or its authorized representative to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit.

D. Subrecipient understands and agrees that it shall be liable to Department for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Subrecipient further understands and agrees that reimbursement to Department of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this Contract.

E. Subrecipient shall take such action to facilitate the performance of such audit or audits conducted pursuant to this section as Department may require of Subrecipient.

F. Subrecipient shall procure audit services through an open, competitive process at least once every five years. The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report to the auditee. Audit working papers shall be made available upon request to Department at the completion of the audit, as a part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right to obtain copies of working papers, as is reasonable and necessary.

## **SECTION 18. MANAGEMENT OF EQUIPMENT AND INVENTORY**

A. Subrecipient acknowledges that any vehicles, tools, and equipment with a unit acquisition cost of \$5,000 or more and a useful life of more than one year, if purchased in whole or in part with funds received under this or previous weatherization assistance program Contracts, are not assets of either the subrecipient or the Department but are held in trust for the Weatherization Assistance Program and as such are assets of the Weatherization Assistance Program. Any equipment, tools, or vehicles having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit must receive prior approval from the Department before the purchase is made.



- B. Subrecipient shall develop and implement a property management system, which conforms to the uniform administrative requirements referenced in Section 6. Subrecipient shall not use, transfer, or dispose of any property acquired in whole or in part with funds provided under this or a previous weatherization assistance program Contract except in accordance with its own property management system.
- C. Upon termination or non-renewal of this Contract, the Department may transfer the title of equipment to a third party named by the Department. Such a transfer shall be subject to the following standards:
- (1) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.
  - (2) The Department will issue disposition instructions after receipt of final inventory.
- D. Subrecipient shall establish adequate safeguards to prevent loss, damage, or theft of property acquired hereunder and shall promptly report to Department any loss, damage, or theft of property with an acquisition cost of Five Thousand and no/100 Dollars (\$5,000) or more.
- E. In addition to the inventory of tools and equipment required under Section 10, Subrecipient shall take a physical inventory of all WAP materials and shall reconcile the results with its property records at least once every year. Any differences between quantities determined by the inventory and those shown in the property records shall be investigated by Subrecipient to determine the cause of the difference.

#### **SECTION 19. INSURANCE REQUIREMENTS**

Subrecipient shall maintain adequate personal injury and property damage liability insurance or, if Subrecipient is a unit of local government, shall maintain sufficient reserves to protect against the hazards arising out of or in connection with the performance of this Contract. Subrecipient is encouraged to obtain pollution occurrence insurance in addition to the general liability insurance. Generally, regular liability insurance policies do not provide coverage for potential effects of many health and safety measures, such as lead disturbances and other pollution occurrence items. Subrecipient should review existing policies to determine if lead contamination is covered and if it is not, Subrecipients should consider securing adequate coverage for all units to be weatherized.

If Subrecipient is not a unit of local government, Subrecipient shall provide Department with certificates of insurance evidencing Subrecipient's current and effective insurance coverage. Subrecipient agrees to notify the Department immediately upon receipt of notification of the termination, cancellation, expiration, or modification of any insurance coverage or required policy endorsements. Subrecipient agrees to suspend the performance of all work performed under this Contract until Subrecipient satisfies the coverage requirements and obtains the policy endorsements, and has delivered to Department certificates of insurance evidencing that such coverage and policy endorsements are current and effective, and has been notified by Department that such performance of the work under this Contract may recommence. Subrecipients must also require all independent subcontractors to have general liability insurance. Subrecipients' insurance must cover the pollution occurrence insurance coverage for their independent subcontractors or the independent subcontractors must obtain the coverage.

#### **SECTION 20. LITIGATION AND CLAIMS**

Subrecipient shall give Department immediate written notice of any claim or action filed with a court or administrative agency against Subrecipient and arising out of the performance of this Contract or any subcontract hereunder. Subrecipient shall furnish to Department copies of all pertinent papers received by Subrecipient with respect to such action or claim.

## SECTION 21. TECHNICAL ASSISTANCE AND MONITORING

Department or its designee may conduct on and off-site monitoring and evaluation of Subrecipient's compliance with the terms of this Contract. Department's monitoring may include a review of the efficiency, economy, and efficacy of Subrecipient's performance. Department will notify Subrecipient in writing of any deficiencies noted during such monitoring. Department may provide training and technical assistance to Subrecipient in correcting the deficiencies noted. Department may require corrective action to remedy deficiencies noted in Subrecipient's accounting, personnel, procurement, and management procedures and systems in order to comply with State or Federal requirements. Department may conduct follow-up visits to review the previously noted deficiencies and to assess the Subrecipient's efforts made to correct them. Repeated deficiencies may result in disallowed costs. Department may terminate or suspend this Contract or invoke other remedies Department determines to be appropriate in the event monitoring reveals material deficiencies in Subrecipient's performance, or Subrecipient fails to correct any deficiency within a reasonable period of time, as determined by the Department. Department or its designee may conduct an ongoing program evaluation throughout the Contract Term.

## SECTION 22. LEGAL AUTHORITY

- A. Subrecipient assures and guarantees that it possesses the legal authority to enter into this Contract, to receive and manage the funds authorized by this Contract, and to perform the services Subrecipient has obligated itself to perform hereunder. The execution, delivery, and performance of this Contract will not violate Subrecipient's constitutive documents or any requirement to which Subrecipient is subject and represents the legal, valid, and binding agreement of Subrecipient, enforceable in accordance with its terms.
- B. The person signing this Contract on behalf of Subrecipient hereby warrants that he/she has been authorized by Subrecipient to execute this Contract on behalf of Subrecipient and to validly and legally bind Subrecipient to all terms, provisions and performances herein set forth.
- C. Department shall have the right to suspend or terminate this Contract if there is a dispute as to the legal authority of either Subrecipient or the person signing this Contract on behalf of Subrecipient, to enter into this Contract or to render performances hereunder. Subrecipient is liable to Department for any money it has received from Department for performance of the provisions of this Contract, if the Department has terminated this Contract for reasons enumerated in this Section 22.

## SECTION 23. COMPLIANCE WITH LAWS

- A. FEDERAL, STATE AND LOCAL LAW. Subrecipient shall comply with the LIHEAP Act, the WAP Act, the WAP Regulations, the LIHEAP Regulations, any applicable Office of Management and Budget (OMB) Circulars, the Texas DOE WAP State Plan, LIHEAP State Plan, the WAP and LIHEAP State Rules, and all federal, state, and local laws and regulations applicable to the performance of this Contract.
- B. DRUG-FREE WORKPLACE ACT OF 1988. The Subrecipient affirms by signing this Contract that it is implementing the Drug-Free Workplace Act of 1988.
- C. PRO-CHILDREN ACT OF 1994. Subrecipient shall follow the requirements of the Pro-Children Act of 1994, (20 U.S.C. Sec. 6081 et seq.) which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through States or local governments by Federal grant, contract, loan or loan guarantee.
- D. LIMITED ENGLISH PROFICIENCY (LEP). Subrecipients must provide program applications, forms, and educational materials in English, Spanish, and any appropriate language, based on the needs of the service area and in compliance with the requirements in Executive Order 13166 of August 11, 2000. To ensure compliance, the Subrecipient must take reasonable steps to insure that persons with Limited English Proficiency have meaningful access to the program. Meaningful access may entail provide language assistance services, including oral and written translation, where necessary.

#### **SECTION 24. PREVENTION OF FRAUD AND ABUSE**

- A. Subrecipient shall establish, maintain, and utilize internal control systems and procedures sufficient to prevent, detect, and correct incidents of waste, fraud, and abuse in the WAP and to provide for the proper and effective management of all program and fiscal activities funded by this Contract. Subrecipient's internal control systems and all transactions and other significant events must be clearly documented and the documentation made readily available for review by Department.
  
- B. Subrecipient shall give Department complete access to all of its records, employees, and agents for the purpose of monitoring or investigating the WAP. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse. Subrecipient shall immediately notify the Department of any identified instances of waste, fraud, or abuse.
  
- C. Subrecipient may not discriminate against any employee or other person who reports a violation of the terms of this Contract or of any law or regulation to Department or to any appropriate law enforcement authority, if the report is made in good faith.

#### **SECTION 25. SPECIAL COMPLIANCE PROVISIONS**

Subrecipient shall comply with the requirements of all applicable laws and regulations, including those specified in Parts 400 and 600 of the WAP Regulations.

#### **SECTION 26. CONFLICT OF INTEREST/NEPOTISM**

- A. Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.
  
- B. No employee, officer, or agent of Subrecipient shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the Parties indicated herein, has a financial or other interest in the firm selected for an award.
  
- C. The officers, employees, and agents of the Subrecipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. Subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient.
  
- D. Subrecipients who are local governmental entities shall, in addition to the requirements of this Section, follow the requirements of Chapter 171 of the Local Government Code regarding conflicts of interest of officers of municipalities, counties, and certain other local governments.
  
- E. Failure to maintain written standards of conduct and to follow and enforce the written standards is a condition of default under this Contract and may result in termination of the Contract or deobligation of funds.

## **SECTION 27. POLITICAL ACTIVITY AND LOBBYING PROHIBITED**

- A. Funds provided under this Contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Subrecipient from furnishing to any member of its governing body upon request, or to any other local or state official or employee or to any citizen information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.
  
- B. Funds provided under this Contract may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Subrecipient, the State of Texas, or the government of the United States.

## **SECTION 28. NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

- A. A person shall not be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Contract, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief.
  
- B. Subrecipient agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
  
- C. Subrecipient will include the substance of Section 28 in all subcontracts.

## **SECTION 29. CERTIFICATION REGARDING UNDOCUMENTED WORKERS**

Pursuant to Chapter 2264 of the Texas Government Code, by execution of this Contract, Subrecipient hereby certifies that Subrecipient/Local Operator, or a branch, division, or department of Subrecipient does not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Subrecipient, or a branch, division, or department of Subrecipient is convicted of a violation under 8 U.S.C. Section 1324a(f), Subrecipient shall repay the public subsidy with interest, at a rate of five percent (5%) per annum, not later than the 120th day after the date the Department notifies Subrecipient of the violation.

## **SECTION 30. CERTIFICATION REGARDING CERTAIN DISASTER RELIEF CONTRACTS**

The Department may not award a Contract that includes proposed financial participation by a person who, during the five year period preceding the date of this Contract, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or assessed a penalty in a federal, civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

By execution of this Contract, the Subrecipient/Local Operator hereby certifies that it is eligible to participate in this Program and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

### **SECTION 31. TRAINING AND TECHNICAL ASSISTANCE FUNDS**

- A. Training and technical assistance funds shall be used for State sponsored, LIHEAP sponsored, and other relevant workshops and conferences provided the agenda includes topics directly related to administering WAP in accordance with §5.532 of the WAP and LIHEAP State Rules. For Training & Technical Assistance other than State or DOE sponsored, Subrecipient must receive prior written approval from the Department.
- B. The travel funds are to be used only for Department-approved training events. Subrecipient shall adhere to OMB Circulars (A-87 {2 CFR 225} and A-122 {2 CFR 230} as appropriate), and either its board-approved travel policy, or in the absence of such a policy, the State of Texas travel policies.

### **SECTION 32. DEBARRED AND SUSPENDED PARTIES**

By signing this Contract, Subrecipient certifies that neither it nor its current principle parties are included in the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). Subrecipient also certifies that it will not award any funds provided by this Contract to any party that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. Subrecipient agrees that prior to entering into any agreement with a potential subcontractor that the verification process to comply with this requirement will be accomplished by checking the Excluded Parties List System at <http://www.epls.gov/> or by collecting a certification from the potential subcontractor.

### **SECTION 33. NO WAIVER**

No right or remedy given to Department by this Contract shall preclude the existence of any other right or remedy, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other right or remedy. The failure of Department to exercise any right or remedy on any occasion shall not constitute a waiver of Department's right to exercise that or any other right or remedy at a later time.

### **SECTION 34. ORAL AND WRITTEN AGREEMENTS**

- A. All oral and written agreements between the Parties relating to the subject matter of this Contract have been reduced to writing and are contained in this Contract.
- B. The attachments enumerated and denominated below are a part of this Contract and constitute promised performances under this Contract:
1. Exhibit A, Budget and Performance Statement
  2. Exhibit B, Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements
  3. Exhibit C, PRWORA Requirements
  4. Exhibit D, Documentation of Disability

### **SECTION 35. SEVERABILITY**

If any portion of this Contract is held to be invalid by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

### **SECTION 36. HISTORICAL PRESERVATION**

Prior to the expenditure of Federal funds to alter any structure or site, the Subrecipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470 )(NHPA). The Department has provided guidance through the Memorandum of Understanding with the Texas Historical Commission posted on the Department website <http://www.tdhca.state.tx.us/recovery/detail-wap.htm> under the Plans and Agreements section.

### **SECTION 37. USE OF ALCOHOLIC BEVERAGES**

Funds provided under this Contract may not be used for the payment of salaries to any Subrecipient's employees who use alcoholic beverages while on active duty, for travel expenses expended for alcoholic beverages, or for the purchase of alcoholic beverages.

### **SECTION 38. FORCE MAJURE**

If the obligations are delayed by the following, an equitable adjustment will be made for delay or failure to perform hereunder:

- A. Any of the following events: (i) catastrophic weather conditions or other extraordinary elements of nature or acts of God; (ii) acts of war (declared or undeclared), (iii) acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; and (iv) quarantines, embargoes and other similar unusual actions of federal, provincial, local or foreign Governmental Authorities; and
- B. The non-performing party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

### **SECTION 39. APPEALS PROCESS**

In compliance with the WAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner, according to §5.505 of the WAP State Rules.

### **SECTION 40. TIME IS OF THE ESSENCE**

Time is of the essence with respect to Subrecipient's compliance with all covenants, agreements, terms and conditions of this Contract.

### **SECTION 41. COUNTERPARTS AND FACSIMILIE SIGNATURES**

This Contract may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or other electronic transmission, and any such signature shall have the same legal effect as an original.

### **SECTION 42. NUMBER, GENDER**

Unless the context requires otherwise, the words of the masculine gender shall include the feminine, and singular words shall include the plural.

**SECTION 43. NOTICE**

A. If notice is provided concerning this Contract, notice may be given at the following (herein referred to as "Notice Address"):

**As to Department:**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
P.O. Box 13941  
Austin, Texas 78711-3941  
Attention: Sharon D. Gamble  
Telephone: (512) 475-0471  
Fax: (512) 475-3935  
E-mail address: Sharon.gamble@tdhca.state.tx.us


**As to Subrecipient:**

B. All notices or other communications hereunder shall be deemed given when delivered, mailed by overnight service, or five days after mailing by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address as defined in the above Subsection A of this Section 43.

**SECTION 44. VENUE AND JURISDICTION**

This Contract is delivered and intended to be performed in the State of Texas. For purposes of litigation pursuant to this Contract, venue shall lie in Travis County, Texas.

EXECUTED to be effective on : 4/1/2012

  
a political subdivision of the State of Texas

By: 

Title: 

Date: 

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

a public and official agency of the State of Texas

By: Timothy K. Irvine

Title: Its duly authorized officer or representative

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
CONTRACT NUMBER FOR THE 2012  
LIHEAP WEATHERIZATION ASSISTANCE PROGRAM (CFDA# 93.568)  
EXHIBIT A

BUDGET AND PERFORMANCE DOCUMENT

a political subdivision of the State of Texas

**DEPARTMENT FINANCIAL OBLIGATIONS**

_____ \$	LIHEAP FUNDS CURRENTLY AVAILABLE
_____ \$	TRAINING & TECHNICAL ASSISTANCE FUNDS CURRENTLY AVAILABLE
_____ \$	TOTAL ANTICIPATED LIHEAP FUNDS
_____ \$	TOTAL ANTICIPATED TRAINING & TECHNICAL ASSISTANCE FUNDS

Additional funds may be obligated via Amendment(s). Funds may only be obligated and expended during the current Contract Term. Unexpended fund balances will be recaptured.

**BUDGET FOR AVAILABLE ALLOCATIONS** <sup>1</sup>

CATEGORIES	FUNDS
<sup>2</sup> ADMINISTRATION	\$
<sup>3</sup> Materials / Program Support / Labor	\$
<sup>4</sup> Health and Safety	\$
<b>SUB-TOTAL</b>	\$
<sup>5</sup> Training and Technical Assistance	\$
<b>TOTAL</b>	\$

**FOOTNOTES TO BUDGET FOR AVAILABLE ALLOCATIONS:**

<sup>1</sup> Denotes that the subrecipient must request in writing any adjustment needed to a budget category before TDHCA will make any adjustments to the budget categories. The only categories that can be reduced are the Administration and/or in the Health and Safety categories. Subrecipients are limited to two (2) requested budget revisions during the current Contract Term. **Only those written request(s) from the subrecipients received at least 45 days prior to the end of the Contract Term will be reviewed. TDHCA may decline to review written requests received during the final 45 days of the Contract Term..**

<sup>2</sup> Denotes maximum for administration based on 6.00% of total allowable expenditures.

<sup>3</sup> Expenses incurred under Roof Repair will come out of your Materials / Program Support / Labor budget.

<sup>4</sup> Denotes the maximum allowed for Health and Safety expenditures.

<sup>5</sup> Department approved training / travel only.



**PERFORMANCE**

Subrecipient's service area consists of the following Texas counties:

Subrecipient's service area consists of the following Texas counties:

Subrecipient shall provide weatherization program services sufficient to expend the Contract funds during the Contract term. WAP costs per unit, excluding health and safety expenses, shall not exceed **\$4,000.00** without prior written approval from the Department.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
CONTRACT NO. FOR THE 2012  
LIHEAP WEATHERIZATION ASSISTANCE PROGRAM (CFDA# 93.568)  
EXHIBIT B

CERTIFICATION REGARDING LOBBYING FOR  
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form -LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is material representation of fact on which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[REDACTED]

By: [REDACTED]

[REDACTED]

Title: [REDACTED]

Date: [REDACTED]



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
CONTRACT NO. FOR THE FY 2012  
LIHEAP WEATHERIZATION ASSISTANCE PROGRAM (CFDA # 93.568)  
EXHIBIT D

DOCUMENTATION OF DISABILITY

1. All WAP repairs, purchases and/or replacements of heating/cooling units are allowable only for eligible units for which a whole house assessment has been completed and either health and safety issues documented or an Energy Audit showing a Savings-to-Investment Ratio of 1 or greater for the repair, purchase and/or replacement has been completed. No other reason for repair, purchase and/or replacements, including medical reasons, shall be accepted. Under NO CIRCUMSTANCES should clients' medical information be collected or kept by Subrecipients.
2. Acceptable forms of Documentation of Disability include: Social Security or Supplemental Security Income Statement, and acceptable proof of disability shall be kept in the client's file to validate eligibility. In no instance should a medical professional's documentation of disability be considered acceptable proof of a disability.
3. Documentation of Disability must NOT include documentation from a medical professional such as a doctor's letter, but only other forms of documentation of disability such as Social Security or a Supplemental Security Income statement, and shall be kept in client's file to validate eligibility.

**Attachment G.**

**Notice of Public Hearing for FFY2013 LIHEAP Plan to be published in the  
June 29, 2012 Edition of the Texas Register**

**LIHEAP Household Report--Federal Fiscal Year 2011--Long Format**

Grantee Name:	Texas Department of Housing and Community Affairs	Contact Person:	Cate Taylor	Phone:	512-475-1435	Date:	12/15/2011
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The *LIHEAP Household Report--Long Format* is for use by the 50 States, District of Columbia, and the Commonwealth of Puerto Rico. This Federal Report provides data on both LIHEAP assisted and applicant households for Federal Fiscal Year (FFY) 2011, the period of October 1, 2010 - September 30, 2011. The Report consists of the following sections: (1) **LIHEAP Assisted Household Format** and (2) **LIHEAP Applicant Household Format**. Data on assisted households are included in the Department's annual *LIHEAP Report to Congress*. The data are also used in the measuring targeting performance under the Government Performance and Results Act of 1993. As the reported data are aggregated, the information in this report is not considered to be confidential.

There are two types of data: (1) **required** data which must be reported under the LIHEAP statute and (2) **requested** data which are optional, in response to House Report 103-483 and Senate Report 103-251. *LIHEAP Household Report--Long Format* (the Excel file name is *hhsrptst.xls*) and the instructions on completing the Report (the Word file name is *hhsrptins.doc*) can be downloaded in the Forms sections of the Community Services' LIHEAP web site at: [www.acf.hhs.gov/programs/ocs/liheap/grantees/forms.html#household\\_report](http://www.acf.hhs.gov/programs/ocs/liheap/grantees/forms.html#household_report). Do not include data for the column, "Number of assisted households," and the column, "Number of applicant households," as the totals will be calculated automatically for each type of LIHEAP assistance by a formula as the poverty level data are entered.

Do the data below include estimated figures? 

No	Yes
X	

 If "Yes," Mark "X" in the second column below for each type of assistance that has at least one estimated data

**1. LIHEAP ASSISTED HOUSEHOLD FORMAT**

Type of assistance	Mark "X" to indicate estimated data	Number of assisted households	REQUIRED DATA					At least one member who is				REQUESTED DATA	
			Percent of 2010 HHS Poverty Guidelines, based on gross income and household size					60 years or older	Disabled	Age 5 years or younger	Elderly, Disabled, or Young Child	At least one member who is	
			Under 75%	75%-100%	101%-125%	126%-150%	Over 150%					Age 2 years and younger	Age 3 years through 5 years
Heating		19,325	12,582	2,830	3,913	n/a	n/a	8,761	10,382	3,406	15,329	1,884	2,096
Cooling		107,054	70,018	16,145	20,891	n/a	n/a	51,440	57,018	16,398	68,671	8,894	10,617
Winter/year round crisis		83,220	56,654	11,081	15,485	n/a	n/a	18,082	24,214	24,030	43,775	13,546	16,156
Summer crisis		0											
Other crisis (specify)		0											
Weatherization		9,384	4,224	1,608	1,302	1,185	1,065	4,034	2,618	1,887	6,917	967	1,209
<b>Any type of LIHEAP assistance</b>		<b>133,454</b>						<b>51,266</b>	<b>59,831</b>	<b>27,038</b>	<b>119,394</b>		

**Notes:** Include any notes below for section 1 (indicate type of assistance and item being referred to) = not applicable

Heating assistance includes households that submitted applications prior to the reporting period and do not appear in "Applicant Households."  
 Cooling assistance includes households that submitted applications during "heating" months and received assistance under "Crisis."  
 All households served for Heating, Cooling, and Year Round Crisis that are at the 101%-125% and over 125% poverty levels are counted in the 101%-125% category.

**2. LIHEAP APPLICANT HOUSEHOLD FORMAT (regardless of whether households were assisted)**

Type of assistance	Mark "X" to indicate estimated data	Number of applicant households	REQUIRED DATA					Income data unavailable
			2010 HHS Poverty Guideline interval, based on gross income and household size					
			Under 75%	75%-100%	101%-125%	126%-150%	Over 150%	
Heating		18,408	11,878	2,892	1,876	952	810	0
Cooling		99,857	65,569	15,112	10,701	4,755	3,720	0
Winter/year round crisis		81,006	55,041	10,589	7,698	4,067	3,611	0
Summer crisis		0						
Other crisis (specify)		0						
Weatherization		14,159	3,946	1,621	1,236	1,086	1,019	2251

**Notes:** Include any notes below for section 2 (indicate type of assistance, and item the note is referencing):

Households may apply for more than one type of assistance and be eligible for another type of assistance without having to apply for that assistance. So, the number of applicant households by type may be less than the number of households assisted by type.

**Attachment 2. Note: FFY2011 Household report used for Draft Attachment. Guidance for FFY 2012 Household report is released in late July from HHS. Final FFY2013 LIHEAP Plan will include the FFY2012 Household report.**



OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

October 18, 2006

The Honorable Michael O. Leavitt  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Leavitt:

In accordance with the Texas Government Code, Sections 2306.092 and 2306.097, and the Low-Income Home Energy Assistance Program (42 U.S.C., Ch. 94, Section 8621 et seq.), I hereby designate the Texas Department of Housing and Community Affairs as the lead agency for administration of the Low-Income Home Energy Assistance Program (LIHEAP) in the state of Texas. The executive director of said department is authorized to make assurances of certification which may be required as part of the annual LIHEAP application process.

This delegation of authority shall remain in full force and effect until modified or rescinded by federal or state statute, or by the chief elected official of this state.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry".

Rick Perry  
Governor

Rp:aap

1h



**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action on Approval of the Award of a temporary Comprehensive Energy Assistance Program contract to Community Council of South Central Texas to provide services in Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties

**RECOMMENDED ACTION**

Approve the award of a temporary Comprehensive Energy Assistance Program (CEAP) contract to Community Council of South Central Texas to provide services in Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties.

**WHEREAS**, due to relinquishment of the CEAP contract by the Community Council of Southwest Texas, residents of Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties are not receiving services under the CEAP,

**RESOLVED**, that Community Council of South Central Texas, a Community Services Block Grant eligible entity, is temporarily awarded to administer the CEAP in Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties from this date until December 31, 2012, and hereby approved in the form presented to this meeting.

**BACKGROUND**

Due to significant financial difficulties affecting the entire nonprofit organization, the Community Council of Southwest Texas has relinquished all Community Affairs program contracts. The Department will release a Request for Applications to identify alternative providers to operate the CEAP in Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties. Until that time, the Department proposes a temporary contract to be administered by an existing CEAP provider from a bordering service area, Community Council of South Central Texas.

**1i**

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**June 14, 2012**

Presentation, Discussion, and Possible Action on Approval of Authorization to release a Request for Applications (RFA) for Maverick, Dimmit, LaSalle, Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties

**RECOMMENDED ACTION**

Approve the authorization to release a Request for Applications (RFA) for one or more service providers to administer the Comprehensive Energy Assistance Program (CEAP) and Community Services Block Grant (CSBG) in Maverick, Dimmit, LaSalle, Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties.

**WHEREAS**, due to relinquishment of all Community Affairs Division program contracts by the Community Council of Southwest Texas and unresolved program management issues at the Community Services Agency of South Texas, there is no permanent Comprehensive Energy Assistance Program (CEAP) and Community Services Block Grant (CSBG) service provider in Maverick, Dimmit, La Salle, Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties,

**RESOLVED**, that the Executive Director is authorized to release a Request for Applications and, should one or more additional providers be needed, make future commitments subject to subsequent board ratification of CSBG and CEAP funds to any qualified respondent(s) to the Request for Applications without specific prior Board approval and to authorize submission to appropriate federal entities of those selected respondents to obtain any required federal approvals, and with the condition that all commitments made are subsequently presented to the Board for ratification.

**BACKGROUND**

Due to significant financial difficulties affecting the entire nonprofit organization, the Community Council of Southwest Texas has relinquished all Community Affairs program contracts, leaving Edwards, Kinney, Real, Uvalde, Val Verde and Zavala counties without a permanent service provider for the CSBG and CEAP. Due to significant delays in the receipt of clear documentation from Community Services Agency of South Texas for their PY2010 programs, the Department did not release 2011 or 2012 contracts to Community Services Agency of South Texas. It is notable that at this time, Community Services Agency of South Texas does not have sufficient staff to operate the CSBG and the CEAP, leaving Maverick, Dimmit, and La Salle counties without a service provider for the CSBG and CEAP. Staff requests approval for the release of an RFA and subsequently for the Executive Director to be authorized to make a commitment to any qualified respondents to the extent needed; and to authorize submission to appropriate federal entities of the respondents to obtain any required federal approvals, and with the condition that all commitments made are subsequently presented to the Board for ratification.

1j

**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action on a reinstatement of request for ownership transfer of Port Arthur Townhomes, and Housing Tax Credit applications 12310, 12317 and 12318

**RECOMMENDED ACTION**

**WHEREAS**, Prairie Commons is a Housing Tax Credit property in Material Noncompliance and the owner of Prairie Commons is requesting participation in other transactions and those transactions have been terminated; and,

**WHEREAS** the Compliance Monitoring Rules have a procedure for reinstatement of applications terminated for Material Noncompliance if certain conditions are met; and,

**WHEREAS** staff has determined that the conditions for reinstatement have been met;

Now therefore it is hereby

**RESOLVED**, that in reliance upon staff's recommendation, the Board finds that the conditions for reinstatement have been met, and

**FURTHER RESOLVED**, that the ownership transfer request for Port Arthur Townhomes, and HTC Applications 12310, 12317 and 12318 are hereby reinstated.

**BACKGROUND**

Under the Housing Tax Credit program, each building is considered a "project" unless the owner makes a proper election on Part II of form 8609 to group buildings together. This election is made after the property is completed and the Department has issued 8609s. Certain rules under the program are applied on a "building" basis and others are applied on a "project" basis. In order to be eligible for any credit at all, a project must meet one of two minimum set aside requirements established in Internal Revenue Code §42; 20% of the units must be leased to households with incomes and rents below the 50% limits or 40% of the units must be leased to households with incomes and below the 60% limits. If a project does not meet one of these minimum set asides by the end of the first year of the credit period, the noncompliance cannot be corrected. State Housing Finance Agencies are to report to the IRS that the project is out of compliance and never expected to comply.

Prairie Commons received an allocation of Housing Tax Credits in 2002. The property consists of 72 units, 54 of which are low income. The owner elected the 40/60 minimum set

aside. Building 7 has 6 units. When the owner submitted their cost certification, they designated two of the units for low income households and four of the units for market rate households. This made the building 33% low income. Therefore, to meet the minimum set aside, they needed to make a multiple building election and group this building with other buildings which they did not and can not now correct.

During the July 2011 onsite monitoring review, this issue was identified. The owner was provided a 90-day corrective action period and requested an extension which was granted. The response confirms that the 8609 elections were improper and could not be corrected. Form 8823 has been sent to the IRS along with an explanation of the circumstances from the owner. Under the Department's noncompliance scoring methodology, the issue "*Failure to meet the minimum set aside*" is worth 20 points and "*Project is no longer in compliance and no longer participating in the program*" is worth 30 points. Therefore, this property is in Material noncompliance.

The owner of Prairie Commons has submitted three Housing Tax Credit applications in the 2012 round. In addition, the owner is the proposed replacement general partner for an existing housing tax credit property. These transactions have been terminated because of the compliance issues with Prairie Commons.

In the event that a property's score exceeds the threshold for Material Noncompliance and there are mitigating circumstances, the Compliance Monitoring Rules provide the ability for the Board to reinstate a terminated application provided the following criteria are met:

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

Staff believes that suspension of the previous participation review under 10 TAC 60.128 would be appropriate under these circumstances. Prairie Commons is a generally compliant property, and therefore provides compliant low income housing in Dallas, serving the best interests of the Department and the State. There are no other uncorrected issues of noncompliance; the property scored a 90 on the UPCS inspection conducted in November of 2011; and during the July 2011 file review there were no other issues of noncompliance noted. There is no indication of any undue increased program or financial risk to the Department or State at this time. The applicant is not acting in bad faith, as an incorrect election was made on form 8609 and the consequences of that are between the taxpayer and the IRS. Finally, the applicant has provided an appropriate explanation concerning the error, thereby taking reasonable measures to remedy the cause for termination.

Note that reinstatement merely makes the owner's 2012 applications eligible to be considered by staff and does not, in and of itself, constitute approval.

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**BOARD ACTION REQUEST**  
**HOUSING RESOURCE CENTER**  
**June 14, 2012**

Presentation, Discussion, and Possible Action on a Request for Proposals (RFP) for a Comprehensive Analysis of Service-Enriched Housing Financing Practices

**Recommended Action**

Authorize staff to issue a Request for Proposals for a Comprehensive Analysis of Service-Enriched Housing Financing Practices

WHEREAS, the Department has been provided appropriations for the 2012-2013 biennium to support activities of the Texas Housing & Health Services Coordination Council (the Council); and,

WHEREAS, the Council has been statutorily directed (§2306.1096) to develop policies to coordinate and increase state efforts to offer service-enriched housing and identify barriers preventing or slowing service-enriched housing efforts;

RESOLVED, that the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to proceed to prepare and publish a Request for Proposals for a Vendor to conduct a Comprehensive Analysis of Service-Enriched Housing Financing Practices and to negotiate and approve a contract with one or more parties making compliant proposals and select for award under the RFP criteria.

**Background**

The Department, on behalf of the Texas Housing & Health Services Coordination Council (the Council), is requesting to procure a qualified Vendor to conduct a comprehensive study of nationwide best practices in service-enriched housing financing and development, produce recommended actions for providing service-enriched housing in Texas, and develop and present training materials to assist in financing and developing service-enriched housing for extremely low income persons of all ages with disabilities. The Texas Housing & Health Services Coordination Council will use this report to coordinate and increase state efforts to offer service-enriched housing in Texas.

Elements of the analysis will:

- Research best practices regarding service-enriched housing projects subsidized by other states;
- Identify barriers preventing or slowing service-enriched housing efforts, including barriers attributable to regulatory requirements, administrative limitations, limitations of funding, and limited coordination;
- Identify sources of funding for integrated housing and health services;
- Determine the requirements and application guidelines to obtain those funds;



- Identify those practices subsidized by other states that do not clearly comply with existing IRS Rules and Regulations;
- Provide information regarding effective collaboration methods and the use of layered financing to provide and finance service-enriched housing;
- Provide training about local, state, and federal funding sources and the requirements for those sources; and
- Provide training materials that assist in the development and financing of service-enriched housing.

In the Department's appropriations for the 2012-2013 biennium, the Legislature appropriated \$265,000 in funding for activities to support the Council, of which a portion will be used as the funding source for this study. An announcement of the proposed RFP for a comprehensive analysis of nationwide best practices in service-enriched housing financing and development will be posted on the TDHCA website and in the *Texas Register*.

Staff recommends approval of the RFP as proposed for the comprehensive analysis of nationwide best practices in service-enriched housing financing and development and authorization of the Executive Director or his designee to negotiate and approve a contract for services in accordance with the RFP.

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action regarding approval for publication in the *Texas Register* the 2012-1 HOME Multifamily Development Program Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Department has executed the FY 2012 Grant Agreement with the U.S. Department of Housing and Urban Development (HUD), which provides access to 2012 HOME Investment Partnership Program funds;

**WHEREAS**, staff has identified a total of \$37,220,274 in HOME funds, including \$9,471,008 in FY 2012 funding, that is available to be programmed for the HOME Multifamily Development Program;

**WHEREAS**, staff proposes these funds be made available for award to multifamily applications under a 2012-1 HOME Multifamily Development Program Notice of Funding Availability (NOFA); and

**WHEREAS**, staff proposes the transfer of all pending applications, requesting a total of \$63,578,361, from the 2011 NOFA to the proposed 2012 NOFA;

Now therefore,

**RESOLVED**, the 2012-1 HOME Multifamily Development Program NOFA is hereby approved, in the form presented to this meeting, for publication in the *Texas Register*; **PROVIDED**, however, that staff may make non-substantive technical corrections as deemed necessary.

**BACKGROUND**

The 2011 HOME Multifamily Development Program NOFA closed on April 30, 2012. The response to the NOFA was overwhelming with an oversubscription of more than 5 to 1 in the General Set-Aside and 3 to 1 in the set-aside for Persons with Disabilities. A total of 92 applications were received. The current status of the NOFA is reflected in the following chart.

Set-Aside	Original Funding Level	Awarded	Remaining Balance	Applications Pending
General	\$10,500,000	\$8,943,033	\$2,556,967	\$57,364,123
CHDO	\$10,000,000	\$450,000	\$9,550,000	\$2,164,371
Persons with Disabilities	\$1,538,066	\$600,000	\$938,066	\$4,049,867

The vast majority of the pending applications are layered with requests for 9% housing tax credits. While many of these applications may ultimately not proceed because they are not competitive in the tax credit cycle, staff's assessment is that significant additional funding would be necessary to fund all of those applications that are likely to receive tax credit awards in July.

Staff has completed a full assessment of the HOME fund balances and determined that the remaining balances in the 2011 NOFA can be combined with FY2012 HOME funds and other deobligated and available funds in a new 2012 NOFA. In order to fund those applications that remain pending under the 2011 NOFA staff recommends transferring all active applications that applied under the 2011 NOFA to the proposed 2012 HOME MFD NOFA. The funding levels proposed for the 2012 NOFA are as follows:

Set-Aside	Transferred from 2011 NOFA	2012 funding	Transferred from Reservation System	Programmed from Available Balance of Funds	Total Funding
General	\$2,556,967	\$9,471,008	\$5,000,000	9,704,224	\$26,732,208
CHDO	\$9,550,000	\$0	\$0	\$0	\$9,550,000
Persons with Disabilities	\$938,066	\$0	\$0	\$0	\$938,066
Total	\$13,045,033	\$9,471,008	\$5,000,000	\$9,704,224	\$37,220,274

No additional funding is proposed for the CHDO Set-Aside at this time due to a current under subscription. Additionally, while oversubscribed, staff expects that several of the pending applications under the set-aside for Persons with Disabilities will ultimately not move forward because they are not expected to be competitive in the tax credit cycle.

The 2012 funding level reflected in the above chart has already been approved as part of the Department's annual plan. Staff is proposing that \$5,000,000 in funding be transferred from the current single family reservation system; however, the reservation system will be replenished with 2012 funds. This action is also on today's agenda. The remaining \$9,704,224 in funds proposed for the General Set-Aside would come from the Department's balance of funding available for programming, which includes a large amount of funds deobligated from completed or nonperforming contracts. Programming these funds for multifamily activities is expected to significantly speed the commitment and expenditure of these funds due to the imminent approval of tax credit awards and soon to be "shovel-ready" transactions currently under consideration.

Staff is also proposing several changes to the 2012 NOFA from the prior NOFA. Due to the under subscription in CHDO funding, staff is proposing to increase the maximum award amount from \$2,000,000 to \$3,000,000. The Department has received several requests, including public comment at the previous Board meeting, to increase the maximum award amount as proposed in order to facilitate activity in the 4% housing tax credit and tax exempt bond programs. Due to market conditions, low applicable percentages, and limited possibilities for the 130% boost, bond transactions have had difficulty finding second lien sources to fill gaps in financing. Staff expects the increase in award amount to stimulate some additional bond activity.

Staff has also added provisions to implement new rules applicable to FY 2012 funds and allow staff to proactively manage new reporting requirements. In general, these new restrictions are intended to enable HUD to more closely monitor the timely expenditure of funds and ensure financially viable developments.



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
HOME INVESTMENT PARTNERSHIPS PROGRAM**

**MULTIFAMILY DEVELOPMENT PROGRAM  
2012-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**

- 1) **Summary.** The Texas Department of Housing and Community Affairs (“the Department”) announces the availability of up to \$37,220,274 in funding from the HOME Investment Partnerships Program for the development of affordable multifamily rental housing for low-income Texans. The availability and use of these funds is subject to the State HOME Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 53 (“HOME Rules”) in effect at the time Application is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306 of the Texas Government Code. Other Federal regulations may also apply such as, but not limited to, 24 CFR Parts 50 and 58 for environmental requirements, Davis-Bacon Act for labor standards, 24 CFR §§85.36 and 84.42 for conflict of interest and 24 CFR Part 5, Subpart A for fair housing. HUD-funded assistance connected to construction, rehab, demolition, or other public construction must comply with Section 3, a HUD requirement (24 CFR 135): HUD funds invested in housing and community development activities include among their purposes to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to Section 3 residents and Section 3 business concerns. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.
- 2) **Allocation of HOME Funds.**
  - a) These funds are made available through the Department’s allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD). These HOME funds have been programmed for Multifamily Development activities involving acquisition or refinance and new construction or acquisition or refinance and rehabilitation of affordable housing. The funds made available under this NOFA are subject to the following set-asides.
    - i) **CHDO Set-Aside.** Approximately \$9,550,000 in funds are set-aside to eligible Community Housing Development Organizations (CHDOs) meeting the requirements of 10 TAC §53.90 and this NOFA. Funds under the CHDO Set-Aside are subject to the Regional Allocation Formula (RAF).
    - ii) **Persons with Disabilities Set-Aside.** Approximately \$938,066 in funds are set-aside to fund Applications proposing all of their HOME units to be restricted for persons with disabilities and are subject to the Department’s Integrated Housing Rule at 10

TAC §1.15. Funds requested and awarded under this set-aside may be located in any area of the state including within other Participating Jurisdictions. Funds under the Persons with Disabilities Set-Aside are not subject to the Regional Allocation Formula (RAF).

iii) **General Set-Aside.** Approximately \$26,732,208 in funds shall be available to all other Applications proposing Multifamily Development that meet the requirements of this NOFA, the HOME Program Rule, and the Federal HOME regulations. Of the funds available under the General Set-Aside, \$9,471,008 is made available from the 2012 allocation, \$5,000,000 reprogrammed from other activities, \$2,556,976 remaining from the 2011 MFD NOFA, and \$9,704,224 in funds from the Department's balance of funds available for programming. Funds under the General Set-Aside are subject to the Regional Allocation Formula (RAF). An Applicant may have only one active Application per Development at a time and may only apply under one set-aside at a time. Additionally, the following processes will be followed for the review and award of Applications:

- (1) Once all funds from the CHDO Set-Aside have been awarded, all pending Applications remaining in this set-aside will be considered for funds under the General Set-Aside;
- (2) Once all funds from the Persons with Disabilities Set-Aside have been awarded, pending Applications under this set-aside must reapply to be considered under the General or other set-asides due to the different statutory and program requirements for these funds; and
- (3) The Department may require completion of the CHDO Certification process for Applications that originally applied under the CHDO Set-Aside but receiving funds from the General Set-Aside in order to meet the Department's future obligations to award funds for CHDO activities.

iv) **Transfer of Active Applications.** Applications that remain active under the 2011 HOME MFD NOFA are eligible to receive funds under this NOFA without an additional application or election from an applicant. Each transferred application must continue to meet the applicable rules and requirements of this NOFA and the rules under which their Application was submitted.

b) This NOFA will be conducted as an open Application cycle and funding will be available on a first-come, first-served basis with transferred applications (referenced in section (2)(a)(iv)) maintaining their received date priority. Applications for funds under the CHDO or General Set-Asides are subject to the Regional Allocation Formula (RAF). Should any funds remain after awarding all eligible applications under the RAF, the funds will collapse statewide and become available to award to all other eligible applications regardless of region. The RAF tables for each set-aside can be accessed at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us). Funds under the Persons with Disabilities Set-Aside are not subject to regional allocation.

c) Based on the availability of funds, Applications for the statewide open Application cycle will be accepted until 5:00 p.m. September 30, 2012. Project funds awards are limited as follows:

- i) Up to \$2,000,000 per Application under the General Set-Aside;
  - ii) Up to \$3,000,000 per Application under the CHDO Set-Aside; and
  - iii) Up to \$500,000 per Application under the Persons with Disabilities set-aside.
- d) Each CHDO that is awarded HOME funds may also be eligible to receive a grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies.
- e) Developments involving rehabilitation must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least \$15,000 per unit in direct hard costs, unless the property is also being financed by the United States Department of Agriculture's Rural Development program.
- 3) Eligible and Prohibited Activities.**
- a) Prohibited activities include those at 24 CFR §92.214 and 10 TAC Chapter 53.
  - b) Multifamily Development funds will not be eligible for use in a Participating Jurisdiction (PJ) except for Applications receiving funds under the Persons with Disabilities Set-Aside.
  - c) All applications awarded under this NOFA must comply with the funding restrictions and requirements associated with Public Law 112-55 and clarified in CPD Notice 12-007 regardless of the actual fiscal year from which the funding for an activity is committed or drawn. Additionally, applicants must cooperate in any strategic planning efforts to coordinate loan closing, draws, and construction completion to comply with the requirements and HUD guidance received by the Department. The Division Director may, upon review, allow exceptions if it is determined that a transaction has no FY 2012 funding, that the exception will not adversely impact the Department's ability to commit and disburse funds, and that such an exception would not violate any other program rules.
- 4) Site and Development Restrictions.** In addition to the requirements in 10 TAC Chapters 53 and 60, Developments must meet the requirements at 10 TAC §50.5 of the Qualified Allocation Plan and Rules, as applicable.
- 5) Public Notification Requirements.** Applicants must request at least fourteen (14) days prior to submission of an Application and submit with the Application a list of Neighborhood Organizations on record with the county and state in accordance with 10 TAC §50.9(h)(8)(A)(i). The Department shall publicly notify all individuals and entities required by §2306.1114 of Texas Government Code.
- 6) Application and Threshold Criteria.** An Application must be compliant with the Threshold requirements in 10 TAC §§53.24 and 53.80 and the Threshold Criteria listed in this section at the time of Application submission unless specifically indicated otherwise. In addition, an



Application must be consistent with the Program and Administrative requirements in 10 TAC Chapter 53.

- a) **Affirmative Marketing.** Documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act and the Department's Compliance Rules at 10 TAC §60.114(d). Applicants will be required to use HUD form 935.2a to meet these requirements.
  - b) **Application Certifications.** All Applicants will be required to certify to compliance with the following:
    - i) Davis-Bacon Act (24 CFR §92.354);
    - ii) Environmental standards (24 CFR Parts 50 & 58);
    - iii) Uniform Relocation Act (49 CFR Part 24);
    - iv) Section 3 of the Housing and Urban Development Act of 1968 (CFR §135);
    - v) Lead Safe Housing Rule (24 CFR Part 35);
    - vi) Other certifications may be required as specifically stated in the ASPM current at the time of Application; and
    - vii) Audit Certification. An Applicant is not eligible to apply for funds or any other assistance from the Department unless audits are current at the time of Application or the Audit Certification Form has been submitted to the Department in a satisfactory format on or before the Application deadline for funds or other assistance per 10 TAC §1.3(b).
  - c) **CHDO Certification.** Requirements under this subsection must only be met for Applications considered for an award of funds from the CHDO Set-Aside. CHDO Certification will be awarded in accordance with the rules and procedures as set forth by 10 TAC §53.90, Community Housing Development Organization (CHDO) Certification.
    - i) CHDO Certification Applications must be submitted with each application for Multifamily Development funds.
    - ii) CHDO Certification Applications must meet the requirements of 10 TAC §53.90 at the time of Application submission.
- 7) **Tie Breaker Factors.** In the event that two or more Applications receive the same priority based upon the provisions of §10 of this NOFA in any given Set-Aside category and are both practicable and economically feasible, the Department will utilize the factors in this section, in the order they are presented, to determine which Development will receive a preference in consideration for an awarded of funds.
- a) Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction or Adaptive Reuse.
  - b) The Application with the least amount of HOME funds per HOME restricted unit will win this second tier tie breaker.

- c) Developments layered with 4% Bonds under the CHDO set-aside will be given priority over developments utilizing only HOME funds.

## 8) Application Submission

- a) All Applications submitted under this NOFA must be received on or before **5:00 p.m. September 30, 2012**. The Department will accept Applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published in the Texas Register until the deadline date. For questions regarding this NOFA, please contact Eileen Manes, Multifamily Loan Programs Manager, at eileen.manes@tdhca.state.tx.us.
- b) If an Application is submitted to the Department that requests funds from two separate housing finance programs, the Application will be handled in accordance with the guidelines for each housing program. The Applicant is responsible for adhering to the deadlines and requirements of both programs. Applicants layered with tax-exempt bonds must have submitted an application to the Bond Review Board prior to submitting an application for HOME funds.
- c) All Applications must be submitted, and provide all documentation, as described in this NOFA and associated Application materials.
- d) Applicants must submit the Application materials as detailed in the ASPM in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the ASPM in effect at the time the Application is submitted.
- e) The Application consists of several parts as described in the ASPM. A complete Application for each proposed development must be submitted in an electronic PDF format on a recordable compact disc (CD-R). Incomplete Applications or improperly compiled Applications will not be accepted. Applicants must submit the Application materials as detailed in the ASPM in effect at the time the Application is submitted.
- f) Third Party Reports. Applications that have not submitted third party reports due to a later deadline under the housing tax credit program may be held as incomplete Applications until the housing tax credit deadline for submission of third party reports. Such Applications will not be considered complete Applications and shall not be assigned a "Received Date" until the third party reports are received.
- g) If a Development has an existing Housing Tax Credit allocation or HOME contract with the Department and construction on the development has not begun, an abbreviated Application for a HOME award or for an increase in the existing HOME award can be submitted under this NOFA. If additional funds are sought, such an Application may also request that the terms for the additional HOME funds also apply for the funds in an existing HOME Contract. The entire amount of HOME funds received from the Department may not exceed the maximum award per development as reflected in this NOFA for the respective set-aside. An Application qualifying for the abbreviated

Application process may be considered by staff to have already met the threshold requirements in §§(8) and (9)(a) of this NOFA without additional review unless staff determines additional documentation is required in accordance with §(13)(h) of this NOFA.

- h) The requirements of the abbreviated Application will be reflected in the Application Submission Procedures Manual (ASPM). In addition to the Application requirements in the ASPM, staff may use discretion to determine if additional information that is typically required in the full Application (including third party reports) is necessary or prudent in order to review for compliance with state or federal rules or due to changes in the market since last reviewed by the Department. Full Application and an amendment may be required for any Application that includes changes to the previous Board approved Application beyond those that are directly related to the development costs, financing structure or additional HOME program related requirements or that affect an existing allocation of Housing Tax Credits.
- i) All Application materials including manuals, NOFAs, program guidelines, and all applicable HOME rules, will be available on the Department's website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us). Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.
- j) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$500.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Section 2306.147(b) of the Texas Government Code requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. An Application fee is not required for Applications submitted pursuant to §(13)(g) of this NOFA and that have an existing HOME Contract with the Department. The Application fee is not a reimbursable cost under the HOME Program.
- k) This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.
- l) Applications must be sent via overnight delivery, or delivered by hand to:

**HOME Program Division**  
**Texas Department of Housing and Community Affairs**  
**Attn: Misael Arroyo**  
**221 East 11th Street**

**Austin, TX 78701-2410**

or via the U.S. Postal Service to:

**HOME Program Division  
Texas Department of Housing and Community Affairs  
Attn: Misael Arroyo  
Post Office Box 13941  
Austin, TX 78711-3941**

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action regarding approval of Qualified Investment Banking Firms to provide Underwriting or Remarketing Agent Services for Multifamily Bond Transactions.

**Recommended Action**

**WHEREAS**, the Department maintains a list of approved underwriters for its multifamily bond transactions; and

**WHEREAS**, each underwriter must respond to the Department's Request for Qualifications to be approved and included on such list;

**WHEREAS**, each firm must submit to the Department its qualifications every two years in order to remain on the list; and

**WHEREAS**, a request was received on April 10, 2012, from RBC Capital Markets, LLC; therefore,

It is hereby,

**RESOLVED**, that RBC Capital Markets, LLC be added to the Department's approved list of multifamily bond transaction underwriters for a period of two years, such approval to be put into effect by an agreement acceptable to the Department's counsel.

**Background**

The Department has an open Request for Qualifications (RFQ) to solicit qualified underwriters for multifamily bond issues by the Department. The underwriters are approved on a two year basis. Under the multifamily bond program, an applicant selects an underwriter from an approved list published by the Department. The underwriter will develop the financial structure (i.e., fixed rate or variable, bond maturities, etc.), prepare cash flows, and sell the bonds. If the transaction is privately placed, a placement agent will negotiate the sale to private investors.

After reviewing the qualifications of RBC Capital Markets, LLC, the Department staff recommends that the investment banking firm be added to the Multifamily Bond Approved Underwriters List. Having served as bond underwriter to many local housing issuers in Texas, combined with their staffing presence in Texas and strong experience in municipal finance, staff believes they have the requisite level of experience required to effectively structure a variety of bond transactions should an applicant desire to work with RBC.

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**June 14, 2012**

Presentation, Discussion, and Possible Action regarding approval for publication in the *Texas Register* Notice of Revisions to the NSP1-PI Notice of Funding Availability.

**Recommended Action**

**WHEREAS**, the Board approved the publication of a Notice of Funding Availability (NOFA) for Neighborhood Stabilization Program 1 – Program Income (NSP1-PI) funds on January 20, 2011; and

**WHEREAS**, the NOFA contemplated a Reservation System that did not distinguish between Single Family NSP Development and Multifamily NSP Development in relation to the application and award process; and

**WHEREAS**, although several Sub-Recipients (Single Family) and Developers (Multifamily) have applied to become Reservation System Participants, neither have been given the opportunity to enter into an agreement with the Department allowing access to the Reservation System;

**WHEREAS**, three complete applications have been received from Multifamily Developers requesting more than the maximum amount of funds the Department reasonably expects to award and the timeline for the expenditure of all NSP1 funds is March 2013;

It is hereby,

**RESOLVED**, that the Board grant staff the authority to publish a Notice of Revisions to the NSP1-PI NOFA in the *Texas Register*, to amend and or modify the outstanding NOFA to incorporate clarifying language regarding the application and award process and to report Department approved Multifamily Reservation Participants to the Board rather than seeking Board approval of each individual applicant.

**Background**

The NSP1-PI NOFA, as approved on January 20, 2011, will utilize both NSP1 funds remaining to be allocated and Program Income funds received by the Department to date. Every dollar of the original NSP1 grant amount needs to be spent before TDHCA can utilize Program Income, primarily due to the tight expenditure deadline of March 3, 2013, attached to the NSP1 funds (but not the PI funds).

Although the Board has approved Reservation System Participants contemplating both single family and multifamily activities, no entities indicating interest in single family activities (who



do not also currently have funds remaining in an existing contract) have expressed further interest in pursuing a transaction. While this is difficult to fully measure, as the Reservation System has not been activated and no Participants have been given the authority to reserve funds through a Reservation System Agreement, Staff believes that both the interest in, and ability to expend funds quickly, comes from the entities proposing Multifamily Development activities.

In respect to applications for multifamily activities, two complete applications have been submitted for a total of roughly \$12.3M and remain active, and a third complete application for \$1M was submitted but may not be feasible. Finally, two incomplete applications totaling \$13.6M have been submitted, with final applications anticipated to be submitted by mid-June.

The current NOFA requires the following:

*After approval by the TDHCA Governing Board, applicants may reserve funds for activities using an online reservation system. Once an applicant is eligible, they will retain their eligibility through February, 2013, unless the applicant has an event described herein that causes them to lose their eligibility.*

Due to the brief amount of time still available to underwrite developments, make awards and enter into loans with participants, Staff is requesting that multifamily developments be excluded from the requirement to reserve funds utilizing the online reservation system. By making awards to eligible applicants in an amount that Real Estate Analysis believes to be the most accurate award amount, we can avoid Participants reserving more funds than the specific deal requires and can expeditiously award the greatest amount of funds possible. Approval of this agenda item will allow Staff to change all necessary components of the NOFA to allow awards to be made outside of the Reservation System for multifamily developments. A Notice of Revisions will be run in the *Texas Register* following approval of this item to alert applicants and potential applicants of the change to the NOFA.

Department Staff acknowledges that any multifamily transactions funded outside of the Reservation System would delay the award of funds for entities contemplating the use of NSP1-PI funds for single family activities. The March 2013 Federal expenditure deadline necessitates the use of a system which will allow for the most rapid award of funds, and the use of the Reservation System for multifamily awards is not the best process to meet these needs at this time. Additionally, the amount of funds needed for a multifamily award far outweigh the typical amount of funds necessary to award a single family activity; these activities truly are best funded from the amounts of Program Income the Department anticipates receiving each month, following the award of all of the original NSP1 grant funds to multifamily transactions.

Any applicants that are interested in obtaining NSP1-PI funds for single family activities would still maintain eligibility to do so under the Reservation System once they have entered into an agreement with the Department, and would potentially be funded with Program Income as these funds continue to grow, rather than with the remaining NSP1 funds.

In addition to the above, Staff requests that the Board allow Department approved Multifamily Reservation Participants to be reported to the Board, rather than approved by the Board, in order to ensure the ability to rapidly award funds to applicants despite the timing of Board meetings.

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## **BOARD ACTION REQUEST**

### **COMMUNITY AFFAIRS**

**June 14, 2012**

Presentation, Discussion, and Possible Action to publish in the *Texas Register* proposed amendments to 10 TAC Chapter 5, Subchapter A, General Provisions §§5.4, 5.8, 5.10, 5.13, 5.15 - 5.17, 5.19, and 5.20, concerning references to the Emergency Solutions Grants (ESG) and the Homeless Housing and Services Program (HHSP); the repeals of §5.2 concerning Cost Principals and Administrative Costs, and §5.3 concerning Definitions; and new §5.2 concerning Definitions and §5.3 Cost Principals and Administrative Costs.

### **RECOMMENDED ACTION**

**RESOLVED**, that the proposed amendments to 10 TAC Chapter 5, Subchapter A, General Provisions §§5.4, 5.8, 5.10, 5.13, 5.15 - 5.17, 5.19, and 5.20, concerning references to the Emergency Solutions Grants (ESG) and the Homeless Housing and Services Program (HHSP); the repeals of §5.2 concerning Cost Principals and Administrative Costs, and §5.3 concerning Definitions; and new §5.2 concerning Definitions and §5.3 Cost Principals and Administrative Costs, are hereby ordered and approved, together with the preambles presented to this meeting, for publication and public comment in the *Texas Register* on June 29, 2012.

**FURTHER RESOLVED**, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed revisions to 10 TAC Chapter 5, Subchapter A, General Provisions, in the form presented to this meeting, to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

### **BACKGROUND**

These revisions to the General Provisions rule, add references to the Emergency Solutions Grants Program, a new program to be funded through the U.S. Department of Housing and Urban Development Homeless Housing and Services Program (HHSP) and remove any reference to Homelessness Prevention Rapid Re-Housing Program (HPRP), an American Recovery and Reinvestment Act program, which will be closed out in the next 60 days. In addition, current §§5.2 and 5.3 are repealed and filed as new rules in order to renumber those sections.

This revision also adds definitions for the Emergency Shelter Grants Program, the Emergency Solutions Grants Program (ESG), revises the definition for homeless, adds the income eligibility requirements for ESG and HHSP, revises the federal poverty levels for the Department of Energy Weatherization Assistance Program (WAP), based on updated LIHEAP program

guidance from the U.S. Department of Health and Human Services, and LIHEAP WAP and the Comprehensive Energy Assistance Program. The revision also removes the audit threshold of \$500,000 and states that the requirements to adhere to the threshold requirements of Office of Management and Budget Circular A-133, adds definitions for OMB Circulars, specifies the cost principles and administrative requirements applicable to programs, adds request for qualification, revised the declaration of income statement documentation term to read income documentation, and also adds a definition for U.S. Department of Housing and Urban Development and U.S. Department of Health and Human Services.

Comments regarding the proposals will be accepted in writing and by email for 30 days after the public is notified of the release of the proposed rules on June 29, 2012.

**Attachment 1 – Proposed Preamble, Rule Amendments to §§5.4, 5.8, 5.10, 5.13, 5.15 - 5.17, 5.19, and 5.20, concerning references to the Emergency Solutions Grants (ESG) and the Homeless Housing and Services Program (HHSP)**

The Texas Department of Housing and Community Affairs (the “Department”) proposes amendments to 10 TAC Chapter 5, Subchapter A, General Provisions §§5.8, 5.10, 5.12, 5.13, 5.16, 5.17, and 5.20, concerning references to the Emergency Solutions Grants (ESG) and the Homeless Housing and Services Program (HHSP). The purpose of the proposed amendments is to: add references to the Emergency Solutions Grants Program, a new program to be funded through the U.S. Department of Housing and Urban Development Homeless Housing and Services Program (HHSP); to remove any reference to Homelessness Prevention Rapid Re-Housing Program (HPRP), an American Recovery and Reinvestment Act program, which will be closed out in the next 60 days; add definitions for the Emergency Shelter Grants Program, the Emergency Solutions Grants Program (ESG), revises the definition for homeless, adds the income eligibility requirements for ESG and HHSP, revises the federal poverty levels for the Department of Energy Weatherization Assistance Program (WAP), based on updated LIHEAP program guidance from the U.S. Department of Health and Human Services, and LIHEAP WAP and the Comprehensive Energy Assistance Program; and removes the audit threshold of \$500,000 and states that the requirements to adhere to the threshold requirements of Office of Management and Budget Circular A-133, adds definitions for OMB Circulars, specifies the cost principles and administrative requirements applicable to programs, adds request for qualification, revised the declaration of income statement documentation term to read income documentation, and also adds a definition for U.S. Department of Housing and Urban Development and U.S. Department of Health and Human Services.

**FISCAL NOTE.** Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the proposed amendments will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amended sections, and there will be no effect on local employment or local economy as result of the proposal.

**PUBLIC BENEFIT/COST NOTE.** Mr. Irvine also has determined that, for each year of the first five years the proposed amendments will be in effect, the public benefit anticipated as a result of the amended sections will be that assistance to eligible municipalities will enable them to provide facilities and/or services to address the issues presented by homelessness, thereby improving lives and strengthening communities. There will be no economic cost to any individuals as a result of the proposed amended sections.

**ECONOMIC IMPACT STATEMENT AND IMPACT ON SMALL AND MICRO BUSINESSES.** The proposed amendments will have no negative effect on small businesses or persons; no anticipated economic cost to persons who are required to comply with the amended section(s); will not negatively impact local employment; will not have an adverse economic affect on small businesses or micro-businesses; and will not negatively impact the local economy.

**REQUEST FOR PUBLIC COMMENT.** The public comment period will be held June 29 to July 30, 2012 to receive input on the proposed amendments. Written comments may be submitted by

mail to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: tdhcarulecomments@tdhca.state.tx.us; or by fax to (512) 475-3539. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. JULY 30, 2012.

**STATUTORY AUTHORITY.** The amended sections are proposed pursuant to the authority of Chapter 2306 of the Texas Government Code, which provides the Department with the authority to adopt rules governing the administration of the Department and its programs, including specifically §§2306.2585, 2306.053, 2306.092, 2306.094, 2306.097 which authorize the Department to adopt rules to govern the administration of the CEAP, ESG, HHSP, and LIHEAP WAP.

**CROSS REFERENCE TO STATUTE.** The amendments are proposed to implement the CEAP, ESG, HHSP, LIHEAP WAP as established by Texas Government Code §§2306.2585, 2306.053, 2306.092, 2306.094, 2306.097. To the extent that funding sources other than unrestricted funds are utilized, such as housing trust fund balances, any ESG or HHSP activities conducted with such funds may be subject to additional restrictions. The proposed amended sections affect no other code, article, or statute.

#### **§5.4. Prohibitions.**

(a) Pursuant to the Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations," specifically §25 titled "Lobbying," costs associated with lobbying are unallowable.

(b) Section 678(F)(b)(2) of the CSBG Act prohibits the use of program funds for political activity, voter registration activity or voter registration. The Hatch Act, 5 U.S.C., Chapter 15 and the amendments to the Hatch Act and the repeal of §675(e) and §675(C)(6) of the Community Services Block Grant (CSBG) Act do not affect the prohibition of §678(F)(b)(2).

(c) Knowingly hiring an undocumented worker is prohibited, 8 U.S.C. §1324a.

(d) Discrimination is prohibited.

(1) Civil Rights Act of 1964, (42 U.S.C. §§2000, et seq.) Age Discrimination Act of 1975 (42 U.S.C. §§6101, et seq.). Rehabilitation Act of 1973 (29 U.S.C. §794), and Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§12131, et seq.) shall apply to all programs or activities administered by Subrecipients [subrecipients] including the nondiscrimination provisions of the CSBG (42 U.S.C. §§9901, et seq.).

(2) All Subrecipients [subrecipients] receiving federal funds must be equal opportunity employers and render services without regard to race, color, religion, sex, familial status, national origin, age, disability [handicap], political affiliation or belief. Information on equal opportunity and nondiscrimination shall be made available to participants, employees, subcontractors, and interested parties.

#### **§5.8. Inventory Report.**

(a) The Department requires the submission of an inventory report on an annual basis to be submitted to the Department, no later than sixty (60) days after the original end date of the contract.

(b) Vehicles, tools, and equipment purchased with funds under a contract with the Department, must be inventoried and reported to the Department during the contract period.

(c) The inventory report is cumulative and is used for vehicles, tools, and equipment with a useful life of one year or more and a unit acquisition cost of greater than \$5,000 for CSBG, CEAP, and WAP [Community Services Block Grant (CSBG), Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP)] and greater than \$500 for ESG, ESGP, and HHSP [Emergency Shelter Grant Program (ESGP)]. Property must be inventoried and reported on the Cumulative Inventory Report form. The form and instructions are found on the Department's website.

#### **§5.10. Procurement Standards.**

(a) In addition to the requirements described in §5.3 if this chapter (relating to Cost Principles and Administrative Requirements), entities must follow the requirements in [Procurement procedures must meet minimum guidelines, according to Office of Management and Budget (OMB) Circulars A-87, A-102, A-110, A-122 (as applicable), the Uniform Grant Management Common Rule, ] Texas Government Code, Chapter 783[, and 10 CFR Part 600 (Financial Assistance Rule)].

[(b) All subrecipients including non-profits must comply with all of the referenced statutes and regulations listed in subsection (a) of this section. In case of any conflict between the OMB Circulars or federal laws and state laws involving federal funds, the federal law or OMB Circulars will prevail.]

(b) [(c)] Additional Department requirements are:

(1) Small purchase procedures:

(A) This procedure may be used only on those services, supplies, or equipment costing in the aggregate of \$25,000 or less. For Emergency Shelter Grant Program (ESGP), ESG, and the HHSP, the threshold is \$500 and more per unit;

(B) Subrecipient must establish a clear, accurate description of the specifications for the technical requirements of the material, equipment, or services to be procured; and

(C) Subrecipient must obtain a written price or documented rate quotation from an adequate number of qualified sources. An adequate number is, at a minimum, three different sources.

(2) Sealed bids:

(A) Subrecipient must formally advertise, for a minimum of three (3) days, in newspapers or through notices posted in public buildings throughout the service area. Advertising beyond the Subrecipient's service area is allowable and recommended by the Department. The advertisement should include, at a minimum, a response time of fourteen (14) days prior to the closing date of the bid request. Cities and counties must comply with the statutorily imposed publication requirements in addition to those requirements stated herein; and

(B) When advertising for material or labor services, Subrecipient shall indicate a period for which the materials or services are sought (e.g. for a one-year contract with an option to renew for an additional four (4) years). This advertised time period shall determine the length of time

which may elapse before re-advertising for material or labor services, except that advertising for labor services must occur at least every five (5) years.

(3) Competitive proposals:

(A) The Request for Proposal (RFP) or Request for Qualification (RFQ) must be publicized. The preferred method of advertising is the local service area newspapers. This advertisement should, at a minimum, allow fourteen (14) days before the RFP is due. The due date must be stated in the advertisement; and

(B) The time period for services shall be one year, plus four (4) additional years at a maximum.

(4) Non-competitive proposals:

(A) The service, supply, or equipment is available only from a single source;

(B) A public emergency exists preventing the time required for competitive solicitation; and

(C) After solicitation of a number of sources, competition is determined inadequate.

(5) Required contract provisions shall include the following contract provisions or conditions in procurement contracts or subcontracts:

(A) Contracts in excess of \$25,000 shall include contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances where subcontractors violate or breach the contract terms, and provide for such remedial actions as may be appropriate;

(B) All contracts in excess of \$25,000 shall include suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the Subrecipient [subrecipients];

(C) Contracts shall include a provision with regard to independent subcontractor status to hold harmless and indemnify Subrecipient [subrecipients] from and against any and all claims, demands and course of action asserted by any third party arising out of or in connection with the services to be performed under contract;

(D) Contracts shall include a provision regarding conflict of interest. Subrecipient's employees, officers, and/or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors, or potential subcontractors; and

(E) Contracts shall include a provision to prevent fraud and abuse.

(i) Subrecipient shall establish, maintain, and utilize internal control systems and procedures sufficient to prevent, detect, and correct incidents of waste, fraud, and abuse in all Department funded programs and to provide for the proper and effective management of all program and fiscal activities funded by this contract. Subrecipient's internal control systems and all transactions and other significant events must be clearly documented and the documentation made readily available for review by Department.

(ii) Subrecipient shall give Department complete access to all of its records, employees, and agents for the purpose of monitoring or investigating the program. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse. Subrecipient shall immediately notify the Department of any identified instances of waste, fraud, or abuse.

(iii) Department will notify the funding source upon identification of possible instances of waste, fraud, and abuse or other serious deficiencies.

(iv) Subrecipient may not discriminate against any employee or other person who reports a violation of the terms of this contract or of any law or regulation to Department or to any appropriate law enforcement authority, if the report is made in good faith.



(F) Contracts shall include a provision to the effect that any alterations, additions, or deletions to the terms of the contract which are required by changes in federal law and regulations or state statute are automatically incorporated into the contract without written and administrative code amendment hereto, and shall become effective on the date designated by such law and or regulation; and any alterations, additions, or deletions to the terms of the contract shall be amended hereto in writing and executed by both parties to the contract.

(G) Contracts shall include the following provision assuring legal authority to sign the contract.

(i) Subcontractor represents that it possesses the practical ability and the legal authority to enter into the contract, receive and manage the funds authorized by the contract, and to perform the services subcontractor has obligated itself to perform under the contract.

(ii) The person signing the contract on behalf of the subcontractor warrants that he/she has been authorized by the subcontractor to execute the contract on behalf of the subcontractor and to bind the subcontractor to all terms set forth in the contract.

(iii) Department shall have the right to suspend or terminate the contract if there is a dispute as the legal authority of either the subcontractor or the person signing the contract to enter into the contract or to render performances thereunder. Should such suspension or termination occur, the subcontractor is liable to the Subrecipient [subrecipient] for any money it has received for performance of provisions of the contract.

#### **§5.13. Bonding Requirements.**

(a) The following requirements relate only to construction or facility improvements.

(1) For contracts exceeding \$100,000 the Department may accept the bonding policy and requirements of the subrecipient, provided the Department has made a written finding that the Department is adequately protected.

(2) For contracts in excess of \$100,000, and for which the subrecipient cannot make a determination that the Department's interest is adequately protected, a "bid guarantee" from each bidder equivalent to five (5) of the bid price shall be requested. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified. A bid bond in the form of all of the following may represent a "bid guarantee."

(A) A performance bond on the part of the subrecipient for 100% of the contract price. A "performance bond" is one executed in connection with a contract, to secure fulfillment of all subcontractors' obligations under such contract.

(B) A payment bond on the part of the subcontractor for 100% of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(C) Where bonds are required, in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR Part 223, "Surety Companies Doing Business with the United States."

(b) A Government Entity [Cities and counties] must comply with the bond requirements of Texas Civil Statutes, Articles 2252, 2253, and 5160, and Local Government Code §252.044 and §262.032, as applicable.

#### **§5.15. Federal Funding Accountability and Transparency Act (FFATA).**

All entities receiving federal funds of \$25,000 or more must be registered in the federal Central Contractor Registration (CCR) and have a current Data Universal Numbering System (DUNS) number.

#### **§5.16. Monitoring of Subrecipients.**

(a) The Department's Compliance Division [Community Affairs Division (CAD)] is responsible for ensuring that the [Community Services Block Grant (CSBG), Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP), and Emergency Shelter Grant Program (ESGP)] program activities are completed and that the funds are expended in accordance with the contract provisions and applicable State and Federal rules, regulations, policies, and related statutes. In order to ensure such, the Department will conduct monitoring reviews of the Subrecipient [subrecipients] to evaluate the effectiveness of Subrecipient [subrecipients] performance and program compliance through on-site and desk monitoring as described in §5.15 of this chapter (relating to Federal Funding Accountability and Transparency Act (FFATA)) following the requirements of §678B of PL 105-285 Subtitle B, §2605(B)(10) of PL 97-35, as amended, 10 CFR §440.23(d), and 24 CFR §576.61 and §576.57(f) and (g), respectively.

(1) The Department [CAD] employs a Subrecipient [subrecipients] monitoring procedure that is based upon an assessment of associated risks. The factors may include but are not limited to the status of the most recent monitoring report, timeliness of grant reporting, results of the last on-site monitoring review, number and funding amount of Department funded contracts, final expenditure rate, and single audit status or other factors. Ranking of subrecipients will determine whether an on-site review or a desk review is completed unless Department management determines an on-site review is needed.

(2) The Department [CAD] may conduct unannounced on-site monitoring reviews of Subrecipient [subrecipients] identified as at risk for contract termination, if deficiencies identified from prior monitoring activities persist or remain unresolved for an unreasonable period of time. In the event of reports of fraud and abuse or other extenuating circumstances the Department may make an unannounced on-site monitoring review.

(3) Follow-up reviews may be performed to ensure implementation of corrective action of subrecipients that failed to meet the goals, standards, and requirements established by the Department.

(4) Technical assistance and training will be provided to the subrecipient to address program deficiencies.

(5) A monitoring instrument is used to perform monitoring reviews. Support documentation is retained by the Department to verify: the achievement of performance goals; conduct of eligible activities; and compliance with other contractual regulatory provisions and financial accountability. Monitoring reviews of subrecipients also include reviewing annual financial reports and any related management letters and financial documents.

(6) Following the onsite monitoring review, a monitoring report is prepared and submitted to the subrecipients outlining any administrative, program, and financial deficiencies. The monitoring report also includes notes, recommended improvements, corrective actions or a corrective action plan. Subrecipients must respond to the monitoring report within forty-five (45) calendar days from the date of the monitoring report except for WAP subrecipients whom must respond within thirty (30) calendar days.

(A) Finding--The written description of a deficient condition which is significantly substandard according to the monitoring standards. Findings may also be deficiencies found with regard to compliance with program rules, required cost principles, federal, state and/or local laws, and generally accepted accounting procedures or Generally Accepted Accounting Principles. In general, findings require corrective action to create an acceptable level of risk for disbursement of funds. The description of a finding might include the cause and effect of the deficient condition.

(B) Recommended Improvement--Suggested best practice(s) to enhance program, operational, financial, or administrative practices.

(C) Note--An explanatory tool to further describe and clarify findings or recommended improvements. A note may also be used to include additional information related to the monitoring review but not related to a finding or recommended improvement.

(7) Subrecipients are required to have at a minimum the following documents available, and any other requested documents, for the monitoring review:

(A) Roster of staff (name, title, salary and status)[--All Community Affairs programs];

(B) Current agency organization chart;

(C) List of Board of Directors to include: names, addresses and telephone numbers, tenure on the board, section represented by the board member, list of committees--CSBG, [and] ESGP, ESG, and HHSP;

(D) Board election/selection materials--CSBG;

(E) Board minutes (previous six meetings) and attendance roster--CSBG, [and] ESGP, ESG, and HHSP;

(F) List of neighborhood centers with names of staff--CSBG and CEAP;

(G) Personnel policies;

(H) Bylaws--CSBG, [and] ESGP, ESG, and HHSP;

(I) Travel policies and records;

(J) Chart of accounts;

(K) Accounting records (journals/ledgers) and support documentation;

(L) Amount of Cash on Hand (at time of monitoring);

(M) Bank reconciliation records;

(N) Agency's proof of fidelity bond coverage;

(O) Documentation of match requirements--ESGP, ESG, and when applicable for HHSP;

(P) Closeout data for prior program year--CEAP and WAP;

(Q) Access to client files and documentation of performance--All Community Affairs programs;

(R) Income documentation[Declaration of Income Statement (DIS) Policy/Procedure--All Community Affairs programs];

(S) Appeals Procedures--CEAP, ESG, ESGP, and WAP;

(T) Subcontract agreements with appropriate procurement packages (if applicable)[--All Community Affairs programs];

(U) Procurement policy;

(V) Documentation of current contract inventory[--All Community Affairs programs];

(W) Documentation of coordination with other local programs (including contact person and phone numbers)--CSBG;

(X) Copies of most recent monitoring reports and/or performance reviews of all programs administered by the organization;

(Y) Copy of the most recent Single Audit Report--Organizations that expend more than the expenditure threshold under OMB Circular A-133 [\$500,000 in federal funds during a fiscal year] must have a single audit conducted for that year (A-133 Subpart B.200). Organizations that do not exceed the expenditure threshold under OMB Circular A-133 [\$500,000 federal fund expenditure threshold] are exempt from the single audit requirements. If an organization is not required to have a single audit performed, the organization must provide the end-of-the-year financial statements (balance sheet, income statement, and statement of cash flow); and

(Z) If applicable, documentation of the most recent Head Start Onsite Monitoring Document review, including results, responses, and current status--CSBG.

(b) Subrecipients not exempt from the single audit requirements are responsible for submitting their Single Audit Report within thirty (30) days of completion of their audit and no later than nine (9) months after the end of the audit period (fiscal year end) to the Department's [Portfolio Management and] Compliance Division as well as to the CA Division. (31 U.S.C. §7502)

(c) Monitoring reviews of Subrecipients [subrecipients] will include a review of the Subrecipient [subrecipients] annual financial reports and any related management letters and financial documents.

#### **§5.17. Sanctions and Contract Close Out.**

(a) Subrecipients that have entered into contract with the Department to administer programs are required to follow state and federal laws and regulations and rules governing these programs.

[(b) Except as expressly modified by law or the terms of a subrecipient's contract, the subrecipient shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards (UGMS), 1 TAC §§5.141, et seq.]

(b)[(c)] If a Subrecipient [subrecipients] fails to comply with program [the]requirements, rules, or [and] regulations [of the CSBG, CEAP, WAP, or ESGP programs,] and in the event monitoring or other reliable sources reveal material deficiencies in performance, or if the Subrecipient [subrecipients] fails to correct any deficiency within the time allowed by federal or state law, the Department will apply one or more of the following sanctions:

(1) Deny the Subrecipient's [subrecipient's] requests for advances and place it on a cost reimbursement method of payment until proof of compliance with the rules and regulations are received by the Department;

(2) Withhold all payments from the Subrecipient [subrecipients] (both reimbursements and advances) until proof of compliance with the rules and regulations are received by the Department, reduce the allocation of funds (with the exception of Community Services Block Grant (CSBG) funds to eligible entities and as limited for LIHEAP funds as outlined in Texas Government Code Section 2105) or impose sanctions as deemed appropriate by the Department's [Department] Executive Director, at any time, if the Department identifies possible instances of fraud, abuse, fiscal mismanagement, or other serious deficiencies in the Subrecipients' [subrecipients] performance;

(3) Suspend performance of the contract or reduce funds until proof of compliance with the rules and regulations are received by the Department or a decision is made by the Department to initiate proceedings for contract termination;

(4) Elect not to provide future grant funds to the Subrecipient [subrecipients] until appropriate actions are taken to ensure compliance; or

(5) Terminate the contract. Adhering to the requirements governing each specific program administered by the Department, as needed, the Department may determine to proceed with the termination of a contract, in whole or in part, at any time the Department establishes there is good cause for termination. Such cause may include, but is not limited to, fraud, abuse, fiscal mismanagement, or other serious deficiencies in the Subrecipient's [subrecipient's] performance. For CSBG contract termination procedures, please refer to §5.206 of this chapter (relating to Termination and Reduction of Funding).

(c) [(d)]Contract Close-out. When the Department moves to terminate a contract, the following procedures will be implemented.

(1) The Department will issue a termination letter to the Subrecipient [subrecipients] no less than thirty (30) days prior to terminating the contract. The Department may determine to take one of the following actions: suspend funds immediately; establish a cost reimbursement plan for closeout proceedings; or provide instructions to the Subrecipient [subrecipients] to prepare a proposed budget and written plan of action that supports the closeout of the contract. The plan must identify the name and current job titles of staff that will perform the close-out and an estimated dollar amount to be incurred. The Department will respond within ten (10) working days from receipt of the plan.

(2) If the Department determines that cost reimbursement is an appropriate method of providing funds to accomplish closeout, the Subrecipient [subrecipients] will submit backup documentation for all current expenditures associated with the closeout. The required documentation will include, but not be limited to, the chart of accounts, detailed general ledger, revenue and expenditure statements, time sheets, payment vouchers and/or receipts, and bank reconciliations.

(3) No later than thirty (30) days after the contract is terminated, the Subrecipient will take a physical inventory of client files, including case management files, and will submit to the Department an inventory of equipment with a unit acquisition cost of \$5,000 or greater for Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP) and Community Services Block Grant (CSBG) or a unit acquisition cost of \$500 or greater for ESGP, ESG, and HHSP.

(4) The terminated Subrecipient [subrecipient] will have thirty (30) days from the date of the physical inventory to copy all current client files. Client files must be boxed by county of origin. Current and active case management files also must be copied, inventoried, and boxed by county of origin.

(5) Within thirty (30) days following the Subrecipient's [subrecipient's] due date for copying and boxing client files, Department staff will retrieve copied client files.

(6) The terminated Subrecipient [subrecipient] will prepare and submit no later than sixty (60) days from the date the contract is terminated, a final report [(TDHCA Form 85)] containing a full accounting of all funds expended under the contract.

(7) A final monthly expenditure report and a final monthly performance [Monthly Financial Funding Programmatic Report] report for all remaining expenditures incurred during the close-out period must be received by the Department no later than sixty (60) days from the date the

Department determines that the closeout of the program and the period of transition are complete.

(8) The Subrecipient [subrecipient] will submit to the Department no later than sixty (60) days after the termination of the contract, an inventory [(TDHCA Form 27)] of the non-expendable personal property [ (as defined in the Uniform Grant Management Standards)] acquired in whole or in part with funds received under the contract.

(9) The Department may[will] transfer title to equipment having a unit acquisition cost (the net invoice unit price of an item of equipment) of:

(A) \$5,000 or greater for CEAP, [WAP, and ]CSBG, and WAP; or

(B) \$500 or greater for ESG, ESGP, and HHSP, to the Department or to any other entity receiving funds under the program in question. The Department will make arrangements to remove equipment covered by this paragraph within ninety (90) days following termination of the contract.

(10) Upon selection of a new service provider, the Department will transfer to the new provider client files and, as appropriate, equipment.

(11) As required by OMB Circular A-133, a current year single audit [Single Audit] must be performed for all agencies that have exceeded the federal expenditure threshold under OMB Circular A-133 [of \$500,000]. The Department will allow a proportionate share of program funds to pay for accrued audit costs, when an audit is required, for a single audit [Single Audit] that covers the date up to the closeout of the contract. The terminated Subrecipient [subrecipient] must have a binding contract with a CPA firm on or before the termination date of the contract. The actual costs of the single audit [Single Audit] and accrued audit costs including support documentation must be submitted to the Department no later than sixty (60) days from the date the Department determines the close-out is complete.

(12) Subrecipients shall submit within sixty (60) days after the date of the close-out process all financial, performance, and other applicable reports to the Department. The Department may approve extensions when requested by the Subrecipient [subrecipient]. However, unless the Department authorizes an extension, Subrecipient [subrecipient] must abide by the sixty (60) day contractual requirement of submitting all referenced reports and documentation to the Department.

#### **§5.19. Client Income Guidelines.**

(a) The Department has defined eligibility for program assistance under the poverty income guidelines provided annually by the Secretary of the U.S. Department of Health and Human Services. For ESG and HHSP, Subrecipients [subrecipients] will adhere to 24 CFR §5.609, subject to the revisions of The Housing and Economic Recovery Act of 2008 (HERA), P.L. 110-289.

(b) For HHS funded programs, Subrecipients [The Department] will use the following list of included and excluded income to determine eligibility for all programs.

(1) Included Income:

(A) Temporary Assistance for Needy Families (TANF);

(B) Money, wages and salaries before any deductions;

(C) Net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);

(D) Regular payments from social security;

- (E) Railroad retirement;
  - (F) Unemployment compensation;
  - (G) Strike benefits from union funds;
  - (H) Worker's compensation;
  - (I) Training stipends;
  - (J) Alimony;
  - (K) Military family allotments;
  - (L) Private pensions;
  - (M) Government employee pensions (including military retirement pay);
  - (N) Regular insurance or annuity payments; and
  - (O) Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.
- (2) Excluded Income:
- (A) Social Security Disability Insurance (SSDI) payments;
  - (B) Supplemental Security Income (SSI) payments;
  - (C) Capital gains; any assets drawn down as withdrawals from a bank;
  - (D) The sale of property, a house, or a car;
  - (E) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;
  - (F) Tax refunds, gifts, loans, and lump-sum inheritances;
  - (G) One-time insurance payments, or compensation for injury;
  - (H) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;
  - (I) Food or housing received in lieu of wages;
  - (J) The value of food and fuel produced and consumed on farms;
  - (K) The imputed value of rent from owner-occupied non-farm or farm housing;
  - (L) Federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches;
  - (M) Housing assistance and combat zone pay to the military;
  - (N) Veterans (VA) Disability Payments;
  - (O) College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits (GI Bill); and
  - (P) Child support payments.

**§5.20. Determining Income Eligibility.**

(a) [The U.S. Department of Health and Human Services (USDHHS) annually provides poverty income guidelines for use in determining client eligibility. Community Affairs Division (CAD) programs are required to follow these income guidelines serve low income persons for the programs listed in subsections (b) – (c) of this section. ]

[(b) The following client eligibility levels (until superseded) shall apply to clients at the time the client makes an application for services: ]

[(1) Community Services Block Grant (CSBG)--125% of the current federal poverty level;]

[(2) Emergency Shelter Grants Program (ESGP)--100% of the current federal poverty level; ]

[(3) Homelessness Prevention and Rapid Re-Housing Program (HPRP)--50% of Area Median Income as defined by USDHUD; ]

[ (4) Weatherization Assistance Program (WAP) and ARRA WAP--200% of the current federal poverty level; and]

[ (5) Comprehensive Energy Assistance Program (CEAP)--[200%] of the current federal poverty level.]

(b)[(c)]To determine income eligibility for HHS funded programs, [for program services,] Subrecipients [subrecipient] must base annualized eligibility determinations on household income from thirty (30) days prior to the date of application for assistance. Each Subrecipient [subrecipient] must maintain documentation of income from all sources for all household members for the entire thirty (30) day period prior to the date of application and multiply the monthly amount by twelve (12) to annualize income. Income documentation must be collected from all income sources for all household members eighteen (18) years and older for the entire thirty (30) day period.

(c)[(d)] If proof of income is unavailable, the applicant must complete and sign a Department approved declaration of income statement or complete income documentation attestations required by the federal funding source [Declaration of Income Statement].



## **Attachment 2 - Proposed Preamble, Rule repeals of §5.2 concerning Cost Principals and Administrative Costs, and §5.3 concerning Definitions**

The Texas Department of Housing and Community Affairs (the “Department”) proposes the repeal of 10 TAC Chapter 5, Subchapter A, General Provisions §5.2 concerning Cost Principals and Administrative Costs, and §5.3 concerning Definitions. The purposes of the proposed repeals is to renumber and reorganize the General Provision rules for consistency with other sections.

**FISCAL NOTE.** Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repealed sections will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repealed sections, and there will be no effect on local employment or local economy as result of the proposal.

**PUBLIC BENEFIT/COST NOTE.** Mr. Irvine also has determined that, for each year of the first five years the repealed sections will be in effect, the public benefit anticipated as a result of the repealed sections will be a consistent order of the rules. There will be no economic cost to any individuals as a result of the proposed repealed sections.

**ECONOMIC IMPACT STATEMENT AND IMPACT ON SMALL AND MICRO BUSINESSES.** The proposed repeals will have no negative effect on small businesses or persons; no anticipated economic cost to persons who are required to comply with the repealed sections; will not negatively impact local employment; will not have an adverse economic affect on small businesses or micro-businesses; and will not negatively impact the local economy.

**REQUEST FOR PUBLIC COMMENT.** The public comment period will be held June 29 to July 30, 2012 to receive input on the amended sections. Written comments may be submitted by mail to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: [tdhcarulecomments@tdhca.state.tx.us](mailto:tdhcarulecomments@tdhca.state.tx.us); or by fax to (512) 475-3539. **ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. JULY 30, 2012.**

**STATUTORY AUTHORITY.** The amended sections are proposed pursuant to the authority of Chapter 2306 of the Texas Government Code, which provides the Department with the authority to adopt rules governing the administration of the Department and its programs, including specifically §§2306.2585, 2306.053, 2306.092, 2306.094, 2306.097 which authorize the Department to adopt rules to govern the administration of the CEAP, ESG, HHSP, and LIHEAP WAP.

**CROSS REFERENCE TO STATUTE.** These proposed amended sections are to implement the CEAP, ESG, HHSP, LIHEAP WAP as established by Texas Government Code §§2306.2585, 2306.053, 2306.092, 2306.094, 2306.097. To the extent that funding sources other than unrestricted funds are utilized, such as housing trust fund balances, any ESG or HHSP activities conducted with such funds may be subject to additional restrictions. The proposed amended sections affect no other code, article, or statute.

§5.2. Cost Principles and Administrative Requirements.

### §5.3. Definitions.

**Attachment 3 - Proposed Preamble, and new §5.2 concerning Definitions and §5.3 Cost Principals and Administrative Costs.**

The Texas Department of Housing and Community Affairs (the “Department”) proposes new 10 TAC Chapter 5, Subchapter A, General Provisions, §5.2 concerning Definitions, and §5.3 Cost Principals and Administrative Costs. The purpose of the proposed new sections are to provide for the distribution and administration of ESG and HHSP funds and to renumber the sections for consistency with Department rules.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections, and there will be no effect on local employment or local economy as result of the proposal.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections will be in effect, the public benefit anticipated as a result of the new sections will be that assistance to eligible municipalities will enable them to provide facilities and/or services to address the issues presented by homelessness, thereby improving lives and strengthening communities. There will be no economic cost to any individuals as a result of the proposed new sections.

ECONOMIC IMPACT STATEMENT AND IMPACT ON SMALL AND MICRO BUSINESSES. The proposed new sections will have no negative effect on small businesses or persons; no anticipated economic cost to persons who are required to comply with the amended section(s); will not negatively impact local employment; will not have an adverse economic affect on small businesses or micro-businesses; and will not negatively impact the local economy.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held June 29 to July 30, 2012 to receive input on the amended sections. Written comments may be submitted by mail to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; by email to the following address: [tdhcarulecomments@tdhca.state.tx.us](mailto:tdhcarulecomments@tdhca.state.tx.us); or by fax to (512) 475-3539. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. JULY 30, 2012.

STATUTORY AUTHORITY. The amended sections are proposed pursuant to the authority of Chapter 2306 of the Texas Government Code, which provides the Department with the authority to adopt rules governing the administration of the Department and its programs, including specifically §§2306.2585, 2306.053, 2306.092, 2306.094, 2306.097 which authorize the Department to adopt rules to govern the administration of the CEAP, ESG, HHSP, and LIHEAP WAP.

CROSS REFERENCE TO STATUTE. These proposed amended sections are to implement the CEAP, ESG, HHSP, LIHEAP WAP as established by Texas Government Code §§2306.2585, 2306.053, 2306.092, 2306.094, 2306.097. To the extent that funding sources other than unrestricted funds are utilized, such as housing trust fund balances, any ESG or HHSP activities

conducted with such funds may be subject to additional restrictions. The proposed amended sections affect no other code, article, or statute.

## **§5.2. Definitions.**

(a) To ensure a clear understanding of the terminology used in the context of the Community Affairs Programs, a list of terms and definitions has been compiled as a reference.

(b) The following words and terms in this chapter shall have the following meaning unless the context clearly indicates otherwise.

(1) CAA--Community Action Agency.

(2) CFR--Code of Federal Regulations.

(3) Children--Household dependents not exceeding eighteen (18) years of age.

(4) Collaborative Application--An application from two or more organizations to provide services to the target population. If a unit of general local government applies for only one organization, this will not be considered a Collaborative Application. Partners in the Collaborative Application must coordinate services and prevent duplication of services.

(5) Community Action Agencies (CAAs)--Local private and public non-profit organizations that carry out the Community Action Program (CAP), which was founded by the 1964 Economic Opportunity Act to fight poverty by empowering the poor in the United States. Each CAA must have a board consisting of at least one-third elected public officials, not fewer than one-third representatives of low-income individuals and families, chosen in accordance with democratic selection procedures, and the remainder are members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community.

(6) Community Affairs Division (CAD)--The Division at the Department that administers CEAP, CSBG, ESGP, ESG, HHSP, Section 8 Housing Choice Voucher Program, and WAP.

(7) The Community Services Block Grant (CSBG)--A grant which provides U.S. federal funding for CAAs and other eligible entities that seek to address poverty at the community level. Like other block grants, CSBG funds are allocated to the states and other jurisdictions through a formula.

(8) CSBG Act--The CSBG Act is a law passed by Congress authorizing the Community Services Block Grant. The CSBG Act was amended by the Community Services Block Grant Amendments of 1994 and the Coats Human Services Reauthorization Act of 1998 under 42 U.S.C. §§9901, et seq. The act authorized establishing a community services block grant program to make grants available through the program to states to ameliorate the causes of poverty in communities within the states.

(9) Cooling--Modifications including, but not limited to, the repair or replacement of air conditioning units, evaporative coolers, and refrigerators.

(10) CSBG Subrecipient--Includes CSBG eligible entities and other organizations that are awarded CSBG funds.

(11) Department--The Texas Department of Housing and Community Affairs.

(12) Discretionary Funds--Those CSBG funds maintained in reserve by a State, at its discretion, for CSBG allowable uses as authorized by §675C of the CSBG Act, and not designated for distribution on a statewide basis to CSBG eligible entities and not held in reserve for state administrative purposes.

(13) DOE--The United States Department of Energy.

(14) DOE WAP Rules--10 CFR Part 440 describes the Weatherization Assistance for Low Income Persons as administered through the Department of Energy.

(15) Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters. This definition does not apply to the ESG or HHSP.

(16) Equipment--A tangible non-expendable personal property including exempt property, charged directly to the award, having a useful life of more than one year, and an acquisition cost of \$5,000 or more per unit. For CSBG, CEAP, and WAP, if the unit acquisition cost exceeds \$5,000, approval from the TDHCA Community Affairs Division must be obtained before the purchase takes place. For ESGP, if the unit acquisition cost exceeds \$500, approval from TDHCA Community Affairs Division must be obtained before the purchase is made.

(17) Elderly Person--A person who is sixty (60) years of age or older.

(18) Electric Base-Load Measure--Weatherization measures which address the energy efficiency and energy usage of lighting and appliances.

(19) Eligible Entity--Those local organizations in existence and designated by the federal government to administer programs created under the federal Economic Opportunity Act of 1964. This includes community action agencies, limited-purpose agencies, and units of local government. The CSBG Act defines an eligible entity as an organization that was an eligible entity on the day before the enactment of the Coats Human Services Reauthorization Act of 1998, (October 27, 1998), or is designated by the Governor to serve a given area of the State and that has a tripartite board or other mechanism for local governance.

(20) Emergency--Defined by the LIHEAP Act of 1981 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. §8622):

(A) natural disaster;

(B) a significant home energy supply shortage or disruption;

(C) significant increase in the cost of home energy, as determined by the Secretary;

(D) a significant increase in home energy disconnections reported by a utility, a State regulatory agency, or another agency with necessary data;

(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. §§2011, et seq.), the national program to provide supplemental security income carried out under title XVI of the Social Security Act (42 U.S.C. §§1381, et seq.) or the State temporary assistance for needy families program carried out under Part A of Title IV of the Social Security Act (42 U.S.C. §§601, et seq.), as determined by the head of the appropriate federal agency;

(F) a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

(G) an event meeting such criteria as the Secretary, at the discretion of the Secretary, may determine to be appropriate.

(H) This definition does not apply to ESGP, ESG, or HHSP.

(21) Emergency Shelter Grants Program (ESGP)--A federal grant program established by the Homeless Housing Act of 1986 and incorporated into Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. §§11371-11378) and funded through HUD.

(22) Emergency Solutions Grants (ESG)--A federal grant program authorized in Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. §§11371-11378), as amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH Act). ESG is funded through HUD.

- (23) Energy Audit--The energy audit software and procedures used to determine the cost effectiveness of weatherization measures to be installed in a dwelling unit.
- (24) Energy Repairs--Weatherization related repairs necessary to protect or complete regular weatherization energy efficiency measures.
- (25) Families with Young Children--A family that includes a child age five (5) or younger.
- (26) High Energy Burden--Determined by dividing a household's annual home energy costs by the household's annual gross income. The percentage at which energy burden is considered high is defined by data gathered from the State Data Center.
- (27) High Energy Consumption--Household energy expenditures exceeding the median of low-income home energy expenditures expressed in the data collected from the State Data Center.
- (28) Homeless or homeless individual--An individual as defined by 42 U.S.C §§11371-11378 and 24 C.F.R. §576.2.
- (29) Homeless and Housing Services Program (HHSP)--A state funded program established by the State Legislature during the 81<sup>st</sup> Legislative session with the purpose of providing funds to local programs to prevent and eliminate homelessness in municipalities with a population of 285,500 or more.
- (30) Household--Any individual or group of individuals who are living together as one economic unit. For energy programs, these persons customarily purchase residential energy in common or make undesignated payments for energy.
- (31) Inverse Ratio of Population Density Factor--The number of square miles of a county divided by the number of poverty households of that county.
- (32) Local Units of Government--City, county, council of governments, and housing authorities.
- (33) Low Income--Income in relation to family size:
- (A) For DOE WAP, at or below 200% of the Income guidelines;
- (B) For CEAP, CSBG, and LIHEAP WAP at or below 125% of the Income guidelines;
- (C) For ESGP, at or below 100% of the poverty level, determined in accordance with criteria established by the Director of the Office of Management and Budget;
- (D) For ESG, 30% of the Area Median Income (AMI) as defined by HUD for persons receiving prevention assistance; and
- (E) For HHSP, 50% of the AMI as defined by HUD for persons receiving emergency essential services, essential services, and emergency intervention assistance.
- (34) Low Income Home Energy Assistance Program (LIHEAP)--A federally funded block grant program that is implemented to serve low income households who seek assistance for their home energy bills and/or weatherization services.
- (35) Migrant Farm worker--An individual or family that is employed in agricultural labor or related industry and is required to be absent overnight from their permanent place of residence.
- (36) Multifamily Dwelling Unit--A structure containing more than one dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.
- (37) National Performance Indicator--An individual measure of performance within the Department's reporting system for measuring performance and results of Subrecipients of funds. There are currently twelve indicators of performance which measure self-sufficiency, family stability, and community revitalization.
- (38) Needs Assessment--An assessment of community needs in the areas to be served with CSBG funds. The assessment is a required part of the Community Action Plan per Assurance 11 of the CSBG Act.
- (39) OMB--Office of Management and Budget, a federal agency.

(40) OMB Circulars--OMB circulars set forth principles and standards for determining costs for federal awards and establishes consistency in the management of grants for federal funds. Cost principles for local governments are set forth in Office of Management and Budget (OMB) Circular A-87, and for non-profit organizations in OMB Circular A-122. Uniform administrative requirements for local governments are set forth in OMB Circular A-102, and for non-profits in OMB Circular A-110. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," provides audit standards for governmental organizations and other organizations expending federal funds. The single audit requirements are set forth under OMB Circular A-133.

(41) Outreach--The method that attempts to identify clients who are in need of services, alerts these clients to service provisions and benefits, and helps them use the services that are available. Outreach is utilized to locate, contact and engage potential clients.

(42) Performance Statement--A document which identifies the services to be provided by a CSBG Subrecipient. The document is an attachment to the CSBG contract entered into by the Department and the CSBG Subrecipient.

(43) Persons with Disabilities--Any individual who is:

(A) a handicapped individual as defined in §7(9) of the Rehabilitation Act of 1973;

(B) under a disability as defined in §1614(a)(3)(A) or §223(d)(1) of the Social Security Act or in §102(7) of the Developmental Disabilities Services and Facilities Construction Act; or

(C) receiving benefits under 38 U.S.C., Chapter 11 or 15.

(44) Population Density--The number of persons residing within a given geographic area of the state.

(45) Poverty Income Guidelines--The official poverty income guidelines as issued by the U.S. Department of Health and Human Services annually.

(46) Private Nonprofit Organization--An organization which has status as a §501(c) tax-exempt entity. Private nonprofit organizations applying for ESGP, ESG and HHSP funds must be established for charitable purposes and have activities that include, but are not limited to, the promotion of social welfare and the prevention or elimination of homelessness. The entity's net earnings may not inure to the benefit of any individual(s).

(47) Public Organization--A unit of local government, as established by the Legislature of the State of Texas. Includes, but may not be limited to, cities, counties, and councils of governments.

(48) Referral--The process of providing information to a client household about an agency, program, or professional person that can provide the service(s) needed by the client.

(49) Rental Unit--A dwelling unit occupied by a person who pays rent for the use of the dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

(50) Renter--A person who pays rent for the use of the dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.

(51) Seasonal Farm Worker--An individual or family that is employed in seasonal or temporary agricultural labor or related industry and is not required to be absent overnight from their permanent place of residence. In addition, at least 20% of the household annualized income must be derived from the agricultural labor or related industry.

(52) Secretary--Chief Executive of the U.S. Department of Health and Human Services.

(53) Service--The provision of work or labor that does not produce a tangible commodity.

(54) Shelter--Defined by the Department as a dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

- (55) Single Family Dwelling Unit--A structure containing no more than one dwelling unit. This definition does not apply to ESGP, ESG, or HHSP.
- (56) Social Security Act--42 U.S.C. §§601, et seq., CSBG works with activities carried out under Title IV Part A to assist families to transition off of state programs.
- (57) State--The State of Texas or the Texas Department of Housing and Community Affairs.
- (58) Subcontractor--An organization with whom the Subrecipient contracts with to administer programs.
- (59) Subrecipient--According to each program subchapter, Subrecipient may be defined as organizations with whom the Department contracts with and provides CSBG, ESGP, ESG, HHSP, DOE WAP, or LIHEAP funds.
- (60) Supplies--All personal property excluding equipment, intangible property, and debt instruments, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (subject inventions), as defined in 37 CFR Part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."
- (61) TAC--Texas Administrative Code.
- (62) Targeting--Focusing assistance to households with the highest program applicable needs.
- (63) Terms and Conditions--Binding provisions provided by a funding organization to grantees accepting a grant award for a specified amount of time.
- (64) Treatment as a State or Local Agency--For purposes of 5 U.S.C. Chapter 15, any entity that assumes responsibility for planning, developing, and coordinating activities under the CSBG Act and receives assistance under CSBG Act shall be deemed to be a state or local agency.
- (65) Units of General Local Government--A unit of local government which has, among other responsibilities, the authority to assess and collect local taxes and to provide general governmental services.
- (66) U.S.C.--United States Code.
- (67) USDHHS/HHS--U.S. Department of Health and Human Services.
- (68) USHUD/HUD--U.S. Department of Housing and Urban Development.
- (69) Vendor Agreement--An agreement between the Subrecipient and energy vendors that contains assurance as to fair billing practices, delivery procedures, and pricing for business transactions involving LIHEAP beneficiaries.
- (70) WAP--Weatherization Assistance Program.
- (71) WAP PAC--Weatherization Assistance Program Policy Advisory Council. The WAP PAC was established by the Department in accordance with 10 CFR §440.17 to provide advisory services in regards to the WAP program.
- (72) Weatherization Material--The material listed in Appendix A of 10 CFR Part 440.
- (73) Weatherization Project--A project conducted in a single geographical area which undertakes to reduce heating and cooling demand of dwelling units that are energy inefficient.

### **§5.3. Cost Principles and Administrative Requirements.**

Except as expressly modified by the terms of a contract, Subrecipients shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards, 1 TAC §§5.141, et seq. (the "Uniform Grant Management Standards") provided, however, that all references therein to "local government" shall be construed to mean Subrecipient. Non-profit Subrecipients of ESGP, ESG, and DOE WAP do not have to comply



with UGMS. For federal funds, Subrecipients will follow OMB Circulars as interpreted by the federal funding agency.

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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action to publish for public comment in the *Texas Register* the proposal of new 10 TAC Chapter 5, Subchapter K, §§5.2001 – 5.2012 regarding the Emergency Solutions Grants (ESG).

**RECOMMENDED ACTION**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to approve proposed new 10 TAC Chapter 5, Subchapter K, §§5.2001 – 5.2012 regarding the Emergency Solutions Grants (ESG), to be published in the *Texas Register* for review and public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

**BACKGROUND**

The U. S. Department of Housing and Urban Development (HUD) will be providing the Department with Emergency Solutions Grants funds. The Department has drafted proposed rules to govern the ESG program. Comments regarding the draft rules will be accepted in writing and by email for 30 days after the public is notified of the release of the proposed rules on June 29, 2012.

## **Attachment 1: Preamble and proposed new 10 TAC Chapter 5, Subchapter K.**

The Texas Department of Housing and Community Affairs (the “Department”) proposes new 10 TAC Chapter 5, Subchapter K, §§5.2001 – 5.2012, concerning the Emergency Solutions Grants (ESG). The purpose of the proposed new sections is to set forth policies and procedures governing the administration of ESG funds within the State of Texas.

**FISCAL NOTE.** Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections, and there will be no effect on local employment or local economy as result of the proposal.

**PUBLIC BENEFIT/COST NOTE.** Mr. Irvine also has determined that, for each year of the first five years the new sections will be in effect, the public benefit anticipated as a result of the new sections will be that assistance to eligible applicants will enable them to provide facilities and/or services to address the issues presented by homelessness, thereby improving lives and strengthening communities. There will be no economic cost to any individuals as a result of the proposed new sections.

**ECONOMIC IMPACT STATEMENT AND IMPACT ON SMALL AND MICRO BUSINESSES.** The proposed new sections will have no negative effect on small businesses or persons; no anticipated economic cost to persons who are required to comply with the new section(s); will not negatively impact local employment; will not have an adverse economic affect on small businesses or micro-businesses; and will not negatively impact the local economy.

**REQUEST FOR PUBLIC COMMENT.** The public comment period will be held June 29 to July 30, 2012 to receive input on the new sections. Written comments may be submitted to Texas Department of Housing and Community Affairs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by email to the following address: [tdhcarulecomments@tdhca.state.tx.us](mailto:tdhcarulecomments@tdhca.state.tx.us), or by fax to (512) 475-3539. **ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. July 30, 2012.**

**STATUTORY AUTHORITY.** The new sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306 which provides the Department with the authority to adopt rules governing the administration of the Department and its programs, including specifically §2306.094 which authorizes the Department to administer the state's allocation of federal funds provided under the Emergency Shelter Grants Program (42 U.S.C. §§11371 et seq.), as amended, or its successor program, and any other federal funds provided for the benefit of homeless individuals and families.

**CROSS REFERENCE TO STATUTE.** These proposed new sections are to implement the ESG program as established by Texas Government Code §2306.094. The proposed new section affects no other code, article, or statute.

*§5.2001. Background.*

(a) Emergency Solutions Grants (ESG) funds are federal funds awarded to the State of Texas by the U.S. Department of Housing and Urban Development (HUD) and administered by the Texas Department of Housing and Community Affairs (the “Department”).

(b) The regulations in this subchapter govern the administration of ESG funds and establish policies and procedures for use of ESG funds to meet the purposes contained in Title IV of the Stewart B. McKinney Homeless Assistance Act (42 USC §§11371 - 11378) (the “Act”), as amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH Act).

(c) ESG program participants shall comply with the regulations applicable to the ESG program as indicated in this subchapter and as set forth in 24 CFR Part 576 and 24 CFR Part 91 (the “Federal Regulations”). ESG program participants must also follow all other applicable federal and state statutes and the regulations established in this chapter, as amended or suspended.

(d) In the event that Congress, the Texas Legislature, or HUD add or change any statutory or regulatory requirements concerning the use or administration of these funds, ESG program participants shall comply with such requirements.

*§5.2002. Purpose and Use of Funds.*

(a) The purpose of Emergency Solutions Grants (ESG) is to assist people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness.

(b) ESG eligible activities are:

- (1) the rehabilitation or conversion of buildings for use as emergency shelter for the homeless;
- (2) the payment of certain expenses related to operating emergency shelters;
- (3) essential services related to emergency shelters and street outreach for the homeless;
- (4) homelessness prevention and rapid re-housing assistance;
- (5) Homeless Management Information Systems (HMIS) activities; and
- (6) administrative costs.

(c) The Department’s Governing Board, Executive Director or his/her designee may limit activities in a given funding cycle or by contract.

*§5.2003. Availability of ESG Funds.*

The Department will post on its website the distribution plan for Emergency Solution Grants (ESG) funds.

*§5.2004. Eligible Applicants.*

(a) Eligible applicants are units of general purpose local government and those private nonprofit organizations that are secular or religious organizations as described in §501(c) of the Internal Revenue Code of 1986, are exempt from taxation under subtitle A of the Code, have an

accounting system and a voluntary board, and practice non-discrimination in the provision of assistance.

(b) The Department reserves the option to limit eligible applicant entities in a given funding cycle.

*§5.2005. Eligible Program Participants.*

Emergency Solutions Grants (ESG) funds must be used to assist homeless persons or persons at-risk of homelessness as defined in 24 CFR Parts 91 and 576, excluding §576.2(1)(iii)(G).

*§5.2006. Contract Execution.*

(a) The Department will obligate funds within sixty (60) days of receiving the signed grant agreement from the U.S. Department of Housing and Urban Development (HUD).

(b) Upon approval by the Department's Board of Directors or its designee, applicants receiving Emergency Solutions Grants (ESG) funds shall enter into and execute an agreement for the receipt of ESG funds.

(c) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to the ESG contract.

(d) The Department reserves the right to deobligate funds.

(e) The Department reserves the right to negotiate the final grant amounts and local match with successful applicants.

*§5.2007. Reporting.*

(a) Subrecipients must submit via an electronic web-based system a monthly expenditure and performance report on or before the fifteenth (15th) day of each month following the reported month of the contract period.

(b) Even if a fund reimbursement is not being requested, an expenditure report must be submitted electronically no later than the fifteenth (15th) day of each month of the grant period. A final expenditure report must be submitted within thirty (30) days after the Emergency Solutions Grants (ESG) contract ends.

*§5.2008. Program Income.*

(a) Program income is gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. Program income received and expended during the contract period will count toward meeting the Subrecipient's matching requirements, provided the costs are eligible ESG costs that supplement the ESG program.

(b) In addition, utility and security deposit refunds from vendors should be treated as program income.

(c) In accounting for program income, the Subrecipient must accurately reflect the receipt of such funds separate from the receipt of federal funds and Subrecipient funds.

(d) Program income received by the Subrecipient during the two (2) years following the end of the contract period must be returned to the Department. Program income must be returned within ten (10) working days of receipt by the Subrecipient.

(e) Program income received by the Subrecipient after the two (2) year period described in subsection (d) of this section has expired, can be retained by the Subrecipient.

*§5.2009. Recordkeeping.*

(a) The Subrecipient must follow all the recordkeeping requirements in 24 CFR §576.500(y) for a period of at least five (5) years from the date of the closeout of the program with the exception of records related to renovation or conversion of an emergency shelter which must be retained for ten (10) years.

(b) The Department, or any of the Department's duly authorized representatives, shall have access to all books, accounts, records, reports, files, audits, and other papers or property of Subrecipients and contractors pertaining to funds provided under this Subchapter for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(c) All records shall be sufficient to determine compliance with the requirements and primary objectives of the ESG program and all other applicable laws and regulations. All records shall be supported by source documentation.

*§5.2010. Property and Equipment Management Standards.*

(a) Subrecipients that rehabilitate or convert buildings for use as a shelter will be required to enter into a land use restriction agreement or other restrictive covenant that insures a long-term use restriction of the building.

(b) Subrecipients should use proceeds from the disposition of equipment acquired with ESG funds in a manner which provides benefit to the homeless in their community and complies with HUD requirements.

*§5.2011. Compliance and Monitoring.*

(a) Subrecipients shall have the responsibility for ensuring that ESG funds are expended as stated in the grant agreement and in conformance with all applicable federal and state laws, regulations, and guidelines. The Department may prescribe procedures for ensuring compliance with the provision of this rule.

(b) The Department may evaluate activities conducted under this subchapter and their effectiveness in meeting the ESG program goals. This may be considered in future Departmental funding decisions.

*§5.2012. Redistribution/Reallocation of Additional Grant Funds and Unexpended Funds.*

The Department will determine the most equitable and beneficial use of any additional grant year appropriation, unexpended or deobligated program funds. In determining the distribution of funds, the Department will consider program performance and expenditure rates of eligible applicants or Subrecipients.



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**BOARD ACTION REQUEST**  
**LEGAL SERVICES DIVISION**  
**June 14, 2012**

Presentation, Discussion, and Possible Action to approve the final orders adopting the repeal of 10 TAC §§60.301-.306, concerning assessment of administrative penalties with regard to Compliance Administration; the new 10 TAC §1.13, concerning Adjudicative Hearing Procedures; and new 10 TAC §1.14, concerning Administrative Penalties.

**RECOMMENDED ACTION**

**WHEREAS**, in 2007 the Texas Legislature, 80<sup>th</sup> Session, amended Texas Government Code, Chapter 2306, Subchapter B, to authorize the assessment of administrative penalties by the Board for any violation of Chapter 2306 or a rule or order adopted under Chapter 2306 (Tex. Gov't Code §§ 2306.041-0503);

**WHEREAS**, in 2011, the Board adopted 10 TAC Chapter 60, Subchapter C, to provide for the assessment of administrative penalties for compliance monitoring violations with regard to developments receiving assistance from the Department (10 TAC §§60.301-.306);

**WHEREAS**, the Board now seeks to fully implement the authority, as provided by the legislature, to assess administrative penalties for *any* violation of Chapter 2306 or a rule or order adopted under Chapter 2306, including but not limited to compliance monitoring violations; and,

**WHEREAS**, the Board desires to designate the State Office of Administrative Hearings to conduct all adjudicative hearings (contested case and other evidentiary hearings) on behalf of the Board;

**WHEREAS**, the proposed repeal of 10 TAC §§60.301-.306 and new 10 TAC §1.13, concerning Adjudicative Hearing Procedures, and new 10 TAC §1.14, concerning Administrative Penalties were published in the *Texas Register* for a thirty day comment period and no comments were received;

**RESOLVED**, that the repeal of 10 TAC §§60.301-.306 is hereby adopted, and that new 10 TAC §1.13, concerning Adjudicative Hearing Procedures, and new 10 TAC §1.14, concerning Administrative Penalties, are also adopted; and,

**FURTHER RESOLVED**, that the Executive Director and his designees be and each of them is hereby authorized, empowered and directed, for and on behalf of the Department, to cause the adoption of the repeal and of the new rules, in the forms presented to this meeting, to be published in the *Texas Register*, and to make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

## BACKGROUND

**Summary Statement:** The existing compliance monitoring administrative penalty rules have been proposed for repeal so that they may be incorporated into a new, broader administrative penalty program, new rules 10 TAC §1.13 and §1.14, that will cover **any** violations of Texas Government Code, Chapter 2306, or a rule or order adopted under Chapter 2306. In 2007, the Legislature authorized the Governing Board of the Texas Department of Housing and Community Affairs to assess administrative penalties for violations of Texas Government Code, Chapter 2306, or a rule or order adopted under Chapter 2306. Tex. Gov't Code §2306.041. To implement this authority, the Board began in 2011 by adopting 10 TAC, Ch. 60 regarding Compliance Administration.

Chapter 60 provides for Department monitoring of developments receiving assistance through the Department. Compliance monitoring begins with the commencement of construction and continues to the end of the long term "Affordability Period." The Compliance Division monitors to ensure owners comply with the program rules and regulations, including Chapter 2306, Texas Government Code, the Land Use Restriction Agreement (LURA) requirements and conditions, and representations imposed by the application or award of funds by the Department. Developments monitored by the Department are subject to the Department's enforcement rules, found at 10 TAC, Ch. 60, Subchapter C, relating to Administrative Penalties.

The current enforcement program has yielded significant positive results, with numerous properties coming into compliance and, when warranted, paying administrative penalties for violations. The success of this program supports the expansion of the enforcement program to implement fully the authority already given by the Legislature. The existing rules related to the administrative penalty process for compliance monitoring will be repealed and folded into new proposed rules establishing a process for the imposition of penalties for *any* violation of Texas Government Code, Chapter 2306, or a rule or order adopted under Chapter 2306, not just compliance monitoring violations. Examples may include: lying on applications or presenting false or fraudulent documents in applications, failure to maintain required records as required by statute or rule; failure to disclose interested persons on applications (§2306.6707 of the Texas Government Code), or committing a prohibited act such as locking out or seizing personal property of tenants (§2306.6738 of the Texas Government Code).

Also in 2011, the Board designated the State Office of Administrative Hearings (SOAH) to conduct all compliance monitoring administrative penalty hearings on the Board's behalf (10 TAC §60.306). At the request of a grantee, the Department recently filed a request for an evidentiary hearing with SOAH related to a CSBG grant. The Department was advised that SOAH is concerned that it lacks jurisdiction over such hearings, since the existing delegation to SOAH only covers compliance monitoring administrative penalty hearings. This rule package contains a delegation to SOAH of all adjudicative hearings, including administrative penalty contested case and other evidentiary hearings, together with rules for referring and docketing cases at SOAH.

At its April 12, 2012 meeting, the Board approved the proposal of the repeal of 10 TAC §§60.301-.306, and new 10 TAC §1.13, concerning Adjudicative Hearing Procedures, and new 10 TAC §1.14, concerning Administrative Penalties. The proposed repeal and proposed new rules were published in the *Texas Register* on April 27, 2012, for a 30 day public comment period (\_\_\_ *TexReg* \_\_\_). The public comment period closed at 5:00 p.m. on May 28, 2012. No comments were received.

## **Attachment 1. Preamble and final order adopting new rule; §1.13. Adjudicative Hearing Procedures.**

The Texas Department of Housing and Community Affairs (the "Department") adopts the new 10 TAC Chapter 1, §1.13, concerning Adjudicative Hearing Procedures, without changes to the proposed text as published in the April 27, 2012 issue of the *Texas Register* (37 TexReg 2930) and will not be republished.

**REASONED JUSTIFICATION:** In order for SOAH to have jurisdiction to hear the Department's contested cases, the Department must designate SOAH to conduct all its hearings by administrative rule. Therefore, the new section designates SOAH to conduct adjudicative hearings on behalf of the Governing Board of the Department and provides procedures for referral of matters to SOAH, for service of pleadings and other notices, and for issuance of a Proposal for Decision.

The Department accepted public comments between April 27, 2012 and May 29, 2012. Comments regarding the new section were accepted in writing and by fax. No comments were received concerning the new section.

The Board approved the final order adopting the new section on June 14, 2012.

**STATUTORY AUTHORITY:** The new section is adopted pursuant to the authority of Chapter 2306 of the Texas Government Code, which provides the Board and the Department with the authority to adopt rules governing the administration of the Department and its programs; specifically including §§2306.141, 2306.053, and 2306.041 - 046.

### *§1.13. Adjudicative Hearing Procedures.*

(a) Purpose. The purpose of this section is to provide procedures for contested case and other evidentiary hearings (adjudicative hearings). This section does not apply to matters such as programmatic appeals or waivers, and this section does not in itself create any right to an adjudicative hearing, but merely provides a process for hearings that are otherwise expressly granted by law.

(b) SOAH Designation. The Governing Board (the "Board") of the Texas Department of Housing and Community Affairs (the "Department") designates the State Office of Administrative Hearings (SOAH) to hold all adjudicative hearings on the Board's behalf.

(c) Initiation of Hearing.

(1) Upon receipt of a pleading or other document that is intended to initiate a contested case or evidentiary proceeding before the Department, the Department shall determine if an adjudicative hearing is provided under the relevant statutory provisions and rules and, if so, will docket the same as a pending proceeding, number it in accordance with any established docket numbering system of the Department, and refer the matter to SOAH for hearing.

(2) SOAH shall acquire jurisdiction over a case when the Department completes and files a Request to Docket Case form, or other form acceptable to SOAH, together with the complaint, petition, application, or other pertinent documents giving rise to the case. Once SOAH acquires jurisdiction, all subsequent documents are to be filed with SOAH, with appropriate service upon the opposing party in accordance with this chapter and the rules of SOAH.

(3) The SOAH Administrative Law Judge has the authority under SOAH rules, 1 TAC Chapter 155, §155.103 (relating to Service of Documents on Parties), to issue interim orders, to regulate the conduct of the proceeding, rule on motions, establish deadlines, clarify the scope of the proceeding, schedule and conduct prehearing and post hearing conferences for any purpose related to any matter in the case, set out additional requirements for participation in the case, and take any other steps conducive to a fair and efficient process in the contested case, including referral of the case to a mediated settlement conference or other appropriate alternative dispute resolution procedure as provided by Chapter 2003 of the Texas Government Code.

(4) Except upon a showing of good cause, all adjudicative hearings in which the Department is a party shall be held at the offices of SOAH located in Austin, Texas.

(5) Nothing in this subchapter shall in any way limit, alter, or abridge the ability of the Department to enter into mediation or alternative dispute resolution at any time prior to or after the holding of the administrative hearing but prior to the adoption of a final order.

(d) Service.

(1) Service of a notice of adjudicative hearing shall be made by hand delivery, regular, first class, registered or certified mail, courier service, or by any other means that is in accordance with the Administrative Procedures Act (APA) and the SOAH rules. The notice of adjudicative hearing shall be delivered to the Responsible Party at the address of record on file with the Department in accordance with §1.22 of this chapter (relating to Providing Contact Information to the Department).

(2) Service in the manner provided for subparagraphs (A) - (C) of this paragraph shall be prima facie evidence of proper service of notice of adjudicative hearing.

(A) Service by hand delivery shall be complete upon hand delivery to the Responsible Party or the Responsible Party's agent at the Responsible Party's address of record.

(B) Service by mail shall be complete upon deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

(C) Service by courier service shall be complete upon deposit of the paper, enclosed in a properly addressed wrapper, in a depository under the care and custody of a courier service.

(3) Service of the Complaint. On the same date the Complaint is filed at SOAH, it shall be served on each party or the party's representative in compliance with the SOAH rule, 1 TAC §155.103(a) - (d). In addition, the Complaint shall include the following in 12-point bold face type: *"If you do not file a written answer to this Complaint with the State Office of Administrative Hearings within 20 days after the date of receipt, a default order may be entered against you, which may include any or all of the requested sanctions. A copy of any answer you file with the State Office of Administrative Hearings shall also be provided to the department."*

(4) Service of other documents in adjudicative cases pending before SOAH shall be governed by the rules of SOAH.

(e) Proposal for Decision.

(1) Within the time line set out in SOAH rules, after the conclusion of the hearing, the Administrative Law Judge (ALJ) shall prepare and serve on the parties a proposal for decision that includes the ALJ's findings of fact and conclusions of law. Exceptions to the proposal for decision may be filed in accordance with §2001.062 of the Texas Government Code and SOAH rules. Once the proposal for decision is provided to the Executive Director, the matter shall be placed on the agenda to be considered at a subsequent meeting of the Board.

(2) The Board reserves the right to remand the matter back to SOAH, when warranted in the Board's sole discretion.



## **Attachment 2. Preamble and final order adopting new rule; §1.14. Adjudicative Hearing Procedures.**

The Texas Department of Housing and Community Affairs (the "Department") adopts the new 10 TAC Chapter 1, §1.14, concerning Administrative Penalties, without changes to the proposed text as published in the April 27, 2012 issue of the *Texas Register* (37 TexReg 2932) and will not be republished.

**REASONED JUSTIFICATION:** In 2007, the Legislature authorized the Department to impose penalties on any person who violates any provision of Chapter 2306 of the Texas Government Code, or any rule or order adopted under the Chapter. Initially, the department adopted a rule designed to exercise this authority only with respect to violations of the Department's statute and rules concerning housing physical conditions and the eligibility of households. The Department has gained significant experience enforcing this subset of authority and believes it is now appropriate to exercise its enforcement authority to the fullest extent provided for by the Legislature. The new section sets out the procedures for initiation and assessment of administrative penalties by the Governing Board of the Department (the "Board") for any violation of Chapter 2306 of the Texas Government Code, or a rule or order adopted under Chapter 2306. The new section includes provisions for establishment of an Administrative Penalty Committee, for issuance of Notice of Noncompliance and Notice of Violation, for conducting an Informal Conference, and, where warranted, for issuance of a report to the Board recommending administrative penalties.

The Department accepted public comments between April 27, 2012 and May 29, 2012. Comments regarding the new section were accepted in writing and by fax. No comments were received concerning the new section.

The Board approved the final order adopting the new section on June 14, 2012.

**STATUTORY AUTHORITY:** The new section is adopted pursuant to the authority of Chapter 2306 of the Texas Government Code, which provides the Board and the Department with the authority to adopt rules governing the administration of the Department and its programs; specifically including §§2306.141, 2306.053, and 2306.041 - 046.

### *§1.14. Administrative Penalties.*

(a) Purpose. The purpose of this section is to set forth a procedure for the imposition of an administrative penalty as authorized by §2306.041 of the Texas Government Code for violations of Chapter 2306 of the Texas Government Code, or a rule or order adopted under Chapter 2306 of the Texas Government Code, including but not limited to actions arising under Chapter 60 of this title (relating to Compliance Administration).

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

(1) Administrative Penalty Committee (Committee)--A committee of employees of the Department appointed by the Executive Director. The members of that Committee shall be no fewer than five (5) and no more than nine (9). The Executive Director may designate certain members as *ex officio* and non-voting. Legal Services will designate a person to serve as Secretary to the Committee, who shall not be a member of the Committee. Voting Committee members may designate a substitute who shall be permitted to attend and vote in their absence.

(2) Responsible Party--A person or persons, whether a natural person or otherwise, such as a corporation, partnership, limited partnership, or trust, or their successors in interest or assigns, that are subject to Chapter 2306 of the Texas Government Code, or a rule or order adopted under Chapter 2306 of the Texas Government Code, including but not limited to persons that have received or will receive funds or other financial assistance administered or awarded by the Department and/or are legally responsible for the administration of such assistance in accordance with the terms of the rules or a written agreement with the Department and each person capable of controlling or directing the policies and activities of such a person or persons.

(c) Notice of Noncompliance.

(1) If a Department division or program (the originating division) identifies a violation of Chapter 2306 of the Texas Government Code or a rule or order adopted under Chapter 2306 of the Texas Government Code, the originating division will issue a written Notice of Noncompliance to the Responsible Party, identifying the nature of the noncompliance and providing a stated number of days to remedy the violation. The deadline for compliance may be extended in writing by the originating division. The Notice of Noncompliance will include a statement that the matter may result in a referral to the Committee for further action.

(2) Should the Responsible Party fail to respond and/or fail to correct the violation, or if the originating division determines that administrative penalties are otherwise warranted, the originating division may refer the matter to the Committee for further action.

(d) Committee Review and Informal Conference.

(1) The Committee shall review referrals from the originating divisions. The Committee may remand the matter back to the originating division for further development, may request additional information from the originating division, or arrange for an Informal Conference. The Responsible Party will be offered the opportunity to attend an Informal Conference with the Committee to discuss resolution of the matter.

(2) An Informal Conference may result in:

(A) an agreement to dismiss the matter with no further action, which will then be reported to the Executive Director;

(B) an agreement to resolve the matter through corrective action without penalty. In this circumstance, the agreement shall be reported to the Executive Director;

(C) an agreement to resolve the matter through corrective action with the assessment of an administrative penalty. In this circumstance, a proposed agreed order and draft report will be prepared and presented to the Executive Director for approval and issuance to the Texas Department of Housing and Community Affairs Governing Board (the "Board");

(D) a recommendation by the Committee to the Executive Director regarding the issuance of a report to the Board and issuance of a Notice of Violation to the Responsible Party seeking the assessment of administrative penalties; or

(E) other action as the Committee deems appropriate.

(3) Should the Responsible Party fail or refuse to attend the informal conference, the Committee may take whatever lawful action it deems appropriate, including but not limited to dismissal of the matter or a recommendation to the Executive Director regarding issuance of a report and a Notice of Violation.

(e) Report and Notice of Violation.

(1) Upon receipt of a recommendation from the Committee, the Executive Director shall determine whether a violation has occurred. If needed, the Executive Director may request additional information and/or return the recommendation to the Committee for further development. If the Executive Director



determines that a violation has occurred, the Executive Director will issue a report to the Board in accordance with §2306.043 of the Texas Government Code.

(2) Not later than fourteen (14) days after issuance of the report to the Board, the Executive Director will issue a Notice of Violation to the Responsible Party. The Notice of Violation issued by the Executive Director will include:

(A) a brief summary of the alleged violation(s) together with reference to the particular sections of the statutes and rules alleged to have been violated;

(B) the amount of the recommended penalty;

(C) a statement informing the Responsible Party of the right to a hearing before the Board, as conducted by SOAH, on the occurrence of the violation, the amount of penalty, or both; and

(D) any other matters deemed relevant.

(3) The amount of recommended penalty will be determined with reference to a penalty schedule or schedules that shall be developed according to the criteria in §2306.042 of the Texas Government Code and published in the *Texas Register*.

(4) Not later than twenty (20) days after the Responsible Party receives the Notice of Violation, the Responsible Party may accept the determination and recommended penalty or request a hearing.

(5) If the Responsible Party requests a hearing or does not respond to the Notice of Violation, the Executive Director, with the approval of the Board, shall cause the hearing to be docketed before a SOAH administrative law judge in accordance with §1.13 of this chapter (relating to Adjudicative Hearing Procedures).

**Attachment 3. Preamble and final order adopting repeal; Chapter 60, §60.301 – 60.306, Administrative Penalties.**

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal 10 TAC Chapter 60, §60.301 – 60.306, concerning Administrative Penalties, without changes to the proposed text as published in the April 27, 2012 issue of the *Texas Register* (37 TexReg 2935) and will not be republished.

REASONED JUSTIFICATION: The sections are adopted for repeal because the Department is adopting new §1.13, concerning Adjudicative Hearing Procedures, and new §1.14, concerning Administrative Penalties which concerns the same subject matter as the repealed sections.

The Department accepted public comments between April 27, 2012 and May 29, 2012. Comments regarding the new section were accepted in writing and by fax. No comments were received concerning the new section.

The Board approved the final order adopting the repealed sections on June 14, 2012.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Chapter 2306 of the Texas Government Code, which provides the Board and the Department with the authority to adopt rules governing the administration of the Department and its programs; specifically including §§2306.141, 2306.053, and 2306.041 - 046.

*§60.301. Definitions.*

*§60.302. Initiation of the Process to Assess an Administrative Penalty.*

*§60.303. Informal Conference.*

*§60.304. Informal Meetings.*

*§60.305. Report to the Board.*

*§60.306. Hearings.*

**R1**

**BOARD REPORT ITEM**

**OFFICE OF RECOVERY ACT ACCOUNTABILITY AND OVERSIGHT**

**June 14, 2012**

**Report Item**

Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act). This item provides an update on the status of the activity relating to each of the Recovery Act programs as well as a summary of the quarterly Section 1512 jobs reporting submitted for January 1, 2012 through March 31, 2012.

**Recovery Act Program Summary**

<b>Program</b>	<b>Activities</b>	<b>Program Status</b>	<b>Total Funding Expended to Date* Percent Expended</b>	<b>Served to Date**</b>	<b>1512 Reported Data Reported Program Expenditures^^ Jobs Created or Retained^</b>	<b>Timeline / Contract Period</b>
Weatherization Assistance Program	Minor home repair to increase energy efficiency, maximum \$6,500 per household. Households at or below 200% of poverty.	<ul style="list-style-type: none"> <li>Contracts executed for 100% of funds, subrecipients drawing funds.</li> <li>As of May 31, 2012, only one subrecipient contract remains open; all other are closed. Subrecipients and TDHCA are now in the close-out phase of the grant.</li> </ul>	\$326,975,732 \$319,844,697 97.82%	54,738 households	\$312,329,579 357.36 jobs	<ul style="list-style-type: none"> <li>Obligation required by September 30, 2010. (Achieved)</li> <li>Recipients were required to expend all funds within a two year contract period (August 31, 2011); subrecipients taking on additional funds were granted extensions.</li> <li>Federal funding expiration date is June 30, 2012, with a 90 day close out period.</li> </ul>
Homelessness Prevention and Rapid Re-Housing Program	Rental asst, housing search, credit repair, deposits, moving cost assistance, & case management. Persons at or below 50% AMI.	<ul style="list-style-type: none"> <li>All contracts executed.</li> <li>All subrecipient contracts are now closed. Subrecipients and TDHCA are now in the close-out phase of the grant.</li> </ul>	\$41,472,772 \$41,467,359 99.99%	46,818 persons	\$41,367,439 19.22 jobs	<ul style="list-style-type: none"> <li>HUD requires 60% of funds expended in 2 years (Achieved Early); 100% in 3 years.</li> <li>All recipients contracts are now closed.</li> <li>Federal funding expiration date is July 16, 2012.</li> </ul>

Program	Activities	Program Status	Total Funding Expended to Date* Percent Expended	Served to Date**	1512 Reported Data Reported Program Expenditures^^ Jobs Created or Retained^	Timeline / Contract Period
Community Services Block Grant Program	Assists existing network of Community Action Agencies with services including child care, job training, and poverty-related programs. Persons at or below 200% of poverty.	<ul style="list-style-type: none"> <li><b>COMPLETE</b></li> <li>CSBG ARRA funds expired Sept 30, 2010</li> </ul>	\$48,109,133 \$48,108,280 99.92%	99,325 persons	\$48,108,280	<ul style="list-style-type: none"> <li>Recipients were required to expend 100% of funds by Sept 30, 2010. 99.92% of funds were expended.</li> <li>Due to disallowed costs and one subrecipient's inability to fully expend, 0.08% of funds were unspent.</li> </ul>
Tax Credit Assistance Program	Provides assistance for 2007, 2008 or 2009 Housing Tax Credit awarded developments. Households at or below 60% AMI.	<ul style="list-style-type: none"> <li><b>COMPLETE</b></li> <li>Amount Awarded: \$148,354,769 (100%)</li> <li>Amount Drawn: \$148,354,769 (100%)</li> </ul>	\$148,354,769 \$148,354,769 100%	8,346 households	\$148,354,769 2.92 jobs	<ul style="list-style-type: none"> <li>Owners were required to expend 100% of funds by February 17, 2012, which was achieved. All earlier program deadlines were also met.</li> </ul>
Housing Tax Credit Exchange Program^^	Provides assistance to 2007, 2008 or 2009 Housing Tax Credit awarded developments. Households at or below 60% AMI.	<ul style="list-style-type: none"> <li><b>COMPLETE</b></li> <li>Amount Awarded: \$594,091,929 (100%)</li> <li>Amount Closed: \$594,091,929 (100%)</li> </ul>	\$594,091,929 \$592,616,638 99.75%	8,015 households	\$592,616,638 9,351 jobs	<ul style="list-style-type: none"> <li>Owners were required to expend 100% of funds by December 31, 2011. 99.75% of funds were expended.</li> <li>Due to overcommitment and time expiring for two contracts, 0.25% of funds were unspent. All earlier program deadlines were met.</li> </ul>
<b>Total</b>			\$1,159,043,273 \$1,150,391,742 99.25%	146,143 persons 71,099 households	\$1,142,776,705 1512: 379.5 jobs this quarter Exchange: 9,351 jobs cumulatively	

\*This table includes updated expenditure data as of 6/1/2012.

\*\*Total served data through 9/30/2011 for HPRP and 12/31/2010 for CSBG; 5/28/2012 for WAP, 2/2/2011 for TCAP; and 12/10/2010 for HTC Ex. For TCAP and HTC Ex, households represent closed transactions.

^Jobs created or retained between 1/1/2012 and 3/31/2012. Note that Section 1512 reporting is not required for HTC Exchange and the figure includes total estimated jobs to be created or retained as reported to the U.S. Department of Treasury for 12/31/2010.

^^ Program expenditures reported for each program includes subrecipient and TDHCA administrative expenses. Information is updated quarterly. Data was submitted to Recovery.gov for quarter ending 3/31/2012.

^^^ The Housing Tax Credit Exchange Program is not subject to 1512 reporting requirements.

R2

**BOARD REPORT**  
**COMMUNITY AFFAIRS DIVISION**

**June 14, 2012**

**Report Item**

Report on the obligation of the Weatherization Assistance Program (WAP) portion of the PY 2012 Low Income Home Energy Assistance Program (LIHEAP) award.

**Background**

On January 17, 2012, the Department received notification from the U.S. Department of Health and Human Services (USHHS) of the total annual allocation of LIHEAP funds of \$129,832,868. The Department awarded the LIHEAP WAP portion of the funds, totaling \$27,403,458, based on the plan approved by the Governing Board at the July 28, 2011 TDHCA Board meeting. The funds are allocated based on the formula detailed in the Texas Administrative Code and the LIHEAP Plan.

<b>SUBRECIPIENT</b>	<b>Contract Total</b>
1 Alamo Area Council of Governments	2,281,802
2 Big Bend Community Action Agency	369,173
3 Brazos Valley Community Action Agency	899,721
4 Cameron and Willacy Counties Community Projects	828,851
5 Combined Community Action Agency	581,934
6 Community Action Committee of Victoria	811,697
7 Community Action Corporation of South Texas	2,288,452
8 Concho Valley Community Action Agency	481,006
9 Community Services Agency of South Texas – or other designee	531,022
10 Community Services, Inc.	1,592,726
11 Dallas County Department of Health and Human Services	2,197,653
12 Economic Opportunity Advancement Corporation of Planning Region XI	510,729
13 El Paso Community Action Program-Project BRAVO	1,242,496
14 Fort Worth, City of	1,337,301
15 Greater East Texas Community Action Program	780,490
16 Hill Country Community Action Agency	725,684
17 Nueces County Community Action Agency	429,127
18 Panhandle Community Services – or other designee	739,613
19 Program for Human Services	800,658
20 Rolling Plains Management Corporation	1,015,704
21 Neighborhood Centers, Incorporated	3,495,382
22 South Plains Community Action Agency	668,524
23 Texoma Council of Governments	800,128
24 Travis County HSD	817,334
25 Tri-County Community Action Agency, Inc.	444,753
26 West Texas Opportunities, Inc.	731,498
	<b>27,403,458</b>

R3



# HOME Investment Partnership Program Report Item

## Summary Report for May 2012 and Year-to-Date

Activity Type	<u>Funded/Awarded for May</u>		<u>Funded/Awarded for Year</u>		<u>Draws for May</u>		<u>Draws for Year</u>		<u>Setups for May</u>		<u>Setups for Year</u>	
	RSP	Contracts	RSP	Contracts	RSP	Contracts	RSP	Contracts	RSP	Contracts	RSP	Contracts
CFD	\$0	\$0	\$0	\$0	\$0	\$0	\$52,845	\$0	0	0	0	0
CHDO Operating	\$0	\$0	\$0	\$50,000	\$0	\$0	\$0	\$18,740	0	0	0	0
Development Single Family New Co	\$0	\$0	\$0	\$300,000	\$0	\$226,413	\$0	\$648,984	0	0	0	5
HBA	\$0	\$0	\$0	\$0	\$0	\$106,128	\$0	\$463,958	0	3	0	12
HBA/Rehab	\$293,948	\$0	\$966,957	\$334,500	\$152,928	\$36,780	\$707,171	\$218,014	13	3	49	13
HRA	\$2,194,956	\$1,623,600	\$4,251,807	\$16,423,000	\$392,350	\$984,176	\$640,184	\$4,723,506	28	27	54	50
MFD/New Construction	\$0	\$0	\$0	\$4,000,000	\$0	\$3,447,589	\$0	\$4,950,215	0	2	0	4
MFD/Rehab	\$0	\$0	\$0	\$618,170	\$0	\$363,309	\$0	\$3,007,989	0	4	0	5
TBRA	\$318,766	\$0	\$1,457,098	\$324,000	\$183,334	\$103,199	\$885,145	\$518,210	32	3	143	44
<b>Sub Totals:</b>	\$2,807,670	\$1,623,600	\$6,675,862	\$22,049,670	\$728,613	\$5,267,595	\$2,285,345	\$14,549,617	73	42	246	133
<b>Totals:</b>		\$4,431,270		\$28,725,532		\$5,996,208		\$16,834,962		115		379

**CFD - Contract For Deed**

**CHDO - Community Housing Development Organization**

**HRA - Homeowner Rehabilitation**

**HBA - Homebuyer Assistance**

**RHD - Rental Housing Development**

**RSP - Reservation System Participant**

**TBRA - Tenant Based Rental Assistance**

R4

**BOARD REPORT**  
**HOUSING RESOURCE CENTER**  
**June 14, 2012**

**REPORT ITEM**

Report on Customer Service, as required by Chapter 2114 of the Texas Government Code

**BACKGROUND**

The Report on Customer Service (Report) is required by Chapter 2114 of the Texas Government Code. This chapter requires state agencies to develop customer service standards and implement customer satisfaction assessment plans. The Report on Customer Service is due to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy no later than June 1 of each even-numbered year. Responses in all categories for the 2012 customer service survey showed positive improvement since 2010.

The Department received 715 complete responses to the survey, which was approximately double the complete response in 2010. Overall, 77.8% of respondents agreed that they were satisfied with their experiences at TDHCA, which was an increase from 66.9% in 2010. The customer service element with the highest overall satisfaction rate was the staff category, with 85.9% of all respondents agreeing that TDHCA staff members are courteous, and 82.1% of respondents agreeing that TDHCA staff members demonstrated a willingness to assist.

One explanation of this increase could be the result of the Department's emphasis on Customer Service, such as the creation of a position which encompasses Network and Customer Service during the recalibration that occurred from winter to spring of 2012. Since 2010, the Department implemented several customer-service related activities such as:

1. Social Media: Establishment of the Department's presence on Twitter and Facebook in late 2011 has expanded communication opportunities beyond the Department's historical communication routes to more broadly include current audiences as well as additional public members and potential stakeholders. As of mid-May 2012, the Department's Twitter followers numbered 117 and Facebook "Likes" numbered 127.
2. Online Forums: In 2011, the Department fully implemented the use of online forums, which have enhanced opportunities for stakeholders and constituents alike to participate in Department activities, such rules and plan development, and general input.

The customer service element with the highest “disagree” selection was the statement “I understand how to file a complaint regarding TDHCA programs, services, licensees, or subgrantees” (16.7%). The link with information on how to file a complaint is presented prominently on TDHCA’s homepage. In addition, after the disaster recovery programs were transferred to the General Land Office (GLO), the GLO complaint process was added to TDHCA’s website.

However, approximately 66.3% of the respondents agreed that they believed the complaint would be addressed in a reasonable manner in 2012, compared to 55.3% in 2010. The percentage increase could be because fewer complaints were received by the TDHCA. For the following calendar years, 198 complaints were received in 2010, but this number decreased to 153 in 2011 and only 58 were received for 5 months of 2012. Fewer complaints being submitted could indicate clearer communication about TDHCA programs in general. To facilitate a response for the complaints, the letter sent from TDHCA to indicate that the complaint has been received also includes the name, division and phone number of the TDHCA staff member who will be handling the complaint.

TDHCA is acting upon the results found in the 2012 Survey. Once the results were compiled, each division at TDHCA received a summary of comments about their programs to determine successes and challenges.

R5

## TDHCA Outreach Activities, May 2012

*A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public*

<b>Event</b>	<b>Location</b>	<b>Date</b>	<b>Division</b>	<b>Purpose</b>
Grand Opening – Fairways of Sammons Park	Temple	May 1	Public Affairs	Remarks, Participant
Housing & Health Services Coordination Council (HHSCC) – Housing Committee Conference Call	Austin	May 2	Housing Resource Center	Participant
Community Council of South West Texas – HOME Homebuyer and Homeowner Rehabilitation Assistance	Uvalde	May 2-3	HOME	On-Site Technical Assistance
2012 TACAA Annual Conference	San Antonio	May 3	Community Affairs, HOME	Presentation, Training
KUT-FM – Background Resource Discussion on Colonias	Austin	May 3	Office of Colonia Initiatives, Public Affairs	Briefing
HOME – Homeowner Rehab Assistance Implementation Training	Austin	May 9	HOME	Training
Davis-Bacon Certified Payrolls Webinar	Austin	May 9	Program Services	Training
Farmworker Housing Summit	Austin	May 9	Multifamily Finance, Housing Resource Center	Participant
North Central Texas Aging & Disability Resource Center – Rental Housing Workshop	Frisco	May 10	Public Affairs	Presentation
City of Spicewood – HOME Disaster Recovery	Austin	May 11	HOME	Technical Assistance
HHSCC Council Meeting	Austin	May 15	Executive, Housing Resource Center, Public Affairs	Presentation
State Dept. of Health Services – Project Access Webinar	Austin	May 15	Housing Resource Center	Participant
Section 811 Project Rental Assistance Demonstration Program Conference Call	Austin	May 21	Housing Resource Center	Participant
Affordable Homes South Texas – NSP Technical Assistance Visit	McAllen	May 23	Neighborhood Stabilization Program	Technical Assistance
City of Harlingen – NSP Technical Assistance Visit	Harlingen	May 24	Neighborhood Stabilization Program	Technical Assistance
City of Beaumont – NSP Technical Assistance Visit	Beaumont	May 24	Neighborhood Stabilization Program	Technical Assistance
Disability Advisory Workgroup Meeting	Austin	May 24	Housing Resource Center	Participant
Section 811 Project Rental Assistance Demonstration Program NOFA Conference Call/Webinar	Austin	May 30	Housing Resource Center	Participant

## Internet Postings of Note, June 2012

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

**HTC Applicable Percentages and Calculation of Underwriting Rates** — *used to determine the allocation amount of the credits, as defined in Section 42(b) of the Internal Revenue Code:*

[www.tdhca.state.tx.us/rea/index.htm](http://www.tdhca.state.tx.us/rea/index.htm)

**Amy Young Barrier Removal Program Contract Administrator Log** — *listing all organizations and units of local government currently administering Housing Trust Fund dollars through this barrier removal program, including contacts:*

[www.tdhca.state.tx.us/hf/single-family/amy-young.htm](http://www.tdhca.state.tx.us/hf/single-family/amy-young.htm)

**Plan para la Elección de Vivienda Justa del Estado de Texas: Análisis de Impedimentos** — *Spanish language version of Public Input Plan, State of Texas Plan for Fair Housing Choice: Analysis of Impediments:*

[www.tdhca.state.tx.us/program-services/fair-housing/analysis-impediments-2010-2.htm](http://www.tdhca.state.tx.us/program-services/fair-housing/analysis-impediments-2010-2.htm)

**Utility Allowance Questionnaire** — *required of all owners of properties in TDHCA's portfolio requesting to switch utility allowance methodologies and for the annual utility allowance review:*

[www.tdhca.state.tx.us/pmcomp/utility-allowance.htm](http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm)

**Maximum Income and Purchase Price Limits Table** — *detailing income and purchase price limits under the Single Family Bond and Mortgage Credit homebuyer programs:*

[www.tdhca.state.tx.us/homeownership/fthb/buyer\\_intro.htm](http://www.tdhca.state.tx.us/homeownership/fthb/buyer_intro.htm)

**Family Programs Stakeholder Discussion Forum** — *to obtain stakeholder feedback for the development of a new Single Family Business Model aligning all TDHCA single family program administrative activities:*

[www.tdhca.state.tx.us/single-family-reorganization.htm](http://www.tdhca.state.tx.us/single-family-reorganization.htm)

**2012 QCP and State Representative and Senator Support/Opposition Summary Log** — *reflecting the preliminary points attributed to each 2012 HTC application based on letters from Senators and Representatives:*

[www.tdhca.state.tx.us/multifamily/htc/index.htm](http://www.tdhca.state.tx.us/multifamily/htc/index.htm)

**Fair Housing Choice Surveys** — *to facilitate input on housing choice from a broad spectrum of participants through two surveys; one targeting stakeholder professionals, the other targeting Texas residents (English and Spanish):*

[www.tdhca.state.tx.us/program-services/fair-housing/analysis-impediments.htm](http://www.tdhca.state.tx.us/program-services/fair-housing/analysis-impediments.htm)

**Update to NSP3 Substantial Amendment 3** — *detailing substantial amendment to the Action Plan for FFY 2010 with updated language:*

[www.tdhca.state.tx.us/nsp/index.htm](http://www.tdhca.state.tx.us/nsp/index.htm)

**FFY 2012 and 2013 Community Services Block Grant (CSBG) State Application and Plan** — *describing the planned use of CSBG funds and distribution of pass-through, state administrative, and state discretionary funds:*

[www.tdhca.state.tx.us/community-services/csbgs/index.htm](http://www.tdhca.state.tx.us/community-services/csbgs/index.htm)

**Manufactured Housing Division Board – Overview and Current Members** — *updated to include newest member Bob R. McCarn:*

[www.tdhca.state.tx.us/mh/board.htm](http://www.tdhca.state.tx.us/mh/board.htm)

**First Quarter 2012 Performance Reports for NSP1 and NSP3** — *detailing program dollars obligated, drawn-down, received, and project summaries for the first quarter of PY 2012:*

[www.tdhca.state.tx.us/nsp/index.htm](http://www.tdhca.state.tx.us/nsp/index.htm)

**RFQ – Multifamily Bond Trustees** — *to identify qualified institutions to serve as Trustees for the Department’s multifamily bond issues and/or refundings:*

[www.tdhca.state.tx.us/multifamily/bond/index.htm](http://www.tdhca.state.tx.us/multifamily/bond/index.htm)

**Proposed Remedial Plan** — *relating to litigation styled Inclusive Communities Project, Inc. vs. Texas Department of Housing and Community Affairs et al.:*

[www.tdhca.state.tx.us/multifamily/htc/index.htm](http://www.tdhca.state.tx.us/multifamily/htc/index.htm)

**2012 Competitive HTC Application Submission Log** — *reflecting the latest scores and review status of Housing Tax Credit applications:*

[www.tdhca.state.tx.us/multifamily/htc/index.htm](http://www.tdhca.state.tx.us/multifamily/htc/index.htm)

**2012 QCP Scoring Log** — *detailing the results of Housing Tax Credit application scores for Quantifiable Community Participation:*

[www.tdhca.state.tx.us/multifamily/htc/index.htm](http://www.tdhca.state.tx.us/multifamily/htc/index.htm)

**2012 Competitive HTC Applicant Request/Award Limits and Estimated Regional Allocation** — *reflecting amounts of credits requested and those available by region in the 2012 Housing Tax Credit allocation cycle:*

[www.tdhca.state.tx.us/multifamily/applications.htm](http://www.tdhca.state.tx.us/multifamily/applications.htm)

**2012 4% Housing Tax Credit with Local Issuer Status Log** — *listing applications for Housing Tax Credits in conjunction with local issuers of tax exempt bonds:*

[www.tdhca.state.tx.us/multifamily/htc/index.htm](http://www.tdhca.state.tx.us/multifamily/htc/index.htm)

**2012 4% Housing Tax Credit with TDHCA as Issuer Status Log** — *listing applications for Housing Tax Credits in conjunction with TDHCA as issuer of tax exempt bonds:*

[www.tdhca.state.tx.us/multifamily/htc/index.htm](http://www.tdhca.state.tx.us/multifamily/htc/index.htm)

**HUD Section 3 Survey Request for Participation** — *to facilitate input from affordable housing developers and HUD subrecipients about their understanding of Section 3 regulations and requirements:*

[www.tdhca.state.tx.us/program-services/hud-section-3/index.htm](http://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm)

**RFP – Emergency Temporary Housing Provider** — *to identify a qualified vendor to assist the Department with the development of temporary housing for individuals impacted by disasters (links to Comptroller’s Web site):*

[http://esbd.cpa.state.tx.us/bid\\_show.cfm?bidid=100548](http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=100548)

**2012 Public Forums - Housing & Health Services Coordination Council 2012-2013 Draft Biennial Plan** — *detailing a series of four public hearings to accept comment on the HHSCC draft plan:*

[www.tdhca.state.tx.us/hhsc/forums.htm](http://www.tdhca.state.tx.us/hhsc/forums.htm)

**Housing & Health Services Coordination Council 2012-2013 Draft Biennial Plan** — *featuring housing and service recommendations for increasing and promoting the production of service-enriched housing:*

[www.tdhca.state.tx.us/hhsc/biennial-plans.htm](http://www.tdhca.state.tx.us/hhsc/biennial-plans.htm)

**2013-2017 TDHCA Strategic Plan – Stakeholder Input Discussion Forum** — *allowing interested persons direct input on TDHCA’s mission, philosophy, external/internal assessments, and goals and measures:*

<https://tdhca.websitetoolbox.com/>



2

**BOARD REPORT**  
**PROGRAM SERVICES**  
**June 14, 2012**

**Report Item**

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

**Background**

BBC Research & Consulting, Inc. (BBC) is the vendor selected to complete the State of Texas Plan for Fair Housing Choice: Analysis of Impediments (AI). Staff submits monthly Board updates on the progress of the AI based on BBC status reports and staff activities.

Shari Holland, a subcontractor with BBC, will provide an update for the Board on recent activities and activities planned during the next few months. Highlights of activities since March include:

- Meeting on April 20th between HUD, BBC and staff to discuss specifics on AI methodology and approach;
- Staff attendance at fair housing events and other meetings in Dallas, Austin, Belton, and El Paso to promote resident and stakeholder surveys;
- Resident activities:
  - Completed the representative resident telephone survey and began data analysis; representative sample consisted of sample of 400 Texas residents; 200 oversample of non-White residents; 200 oversample of low-income residents; 100 oversample of persons with disabilities
  - Launched the resident online survey (286 surveys received to date);
  - Began development of resident focus groups (10 on-site focus groups)
- Stakeholder activities:
  - Launched the stakeholder survey (536 surveys received to date);
  - Continued development of stakeholder database (430 contacts to date);
  - Continued the stakeholder interviews;
  - Began development of stakeholder focus groups (10 online focus groups)
- Reviewed public finance structure in Texas and effect on municipalities' ability to raise revenue; completed draft land use and regulatory analysis;
- Receipt of complaint data from HUD and completed collection of legal cases;
- Completed the sundown town and NIMBYism research;
- Completed the housing market analysis;
- Analyzed Home Mortgage Disclosure Act (HMDA) data; and
- Continuation of the creation of maps to use in environmental issues analysis.

3

**BOARD REPORT ITEM**

**INTERNAL AUDIT**

**JUNE 14, 2012**

Report from the Audit Committee Meeting.

**REPORT ITEM**

Verbal report.

4a

**BOARD ACTION REQUEST**

**Board Secretary**

**June 14, 2012**

Presentation, Discussion, and Possible Action regarding the Strategic Planning & Budgeting Committee Meeting Minutes Summary for May 10, 2012.

**RECOMMENDED ACTION**

**RESOLVED**, that the Strategic Planning & Budgeting Committee Meeting Minutes Summary for May 10, 2012, as having been specifically approved, is hereby approved as presented.

**STRATEGIC PLANNING & BUDGETING COMMITTEE  
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

May 10, 2012; 1:30 p.m.  
1500 North Congress Ave.  
Capitol Extension, E1.020  
Austin, TX

**MINUTES SUMMARY**

**CALL TO ORDER, ROLL CALL, CERTIFICATION OF QUORUM**

The Strategic Planning & Budgeting Committee Meeting of the Texas Department of Housing and Community Affairs of May 10, 2012 was called to order by Chair, Tom Gann at 4:14 p.m. It was held at the 1500 North Congress Ave, Capitol Extension, E1.020, Austin, Texas. Roll call certified a quorum was present.

**Members Present:**

Tom Gann, Chair  
Dr. Juan Muñoz  
J. Paul Ozer

The Strategic Planning & Budgeting Committee of the Board of the Texas Department of Housing and Community Affairs met to consider and develop recommendations to the Board:

**AGENDA ITEMS**

**AGENDA ITEM 1 PRESENTATION AND DISCUSSION ON THE TDHCA STRATEGIC PLAN**

- a) Background on Legislative Planning Process and Timeline  
Mr. William Dally provided members with handouts illustrating: Timeline of Key Dates, Committee Structure, Overview of Components of Strategic Plan, Draft revisions to TDHCA Mission & Philosophy, and 2013-2017 Strategic Plan External/Internal Assessment Outline.
- b) TDHCA Mission and Philosophy  
Dr. Muñoz asked staff to provide members with a Word version of this document in order for them to make edits and comments and would like to see the final draft before the next Committee meeting.  
Mr. Irvine reported that the Department will make the draft available to the public on our webpage as well as sending to our Listserv.
- c) Self-Evaluation Considerations  
Ms. Yevich reported that the Employee Attitude Survey responses were due on May 9<sup>th</sup> and are being evaluated.  
Mr. Irvine reported that the multi-family community still has a few concerns, the single-family community has voiced hopeful support for improvements underway in the area of single family processes, and the community affairs provider network is addressing funding sources being under pressure.  
Mr. Lyttle reported that notices regarding the ARRA ramp down will be sent to Legislators and FAQs will be added to the website to assist with constituent inquiries.

**AGENDA ITEM 2 PRESENTATION, DISCUSSION, AND POSSIBLE ACTION TO RECOMMEND THAT THE BOARD AUTHORIZE STAFF TO PROCEED WITH THE DEVELOPMENT OF A TO BE ANNOUNCED (TBA) PROGRAM (PROGRAM 79) WHICH IS EXPECTED TO FUND THE DEPARTMENT'S 2012-2013 SINGLE FAMILY MORTGAGE LOAN PRODUCTION**

Handout provided: TBA Program Overview.

Mr. Pike reported that proposed new rules will be presented to the full Board in June and will ask for any needed waivers under the First Time Homebuyer rule.

**PUBLIC COMMENT**

No public comment.

**EXECUTIVE SESSION**

No Executive Session.

**ADJOURN**

Since there was no other business to come before the Committee, the meeting was adjourned at 5:18 p.m. on May 10, 2012.

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**Michele Atkins, Assistant Board Secretary**



4b

**BOARD ACTION REQUEST**  
**HOUSING RESOURCE CENTER**

**June 14, 2012**

Presentation, Discussion, and Possible Action on the Agency Strategic Plan for the Fiscal Years 2013-2017 Period

**Recommended Action**

Approve the submission of the Agency Strategic Plan for Fiscal Years 2013-2017.

**WHEREAS**, as Texas Government Code Chapter 2056 requires all state agencies to conduct a comprehensive strategic planning process which produces a formal document that communicates its goals, directions, and outcomes to the Governor and the Legislature, client and constituency groups, and the public, and

WHEREAS, the Strategic Planning Committee of the Board has discussed, and subsequently reviewed, this Agency Strategic Plan,

**RESOLVED**, that the proposed Agency Strategic Plan for Fiscal Years 2013-2017 is hereby approved as presented to this meeting and staff is authorized and directed to file and distribute the Strategic Plan as required, including providing it to appropriate legislative and oversight offices.

**Background**

Strategic planning is a long-term, iterative, and future-oriented process of assessment, goal setting, and decision-making. It includes a multiyear view of objectives and strategies for the accomplishment of state agency goals. Clearly defined results provide feedback that leads to program performance that influences future planning, resource allocation, and operating decisions. The strategic planning process incorporates and sets direction for all agency operations.

By July 6, 2012, the Agency Strategic Plan must be submitted to the Governor, Lieutenant Governor, Speaker of the House, Comptroller of Public Accounts, State Auditor, Sunset Advisory Committee, House Appropriations Committee, Senate Finance Committee, Governor's Office of Budget, Planning and Policy, Legislative Budget Board, Texas State Library, the Legislative Reference Library, and the Department of Information Resources.

The TDHCA Strategic Plan for Fiscal Years 2013-2017 (the Plan) outlines its approach to addressing the affordable housing and community service needs of lower income Texans. The Plan was developed within the context of the State's overall goals and budget to generate specific outcomes that tie directly to the Department's budget structure. TDHCA will use the

Plan to help meet needs of the citizens of Texas through logical, transparent, accountable, and effective actions.

The Plan provides a high level overview of issues that may affect the ongoing accomplishment of TDHCA's mission over the next five years. Examples of internal issues the report considers include the Department's budget, workforce characteristics, technological assets and projects, organizational structure, and existing performance measures. External factors that may change over time are also studied. Such factors include TDHCA's available funding resources, service population characteristics, service area boundaries, and the economic, legal, and environmental conditions in which it operates. Finally, the Plan provides TDHCA with an opportunity to describe some of its strengths, weaknesses, challenges, and opportunities for change.

Please note that while this is a "planning" document, it does not establish future performance measure targets or methods of finance (this is done through the Legislative Appropriations Request process); or program set asides or intended program activities (this is done through program rule making, funding plans, and the State Low Income Housing Plan).

**ATTACHMENT A**

AGENCY STRATEGIC PLAN FOR THE FISCAL YEARS 2013-2017 PERIOD  
BY THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

# AGENCY STRATEGIC PLAN

FOR THE FISCAL YEARS 2013–17 PERIOD

BY

## The Texas Department of Housing and Community Affairs

Board Chair  
J. Paul Oxer

Term

Home Town  
Sugar Land, TX

Date of Submission

SIGNED:

\_\_\_\_\_  
Timothy K. Irvine, TDHCA Executive Director

APPROVED:

\_\_\_\_\_  
J. Paul Oxer, TDHCA Board Chair

Prepared by the TDHCA Housing Resource Center  
PO Box 13941, Austin, TX 78711-3941  
Phone: (512) 475-3976 Fax: (512) 469-9606 email: [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us)



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## **INTRODUCTION**

*“In 1991, Texas initiated a comprehensive process of strategic planning for all state agencies within the executive branch of government. House Bill 2009, Seventy-second Legislature, Regular Session, 1991, authorized the process. This legislation established the requirements and time frame under which Texas completed its first planning cycle.*

*House Bill 2009 was subsequently codified as Chapter 2056 of the Texas Government Code.*

*In 1993, the Legislature amended Chapter 2056 of the Texas Government Code to consolidate certain planning requirements and to change the required planning horizon from six years to five years (i.e., the second year of the current biennium and the next two biennia). Agencies must complete and submit plans every two years; however, they may engage in planning on a continual basis and may adjust plans internally as changing conditions dictate.*

### **CONCEPTUAL FRAMEWORK**

*Strategic planning is a long-term, iterative, and future-oriented process of assessment, goal setting, and decision-making. It includes a multiyear view of objectives and strategies for the accomplishment of agency goals. Clearly defined results provide feedback that leads to program performance that influences future planning, resource allocation, and operating decisions. The strategic planning process incorporates and sets direction for all agency operations.*

*An agency’s strategic plan is a formal document that communicates its goals, directions, and outcomes to various audiences, including the Governor and the Legislature, client and constituency groups, the public, and the agency’s employees.”<sup>1</sup>*

The Texas Department of Housing and Community Affairs (TDHCA or Department) Strategic Plan for Fiscal Years 2013–2017 (the Plan) outlines its approach to addressing the affordable housing and community service needs of lower-income Texans. The Plan was developed within the context of the State’s overall goals and budget to generate specific outcomes that tie directly to the Department’s budget structure. TDHCA will use the Plan to help meet needs of the citizens of Texas through sound, transparent, accountable, and effective actions.

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<sup>1</sup> Governor’s Office of Budget, Planning and Policy, Legislative Budget Board. (2012, March). Instructions for preparing and submitting agency strategic plans fiscal years 2013-2017. Retrieved from: [http://www.lbb.state.tx.us/Strategic\\_Plans/Documents.htm](http://www.lbb.state.tx.us/Strategic_Plans/Documents.htm)

## **STATEWIDE VISION, MISSION, AND PHILOSOPHY**

### **THE VISION FOR TEXAS STATE GOVERNMENT**

*“Fellow Public Servants:*

*Since the last exercise in strategic planning began in March 2008, much has changed in the national economic picture. States across the nation have struggled with severe budget shortfalls and the national economy has yet to rebound as many hoped and predicted. Texas, however, has weathered the economic downturn better than other states and been recognized as an example for other states to follow.*

*Our position relative to other states is not by accident. Texas has demonstrated the importance of fiscal discipline, setting priorities, and demanding accountability and efficiency in state government. We have built important reserves in our state’s “Rainy Day Fund,” cut taxes on small businesses, and emphasized a stable and predictable regulatory climate in an effort to show that the Lone Star State is a great place to build a business and raise a family.*

*Over the last year, families across this state and nation have tightened their belts in response to the economic challenges. Government should be no exception. As we begin this next round in our strategic planning process, we must critically reexamine the role of state government by identifying the core programs and activities necessary for the long-term economic health of our state, while eliminating outdated and inefficient functions. We must set clear priorities that will help maintain our position as a national leader now and in the future by:*

Ensuring the economic competitiveness of our state by adhering to principles of fiscal discipline, setting clear budget priorities, living within our means, and limiting the growth of government;

Investing in critical water, energy, and transportation infrastructure needs to meet the demands of our rapidly growing state;

Ensuring excellence and accountability in public schools and institutions of higher education as we invest in the future of this state and ensure Texans are prepared to compete in the global marketplace;

Defending Texans by safeguarding our neighborhoods and protecting our international border; and

Increasing transparency and efficiency at all levels of government to guard against waste, fraud, and abuse, ensuring that Texas taxpayers keep more of their hard-earned money to keep our economy and our families strong.

*I am confident we can address the priorities of our citizens with the limited government principles and responsible governance they demand. I know you share my commitment to ensuring that this state continues to shine as a bright star for opportunity and prosperity for all Texans. I appreciate your dedication to excellence in public service and look forward to working with all of you as we continue charting a strong course for our great state.”*

**RICK PERRY**

*Governor of Texas*<sup>2</sup>

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<sup>2</sup> Ibid.

## **THE MISSION OF TEXAS STATE GOVERNMENT**

“Texas state government must be limited, efficient, and completely accountable. It should foster opportunity and economic prosperity, focus on critical priorities, and support the creation of strong family environments for our children. The stewards of the public trust must be men and women who administer state government in a fair, just, and responsible manner. To honor the public trust, state officials must seek new and innovative ways to meet state government priorities in a fiscally responsible manner.

Aim high . . .we are not here to achieve inconsequential things!”<sup>3</sup>

## **THE PHILOSOPHY OF TEXAS STATE GOVERNMENT**

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise, we will promote the following core principles:

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.
- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.
- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.
- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse and providing efficient and honest government.
- Finally, state government should be humble, recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly.”<sup>4</sup>

Descriptions of ways TDHCA works to fulfill the Vision, Mission, and Philosophy of Texas State Government are provided in the following section which details TDHCA’s impact on the corresponding statewide goals and benchmarks for Texas State Government.

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

## **RELEVANT STATEWIDE GOALS AND BENCHMARKS**

TDHCA's strategies directly or peripherally impact the following statewide goals and associated benchmarks.

### **EDUCATION - PUBLIC SCHOOLS**

#### **Priority Goal**

To ensure that all students in the public education system acquire the knowledge and skills to be responsible and independent Texans by:

- Ensuring students graduate from high school and have the skills necessary to pursue any option including attending a university, a two-year institution, other post-secondary training, military or enter the workforce;
- Ensuring students learn English, math, science and social science skills at appropriate grade level through graduation; and
- Demonstrating exemplary performance in foundation subjects.

#### **Benchmarks**

- High school graduation rate
- Percent of graduates earning recommended high school diploma
- Percentage of students who demonstrate satisfactory performance on the annual state assessments
- Percentage of Texas high school students who need remediation
- Percent of students from third grade and above who are able to read at or above grade level
- Percent of students from third grade and above who perform at or above grade level in math

Access to affordable housing for families with children results in a marked improvement in the educational attainment of children. Considering that “residential mobility has a significant, negative relationship with high school completion — that is, children who move between the ages of 4 and 15 have a lower likelihood of finishing high school,”<sup>5</sup> affordable housing is a major factor in the success of children in school. When families struggle to satisfy their daily needs, school performance can decline. Overcrowded housing conditions can adversely impact childhood development.

TDHCA addresses the priority goals and benchmarks in the following ways.

- TDHCA activities result in lower rental and mortgage payments for families, repairs to and replacement of substandard housing, and reduced utility payments. This assistance helps families provide a safe and stable home environment for their children – conditions that are conducive to promoting educational achievement.

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<sup>5</sup> The Center for Housing Policy. (2011, February). Should I Stay or Should I Go? Exploring the Effects of Housing Instability and Mobility on Children. Retrieved from: <http://www.nhc.org/media/files/HsgInstabilityandMobility.pdf>.

- In addition to providing housing that is safe, decent, and affordable, TDHCA activities often provide supportive services and amenities that are geared towards helping educate children. Examples of this assistance include supportive services provided by rental housing developments and community action agencies that TDHCA has funded. Such services include class room space and equipment, nutrition, afterschool care, computer training, and health and human services care for children that help eliminate barriers to educational success.
- Through the Emergency Solutions Grants Program and Homeless Housing and Services Program, TDHCA funds organizations providing homelessness prevention activities by assisting families that are homeless or threatened with homelessness.

## **EDUCATION – HIGHER EDUCATION**

### Priority Goal

To prepare individuals for a changing economy and workforce by:

- Providing an affordable, accessible, and quality system of higher education; and
- Furthering the development and application of knowledge through teaching, research, and commercialization.

### Benchmarks

- Percent of population age 24 years and older with vocational/technical certificate as highest level of educational attainment
- Percent of population age 24 years and older with two-year college degree as highest level of educational attainment
- Percent of population age 24 years and older with four-year college degree as highest level of educational attainment

People with higher levels of education tend to have lower rates of unemployment and higher rates of income. The Bureau of Labor Statistics found that in 2011, the average unemployment for all workers was 7.6 percent, but the average unemployment for people with a bachelor's degree was 4.9 percent and a professional degree was 2.4 percent. Similarly, the average weekly earnings for all workers was \$797, but the average for people with a bachelor's degree was \$1,053 and a professional degree was \$1,665.<sup>6</sup> TDHCA supports students of higher education by providing affordable housing to allow them to finish their programs.

TDHCA addresses the goals and benchmarks in the following ways:

- Students of higher education may be eligible for reduced rent through the HOME and Housing Tax Credit programs if they meet program-eligibility requirements. Reduced rent will allow the student to spend more time on studying and completing school.
- Rental assistance programs, such as the Emergency Solutions Grants Program, Homeless Housing and Services Program, and Tenant-Based Rental Assistance can provide case

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<sup>6</sup> Bureau of Labor Statistics – Employment Projections. (2012, March). Education pays. Retrieved from [http://www.bls.gov/emp/ep\\_chart\\_001.htm](http://www.bls.gov/emp/ep_chart_001.htm).

management which may include a recommendation for the individual to start or continue an appropriate educational program.

- Through its Community Service Block Grant (CSBG) program, TDHCA provides administrative support funds to Community Action Agencies (CAAs) and other human service delivery organizations that offer emergency and poverty-related programs to lower-income persons. Activities for CSBG can include education services, such as providing funds for tuition or scholarships for higher education.

## **HEALTH AND HUMAN SERVICES**

### Priority Goal

To promote the health, responsibility, and self-sufficiency of individuals and families by:

- Making public assistance available for those most in need through an efficient and effective system while reducing fraud in the system; and
- Continuing to create partnerships with local communities, advocacy groups, and the private and not-for-profit sectors.

### Benchmarks

- Percent of long-term care clients served in the community
- Percent of adult welfare participants in job training who enter employment
- Percent of Texas population receiving food stamps
- Incidence of confirmed cases of abuse, neglect, or death of children, the elderly, or spouses per 1,000 population
- Rate of substance abuse and alcoholism among Texans
- Percent of people completing vocational rehabilitation services and remaining employed

There are several groups in Texas designated by TDHCA as special needs populations, including, but not limited to, homeless populations, persons with disabilities, elderly populations, and persons with alcohol and substance abuse issues. Many of these special needs population groups are vulnerable to poverty and may enter into the health and human services system. For example, the 2009 American Community Survey estimates 24.7 percent of working-age people with disabilities were below the poverty level in Texas at that time. Tailoring some programs for these groups' needs allows TDHCA to promote healthy, responsible and self-sufficient individuals and families.

TDHCA addresses the priority goals and benchmarks in the following ways:

- TDHCA's rental assistance vouchers provided through the US Department of Housing and Urban Development's (HUD) HOME, Housing Choice Voucher (Section 8), and rental assistance vouchers through the Housing Trust Fund programs can be used to help people live independently and remain in their own homes. To help persons with special needs own their own homes, TDHCA has made available HOME Program funds to help persons with disabilities purchase a home, access homebuyer education, access down payment and closing cost assistance, and receive funding for architectural barrier removal. In addition, the Housing Trust Fund has the Amy Young Removal program to

provide grants for home modifications needed for accessibility for persons with disabilities.

- TDHCA's multifamily properties offer valuable services to tenants that range from job training programs, computer labs, and literacy programs, to matched savings plans that can be used to fund educational opportunities. Local community action agencies funded through TDHCA's Community Services Block Grant Program, Homeless Housing and Services Program and other Community Affairs' programs provide essential services, including access to child care, transportation, job training and employment services, utility assistance, and educational programs. These activities are of great value to persons trying to improve their chance of getting and keeping a job and help promote long-term self sufficiency.
- Women who are victims of domestic violence live in poverty are often forced to choose between staying in abusive relationships or homelessness. According to the National Coalition for the Homeless, a majority of homeless women have been victims of domestic violence: The Network to End Domestic Violence states that 63% of homeless women have experienced domestic violence in their adult lives.<sup>7</sup> In 2009, there were 196,713 reported family violence incidents in Texas and 12,213 adults received shelter from their abusive relationships.<sup>8</sup> Through TDHCA's community services programs, many victims of domestic violence are able to access shelter and supportive services that help them become self sufficient.
- According to the National Health Care for the Homeless Council, "Among surveyed homeless people 38% have an alcohol problem, and 26% report problems with other drugs."<sup>9</sup> Homeless persons with substance abuse problems may require supportive services. Through Community Affairs' programs, such as the Emergency Solutions Grants Program and Homeless Housing and Services Program, TDHCA funds organizations that provide shelter and related services for homeless persons, as well as intervention services to persons threatened with homelessness. Activities include renovating buildings for use as shelters; medical and psychological counseling; assistance in obtaining permanent housing; and homeless prevention services, such as rent and utility assistance. In addition, the TDHCA Housing Tax Credit program can be used to develop transitional housing and permanent supportive housing for homeless populations.
- Many programs have specific activities that service elderly Texans. For example, the Community Service Block Grant Program funds eligible entities that operate programs targeting the elderly, such as Meals-on-Wheels, senior activity centers, and home care services. The Department's energy assistance and weatherization programs, give preference to the elderly as well as other special needs and priority populations. HOME's Homeowner Rehabilitation activity provides funds for the repair and

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7 National Coalition for the Homeless. (2009, July). Why are people homeless? Retrieved from: <http://www.nationalhomeless.org/factsheets/why.html>.

8 Texas Council on Family Violence (2009). Family Violence in Texas 2009, Retrieved from: [http://www.tcfv.org/wp-content/uploads/2007/10/tcfv\\_stats20091.pdf](http://www.tcfv.org/wp-content/uploads/2007/10/tcfv_stats20091.pdf)

9 National Coalition for the Homeless. (2009, July). Who is homeless? Retrieved from: <http://www.nationalhomeless.org/factsheets/Whois.pdf>

rehabilitation of homes owned by very low-income households and many of the assisted households are elderly. Finally, the Housing Tax Credit Program and the Multifamily Bond Program fund “Qualified Elderly Developments”, which is a development in which elderly residents occupy 80 to 100 percent of the affordable units. Ensuring that the elderly have access to affordable housing and services helps that population gain self sufficiency.

## **ECONOMIC DEVELOPMENT**

### *Priority Goal*

To provide an attractive economic climate for current and emerging industries that fosters economic opportunity, job creation, capital investment, and infrastructure development by:

- Promoting a favorable and fair system to fund necessary state services;
- Addressing transportation needs;
- Maintaining economic competitiveness as a key priority in setting State policy; and
- Developing a well trained, educated, and productive workforce.

### *Benchmarks*

- Number of employees in targeted industry sectors
- Number of new non-government, non-farm jobs created
- Per capita gross state product
- Texas unemployment rate
- Number of Texans receiving job training services

The provision of affordable housing has an economic impact on communities. Just as an economic benefit accompanies the construction of market-rate real estate, so too does the benefit accompany affordable housing. Construction directly creates jobs, wages, and tax revenues. It also provides indirect economic benefits as the construction creates demand for goods and services. According to a study by the National Association of Home Builders published in 2009,<sup>10</sup> the construction of:

- 100 single-family homes in a typical metro area include \$21.1 million in local income, \$2.2 million in taxes and other revenue for local governments, and 324 local jobs.
- 100 rental apartment units in a typical metro area include \$7.9 million in local income, \$827,000 in taxes and other revenue for local governments, and 122 local jobs.

The economic growth of communities can be adversely impacted when job growth is not matched with corresponding growth in affordable housing opportunities. Despite lower interest rates, relatively low home prices, and moderate rent increases, many workers are still unable to affordably buy a median-priced home or rent a typical apartment in the communities they

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<sup>10</sup> National Association of Homebuilders, (2009, June) The local impact of homebuilding. Retrieved from [http://www.nahb.org/fileUpload\\_details.aspx?contentTypeID=3&contentID=35601&subContentID=21918](http://www.nahb.org/fileUpload_details.aspx?contentTypeID=3&contentID=35601&subContentID=21918).



serve.<sup>11</sup> This may create a barrier for employers to find workers. As expressed at many TDHCA public hearings, affordable housing’s affect on economic development is of particular concern to rural areas. The relative geographic isolation of some rural communities means they cannot rely on nearby communities for housing that can help support their growth opportunities.

TDHCA addresses the priority goals and benchmarks in the following ways.

- The following table shows TDHCA funding allocated during fiscal year 2011 and the corresponding number of housing units to be built or rehabilitated. As described above, this activity has a significant economic impact in the communities where the construction will occur.

**Table 1.** TDHCA funding allocated FY 2011

<b>Activity</b>	<b>Funds</b>	<b>Households*</b>
Rental New Construction	\$50,122,568.00	3,133
Rental Rehabilitation	\$24,531,487.00	1,974
Owner Financing & Down Pmt.	\$308,788,595.00	2,591
Owner Rehabilitated Asst	\$19,771,600.00	222
<b>Total</b>	<b>\$403,214,250.00</b>	<b>7,920</b>

\*In this context, households represent number of units.

- In addition to the economic benefits derived from constructing housing units with the help of TDHCA resources, as described in the “Health and Human Services” goals and benchmarks section of this report, the rental development and community services programs help persons in need by providing essential employment-related services. These services include access to computers, the internet, child care, transportation, job training and employment services, and education services.
- Local governments, organizations, and developers receiving TDHCA funds typically use local labor and companies to complete the work, thus supporting the local economy. For example, local community action agencies operating the Weatherization Assistance Program use local contractors to make energy-efficient repairs and improvements.
- Community Service Block Grant (CSBG) activities can be instrumental in preventing homelessness in the lowest-income populations. Activities for CSBG program can include job training, employment services and other activities to promote self-sufficiency.

## REGULATORY

### Priority Goal

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<sup>11</sup> Center for Housing Policy. (2010). Paycheck to Paycheck 2010 Executive Summary: Is housing affordable for America’s workers? Retrieved from, [http://www.nhc.org/pdf/P2P\\_2010\\_ExecutiveSummary.pdf](http://www.nhc.org/pdf/P2P_2010_ExecutiveSummary.pdf).

## *TDHCA Mission and Philosophy*

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To ensure Texans are effectively and efficiently served by high-quality professionals and businesses by:

- implementing clear standards;
- ensuring compliance;
- establishing market-based solutions; and reducing the regulatory burden on people and business.

### Benchmarks

- Percent of state professional licensee population with no documented violations
- Percent of new professional licensees as compared to the existing population
- Percent of documented complaints to professional licensing agencies resolved within six months
- Percent of new and renewed professional licenses issued via internet
- Percent of state financial institutions and credit providers rated “safe and sound” and/or in compliance with state requirements
- Percent increase in utilization of the state business portal

TDHCA addresses the priority goals and benchmarks in the following ways:

- TDHCA’s Compliance Division and Program Services Division, in coordination with the Department’s programs, ensure that compliance with federal and state programs is achieved. Compliance focuses on maintaining required long-term affordability standards, justifying tenant income certification records. Compliance also works closely with the program areas to ensure that applicants for funding who have previously received assistance from TDHCA are in compliance with the terms and requirements of those contracts. The Program Services Division is responsible for federal and departmental requirements for housing programs administered by the Department, including the processing and issuance of environmental clearances, labor standards requirements, loan closings and the commitment and disbursement of federal funds.
- The Office of American Recovery and Reinvestment Act Accountability and Oversight is responsible for identifying and mitigating risk in program development and operation and for issues that cut across all Recovery Act programs, such as reporting and federal guidance.
- The Manufactured Housing Division (MHD) licenses and regulates those who manufacture, sell, broker, and install manufactured homes. MHD issues and maintains records on manufactured home ownership and location, inspects manufactured home installations, and investigates and oversees the resolution of consumer complaints. It maintains offices in Austin, Lubbock, and Waco, as well as offers professional license renewals through Texas Online. The Manufactured Housing Division also licenses and inspects migrant farmworker housing facilities and assists the Compliance Division in inspecting TDHCA-monitored multifamily properties.
- Regarding the soundness of financial institutions and credit providers, the Financial Service, Bond Finance, and Single Family Finance Production divisions offer current and future first-time homebuyers the ability to purchase homes at below market rate with down payment assistance without affecting state debt. Standard & Poor’s and

Moody's Investors Service have awarded TDHCA single family housing bonds with their highest bond ratings as a result of effective structuring of debt and conservative debt management practices.

## GENERAL GOVERNMENT

### Priority Goal

To provide citizens with greater access to government services while reducing service delivery costs and protecting the fiscal resources for current and future taxpayers by:

- supporting effective, efficient, and accountable state government operations;
- ensuring the state's bonds attain the highest possible bond rating; and
- conservatively managing the state's debt.

### Benchmarks

- Total state spending per capita
- Percent change in state spending, adjusted for population and inflation
- Ratio of federal dollars received to federal tax dollars paid
- Number of state employees per 10,000 population
- Number of state services accessible by internet
- Total savings realized in state spending by making reports/documents/processes available on the internet
- Affordability of homes as measured by the Texas Housing Affordability Index

TDHCA addresses the priority goals and benchmarks in the following ways:

- TDHCA ensures that all programs follow the citizen participation and public hearing requirements as outlined in the Texas Government Code. Hearing locations are accessible to all who choose to attend and are held at times accessible to both working and non-working persons. Additionally, pertinent information is posted in the Texas Register, on TDHCA's website, and notices are sent periodically to people who have voluntarily signed up on TDHCA's Listserv. Participation and comments are encouraged and can be submitted either at a public hearing or in writing via mail, fax, email, and in some cases, directly on the TDHCA website.
- TDHCA values and relies on community input to direct resources to meet its goals and objectives. In an effort to provide the public with an opportunity to more effectively give input on TDHCA's policies, rules, planning documents, and programs, TDHCA has consolidated most of its public hearings related to policy and rule development. Each year, a hearing on all TDHCA programs will be held in at about half of the State Service Region the Department uses for planning and reporting purposes. After the regional hearings are held, the State Low Income Housing Plan, TDHCA's key annual planning and policy document, is presented to the Board so comment may be provided directly to the Board. Staff is available at each hearing to answer questions and lend technical assistance to attendees.

- All TDHCA program funds are distributed and used with the intention of delivering the highest possible level of assistance. Before being recommended to the Governing Board for approval, all multifamily housing production applications are thoroughly underwritten by the Real Estate Analysis Division to ensure the proposed activity is both financially feasible and uses the minimum required amount of assistance. All of the Department's internal operations are thoroughly scrutinized by funding source reporting requirements, internal and external audits, and the Legislative Budget Board (LBB) budgeting and performance measurement system to provide for the most efficient and effective provision of services.
- In support of the agency mission, TDHCA has a strong commitment to providing the citizens of Texas open, online access to information about every agency program and service through detailed web pages, a posted library of agency publications, social media resources such as Facebook and Twitter, and customer search tools to find local assistance providers for buying homes, renting, home repair and weatherization, and utility bill payments.
- The TDHCA Interactive page is the website's portal to online services. In addition to the services mentioned above, the Interactive page provides a link to the Manufactured Housing online database of ownership, license, installation, and inspections records. It also includes a 'Partner Tools' section, which provides both housing and community affairs program subrecipients access to systems for reporting and maintaining contract and compliance data.
- Virtually every report or document that TDHCA produces is available on the website. In FY2011(9/1/2010-8/31/2011), the public web site received the following activity (averaged monthly):
  - General webpages:
    - 41,935 visitors
    - 91,820 visits
    - 334,283 page views
  - Help for Texans, Consumer Assistance area
    - 5,148 visitors
    - 38,933 visits
    - 291,754 page views
  - Manufactured Housing Database:
    - 8,107 visitors
    - 38,352 visits
    - 326,276 page views
- Through the Central Database project, TDHCA automated the processes associated with contract management, draw requests, and compliance reporting. The three major Central Database systems are the Community Affairs Contract System, the Compliance Monitoring and Tracking System (CMTS), and the Housing Contract System. In April 2009 and throughout the FY 2010-2011 biennium, TDHCA expanded these systems to successfully administer contracts for Recovery Act programs, Community Development Block Grant Disaster Recovery programs for Hurricanes Ike and Dolly, the Neighborhood Stabilization Program, and the Homeless Housing and Services Program

could be managed in these systems. TDHCA program personnel currently administer 153 active contracts for community affairs programs and 441 contracts for housing programs. Over 4,900 accounts are in place for subrecipients who submit community affairs program performance and expenditure reports and housing program contract activity setups and draw requests. Additionally, there are currently over 4,000 accounts in place for property owners and managers who submit online CMTS status reports on properties funded through TDHCA programs. CMTS contains 2,823 property records and over 267,000 unit records. While TDHCA's activities do not directly impact the Texas housing affordability index, which is based on local area income levels and home prices, its single family loan products and the Texas Bootstrap loan program certainly allow many more people to buy their own home than would otherwise be possible. Also, TDHCA's programs that weatherize homes may result in lower utility payments making housing more affordable for the owner.

- Standard & Poor's and Moody's Investors Service have awarded TDHCA single family housing bonds with their highest bond ratings as a result of effective structuring of debt and conservative debt management practices.

## **TDHCA MISSION**

The mission of the Texas Department of Housing and Community Affairs is to administer its assigned programs efficiently, transparently, and lawfully. To invest its resources strategically and develop high quality affordable housing which allows Texas communities to thrive.

## **TDHCA PHILOSOPHY**

The Department's philosophy is one of openness to input, consideration of new methods that brings about improvement, and balanced adherence to laws, rules, and policy provided from state leadership as articulated by its Governing Board. This philosophy embraces:

- A trained and committed staff that is freed up to improve processes and efficiencies, collaborative with other agencies, and of the utmost integrity.
- Operations that are continually assessed and improved based on principles of enterprise wide risk management, adherence to documented operating procedures, transparency, and prudent use of the taxpayer resources.
- Respect for customers and stakeholders built on a continuous understanding of their needs and which have at their core a constant and open dialogue to develop effective responses to those needs.

The Department's key words are:

- Compliance
- Adaptability
- Collaboration
- Respect
- Simplicity
- Accountability
- Transparency

State resources entrusted to the Department are limited and cannot accommodate every need or demand. Therefore, the Department's ultimate objective is to provide unassailable QUALITY in all we do such that our programs and services command universal respect.

## **EXTERNAL/INTERNAL ASSESSMENT**

### **I. OVERVIEW OF AGENCY SCOPE AND FUNCTIONS**

#### **A. Statutory Basis**

Chapter 2306 of the Texas Government Code outlines the functions of TDHCA as follows:

*Sec. 2306.001. Purposes. The purposes of the department are to:*

- 1) *assist local governments in*
  - A) *providing essential public services for their residents; and*
  - B) *overcoming financial, social, and environmental problems;*
- 2) *provide for the housing needs of individuals and families of low and very low income and families of moderate income;*
- 3) *contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income;*
- 4) *assist the governor and the legislature in coordinating federal and state programs affecting local government;*
- 5) *inform state officials and the public of the needs of local government;*
- 6) *serve as the lead agency for:*
  - A) *addressing at the state level the problem of homelessness in this state;*
  - B) *coordinating interagency efforts to address homelessness; and*
  - C) *addressing at the state level and coordinating interagency efforts to address any problem associated with homelessness, including hunger.*
- 7) *serve as a source of information to the public regarding all affordable housing resources and community support services in the state.*

#### **B. Historical Perspective**

The following events have shaped TDHCA's current organizational structure and program responsibilities.

- In 1991, the 72nd Texas Legislature created TDHCA from the Texas Housing Agency, the Texas Department of Community Affairs, and the Community Development Block Grant (CDBG) Program from the Texas Department of Commerce.
- On September 1, 1992, two programs were transferred to TDHCA from the Texas Department of Human Services: the Low Income Home Energy Assistance Program (LIHEAP) and the Emergency Nutrition and Temporary Emergency Relief Program.
- On September 1, 1995, in accordance with House Bill 785, regulation of manufactured housing was transferred to the Department.
- On September 1, 2001, in accordance with House Bill 7, the CDBG and Local Government Services programs were transferred to the newly-created Texas Department of Rural Affairs (TDRA). However, TDHCA, through an interagency contract

with TDRA, now the Office of Rural Affairs within the Texas Department of Agriculture, administers 2.5 percent of the CDBG funds used for the Self-Help Centers along the Texas-Mexico border.

- Also on September 1, 2001, in accordance with Senate Bill 322, the Manufactured Housing Division became an independent entity administratively attached to TDHCA.
- The 81st Legislature of 2009 increased funding to the Housing Trust Fund, resulting in TDHCA making the Housing Trust Fund a separate division.
- Hurricanes Rita and Katrina in 2005 and Hurricanes Dolly and Ike in 2008 resulted in TDHCA administering approximately \$1.8 billion in Community Development Block Grant hurricane recovery funds in conjunction with the Texas Department of Rural Affairs. In 2009, TDHCA's Disaster Recovery Division was expanded to administer the housing recovery portion of these funding awards.
- The Housing and Economic Recovery Act (HERA) of 2008 and the American Recovery and Reinvestment Act (ARRA) of 2009 resulted in the Department receiving approximately \$1.2 billion in additional funds over three years. The influx of funds resulted in the creation of several new divisions and programs, including the Neighborhood Stabilization Program Division, Mortgage Advantage Program, the 90-Day Down Payment Assistance Program, Homeless Prevention and Rapid Re-Housing Program, Housing Tax Credit Exchange Program and Tax Credit Assistance Program (TCAP). Furthermore, additional funding was made available to existing programs, such as the Community Services Block Grant (CSBG) and Weatherization Assistance Programs (WAP). The Office of American Recovery and Reinvestment Act Accountability and Oversight was created to identify and mitigate risk in program development and operation and for issues that cut across all Recovery Act programs, such as reporting and federal guidance.
- In 2009, the Department implemented a reorganization of certain housing-related activities and administrative structures. A separate division called Program Services was created; Program Services is responsible for adherence, processing and completion of cross-cutting federal and departmental requirements for housing programs administered by the Department.
- On July 1, 2011, administration of the Community Development Block Grant hurricane recovery funds was transferred to the Texas General Land Office, along with TDHCA's Disaster Recovery Division staff.
- On September 1, 2011, in accordance with House Bill 1, 10% of the Housing Trust Fund's biennial allocation was transferred to the Texas Veterans Commission.
- The Mortgage Advantage Program, the 90-Day Down Payment Assistance Program, Homeless Prevention and Rapid Re-Housing Program, Housing Tax Credit Exchange Program, Tax Credit Assistance Program, and CSBG-ARRA programs were successfully expended by the 2nd quarter of SFY 2012.
- In 2012, the Department implemented a recalibration effort. A separate division called Asset Management was created to handle the additional asset management duties now required for properties that received assistance under the TCAP and the Tax Credit Exchange Program, to manage the resolution of non-performing assets, to oversee the



administration of post-allocation activities for multifamily projects, and to administer closing and draw activity and adherence to various federal cross-cutting requirements. The Program Planning, Policy & Metrics (3PM) Team was also formed to provide accurate reporting and metrics, inform programming and funding decisions, make recommendations to Executive and the Governing Board, and coordinate broad Department-wide policy-making. The monitoring functions of the Energy Assistance and Community Services divisions were subsumed by the Compliance Division to ensure independence of the compliance oversight function from the programmatic areas. Single family programs were placed under an organizational structure to ensure that their offerings are coordinated and that their processes are simplified, streamlined, and consistent and to facilitate development of a more robust external network of subrecipients capable of offering a full array of state programs to all eligible recipients.

### C. Affected Populations

As established by §2306.001(2), TDHCA is to “provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income...” Per Section 2306.004, individuals and families are classified by the following income categories:

- "extremely low income" earn not more than 30 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.
- “very low income” earn not more than 60 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.
- "low income" earn not more than 80 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

Section 2306.004 also defines “Family of moderate income” to be a family:

*“(A) that is determined by the board to require assistance, taking into account:*

*(i) the amount of the total income available for housing needs of the individuals and families;*

*(ii) the size of the family;*

*(iii) the cost and condition of available housing facilities;*

*(iv) the ability of the individuals and families to compete successfully in the private housing market and to pay the amounts required by private enterprise for sanitary, decent, and safe housing; and*

*(v) standards established for various federal programs determining eligibility based on income; and*

*(B) that does not qualify as a family of low income.”*

Only a few programs allow for households served to have incomes above 80 percent of area median income. For the single family bond funded loans, moderate income would include homebuyers with household incomes up to 115 percent of the area median family income and 140 percent of the area median family income for targeted areas. For the Neighborhood

## External/Internal Assessment

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Stabilization Program, eligible applicants can have incomes up to 120 percent of the median income, though 35 percent of all funds must be allocated to households earning no more than 50 percent of the median income. For the National Foreclosure Mitigation Counseling Program, there is no household income threshold for service.

Within these income categories, there are households that have special needs which further complicate their ability to find housing. The US Department of Housing and Urban Development (HUD) has designated the homeless, persons with disabilities, the elderly, persons with alcohol and/or drug addictions, persons with HIV/AIDS, and public housing residents as special needs populations requiring special attention. TDHCA also considers colonia residents and migrant farmworkers to be special needs populations with unique needs.

The varying state and federal income categories can cause some confusion when TDHCA reports on the income levels of those receiving assistance in documents with different audiences such as the State Low Income Housing Plan, LBB Performance Measures, and the HUD Consolidated Planning documents.

### D. Main Functions

To achieve its mission, TDHCA provides the following types of assistance.

#### *Housing and Community Services Assistance*

- Housing assistance for individual households (homebuyer down payment, low interest rate mortgage financing, self-help housing opportunities, home repair, homebuyer education, Texas veterans housing assistance, grants for accessible home modifications for persons with disabilities, and rental payment assistance);
- Funding for the development of rental housing and single-family developments (new construction or rehabilitation);
- Disaster recovery/relief (home repair and reconstruction, and development of rental housing);
- Foreclosure relief (foreclosure prevention counseling and assistance under the Neighborhood Stabilization Program in areas meeting the federal criteria);
- Energy assistance (utility payments or home weatherization activities); and
- Assistance for homeless persons and emergency relief for individuals or families in crisis (transitional housing, energy assistance, health and human services, child care, nutrition, job training and employment services, substance abuse counseling, medical services, other emergency assistance, and administrative support for community service agencies).

TDHCA's funding resources are awarded through formal, published processes. As such, funding is distributed to entities that, in turn, provide assistance to households in need. This distribution is done using a number of techniques.

- Almost all housing development, rehabilitation, and rental assistance funding is awarded through formal request for proposals and notices of funding availability.
- First time homebuyer mortgage and down payment assistance is allocated through a network of participating lenders. Counseling services is allocated to HUD-Approved Counseling Organizations that partner with TDHCA.
- Community services and energy assistance funds are predominantly allocated through a network of community-based organizations who receive their funding on an annual, ongoing basis.

Funding for the services listed above include the US Department of Housing and Urban Development (HUD), US Department of Treasury (DoT), US Department of Health and Human Services (DHHS), and US Department of Energy (DoE), and Texas general revenue funds.

#### *Manufactured Housing Activities*

The Manufactured Housing Division is an independent entity within TDHCA. It is administratively attached, but it has its own Governing Board and Executive Director. The Manufactured Housing Division administers the Texas Manufactured Housing Standards Act (TMHSA). The TMHSA ensures that manufactured homes are well constructed and safe; are installed correctly; that consumers are provided fair and effective remedies; and that measures are taken to provide economic stability for the Texas manufactured housing industry. Services of the Manufactured Housing Division include recordation of ownership and liens, issuance of Statements of Ownership and Location (SOL); required training and examination for prospective license applicants, license issuance to manufacturers, retailers, rebuilders, installers, brokers, and/or salespersons; record and release of tax and mortgage liens; installation inspections; consumer complaints; and through a cooperative agreement with HUD, the regulation of the manufactured housing industry in accordance with federal laws and regulations.

#### *Information Resource Assistance*

TDHCA is a housing and community services informational resource for individuals, local governments, the Legislature, community organizations, advocacy groups, and members of the housing development community. Examples of information it provides include: general information on TDHCA activities, US Census data analysis, and consumer information on available housing and supportive service assistance statewide. A primary method by which this information is made available is TDHCA's interactive consumer assistance website at <http://www.tdhca.state.tx.us/texans.htm>.

In all of its activities, TDHCA strives to promote sound housing policies; promote leveraging of state and local resources; prevent discrimination; and ensure the stability and continuity of services through a fair, nondiscriminatory, and open process. *Table 2. Housing Support Continuum* briefly describes the activities assisted by and households served by each TDHCA program. The *Housing Support Continuum* is a tool that allows TDHCA to ensure that its programs support one another and to minimize conflict or duplication.

**Table 2. Housing Support Continuum**

Continuum	Program/Activities	Description	Eligible Households
(1) Poverty and Homelessness Prevention	Community Services Block Grant	Funds local community action agencies to provide essential services and poverty programs	<125% poverty
	Comprehensive Energy Assistance	Funds local agencies to offer energy education, financial assistance and Heating, Ventilating and Air Conditioning (HVAC) replacement	<200% poverty
	Emergency Solutions Grant Program	Funds entities to provide shelter and related services to the homeless, rapidly re-house homeless individuals and families, and prevent families and individuals from becoming homeless.	<50% AMFI (Homeless)
	Homeless Housing and Services Program	Funds the eight largest Texas cities to provide services or facilities to homeless individuals and families	<50% AMFI (Homeless)
(2) Rental Assistance	Section 8 Housing Choice Vouchers	Acts as a public housing authority to offer tenant-based rental assistance vouchers in certain rural areas	<50% AMFI
	Tenant-Based Rental Assistance (Home Program)	Grants for entities to provide tenant-based rental assistance for up to two years	<80% AMFI
(3) Multifamily Development	Affordable Housing Match Program (Housing Trust Fund)	Provides funding to Nonprofit Organizations to attract or meet requirements for affordable housing grants or government programs	<80% AMFI
	Community Housing Development Organization Set-aside (HOME Program)	These organizations can apply for loans to develop or preserve affordable rental housing	<80% AMFI
	Rental Housing Development (HOME Program)	Loans or grants to develop or preserve affordable rental housing	<80% AMFI
	Housing Tax Credit Program	Tax credits to developers for the creation or preservation of affordable rental housing	<60% AMFI
	Multifamily Bond Program	Loans to develop or preserve affordable rental housing	<60% AMFI
(4) Homebuyer Education, Assistance and Single-Family Development Homebuyer Education & Assistance	Colonia Self-Help Center Program	Homebuyer education offered through Colonia Self-Help Centers and Office of Colonia Initiatives (OCI) field offices	<115% AMFI (All)
	Texas Statewide Homebuyer Education	Training for nonprofits to provide homebuyer education	<115% AMFI (All)
	Affordable Housing Match Program	Provides funding to Nonprofit Organizations to attract or meet requirements for affordable housing grants or government programs	<80% AMFI
	First Time Homebuyer Program – Non-targeted funds	Low-interest loans and/or down payment and closing costs for first time homebuyers	<115% AMFI
	First Time Homebuyer Program – Targeted funds	Low-interest loans and/or down payment and closing costs for first time homebuyers in areas of chronic economic distress	<140% AMFI
	Homeownership Assistance - Contract For Deed Conversion (HOME Program)	Stabilizes colonia resident ownership by converting contract for deeds into traditional mortgages	<60% AMFI
	Homeownership Assistance (HOME Program)	Loan and grants for entities to offer down payment and closing cost assistance	<80% AMFI
	Homeownership Assistance Program – Homebuyer Assistance (Housing Trust Fund)	Loan and grants for entities to offer down payment and closing cost assistance	<80% AMFI
	Mortgage Credit Certificate Program	Annual tax credit for qualified homebuyers based on the interest paid on the homebuyer's mortgage loan	<115% AMFI

Continuum	Program/Activities	Description	Eligible Households
(4) Homebuyer Education, Assistance & Single-Family Development <i>Single-Family Development</i>	Community Housing Development Organization Set-aside (HOME Program)	These organizations can apply for loans to assist in the acquisition, rehabilitation, or new construction of single-family housing	<80% AMFI
	Texas Bootstrap Loan Program	Funds entities to offer owner-builder loans programs	<60% AMFI
(5) Rehabilitation	Amy Young Barrier Removal Program (Housing Trust Fund)	Grants for entities to provide home modifications needed for accessibility for persons with disabilities	<80% AMFI
	Homeownership Assistance Program - Homeowner Rehabilitation (Housing Trust Fund)	Provides loans to homeowners for innovative homeownership initiatives, including barrier removal	<80% AMFI
	Homeowner Rehabilitation (HOME Program)	Loans and grants for entities to provide home repair assistance	<80% AMFI
(6) Weatherization	Weatherization Assistance Program and Weatherization Assistance Program	Funds local agencies to provide minor home repairs to increase energy efficiency	<125% poverty
(7) Foreclosure Prevention	National Foreclosure Mitigation Counseling	Fund Foreclosure Counselors to assist households avoid foreclosure	None required
(8) Post-Foreclosure Mitigation	Neighborhood Stabilization Program	Purchase foreclosed properties to demolish or create affordable housing and stabilize existing neighborhoods	<120% AMFI
(9) Disaster Recovery and Relief	Community Services Block Grant – Discretionary Funds	Funds can be used to provide temporary shelter as well as other immediate needs resulting from disasters	<125% poverty
	Disaster Recovery Homeowner Repair (Housing Trust Fund)	Assists households who are lacking only a small portion of funds to fulfill their full cost of construction	<80% AMFI
	Disaster Relief Homeowner Rehabilitation Assistance (HOME Program)	Deobligated HOME funds may be used in non-Participating Jurisdictions to assist with home repair, rehabilitation and reconstruction of homes affected by a disaster	<80% AMFI

*E. Public Perception*

As evidenced by the nature of the phone calls received from the public on TDHCA's main phone line, public comment received on TDHCA documents and comment received at Governing Board meetings, TDHCA is seen as a financial and administrative resource that helps provide essential services and affordable housing opportunities to low-income Texans. Additionally, the Department is seen as a resource for educational materials and technical assistance for housing, housing-related, and community services matters.

A common misperception is that TDHCA has regulatory authority over all aspects of housing throughout the state, from homeowners associations and public housing authorities to the home building industry. As a result, requests are often made to intercede in issues that are not within the Department's jurisdiction. There is also some confusion regarding the roles, duties, and jurisdictions of TDHCA and federal, state, and local housing agencies. TDHCA staff seeks to clarify the Department's role through its website, social media, and publications, and by directing inquiries to appropriate service providers.

TDHCA is perceived as an organization that focuses on providing affordable housing assistance to very low-income and low-income persons and families. The basic structures of its largest multifamily rental funding sources, Housing Tax Credits and Multifamily Mortgage Revenue Bonds, serve households at or below 50 and 60 percent of the area median income. Those developments that are able to use funds from another affordable housing program, such as the HOME program or Housing Trust Fund, are often able to serve households with even lower incomes.

At times, a conflict exists between the actual characteristics of and the public perception of "affordable housing." This conflict is fed by public perceptions about the residents' income levels and employment status; construction quality, design, and density of the developments; and socio-economic impacts on the surrounding neighborhood. TDHCA is sometimes perceived as placing affordable rental housing in neighborhoods without adequately addressing the concerns of area residents.

Because the development of any type of housing involves cooperative arrangements among communities, developers, and government, the Governing Board and TDHCA staff go to great lengths to encourage developers to communicate and work with neighborhood groups to ensure their voices are heard and their legitimate concerns are addressed throughout the process. TDHCA takes seriously its statutory obligation to evaluate community input on funding decisions, including the statutory requirement making neighborhood input a scoring criterion for the Housing Tax Credit Program. Public comment is solicited throughout the state as part of the housing application process, and public comment is taken at each TDHCA Board meeting. Public opposition is balanced with a wide range of factors, including the importance of fair and race neutral distribution of resources and the offering of housing choices to persons served.

## II. ORGANIZATIONAL ASPECTS

### A. Size and Composition of Workforce

The Texas Department of Housing and Community Affairs (TDHCA) is authorized to have 314 total full-time equivalents (cap FTEs). As of April 1, 2012, TDHCA had a total of 291 full-time equivalent (cap FTEs) employees. Additionally, TDHCA was appropriated funds in accordance with Article IX, General Appropriations Act and the American Recovery and Reinvestment Act (Recovery Act) and employed about 65 temporary full time FTEs to support these programs. As of April 1, 2012, TDHCA currently has 17 of these temporary full time employees currently employed, bringing the total number of employees to 308. These temporary positions will count for Equal Employment Opportunity (EEO) reporting purposes only and do not count against the agency’s FTE cap of 314. All ARRA temporary FTEs are slated to end as of August 31, 2012. Non-ARRA Article IX temporary FTEs (18) will continue to be funded for at least the next biennium or until the federal funds are expended.

#### *Equal Employment Opportunity Program*

TDHCA is dedicated to an equal employment opportunity program to ensure ethnic minorities and females are utilized in proportion to their availability in the work force. Currently, minorities comprise 45 percent of the agency’s labor force, and women comprise 61 percent of the agency’s total labor force (See Table 3). Women comprise 40 percent of the agency’s administrator/official positions (See Table 4).

**Table 3. TDHCA Workforce by Ethnicity and Gender**

Job Categories*	African American		Hispanic		White		Other		Total	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
A – Administrators/Officials	0	0	3	1	10	7	0	1	13	9
P - Professionals	6	18	27	56	26	68	2	8	61	150
T - Technician	5	0	7	3	27	5	0	0	39	8
Q - Para-professionals	1	4	0	5	0	5	0	0	1	14
C - Administrative Support	1	1	0	2	3	6	0	0	4	9
Total by Race/Ethnicity & Gender	13	23	37	67	66	91	2	9	118	190
Percent of Total by Race/Ethnicity & Gender	4.2%	7.4%	12%	21.7%	21.4%	29.5%	0.6%	2.9%	38.3 %	61.6 %
Total by Race/Ethnicity	36		104		157		11		308	
Percent of Total by Race/Ethnicity	11.6%		33.7%		50.9%		3.5%			

Source: Uniform Statewide Payroll System

\*A – Administrators and Officials: directors, employees establishing broad policy and exercising responsibility for execution of those policies.

P – Professionals: accountants: systems analysts, attorneys, occupations requiring specialized training or education.

T – Technician: computer technicians, occupations requiring basic scientific or technical knowledge.

Q – Para-professionals: persons performing some of the duties of professionals in a supportive role.

C – Administrative Support: these include clerical payroll clerks, legal assistants, office machine operators, statistical clerks, and bookkeepers.

The tables and charts that follow compare the percentage of African American, Hispanic, and Female TDHCA employees (as of April 1, 2012) to the statewide civilian workforce as reported by the Texas Workforce Commission Civil Rights Division. Overall, the race and ethnic composition of the TDHCA workforce is very diverse and exceeds the state percentages.

The Texas Workforce Commission lists statistics for the statewide civilian work force using a series of broad job categories. *Table 4* compares these statistics with TDHCA staffing patterns:

**Table 4. Statewide Employment Statistics**

Job Category	African American		Hispanic American		Females	
	TDHCA	State	TDHCA	State	TDHCA	State
Officials/Administrators	0	7.5%	18.1%	21.1%	40.9%	37.5%
Professionals	11.1%	9.7%	40%	18.8%	69.7%	53.3%
Technicians	10.2%	13.9%	24.4%	27.1%	16.3%	53.9%
Para-Professionals	33.3%	14.1%	33.3%	49.9%	93.3%	39.1%
Administrative Support	15.3%	12.7%	15.3%	31.9%	69.2%	67.1%

*Source: Uniform Statewide Payroll System and Texas Workforce Commission (TWC). TWC statistics extracted from "Equal Employment Opportunity and Minority Hiring Practices Report, Fiscal Years 2009-2010."*

TDHCA specifically targets recruitment resources such as diverse community groups and colleges that reach out to the workforce in the under-represented EEO categories to generate a larger and more diverse applicant pool to enhance efforts to achieve the EEO goals of the state.

*Recruitment*

A strong recruitment program is essential to obtaining not only talented individuals but also the right mix of skills for the agency. Currently, the average age of TDHCA employees is 45 years, with 48 employees eligible for retirement over the next biennium. (See Table 8) To recruit new employees, the agency participates in job fairs, utilizes specific print media advertising, and posts vacant positions on Internet sites, including the Texas Workforce Commission's Work in Texas website.

*Wellness Program*

To improve the health, fitness, well-being and productivity of TDHCA employees, the Wellness Program was devised to create an environment that promotes and maintains individual fitness and health through voluntary employee participation in program activities.



The agency's fitness leave policy enables employees to earn leave for participating in physical activities, which not only encourages employees to be physically active, but also helps foster a culture that supports healthy behaviors.

*Additional Incentives*

To further retain skilled employees, TDHCA offers flexible work hours and compressed work week options. In addition, the Telecommute Program provides employees the flexibility to work from home. Both programs allow the agency to benefit from reduced absenteeism and leave usage, as well as higher employee morale and lower turnover. The agency also has an Employee Assistance Program, which provides employees with confidential, personal support for a wide range of issues, from everyday concerns to serious problems.

*Workforce by Age and Tenure*

TDHCA's complex and varied duties require experienced, highly skilled employees. As of April 1, 2012, over 28 percent of the agency work force is 50 years or older and the average age of employees is 45 (see *Table 5*). Statistics show that over one-half of the workforce has 10 years or less of experience working at TDHCA (see *Table 6*). Almost fifty percent of TDHCA's workforce has 5 years or less work for TDHCA. Thirty seven percent of TDHCA's work force has 6-15 years of tenure with experience ranging from working knowledge to mastery level. Employees with 16 years or more of experience with TDCHA, with expertise levels ranging from mastery to acknowledged subject matter expert, comprise 16 percent of the work force. These employees are considered keepers of institutional business knowledge.

The average number of years of service of TDHCA employees is 7 years. TDHCA continually strives to ensure that employees are appropriately compensated; to improve internal communications through a variety of venues; to promote training and career development; and to coordinate employee service recognition activities to motivate employees and improve employee retention.

**Table 5. Age**

	Number of Employees	Percent of Employees
Under 30 years	18	5.8%
30-39 years	76	24.7%
40-49 years	105	34.1%
50-59 years	89	28.8%
Over 60 years	20	6.4%

*Source: Uniform Statewide Payroll System*

**Table 6. Agency Tenure**

	Number of Employees	Percent of Employees
0-5 years	145	47%
6-10 years	59	19.2%
11-15 years	54	17.5%
16-20 years	42	13.6%
21-25 years	6	1.9%
Over 25 years	2	.06%

Source: Uniform Statewide Payroll System

*Employee Turnover*

TDHCA’s turnover rate has fluctuated between fiscal years 2007 and 2011. During periods of economic downturns, specifically during fiscal years 2007 and 2010 (see *Table 7*) the Department’s turnover rate was significantly lower than the statewide average. TDHCA’s turnover rate was significantly higher in fiscal year 2011 specifically due to the ramp down of ARRA and Article IX temporary employees; however TDHCA’s turnover rate has generally been more than five percent below the statewide average.

**Table 7. Historic Turnover Rates**

Fiscal Year	TDHCA	State
2011	11.5%	16.8%
2010	5.8%	14.6%
2009	6.9%	14.4%
2008	8.4%	17.3%
2007	6.8%	17.4%

Source: SAO Classified Employee Turnover Report FY2011. Turnover rates exclude interagency transfers

*Retirement Eligibility*

Data obtained from the Employees Retirement System shows projected retirements for TDHCA over the next five fiscal years (See *Table 8*).

The loss of employees due to retirement is, and will continue to be, a critical issue facing the agency. The loss of institutional business knowledge and expertise in key management and senior-level professional positions, coupled with normal attrition, poses a critical work force dilemma for this agency as well as the state. It is important to ensure that this technical knowledge and organizational experience is not lost. Management is aware of the impact that retirees will have on the Department within the next biennium and is continually looking at methods to replace these skills and knowledge through:

- Employee Development
- On-the-job training
- Mentoring
- Leadership Development
- Succession Planning
- Cross divisional training

**Table 8. Projected TDHCA Retirements**

Fiscal Year	Projected Retirements	Percent of Total Agency Employees (FTE Cap of 314)
2013	36	11.4%
2014	12	3.8%
2015	10	3.1%
2016	7	2.2%
2017	5	1.5%
Total Projected Retirements	70	22%

*Source: Employees Retirement System*

**B. Organizational Structure and Process**

TDHCA is organized under seven organizational units that report to the Executive Director: (1) Administration; (2) Single Family Programs, Community Affairs, and Metrics; (3) Multifamily Allocation; (4) Legal Services; (5) Compliance, (6) Asset Analysis and Management; and (7) External Affairs. Within the Administration Division, activities are organized under the following categories: Financial Administration, Information Systems, and Human Resources. Within the Single Family Programs, Community Affairs, and Metrics Division, activities are organized under the following categories: Community Affairs, Housing Trust Fund, Office of Colonia Initiatives, Bond Finance, HOME Single Family Program, Texas Homeownership Division, Neighborhood Stabilization Program, and Office of Recovery Act Accountability and Oversight.. Within the Multifamily Allocation Division activities are organized under the following categories: Multifamily Finance Production and HOME Multifamily Program. The following programs are in the Compliance Division: Contract Monitoring, Compliance Monitoring, and Physical Inspections. Within the Asset Analysis and Management Division, activities are organized under the following categories: Real Estate Analysis, Asset Management, and Program Services. Finally, within the External Affairs Division are the Division of Policy & Public Affairs and the Housing Resource Center.

The Internal Audit Division reports directly to the Board. The Manufactured Housing Division operates within TDHCA as an administratively attached but independent entity. An organizational chart of the Department is provided in Appendix B.

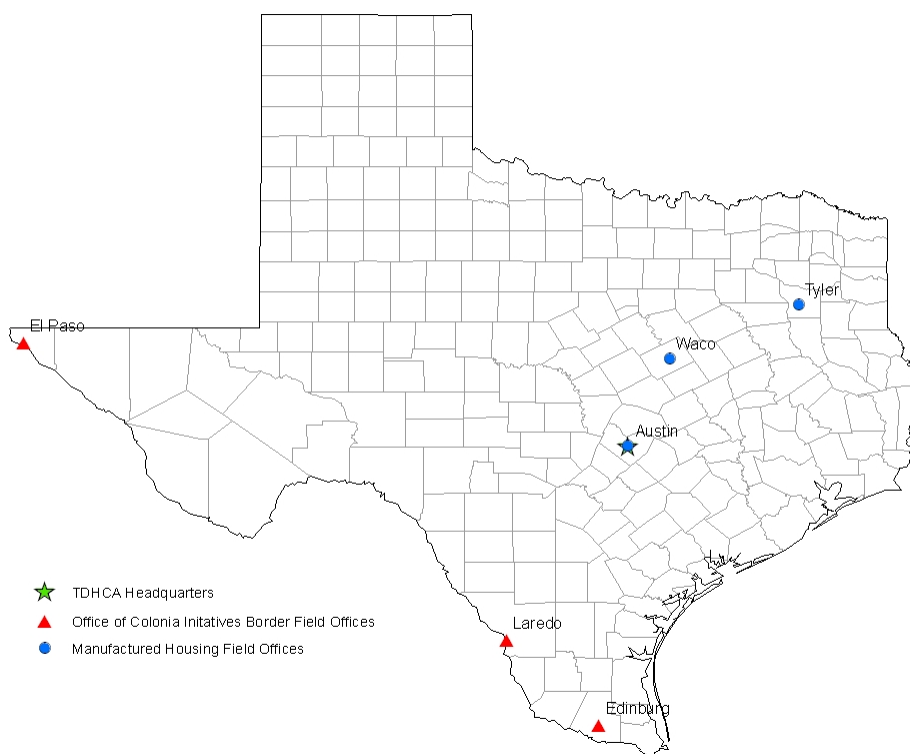
TDHCA’s Executive Director is employed by the Board with the approval of the Governor. The Executive Director is responsible for administering the work of the Department. The seven-member Governing Board, appointed by the Governor with advice and consent of the Senate, works with the Executive Director to develop policies and programs to meet the needs of the mission and goals of the Department.

C. Geographical Location of Agency

TDHCA's headquarters is located in the state owned State Insurance Building Annex at 221 East 11<sup>th</sup> Street, Austin, TX 78701. To house additional staff and computer servers of the Information Services Division, an additional office has been added at the Twin Towers Office Center, 1106 Clayton Lane, Suite 470W, Austin, Texas 78723. The Office of Colonia Initiatives has Border Field Offices located in Edinburg, El Paso, and Laredo.

The Manufactured Housing Division is also located at the Twin Towers Office Center, 1106 Clayton Lane, Suite 270W, Austin, Texas 78723. It maintains field offices in Lubbock and Waco, has Inspectors stationed remotely throughout the state to perform inspections of installations, consumer complaints, and license holder's records and offers professional license renewals through Texas Online.

**Figure 1. TDHCA Locations**



D. Location of Service Populations and Regions

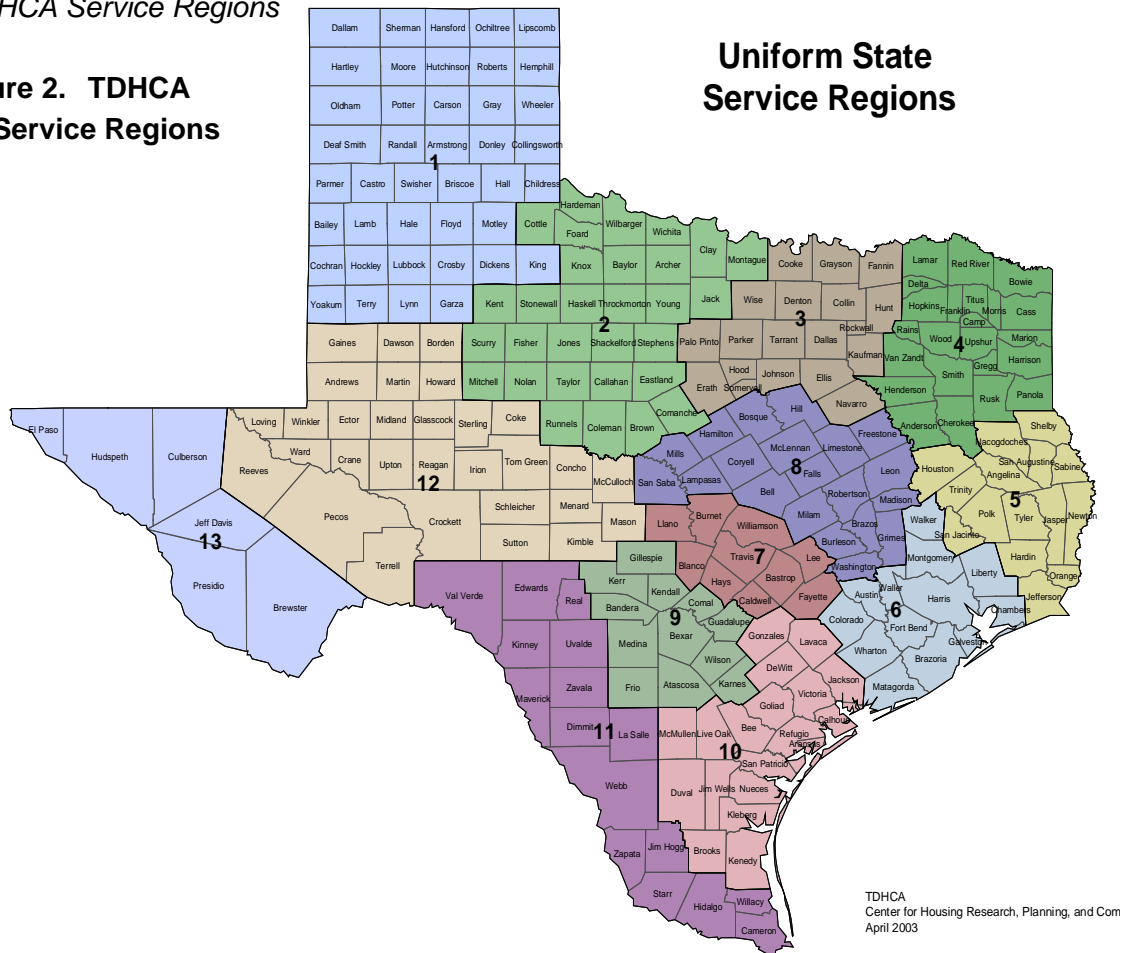
TDHCA is committed to equitably and effectively serving citizens in all areas of the state. For its general planning and reporting purposes, a 13 region geographic configuration of the state's 254 counties is used. These state service regions, which were developed by the Texas Comptroller of Public Accounts, are referenced in §2306.111(d) of the Texas

Government Code which calls for the regional allocation of TDHCA's HOME, Housing Tax Credit (HTC), and Housing Trust Fund (HTF) funding. A map of the regions is shown below in Figure 3.

TDHCA funding is regionally allocated via the following:

- HOME, HTC, and HTF funding is allocated by formula to be distributed within each region. It should be noted that in some instances funding from these programs that is used to fulfill federal, state, or board mandated set-asides may be exempted from the regional distribution formula.
- Multifamily Bond financing is allocated statewide based on a lottery method controlled by the Texas Bond Review Board.
- Community Affairs funding for the Community Services Block Grant, Comprehensive Energy Assistance Program, and Weatherization Assistance Program funding is allocated statewide through a network of subcontractors. Each subcontractor receives a funding allocation based on the level of need within the counties they serve. There may be multiple subcontractors within each region. The Emergency Shelter Grants Program is allocated based on awards made through applications to Notice of Funding Availability. These awards are competitive and regionally allocated.

TDHCA Service Regions  
**Figure 2. TDHCA Service Regions**



As described below, a wide variety of program regulations, market conditions, and legislative requirements affect TDHCA's statewide resource distribution.

#### *Colonias*

TDHCA has specific policy goals, strategies, and programs designed to support the improvement of living conditions of colonia and border residents along the Texas-Mexico border region. A "colonia," Spanish for "neighborhood" or "community," is a geographic area located within 150 miles of the Texas-Mexico border that has a majority population comprised of individuals and families of low and very low income who lack safe, sanitary, and sound housing. This includes a lack of basic services such as potable water, adequate sewage systems, drainage, streets, utilities, paved roads, and plumbing. As discussed in detail in the "III. Fiscal Aspects" section of this Plan, there are a number of Legislative Riders that dedicate specific amounts of TDHCA funding to serve these communities.

#### *Rural and Urban Needs*

As the migration of population and industries continues to urban and suburban areas, the less-populous areas of the state are faced with an aging housing stock and households with lower incomes than their urban or suburban counterparts. To address the income disparity and reduced access to housing and community services resources (e.g., larger communities and regions have greater access to bonds, a large tax base, and investment capital) in less-populous areas, TDHCA gives focused consideration to rural areas when developing its housing programs and the rules that govern these programs.

Specific examples of how TDHCA addresses rural needs include:

- It is legislatively required that 95 percent of the TDHCA HOME funding be allocated to non-participating jurisdiction areas. Because participating jurisdictions (PJs), which are larger metropolitan cities and more populous counties, receive HOME program funds directly from HUD, TDHCA directs its HOME program allocation to non-PJ areas of the state. The remaining 5 percent of HOME funds may be expended in any area of the state, but only if it funds an activity that serves persons with disabilities.
- §§2306.111(d) and 2306.1115 require that the regional allocation formula used to distribute HOME, HTC, and HTF funding consider existing housing need and available resources to meet this need in rural and urban areas.
- TDHCA and the Texas Department of Agriculture's Office of Rural Affairs jointly administer the HTC Program rural allocation. The resulting joint outreach, training, and rural area capacity building efforts help increase participation in the rural set-aside.
- The TDHCA Section 8 Housing Choice Voucher Program specifically serves households in small cities and rural communities that are not served by similar local or regional housing voucher programs.
- TDHCA created the Rural Housing Workgroup to provide a forum where knowledgeable and involved stakeholders can share insights with TDHCA management and staff as they develop policies and priorities for the federal and state programs administered by

TDHCA. The workgroup addresses the challenges of developing affordable housing and providing services in rural Texas and ensures that rural input and concerns are adequately considered across all aspects of TDHCA's program development, design and implementation.

*Strategy for Serving Each Region: TDHCA Regional Allocation Plans*

As required by federal or state laws, depending on the program, TDHCA has developed regional allocation formulas for many of its programs. These formulas are based on objective measures of need and available resources that help ensure an equitable distribution of funding across the state.

*1) 2010 HOME, HTC, and HTF Regional Allocation Formula*

Sections 2306.111(d) and 2306.1115 of the Texas Government Code require that TDHCA use a Regional Allocation Formula (RAF) to allocate its HOME, HTC, and HTF funding. This RAF objectively measures the affordable housing need and available resources in 13 State Service Regions used for planning purposes. Within each region, the RAF further targets funding to rural and urban areas.

As a dynamic measure of need, the RAF is revised annually to reflect updated demographic and resource data; respond to public comment; and better assess regional housing needs and available resources. The RAF is submitted annually for public comment.

Slightly modified versions of the RAF are used for HOME, HTC, and HTF because the programs have different eligible activities, households, and geographical service areas. For example, because 95 percent of HOME funding must be set aside for non-PJs, the HOME RAF only uses need and available resource data for non-PJs.

For the 2012 fiscal year, the RAF uses the most current and complete data from the US Census Bureau, including the decennial census and the American Community Survey, and the US Department of Housing and Urban Development, including the Comprehensive Housing Affordability Strategy, to calculate this regional need distribution. The RAF takes into account the following factors to evaluate need:

- Poverty: Number of persons in the region who live in poverty.
- Cost Burden: Number of households with a monthly gross rent or mortgage payment to monthly household income ratio that exceeds 30 percent.
- Overcrowded Units: Number of occupied units with more than one person per room.
- Units with Incomplete Kitchen or Plumbing: Number of occupied units that do not have all of the following: sink with piped water; range or cook top and oven; refrigerator, hot and cold piped water, flush toilet, and bathtub or shower.

There are a number of other funding resources that can be used to address affordable housing needs. To mitigate any inherent inequities in the regional allocation of these funds, the RAF compares each region's level of need to its level of resources. For the 2012 RAF,

resources from the following sources were used: HTC, HTF, HUD (HOME, Housing Opportunities for Persons with AIDS (HOPWA), public housing authority (PHA) capital funding, and Section 8 funding), Bond Financing, and United States Department of Agriculture (USDA) housing programs.

In summer of 2012, TDHCA plans to conduct roundtables to further explain and simplify the RAF. The roundtables will be open to the public and notice will be given via email lists and social media. Stakeholders will be encouraged to attend.

*2) 2012 Emergency Shelter Grants Program (ESGP) Allocation Formula*

ESGP funds are reserved according to the percentage of poverty population identified in each of the 13 state service regions. The top scoring applications in each region are recommended for funding, based on the amount of funds available for that region.

*3) 2012 Community Service Block Grant (CSBG) Allocation Formula*

Allocations to the 44 CSBG-eligible entities are based on two factors: (1) the number of persons living in poverty within the designated service delivery area for each organization and (2) a calculation of population density. Poverty population is given 98 percent weight, and the ratio of inverse population density is given 2 percent weight.

*4) 2012 Comprehensive Energy Assistance Program (CEAP) and Weatherization Assistance Program (WAP) Allocation Formula*

The allocation formula for the Comprehensive Energy Assistance and Weatherization Assistance programs uses the following five factors and corresponding weights to distribute its funds by county: county non-elderly poverty household factor (40 percent); county elderly poverty household factor (40 percent); county inverse poverty household density factor (5 percent); county median income variance factor (5 percent); and county weather factor (10 percent).

*Other Factors that Affect the Distribution of Funds*

To simplify the application process and direct monies quickly to address rural needs, HOME and some Housing Trust Fund funds are awarded through an 'open-cycle' (first-come, first-served) application process. All funds associated with NOFAs, unless under \$3 million, will be subject to the RAF to ensure compliance with Chapter 2306. Under the 2012 HOME Investment Partnership Program rules, threshold criteria incentivizes income targeting and requires a minimal match contribution. Additionally, the process includes a review of past performance requiring good standing with the Department at the time of award. Recommendations take into consideration completion of previous HOME awards. If applicants have received awards previously and have been de-obligated due to non-performance of a contract, they are ineligible to receive funds from the HOME program for a period no less than 12 months. The process ensures compliance with federal program regulations and state program rules. Incentivizing those applicants targeting lower income



populations and utilizing the AHNS ensures that the neediest Texans receive program benefit from the Department.

For applications that involve HTC's, applicants must receive a resolution from the local governing body for approval to add new units, if the application is proposing new construction that is within one mile of an existing development. The existing development would have to have received an allocation of Housing Tax Credits or Private Activity Bonds for new construction within the last three years and served the same population type (elderly/elderly or family/family). This applies to applications proposing New Construction and Adaptive Reuse in counties with over one million in population. Additionally, applications proposing development in a city or county that has more than twice the state average per capita of affordable housing units supported by Housing Tax Credits or Private Activity Bonds must receive a resolution from the local governing body for approval to develop in that city or county. This applies to applications proposing New Construction, Adaptive Reuse, and Acquisition/Rehabilitation. Finally, a change resulting from SB 1 of the 82<sup>nd</sup> Texas Legislature is that the Department will not recommend an allocation in the same application round if the Developments are, or will be, located less than two linear miles apart. This limitation applies only to counties with populations exceeding one million.

TDHCA funding that is not regionally allocated, but is based on need, is as follows:

- The Homeless Housing and Services Program is distributed to the eight largest cities in Texas, in accordance with legislation from the 81st Legislative Session which authorized the program for regional urban areas.
- Section 8 Housing Choice Vouchers are provided to primarily rural cities or counties that partner with TDHCA.
- Foreclosure counseling services are provided by HUD-Approved Counselors that partner with TDHCA.
- Neighborhood Stabilization Program funds are distributed through a competitive application process based on a needs scoring assessment developed by HUD for the areas in Texas that have been adversely affected by foreclosures.
- A statewide network of participating lenders is used to distribute the single family bond financing. The final distribution of funding is based on consumer demand.

### E. Human Resource Strengths and Weaknesses

The following is an outline of what the Department considers to be human resource strengths and weaknesses.

#### *Human Resources Strengths*

- The Department continues to be committed to providing staff with opportunities to attend continuing education courses, training workshops and conferences, and on-site training to enhance their educational background, knowledge, and skills and to keep professional certifications active. According to the 2012 Survey of Employee Engagement,

## *External/Internal Assessment*

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Department employees view their supervisors as fair, helpful, and critical to the daily flow of work activities.

- The Department is committed to providing supervisory and management opportunities to current and new management to ensure that leadership skills are continually being enhanced and to provide for an opportunity for employees to grow into a management role.
- Staff has demonstrated a strong commitment to its clients and customers in providing public service to Texas communities and advocacy groups and staff believe that they have a strong ability to seek out and work with relevant external entities. Staff believes that the Department functions in a very strategic role according to the 2012 Survey of Employee Engagement.
- The Department strives to maintain a highly diverse workforce to create an environment of high employee morale, increased creativity, and to retain knowledgeable employees. There is a strong team environment among the Department and employees view their work groups as effective, cohesive, and open to the opinions of all team members.
- The Department maintains a work force of employees with in-depth institutional knowledge which includes highly skilled technical staff in the areas of housing finance and federal programs.

### *Human Resources Weaknesses*

- The Department is in need of developing a program for succession planning. There are 11 percent of employees eligible to retire in the next fiscal year and the Department will need to ensure that they are able to retain or pass on institutional knowledge.
- The Department is in need of developing a transition plan as funding for Article IX programs come to an end.

### *Human Resources Strategies for the Future*

- The Department will continue to provide employees with the opportunity to enhance their skills and abilities through promotional opportunities. The Department is committed to developing staff to provide growth opportunities and to maintain the institutional knowledge of staff.
- The Department will continue to use all authorized compensation programs to maximize the ability to compensate staff through promotional, merit, and retention programs.
- The Department will continue to make staff and management training a priority to ensure that employee skills and knowledge continue to be enhanced through continuing education, training workshops and conferences, and management development training programs.

- The Department will continue to participate in the Survey of Employee Engagement conducted by the Institute of Organizational Excellence at the University of Texas to address the strengths and weaknesses of the Department as perceived by Department Staff.
- The Department will continue to enhance its Employee Wellness Program and promote an increase in the health, fitness, awareness, and productivity of Department employees.

The Department will continue to use the Employee Events Planning Committee to coordinate activities to build employee morale and recognize employee achievements.

- The Department is developing an Employee of the Month Program to provide employees to opportunity for recognition of their hard work, contributions to the Department, and to increase communications between employees and management.

#### F. Capital Assets

##### *Strengths and Weaknesses*

Technological capital asset strengths include:

- Secure, low cost, high performance, and highly available gigabit local area network (LAN) and high speed wide area network (WAN). TDHCA's WAN, implemented in 2003, is part of the TEX-AN telecommunications service and allows two Manufactured Housing (MH) regional offices, three Office of Colonia Initiatives (OCI) regional offices to connect to the TDHCA local area network. In FY 2010, TDHCA expanded to a second Austin office at the Twin Towers Office Center (TTOC). We established a second LAN at TTOC and connected it to TDHCA's HQ location through a 100 Mbps WAN circuit.
- Third party enterprise business applications, including PeopleSoft Financials 8.8, the Mitas Accounting and Loan Administration System, HAPPY Section 8 software, and custom enterprise business applications, including contract systems for community affairs and housing programs, the Compliance Monitoring and Tracking System, and the Manufactured Housing System. Supported personal computer and laptop operating systems, office productivity software, and other specialized end user software installed as required for each Department employee.
- A mixture of mid-range and low-end servers that house TDHCA business applications.
- A small, well designed, server room facility that is shared with the Office of the Comptroller of Public Accounts (Texas Treasury Safekeeping Trust Company).

Technological capital asset weaknesses include:

Some server hardware and end-user computer hardware is near or at end-of-life. In the FY 2012-2013 biennium, TDHCA is limiting hardware refreshes to equipment for which there is a critical business need.

##### *Needs and Prioritization*

## External/Internal Assessment

In FY 2012 and in many cases continuing into the FY 2013-2017 time period, TDHCA will focus on the following technology initiatives in support of Department objectives:

- Provide citizens access to information and services through the TDHCA website and social media.
- Enhance and maintain TDHCA's Central Database systems, the Manufactured Housing System, and enterprise resource planning (ERP) systems. Specific projects and activities include:
  - Agency Scorecard Data Warehouse
  - Compliance Monitoring and Tracking System Enhancements
  - Help for Texans/2-1-1 Texas Data Integration
  - HR System Migration to Centralized Accounting and Payroll/Personnel System
  - Housing Contract System - Environmental Reviews Module
  - Manufactured Housing System Phase 2 - Expand Texas.gov Payment Options for Customers
  - Mitas Accounting and Loan Administration System - Periodic Version Upgrades
- Increase the reliability, performance, and security of the agency's network.

### G. Agency Use of Historically Underutilized Businesses

It is TDHCA's commitment to demonstrate a good faith effort in the utilization of minority and women-owned businesses. The diverse and expanded pool of HUB vendors widens the opportunities for our agency to promote this program. TDHCA's General Policies and Procedures for Historically Underutilized Businesses is referenced in Texas Administrative Code, Title 10, Part 1, Chapter 1, SubChapter A, Rule §1.6. A Department HUB Coordinator has also been designated, in accordance with Section 2161.062, Government Code.

TDHCA has historically been successful in achieving state goals for procurement awards to HUBs. In an effort to continue the pursuit of HUBs, TDHCA participates in vendor forums, trains existing and new staff, and aggressively recruits businesses to participate in the HUB Program.

### H. Key Organizational Events and Areas of Change and Impact on Organization

In FY2009, TDHCA created new divisions to better manage the influx of Recovery Act and General Revenue funding. To proactively address new requirements for federal programs, a Program Services Division was created to oversee cross-cutting requirements including, but not limited to environmental clearances and labor standards requirements. The first requirement was needed for the HUD-funded programs, including the Neighborhood Stabilization Program, Tax Credit Assistance Programs and the second requirement was needed for the Weatherization Assistance Program and Tax Credit Assistance Program.

Another new Division was created to effectively monitor Recovery Act funding: the Office of American Recovery and Reinvestment Act Accountability and Oversight. This Office is

responsible for identifying and mitigating risk in program development and operation and for issues that cut across all Recovery Act programs, such as reporting and federal guidance. A third new Division was created as a result of the 81<sup>st</sup> Legislature providing additional funding for the Housing Trust Fund. The Housing Trust Fund was separated from the HOME Division and an independent Housing Trust Fund Division was created.

From 2009 to 2012, several temporary programs were administered, that have successfully completed all programmatic activities. The HOME Division administered the Tax Credit Assistance Program (Recovery Act). The Texas Homeownership Division administered the 90-Day Down Payment Assistance Program (Recovery Act) and the Mortgage Advantage Program (Recovery Act). The Housing Tax Credit Division administered the Tax Credit Exchange Program (Recovery Act). Community Affairs administered the Community Service Block Grants (Recovery Act), and the Homelessness Prevention and Rapid Re-Housing Program (Recovery Act).

A number of programs initiated through funding provided by the Recovery Act or General Revenue are still on-going. The Neighborhood Stabilization Program Division continues to administer NSP Round 1 funding and received NSP Round 3 funds through the Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). The Texas Homeownership Division continues to administer the National Foreclosure Mitigation Counseling Program, which has now been awarded funding for Round 6 of the Program. The Community Affairs Division continues to administer the Weatherization Assistance Program (Recovery Act), which received a federal contract modification that extends the program through August 2012.

Additionally, while no direct appropriations were made for the Homeless and Housing Services Program during the 82nd Legislature, SB 1 allows the Department to apply available funds to this program. For SFY 2012, the Department has identified at total of \$5 million (and \$5 million more for 2013 that will move as soon as the formula is adopted by rule) for the program, which will also be administered through the Community Affairs Division. Finally, the Housing Trust Fund has continued to provide the Affordable Housing Match and the Amy Young Barrier Removal Programs that were initiated in 2009.

In 2012, the Department implemented a recalibration effort. Given TDHCA's additional asset management duties now required for properties that received assistance under the TCAP and the Tax Credit Exchange Program, a separate division called Asset Management was created, to manage the resolution of non-performing assets, to oversee the administration of post-allocation activities for multifamily projects, and to administer closing and draw activity and adherence to various federal cross-cutting requirements. The Program Planning, Policy & Metrics Team was also formed to provide accurate reporting and metrics, inform programming and funding decisions, make recommendations to Executive and the Board, and coordinate broad Department-wide policy-making. The monitoring functions of the Energy Assistance and Community Services divisions were subsumed by the Compliance Division to ensure independence of the compliance oversight function from the programmatic areas. Single family programs were placed under an organizational structure

to ensure that their offerings are coordinated and that their processes are simplified, streamlined, and consistent and to facilitate development of a more robust external network of subrecipients capable of offering a full array of state programs to all eligible recipients.

### I. Use and Anticipated Use of Consultants and Contractors

To effectively achieve its mission, TDHCA will continue to use consultants and contract workers in areas where their unique skills and experience represent the most effective use of the State's resources. Three divisions that expect the greatest ongoing use of consultants are Compliance and Asset Oversight, Information Systems, and Bond Finance.

#### *Compliance and Asset Oversight*

Since March of 2005, the Compliance and Asset Oversight Division has outsourced Uniform Physical Condition Standards Inspections. Currently, TDHCA has contracts with two firms to perform these inspections.

#### *Information Systems (IS) Division*

TDHCA's Information Systems Division makes limited, targeted use of consultants for approved capital budget projects and software development support. In the current biennium, the Department continues to employ one contract developer to assist in the support of PeopleSoft Financials 8.8 and one contract developer to help support the Central Database suite of systems.

#### *Bond Finance*

The Bond Finance division uses the following types of consultants:

- Bond Counsel – A nationally recognized law firm or firms experienced in the issuance of mortgage revenue bonds and mortgage credit certificates.
- Financial Advisor – Typically an investment banking firm experienced in issuance of mortgage revenue bonds.
- Master Servicer/Administrator – A financially sound bank or trust company experienced in tax compliance review and loan servicing for tax-exempt single family mortgage revenue bond programs.
- Disclosure Counsel – A law firm experienced in securities laws particularly as it relates to disclosure of information by securities issuers to the private markets.
- Rating Agencies – A national rating agency which analyzes bond issues and assigns a rating to them to indicate to prospective bondholders the investment quality of the issue.
- Interest Rate Swap Advisor – Primarily monitors interest rate swaps used to hedge single family variable rate mortgage revenue bonds.
- Guaranteed Investment Contract Broker – Provides reinvestment services for single family mortgage revenue bond issues and multifamily mortgage revenue bond issues.
- Investment Bankers – A firm specializing in the underwriting, issuance and sale of mortgage revenue bonds and provides advice relating to financial structure and cash flows.

### III. FISCAL ASPECTS

#### A. Size of Budget

The following table provides appropriated funding levels by goal, as provided in the General Appropriations Act for the 2012-2013 Biennium. Goal A: Affordable Housing includes appropriated and non-appropriated resources as below described. The HTC's, single family, and multifamily non-appropriated amounts are estimates in fiscal years 2012–2013.

**Table 9. Appropriated Funds**

	2010	2011	2012	2013
Goal A: Affordable Housing	\$59,133,378	\$59,141,692	\$61,312,381	\$60,787,513
Goal B: Info. & Tech. Assist.	\$1,247,358	\$1,202,882	\$1,266,395	\$1,211,431
Goal C: Poor and Homeless	\$95,187,172	\$95,183,042	\$105,312,926	\$99,702,210
Goal D: Ensure Compliance	\$4,722,265	\$4,712,924	\$3,054,920	\$3,057,356
Goal E: Manufactured Housing	\$4,730,317	\$4,936,897	\$5,471,232	\$5,685,152
Goal F: Indirect Administration	\$6,163,224	\$6,153,321	\$7,352,298	\$7,468,743
<b>Total Appropriated Funds</b>	<b>\$171,705,064</b>	<b>\$171,848,761</b>	<b>\$183,770,152</b>	<b>\$177,912,405</b>

Source: General Appropriation Bills, 79th through 81st Legislative Sessions

**Table 10. Non-Appropriated Funding Detail**

	2010	2011	2012	2013
HTCs (4% and 9%)	\$68,247,563	\$56,221,561	\$67,811,481	\$67,000,000
Multifamily Bond Funds	\$0	\$0	\$48,158,283	\$45,000,000
Single-Family Financing	\$300,000,000	\$149,030,000	\$220,855,000	\$200,000,000
<b>Total Non-Appropriated Funds</b>	<b>\$368,247,563</b>	<b>\$205,251,561</b>	<b>\$336,824,764</b>	<b>\$312,000,000</b>

**Table 11. Total, Appropriated & Non-Appropriated Funds**

	2010	2011	2012	2013
<b>Total Appropriated &amp; Non-Appropriated Funds</b>	<b>\$539,952,627</b>	<b>\$377,100,322</b>	<b>\$520,594,916</b>	<b>\$489,912,405</b>

B. Method of Finance

The methods of finance for appropriated funds since the fiscal year (FY) 08–09 biennium are shown below.

**Table 12. Methods of Finance**

	2008	2009	2010	2011	2012	2013
Federal Funds	\$128,733,144	\$128,697,779	\$132,646,833	\$132,676,861	\$156,909,387	\$151,298,671
Appropriated Receipts	\$16,586,560	\$16,787,596	\$16,346,832	\$16,506,657	\$18,681,157	\$18,367,246
General Revenue (GR)	\$7,219,287	\$7,262,372	\$22,643,144	\$22,596,988	\$8,110,265	\$8,177,145
Earned Federal Funds	\$-	\$-	\$-	\$-	\$-	\$-
Interagency Contracts	\$68,255	\$68,255	\$68,255	\$68,255	\$69,343	\$69,343
<b>Total Appropriated Funds</b>	<b>\$152,607,246</b>	<b>\$152,816,002</b>	<b>\$171,705,064</b>	<b>\$171,848,761</b>	<b>\$183,770,152</b>	<b>\$177,912,405</b>

Source: General Appropriation Bills 80th through 82nd Legislative Sessions

*Federal Funds:* These funds are the Department’s primary appropriated funding source. Federal funds make up 85.4 percent of the total funds appropriated to the Department in the 2012–2013 biennium. As such, these funding levels are subject to change to reflect priorities at the federal level. Short-term expectations for each of the funding sources are described in “VII. Impact of Federal Statutes/ Regulations, Description of Current Federal Activities,” Page 75. HUD and DHHS are TDHCA’s largest federal grantor agencies.

*Appropriated Receipts:* These funds represent approximately 10.2 percent of the total funds appropriated to the Department. The funds are comprised of fees collected to administer the Department’s housing programs or from its regulation of the manufactured housing industry. Compliance and application fee revenues provide a method of finance to support and administer the HTC Program. Fees to issue Mortgage Revenue Bonds are used to support programs and other indirect administrative costs. The Manufactured Housing Division also generates revenue through fee collections. The majority of the fees collected are pursuant to the issuance of titles, licenses and from installation inspections. The Legislature allocates the fees to the Department as Appropriated Receipts and General Revenue.

*General Revenue:* These funds make up 4.4 percent of total funds appropriated to the Department. The Housing Trust Fund is the primary program receiving GR funds and the only affordable housing program funded by State funds.

*Earned Federal Funds:* As of the 2012-2013 biennium, these funds are regarded as General Revenue under the General Appropriations Act and are therefore not reflected as a separate Method of Finance.



*Interagency Contracts:* This source, which is less than 1 percent of the Department's funding, comes from two sources: (1) funding to support Colonia Service Centers originates from the Texas Department of Agriculture (TDA), and (2) funding to increase housing opportunities for persons with disabilities originates from the Department of Aging and Disability Services (DADS).

The Department applies for new federal funding as it becomes available. Should it receive additional federal funds, FTE cap and travel waiver requests may be submitted, depending on the increased workload new federal programs require. Currently, the Department has complied with FTE and travel limitations as set forth in the appropriation bills.

C. Per Capita and Other States' Comparisons

The majority of funding for TDHCA comes either directly from the federal government or through federally authorized tax credits or bonds. In general, funding amounts for these programs are based on a state's population. For this reason Texas, the second most populous state in the nation, receives a relatively large amount of federal funds. In contrast, when comparing levels of state appropriations through trust funds or other designated sources, Texas falls far behind the rest of the country. For 2009, the most recent year with comparable data, the State of Texas appropriated approximately \$5.3 million to provide for the HTF. Using the 2009 U.S. Census Bureau's state population estimate of 24,782,302, Texas' per capita spending on affordable housing is \$0.24. Table 7 provides comparisons of state-appropriated housing funds from the other five largest states in the nation.

**Table 13. Comparison of State Per Capita (Sorted by State Funding Level)**

<i>State</i>	<i>2009 Population</i>	<i>2009 State Funding</i>	<i>Per Capita Spending</i>
California	36,961,664	\$44,109,315	\$1.19
New York	19,541,453	\$327,200,000	\$16.74
Florida	18,537,969	\$31,000,000	\$1.67
Illinois	12,910,409	\$89,823,000	\$6.96
Pennsylvania	12,604,767	\$10,000,000	\$0.79
<b>Texas</b>	<b>24,782,302</b>	<b>\$5,847,461</b>	<b>\$0.24</b>

Sources: US Census Bureau 2009 Population Estimates; *Factbook: 2009 National Council of State Housing Agencies Annual Survey Results*, State Housing Finance Agencies.

D. Budgetary Limitations

*Statutory and Federal Restrictions*

State and federal statutes and regulations place many restrictions on the use of TDHCA funds. These restrictions affect a wide variety of program characteristics including limitations on eligible household income levels and allowable rents, maximum loan sizes, and funding allocation scoring and distribution criteria. Additionally, these programs have complex portfolio management and compliance requirements. A few specific examples of budgetary directives found in federal and state statute and regulations that regulate the use of specific funding include:

- 24 Code of Federal Regulations, Section 92.300(a)(1), requires that 15 percent of total HOME Investment Partnerships Program funds be reserved for use by community housing development organizations (CHDOs).
- §2306.111(c) requires that 95 percent of the TDHCA HOME funding be allocated to non-participating jurisdiction areas. Because participating jurisdictions (PJs), which are larger metropolitan cities and more populous counties, receive HOME program funds directly from HUD, TDHCA directs its HOME program allocation to non-PJ areas of the state. The remaining 5 percent of HOME funds may be expended in any area of the state, but only if it funds an activity that serves persons with disabilities.
- §2306.111(d) requires that the regional allocation formula used to distribute HOME, HTC, and HTF funding, consider existing housing need and available resources to meet this need in rural and urban areas.
- Section 2306.7581(a-1), Texas Government Code, requires the Department to provide \$3 million per year in Housing Trust Funds toward the Texas Bootstrap Home Loan (“Owner-Builder”) Program.

*Appropriations Riders*

The Department will fully comply with all caps on funding and FTEs. The following section describes the Riders from the 2012-2013 Bill Pattern (Article VII, 3-7, General Appropriations Act, 82nd Regular Session, and House Bill 1).

**“Rider 1: Performance Measure Targets.**

The following is a listing of the key performance target levels for the Department of Housing and Community Affairs. It is the intent of the Legislature that appropriations made by this Act be utilized in the most efficient and effective manner possible to achieve the intended mission of the Department of Housing and Community Affairs. In order to achieve the objectives and service standards established by this Act, the Department of Housing and Community Affairs shall make every effort to attain the following designated key performance target levels associated with each item of appropriation.”

**Table 14. Key Performance Target Levels**

	<b>2012</b>	<b>2013</b>
<b>A. Goal: AFFORDABLE HOUSING</b>		
<i>Outcome (Results/Impact):</i>		
<i>% of Households/Individuals of Very Low, Low, and Moderate Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance</i>	0.41%	0.43%
<i>% of Households/Individuals of Very Low Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance</i>	0.34%	0.35%
<i>% of Households/Individuals of Low Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance</i>	0.77%	0.84%
<i>% of Households/Individuals of Moderate Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance</i>	0.22%	0.22%
<b>A.1.1. Strategy: MRB PROGRAM - SINGLE FAMILY</b>		
<i>Output (Volume):</i>		
<i># of Households Assisted with Single Family Mortgage Revenue Bond Funds</i>	2,002	2,002
<b>A.1.2. Strategy: HOME PROGRAM - SINGLE FAMILY</b>		
<i>Output (Volume):</i>		
<i># of Households Assisted with Single Family HOME Funds</i>	580	580
<b>A.1.3. Strategy: HTF – SINGLE FAMILY</b>		
<i>Output (Volume):</i>		
<i># of Households Assisted through the Single Family HTF Program</i>	250	250
<b>A.1.4. Strategy: SECTION 8 RENTAL ASSISTANCE</b>		
<i>Output (Volume):</i>		
<i># of Households Assisted through Statewide Housing Assistance Payments Program</i>	1,100	1,100
<b>A.1.5. Strategy: FEDERAL TAX CREDITS</b>		
<i>Output (Volume):</i>		
<i># of Households Assisted through the HTC Program</i>	5,657	6,031
<b>A.1.8. Strategy: MRB PROGRAM-MULTIFAMILY</b>		
<i>Output (Volume):</i>		
<i># of Households Assisted through the Multifamily MRB Program</i>	750	1,000
<b>B. Goal: INFORMATION &amp; TECHNICAL ASSISTANCE</b>	<b>2012</b>	<b>2013</b>
<b>B.1.1. Strategy: HOUSING RESOURCE CENTER</b>		
<i>Output (Volume):</i>		
<i># of Information and Technical Assistance Requests Completed</i>	5,000	5,000
<b>B.2.1. Strategy: COLONIA SERVICE CENTERS</b>		
<i>Output (Volume):</i>		
<i># of On-site Technical Assistance Visits Conducted Annually from the Field Offices</i>	900	900

<b>C. Goal: POOR AND HOMELESS PROGRAMS</b>	<b>2012</b>	<b>2013</b>
<i>Outcome (Results/Impact):</i>		
<i>% of Persons in Poverty That Received Homeless and Poverty-related Assistance</i>	11.85%	11.87%
<i>% of Very Low Income Households Receiving Energy Assistance</i>	1.64%	2.80%
<b>C.1.1. Strategy: POVERTY-RELATED FUNDS</b>		
<i>Output (Volume):</i>		
<i># of Persons Assisted through Homeless and Poverty-related Funds</i>	599,032	599,032
<i># of Persons Assisted That Achieve Incomes above Poverty Level</i>	1,200	1,200
<b>C.2.1. Strategy: ENERGY ASSISTANCE PROGRAMS</b>		
<i>Output (Volume):</i>		
<i># of Households Assisted through the Comprehensive Energy Assistance Program</i>	47,653	47,653
<i># of Dwelling Units Weatherized by the Department</i>	2,610	2,594
<b>D. Goal: ENSURE COMPLIANCE</b>	<b>2012</b>	<b>2013</b>
<b>D.1.1. Strategy: MONITOR HOUSING REQUIREMENTS</b>		
<i>Output (Volume):</i>		
<i>Total # of Onsite Reviews Conducted</i>	933	825
<b>D.1.2. Strategy: MONITOR CONTRACT REQUIREMENTS</b>		
<i>Output (Volume):</i>		
<i>Total # of Monitoring Reviews Conducted</i>	208	208
<b>E. Goal: MANUFACTURED HOUSING</b>	<b>2012</b>	<b>2013</b>
<i>Outcome (Results/Impact):</i>		
<i>% of Consumer Complaint Inspections Conducted within 30 Days of Request</i>	100%	100%
<i>% of Complaints Resulting in Disciplinary Action</i>	20%	20%
<b>E.1.1. Strategy: TITLING AND LICENSING</b>		
<i>Output (Volume):</i>		
<i># of Manufactured Housing Statements of Ownership and Location Issued</i>	70,000	70,000
<b>E.1.2. Strategy: INSPECTIONS</b>		
<i>Output (Volume):</i>		
<i>Explanatory:</i>		
<i># of Installation Reports Received</i>	11,000	11,000
<b>E.1.3. Strategy: ENFORCEMENT</b>		
<i>Output (Volume):</i>		
<i># of Complaints Resolved</i>	600	600
<i>Efficiencies:</i>		
<i>Average Time for Complaint Resolution (Days)</i>	180	180
<i>Explanatory:</i>		
<i># of Jurisdictional Complaints Received</i>	550	550

**“Rider 2: Capital Budget.**

None of the funds appropriated above may be expended for capital budget items except as listed below. The amounts shown below shall be expended only for the purposes shown and are not available for expenditure for other purposes. Amounts appropriated above and identified in this provision as appropriations either for "Lease Payments to the Master Lease Purchase Program" or for items with an "(MLPP)" notation shall be expended only for the purpose of making lease-purchase payments to the Texas Public Finance Authority pursuant to Government Code § 1232.103. Upon approval from the Legislative Budget Board, capital budgeted funds listed below under "Acquisition of Information Resource Technologies" may be used to lease information resources hardware and/or software versus the purchase of information resources hardware and/or software, if determined by agency management to be in the best interest of the State of Texas.”

**Table 15. Capital Budget, Total**

<i>Item</i>	<i>2012</i>	<i>2013</i>
Acquisition of Information Resource Technologies		
<i>(1) Purchase of Information Technologies-Scheduled Replacement of Items</i>	\$ 95,000	\$ 95,000
Total, Capital Budget	\$95,000	\$95,000

**Table 16. Method of Financing (Capital Budget)**

	<i>2012</i>	<i>2013</i>
Community Affairs Federal Fund No. 127	\$ 38,159	\$ 34,981
Appropriated Receipts	\$56,841	\$60,019
Total, Method of Financing	\$95,000	\$95,000

**“Rider 3: Low/Moderate Income Housing Construction.**

Out of the funds appropriated above, no less than \$500,000 each year of the biennium shall be expended on low/moderate income housing construction in enterprise zone areas.”

**“Rider 4: Appropriations Limited to Revenue Collections.**

Fees, fines, and other miscellaneous revenues as authorized and generated by the agency shall cover, at a minimum, the cost of the appropriations made above for the strategy items in Goal E, Manufactured Housing, the cost of the appropriations required for manufactured housing consumer claims payments according to the Occupations Code § 1201, Manufactured Housing Standards Act, as well as the "other direct and indirect costs" associated with this goal, appropriated elsewhere in this Act. "Other direct and indirect costs" for Goal E, Manufactured Housing, are estimated to be \$1,188,777 for fiscal year 2012 and \$1,378,177 for fiscal year 2013. In the event that actual and/or projected revenue collections are insufficient to offset the costs identified by this provision, the Legislative Budget Board may direct that the Comptroller of Public Accounts reduce the appropriation authority provided above to be within the amount of revenue expected to be available.”

**“Rider 5: Housing Assistance.**

To the extent allowed by state and federal program guidelines the department shall adopt an annual goal to apply no less than \$30,000,000 of the funds available from the Housing Trust Fund, HOME Program, Section 8 Program, and Housing Tax-Credit Program's total housing funds toward housing assistance for individuals and families earning less than 30 percent of the Area Median Family Income (AMFI). No less than 20 percent of the funds available from the Housing Trust Fund, HOME Program, Section 8 Program, and Housing Tax-Credit Program shall be spent for individuals and families earning between 31 percent and 60 percent of the area median family income. To the extent allowed by state and federal program guidelines in those counties where the area median family income is lower than the state average median family income, the department shall use the average state median income in interpreting this rider. The department shall provide an annual report to the Legislative Budget Board documenting its expenditures in each income category.”

**“Rider 6: Conversions of Executory Contracts.**

- a. Out of the funds appropriated above, the department shall spend not less than \$4,000,000 for the biennium for the sole purpose of contract for deed conversions for families that reside in a colonia and earn 60 percent or less of the applicable area median family income. It is the intent of the Legislature that the department shall make a good-faith effort to complete at least 200 contract for deed conversions by August 31, 2011.
- b. The Department of Housing and Community Affairs shall provide a quarterly report to the Legislative Budget Board detailing the number of, and cost for each, contract for deed conversions completed.”

**“Rider 7: Colonia Set-Aside Program Allocation.**

The Office of Rural Community Affairs shall allocate 2.5 percent of the yearly allocation of Community Development Block Grant (CDBG) monies to support the operation of the Colonia Self-Help Centers and shall transfer such funds to the Department of Housing and Community Affairs on September 1 each year of the biennium.”

Consistent with federal rules and regulations, the funds provided from TDRA to the Colonia Self-Help Center in El Paso county shall be used to provide internet access and training for parents and their children attending elementary schools in colonias, to establish technology centers within those elementary school libraries, to purchase wireless devices and laptop computers to loan out from the technology centers, and improve internet access for students and parents.”

**“Rider 8: Appropriation: Housing Trust Fund Interest Earnings and Loan Repayments.**

Interest earnings and loan repayments received from loans made through the Housing Trust Fund program from the General Revenue Fund are included above in Strategy A.1.3, Housing Trust Fund - Single Family, estimated to be \$1,550,000 each year.”

**“Rider 9: Housing Trust Fund Deposits to the Texas Treasury Safekeeping Trust Company.**

a. Out of funds appropriated above in Strategy A.1.3, Housing Trust Fund - Single Family, all funds above those retained for administrative purposes in fiscal year 2010 and fiscal year 2011 shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, at the beginning of each fiscal year. The amounts to be transferred in fiscal years 2010 and 2011 include an estimated \$1,550,000 in each fiscal year from interest earnings and loan repayments received, identified above in Rider 9, Appropriation: Housing Trust Fund Interest Earnings and Loan Repayments.

b. Interest earnings and loan repayments received from loans made through the Housing Trust Fund program from the General Revenue Fund shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, for the same purpose.

c. The Department of Housing and Community Affairs shall provide an annual report to the Legislative Budget Board, the House Appropriations Committee, and the Senate Finance Committee no later than October 1 detailing the agency's plan to expend funds from the Housing Trust Fund during the current fiscal year.

d. Out of funds appropriated above in Strategy A.1.3, Housing Trust Fund, all funds above those retained for administrative purposes in fiscal year 2012 and fiscal year 2013 and above amounts required in Sections (a) and (b) of this rider, shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, no later than October 1 of each fiscal year.

e. At the end of each fiscal year, any unexpended administrative balances appropriated under Strategy A.1.3, Housing Trust Fund, shall be transferred to the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306.”

**“Rider 10: Mortgage Revenue Bond Program.**

The Department of Housing and Community Affairs shall operate the First-Time Homebuyer Mortgage Revenue Bond Program in a manner that maximizes the creation of very low-income single family housing by ensuring that at least 30 percent of the lendable bond proceeds are set aside for a period of one year for individuals and families at 80 percent and below the area median family income (AMFI), while assuring the highest reasonable bond rating. In an effort to facilitate the origination of single family mortgage loans to individuals and families at 80 percent and below the AMFI, the department shall utilize down payment and closing cost assistance or other assistance methods.”

**“Rider 11: Additional Appropriated Receipts.**

a. Except during an emergency as defined by the Governor, no appropriation of appropriated receipts in addition to the estimated amounts above may be expended by the Department of Housing and Community Affairs unless:

(1) the department's governing board files a finding of fact along with a written plan outlining the source, use, and projected impact of the funds on performance measures with the Legislative Budget Board and the Governor and indicating that additional appropriations are required to maintain adequate levels of program performance; and,

(2) the Legislative Budget Board nor the Governor issue a written disapproval not later than: the 10<sup>th</sup> day after the date the staff of the Legislative Budget Board concludes its review of the findings of fact and forwards those findings of fact along with the conclusions or comments of the Legislative Budget Board staff to the Chair of the Housing Appropriations Committee, Chair of the Senate Finance Committee, Speaker of the House, and Lieutenant Governor; and within 10 business days of the receipt of the finding of fact by the Governor and the written plan, which would not prohibit the agency from responding in an emergency.

b. This provision does not apply to appropriated receipts included in the amounts appropriated above that are collected under Object Codes 3719 and 3802. Appropriated receipts collected under these revenue object codes are governed under provisions found in Article IX, Sec 8.03 and Article IX, Sec 12.02.”

**“Rider 12: Manufactured Homeowner Consumer Claims.**

Included above in Goal E, Manufactured Housing, the Manufactured Housing Division of the Department of Housing and Community Affairs is appropriated an amount required for the purpose of paying manufactured housing consumer claims from Appropriated Receipts according to the Occupations Code Chapter 1201, Manufactured Housing Standards Act, from Statement of Ownership and Location (SOL) issuance fees involving manufactured housing that are collected during the 2012-13 biennium. No General Revenue is appropriated for the payment of these claims.”

**“Rider 13: CDBG Disaster Reporting Requirement.**

The Department of Housing and Community Affairs shall provide a quarterly report to the Governor, the Legislative Budget Board, the House Appropriations Committee, the Senate Finance Committee and to those members of the Legislature representing counties eligible for Community Development Block Grant (CDBG) Disaster funding, detailing the receipt and expenditures of CDBG disaster funds received by the Department.”

**“Rider 14: Affordable Housing Research and Information Program.**



Out of funds appropriated above in Strategy B.1.1, Housing Resource Center, the Department of Housing and Community Affairs shall conduct the Affordable Housing Research and Information Program with the assistance of the Texas Department of Rural Affairs, to the extent allowed by state law, in order to avoid a duplication of effort. It is the intent of the Legislature that no funds shall be transferred between the Department of Housing and Community Affairs and the Texas Department of Rural Affairs for this purpose.”

**“Rider 15: Reporting on Weatherization Efforts.**

As part of its efforts to help low-income Texans eligible for weatherization to conserve energy and lower bills, Texas Department of Housing and Community Affairs (TDHCA) shall use funds appropriated above to coordinate with investor-owned utilities, from which TDHCA receives funds, and that offer energy efficiency programs for Texans meeting low-income eligibility criteria to make sure the monies available for low-income energy efficiency programs spent both through the agency and through utility programs are effectively and adequately spent. The TDHCA shall use funds appropriated above to produce an annual report with information about the number of low-income household benefiting from energy efficiency monies through state, federal and utility-funded programs, the amount overall electric energy saved, the amount of money saved and the number of job and job years created. A copy of the annual report shall be delivered to the Lieutenant Governor, Speaker and Governor, as well as made available on TDHCA's website by January 15th of 2012 and January 15th of 2013.”

**“Rider 16: Travel Cap.**

Notwithstanding any other provisions in this act, out-of-state travel expenditures associated with federal programs and paid out of federal funds are exempt from the limitation on travel expenditures established by this Act in Article IX, Sec. 5.08, Limitation on Travel Expenditures.”

**“Rider 17: Sunset Contingency.**

Funds appropriated above for fiscal year 2013 for the Texas Department of Housing and Community Affairs are made contingent on the continuation of the Texas Department of Housing and Community Affairs by the Eighty-second Legislature. In the event that the agency is not continued, the funds appropriated for fiscal year 2012 or as much thereof as may be necessary are to be used to provide for the phase out of the agency operations.”

**“Rider 18: Removal and Cleanup.**

Out of federal funds appropriated above to the Texas Department of Housing and Community Affairs (TDHCA) in Strategy D.1.2, Monitor Contract Requirements, the agency may spend up to \$1,100,000 in Federal Funds in fiscal year 2012 to eliminate conditions that have been found to be detrimental to public health and safety relating to the removal of housing repair debris related to hurricane damage in Jefferson County. Also out of these appropriations above, TDHCA may pay for necessary actions to meet

federal requirements and to provide funding to other entities, units of government, or hire contractors to complete this operation, consistent with any state and/or federal law.”

**“Rider 19: Transfer of the Veterans Housing Assistance Program.**

Out of funds appropriated above, in Strategy A.1.3, Housing Trust Fund, the Texas Department of Housing and Community Affairs shall transfer 10 percent, not to exceed \$4,300,110 for the 2012-13 biennium (\$4,200,110 for grants and \$100,000 and 1.0 full-time equivalents for administration), to the appropriate fund or account with the Texas Veterans' Commission for the purpose of administering a Veterans Housing Assistance Program that will assist Texas veterans and their families in obtaining, maintaining or improving housing.”

*E. Degree to which Current Budget Meets Current and Expected Needs*

In FY 2011, TDHCA served or committed to serve approximately 11.6 percent of persons with a need for safe, affordable housing in Texas the past year, of which 9.8 percent is provided by the CEAP program.<sup>1213</sup> As discussed in detail in “IV. Service Population Demographics” below, the state’s level of housing need is only expected to increase in the future given current funding levels and economic conditions.

*F. Capital and/or Leased Needs Due for Renewal*

The 2012 projection is \$13,944.36 for the OCI field office in Edinburg. For the Manufactured Housing Division, the lease in Austin is \$111,972 and the lease in Lubbock is \$5352.24. The Manufactured Housing Division also leases postage meters for their field offices for \$2,400 annually.

The Department’s personal computers and laptops are composed of some hardware which will be replaced in future fiscal years in accordance with the Department’s personal computer replacement schedule. The schedule calls for four years of use prior to replacement in most cases.

Projected capital improvement needs for the FY 2014-2015 biennium will be described on a project-by-project basis in the TDHCA Information Technology Detail, which will be submitted along with TDHCA’s FY 2014-2015 Legislative Appropriations Request in August 2012.

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<sup>12</sup> “Households served” includes households served by Housing Tax Credit, Housing Trust Fund, Multifamily Bond, Section 8, Comprehensive Energy Assistance, Weatherization Assistance and National Foreclosure Mitigation Counseling programs. It does not include Emergency Shelter Grants or Community Service Block Grants because those programs do not report households helped; they report individuals helped. No 2008 Housing and Economic Recovery Act or 2009 American Recovery and Reinvestment Act programs were included in this figure.

<sup>13</sup> “Households in need” includes households with cost burden, lacking kitchen and/or plumbing that are overcrowded, in poverty and in foreclosure.

## IV. SERVICE POPULATION DEMOGRAPHICS

### Overview

This section identifies how population groups TDHCA serves are expected to change within the timeframe of this Strategic Plan. The analysis includes information on historical population characteristics, current characteristics, and future trends.

Information in this section is primarily obtained from the US Census, the American Community Survey and Texas State Data Center (TSDC) reports and tabulations. The TSDC prepares population projections according to four scenarios: the zero migration scenario, which assumes that growth occurs through natural (birth and death) increases; the one-half 1990-2000 (0.5) migration scenario, which assumes rates of migration equal one-half of the 1990s rate; the 1990-2000 (1.0) migration scenario, which assumes a migration rate equal to the 1990s; and the 2000-2002 migration scenario, which takes into account post-2000 growth.<sup>14</sup> Comparing projections, the TSDC 0.5 migration scenario most closely resembles the projections prepared by the US Census, so TDHCA is using data from this TSDC scenario in the Strategic Plan. This is also the scenario most recommended by the TSDC for use in long-term planning.

Because of methodology differences between these sources, exact figures may vary between sources. For example, Texas population projections for 2015 are 26,156,723 from the TSDC 0.5 migration scenario and 26,585,801 from the US Census. However, the two figures differ by only 429,078, or approximately 1.6% of the highest projected total population.

### A. Historic Characteristics

Historically, Texas has been one of the fastest growing states in the nation. According to US Census data, the Texas population expanded by nearly 20.6 percent between 2000 and 2010, far exceeding the national growth average of 9.7 percent for the same decade. The increase in state population by 4,293,741 persons was the largest of any decade in Texas history.<sup>15</sup> For 2010, the US Census reported that 25,145,561 individuals lived in Texas, second only to California in terms of total state population. According to population projections compiled by the US Census, Texas's population will reach 28,634,896 people by 2020.

For the 2013-2017 Strategic Plan period, the US Census estimates that the Texas population will increase by an average of 1.51 percent each year, while TSDC projects a more modest growth rate of 1.42 percent each year, on average. The US Census

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<sup>14</sup> Texas State Data Center. Populations Estimates and Projections Program. (2009, June 3). 2008 Methodology for Texas population projections. Retrieved from: <http://txsdc.utsa.edu/Data/TPEPP/Projections/Index.aspx> .

<sup>15</sup> US Census Bureau, (2012, January 17) *Texas Quickfacts*, Retrieved from: <http://quickfacts.census.gov/qfd/states/48000.html>

projects a 7.80 percent total growth rate from 2013 to 2017, while the TSDC 0.5 migration scenario projects a 7.34 percent total growth rate for those years.

**Table 17. Texas Population Projections: 10-Year Period 2012-2022**

Year	US Census Projection	Annual Change: Persons	Annual Change: Percent	TSDC 0.5 Migration Scenario	Annual Change: Persons	Annual Change: Percent
2012	25,409,783			25,056,041		
2013	25,797,428	387,645	1.53%	25,421,596	365,555	1.46%
2014	26,189,495	392,067	1.52%	25,788,871	367,275	1.44%
2015	26,585,801	396,306	1.51%	26,156,723	367,852	1.43%
2016	26,986,249	400,448	1.51%	26,525,342	368,619	1.41%
2017	27,391,070	404,821	1.50%	26,894,510	369,168	1.39%
2018	27,800,543	409,473	1.49%	27,264,173	369,663	1.37%
2019	28,215,015	414,472	1.49%	27,634,725	370,552	1.36%
2020	28,634,896	419,881	1.49%	28,005,740	371,015	1.34%
2021	29,062,018	427,122	1.49%	28,379,265	373,525	1.33%
2022	29,498,159	436,141	1.50%	28,755,407	376,142	1.33%
2013-2017		1,981,287	7.80%		1,838,469	7.34%

Sources: US Census<sup>16</sup>, TSDC<sup>17</sup>

**B. Current and Future Trends and Their Impacts**

Future population trends point to continued rapid growth. The US Census projects that the population in Texas will reach 33,317,744 in 2030, which represents a 59.8 percent change from 2000 figures, and more than double the projected national growth rate of 29.2 percent.<sup>18</sup>

These population projections have a major effect on the need for housing. According to the 2006 to 2010 American Community Survey estimate, Texas had a 87.9 percent housing occupancy rate and approximately 46.7 percent of occupied units in Texas were built on or before 1979.<sup>19</sup> This means that a little less than half of occupied housing structures are over 30 years of age. Without the construction of new units and/or the rehabilitation of existing substandard and future substandard units, the need for decent and affordable housing will be significant.

<sup>16</sup> U.S. Census (2004, March). File 3: Annual projections by single year of age. Retrieved from <http://www.census.gov/population/www/projections/projectionsagesex.html>.

<sup>17</sup> Texas Data Center. (2008). 2008 age, sex, and race/ethnicity estimates for the State of Texas and all Texas counties. Retrieved from: <http://txsdc.utsa.edu/Data/TPEPP/Projections/Index.aspx>.

<sup>18</sup> US Census. (n.d.) Interim Projections: Ranking of Census 2000 and Projected 2030 State Population and Change 2000 to 2030. Retrieved from <http://www.census.gov/population/projections/PressTab1.xls>.

<sup>19</sup> U.S. Census (n.d.) 2006-2010 American Community Survey 5-Year Estimates, Retrieved from: <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

### *Aging Population*

According to the 2006-2010 American Community Survey estimate, 2,466,642 persons, or 10.2 percent of the total Texas population were age 65 or older during that time period.

There is an identified aging trend in Texas. In 1980, the median age was 28.0; in 1990, the median age was 30.8; and in 2000, the median age was 32.2.<sup>20</sup> Between 2006 and 2010, the median age was 33.4 in Texas.<sup>21</sup> Furthermore, it is assumed that this trend will continue, with the state's population over 65 years old increasing 100.4 percent between 2010 and 2030. Comparing age groups, individuals 65 and older are projected to be the population with the highest growth in Texas. The second highest age category growth is 14 to 17 years old with only 39.0 percent growth between 2010 and 2030.<sup>22</sup>

An increasingly older population leads to growth in owner-occupied housing because older households tend to have higher rates of homeownership.<sup>23</sup> Furthermore, with an increasingly elderly population over age 65, home repair programs, including those that include home modifications for accessibility, may grow in demand.

An American Association of Retired Persons study found that 88 percent of elderly persons expressed a desire to stay in their own homes as long as possible.<sup>24</sup> According to the 2010 US Census, approximately 1,307,210 elderly householders aged 65 and over owned their own homes in Texas; this makes up approximately 69 percent of all elderly households.<sup>25</sup> While a high percentage of the elderly own their homes, many elderly also have lower incomes than other population groups. In Texas during 2006 to 2010, approximately 57% of householders age 65 or older had annual incomes of less than \$40,000. This compared to only 32.5% of householders aged 45 to 64. During that same time frame, approximately 11.6 percent of Texans 65 or older lived below the poverty level.<sup>26</sup> Furthermore, elderly homeowners may live in older homes than the majority of the population; due to their age, homes owned by the elderly are often in need of repair, weatherization, and energy assistance.

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<sup>20</sup> Center for Demographic and Socioeconomic Research and Education. (2002, December) Texas challenge in the twenty-first century. Retrieved from <http://txsdc.utsa.edu/download/pdf/TxChall2002.pdf>. Pg 16.

<sup>21</sup> U.S. Census (n.d.) 2006-2010 American Community Survey 5-Year Estimates, Retrieved from: <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

<sup>22</sup> U.S. Census (2004, March). Table B1: Total population by selected age groups. Retrieved from <http://www.census.gov/population/www/projections/projectionsagesex.html>

<sup>23</sup> Center for Demographic and Socioeconomic Research and Education. (2002, December) Texas challenge in the twenty-first century. Retrieved from <http://txsdc.utsa.edu/download/pdf/TxChall2002.pdf>. Pg 144.

<sup>24</sup> AARP Research & Strategic Analysis, (2010, November). Home and Community Preferences of the 45+ Population (Washington, D.C.: AARP, 2010). Retrieved from <http://assets.aarp.org/rgcenter/general/home-community-services-10.pdf> .

<sup>25</sup> U.S. Census Bureau, 2010 Census. (n.d.). Profile of General Population and Housing Characteristics: 2010. Retrieved from <http://factfinder.census.gov/>

<sup>26</sup> U.S. Census (n.d.) 2006-2010 American Community Survey 5-Year Estimates, Retrieved from: <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>

In addition, according to the 2010 US Census, approximately 40.6 percent, or 1,029,375 elderly persons in Texas, aged 65 and older have a disability as defined by the US Census.<sup>27</sup> For those persons who cannot or do not wish to remain in their own homes, TDHCA multifamily developments help provide affordable rental units. In many cases, these units are part of apartment developments specifically designed for and occupied by older households. These developments have design features, amenities, and supportive services geared to their specific needs and preferences.

**Table 18. Texas Population by Age Group: 10-Year Period 2012-2022**

Year	Age: 0-17	Annual Change: Persons	Annual Change: Percent	Age: 18-24	Annual Change: Persons	Annual Change: Percent
2012	7,003,380			2,528,448		
2013	7,123,330	119,950	1.71%	2,535,205	6,757	0.27%
2014	7,246,675	123,345	1.73%	2,540,266	5,061	0.20%
2015	7,376,218	129,543	1.79%	2,535,506	-4,760	-0.19%
2016	7,508,513	132,295	1.79%	2,532,069	-3,437	-0.14%
2017	7,639,597	131,084	1.75%	2,535,322	3,253	0.13%
2018	7,762,744	123,147	1.61%	2,553,765	18,443	0.73%
2019	7,866,920	104,176	1.34%	2,600,568	46,803	1.83%
2020	7,968,267	101,347	1.29%	2,658,208	57,640	2.22%
2021	8,066,034	97,767	1.23%	2,725,740	67,532	2.54%
2022	8,163,540	97,506	1.21%	2,803,459	77,719	2.85%
2013-2017		636,217	9.08%		6,874	0.27%

Year	Age: 25-64	Annual Change: Persons	Annual Change: Percent	Age: 65+	Annual Change: Persons	Annual Change: Percent
2012	13,102,550			2,775,405		
2013	13,252,187	149,637	1.14%	2,886,706	111,301	4.01%
2014	13,406,107	153,920	1.16%	2,996,447	109,741	3.80%
2015	13,561,194	155,087	1.16%	3,112,883	116,436	3.89%
2016	13,717,895	156,701	1.16%	3,227,772	114,889	3.69%
2017	13,867,455	149,560	1.09%	3,348,696	120,924	3.75%
2018	14,006,204	138,749	1.00%	3,477,830	129,134	3.86%
2019	14,135,650	129,446	0.92%	3,611,877	134,047	3.85%
2020	14,252,607	116,957	0.83%	3,755,814	143,937	3.99%
2021	14,372,013	119,406	0.84%	3,898,231	142,417	3.79%
2022	14,485,054	113,041	0.79%	4,046,106	147,875	3.79%
2013-2017		764,905	5.84%		573,291	20.66%

<sup>27</sup> U.S. Census Bureau, 2010 Census. (n.d.). Profile of General Population and Housing Characteristics: 2010 . Retrieved from <http://factfinder.census.gov/>

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Source: US Census<sup>28</sup>

*Race and Ethnicity*

Texas is experiencing a shift toward racial and ethnic diversity. During the 1980s, the White population increased by 10.1 percent, but by only 7.6 percent during the 1990s; the Black population increased by 16.8 percent during the 1980s and 22.5 percent during the 1990s; the Hispanic population increased by 45.4 percent during the 1980s and 53.7 during the 1990s; and the Other racial/ethnic population increased by 88.8 percent during the 1980s and 81.2 percent during the 1990s.<sup>29</sup> The 2006-2010 American Community Survey found the racial composition of the state was 72.0 percent White, 11.8 percent Black, 3.7 percent Asian and 12.5 percent Other. The Hispanic population is 36.7percent and “White alone, not Hispanic or Latino” is 46.4percent.<sup>30</sup>

Future projections point to a shift from a majority White population to a majority of other racial and ethnic groups. As seen in Table 19, according to TSDC projections using the 0.5 migration scenario, the “White, not Hispanic” group is expected to comprise 46.31percent of the total Texas population in 2012, falling to 42.12percent of the total population by 2020. The White population is expected to grow by only 1.7 percent from 2012 to 2020, while the Hispanic population is expected to grow by 23.6 percent during this period.

This racial shift is expected to have important implications on Texas households as a whole. Because of the rapid growth of Hispanic and Other populations, the expected result is a higher proportion of married-couple and married-couple-with-children households.<sup>31</sup> As for income, unless the wealth of non-White populations changes, the income distributions of households will shift towards lower income categories because of the rapid growth of Hispanic and Black populations, which tend to have lower incomes.<sup>32</sup> Furthermore, the growth of non-White populations, which tend to have higher rates of rentership, is projected to fuel the need for rental housing.<sup>33</sup>

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<sup>28</sup> U.S. Census Bureau. (2004, March). Table C1: The selected age groups of total population by region and division. Retrieved from <http://www.census.gov/population/www/projections/projectionsagesex.html>.

<sup>29</sup> Center for Demographic and Socioeconomic Research and Education. (2002, December) Texas challenge in the twenty-first century. Retrieved from <http://txsdc.utsa.edu/download/pdf/TxChall2002.pdf>. Pg xxv.

<sup>30</sup> 2006-2008 American Community Survey. (n.d.) SO102: Population 60 years and older in the United States. Retrieved from <http://factfinder.census.gov>.

<sup>31</sup> Center for Demographic and Socioeconomic Research and Education. (2002, December) Texas challenge in the twenty-first century. Retrieved from <http://txsdc.utsa.edu/download/pdf/TxChall2002.pdf>. Pg 60.

<sup>32</sup> Ibid. Pg 87.

<sup>33</sup> Ibid. Pg 144.

**Table 19. Texas Population by Race and Ethnicity: 2012-2022**

Year	Total Population	White (not Hispanic)	Percent	Black	Percent	Hispanic	Percent	Other	Percent
2012	25,056,041	11,604,028	46.31%	2,819,628	11.25%	9,611,596	38.36%	1,020,789	4.07%
2013	25,421,596	11,636,265	45.77%	2,851,391	11.22%	9,882,960	38.88%	1,050,980	4.13%
2014	25,788,871	11,666,595	45.24%	2,882,626	11.18%	10,158,047	39.39%	1,081,603	4.19%
2015	26,156,723	11,694,520	44.71%	2,913,062	11.14%	10,436,546	39.90%	1,112,595	4.25%
2016	26,525,342	11,720,134	44.18%	2,942,757	11.09%	10,718,471	40.41%	1,143,980	4.31%
2017	26,894,510	11,743,233	43.66%	2,971,586	11.05%	11,003,878	40.91%	1,175,813	4.37%
2018	27,264,173	11,763,724	43.15%	2,999,491	11.00%	11,292,906	41.42%	1,208,052	4.43%
2019	27,634,725	11,781,575	42.63%	3,026,466	10.95%	11,585,918	41.93%	1,240,766	4.49%
2020	28,005,740	11,796,448	42.12%	3,052,417	10.90%	11,882,980	42.43%	1,273,895	4.55%
2021	28,379,265	11,808,763	41.61%	3,077,617	10.84%	12,185,318	42.94%	1,307,567	4.61%
2022	28,755,407	11,818,512	41.10%	3,102,115	10.79%	12,493,025	43.45%	1,341,755	4.67%
2013-2017	130,787,042	58,460,747	44.70%	14,561,422	11.13%	52,199,902	39.91%	5,564,971	4.25%

Source: TSDC<sup>34</sup>

*Income*

According to the American Community Survey, the median household income in Texas between 2006-2010 was \$49,646, which was less than the national median of \$51,914 (in 2010 dollars).<sup>35</sup> Historically, the median income in Texas has tended to grow. In 1999 dollars, the Census reports that, in 1969, the household median income in Texas was \$29,535; in 1979, the median income was \$35,744; and in 1989, the median income was \$35,246.<sup>36</sup>

The TSDC Center for Demographic and Socioeconomic Research has computed projected incomes in Texas for 2000, 2010, 2020, 2030, and 2040. Projections based on the 0.5 migration scenario are provided for 2010, 2020, and 2030 in Table 20 below, and demonstrate an increasing proportion of the population with incomes below \$40,000. The author states that the median household income will actually decline by \$5,061 between 2000 and 2040 (in 2000 constant dollars) based on the 0.5 migration scenario.<sup>37</sup> This decline is attributed to the rapid increase of Hispanic and Black populations and assumes that the socioeconomic gap between these groups and Whites will not change.

<sup>34</sup> Texas Data Center. (2008). Table 1: Sex and race/ethnicity total projection by migration scenario for 2000-2040 in 1 year increments. Retrieved from: <http://txsdc.utsa.edu/Data/TPEPP/Projections/Index.aspx>

<sup>35</sup> U.S. Census. 2006-2008 American Community Survey. S1903. Median income in the past 12 months (In 2008 inflation-adjusted dollars). Retrieved from <http://factfinder.census.gov>.

<sup>36</sup> US Census. Table S1: Median Household Income by State: 1969,1979,1989, 1999. Retrieved from <http://www.census.gov/hhes/www/income/histinc/state/state1.html>.

<sup>37</sup> Center for Demographic and Socioeconomic Research and Education. (2002, December) Texas challenge in the twenty-first century. Retrieved from <http://txsdc.utsa.edu/download/pdf/TxChall2002.pdf>. Pg 95.



**Table 20. Household Income in Texas by Income Category:2010, 2020, and 2030**

Income Level	2010		2020		2030	
	Households	Percent	Households	Percent	Households	Percent
\$ < 10,000	955,412	10.83%	1,218,416	11.70%	1529699	12.69%
10,000 - 14,999	609,119	6.91%	774,050	7.43%	962439	7.98%
15,000 - 19,999	602,598	6.83%	753,896	7.24%	920748	7.64%
20,000 - 24,999	635,750	7.21%	779,300	7.48%	931793	7.73%
25,000 - 29,999	613,060	6.95%	741,510	7.12%	874483	7.25%
30,000 - 34,999	595,664	6.75%	710,347	6.82%	826423	6.86%
35,000 - 39,999	534,047	6.06%	631,032	6.06%	727965	6.04%
40,000 - 44,999	496,321	5.63%	580,765	5.58%	663630	5.51%
45,000 - 49,999	424,119	4.81%	493,081	4.73%	559661	4.64%
50,000 - 59,999	748,513	8.49%	858,280	8.24%	961187	7.97%
60,000 - 74,999	837,711	9.50%	942,578	9.05%	1035307	8.59%
75,000 - 99,999	805,588	9.13%	888,233	8.53%	955950	7.93%
100,000 - 124,999	412,025	4.67%	450,347	4.32%	477816	3.96%
125,000 - 149,999	194,563	2.21%	210,353	2.02%	221823	1.84%
150,000 - 199,999	171,121	1.94%	184,276	1.77%	193711	1.61%
200,000+	183,108	2.08%	198,719	1.91%	210896	1.75%
Total	8,818,719	100.00%	10,415,183	100.00%	12053531	100.00%

Source: Center for Demographic and Socioeconomic Research and Education<sup>38</sup>

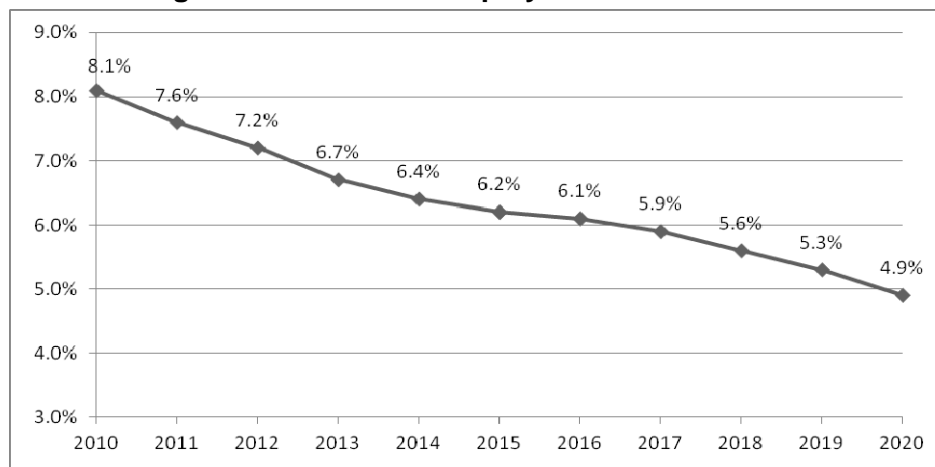
If this projection towards lower incomes does indeed occur, then the need for housing and other assistance will be great. A higher proportion of households at the lowest levels will place an even higher demand on social services, energy assistance, and rental assistance programs. In terms of homeownership, the interest rates have been at historic lows. In 2007, the prime interest rate was 8.1 percent and it lowered to 3.3 percent in 2010 and 2011 due to the economic recession. The Texas Comptroller estimates that the rates will rise to 5.3 in 2012 and 7.8 in 2015.<sup>39</sup> Lower incomes and the higher cost of borrowing money may push the dream of homeownership out of reach for many more households in the future.

A major factor influencing income is the unemployment rate. According to the Comptroller’s 2010-2011 Economic Forecast, the unemployment rate is projected to decrease during the 2013-2017 planning period from 7.0 to 5.4percent. However, this is because unemployment remains high, given the economic recession, at 7.6 percent for 2012. Unemployment affects the demand for services, including rental assistance, energy assistance, and emergency financial assistance.

<sup>38</sup> Ibid. Pg 106-107.

<sup>39</sup>Texas Office of the Comptroller. (2010-2011) 2011-2012 Economic Forecast: Summary Calendar Years 1990 through 2040. Retrieved from <http://www.texasahead.org/economy/forecasts/fcst1011/calendarSummary.php>.

**Figure 3. : Texas Unemployment Rates: 2010-2020**



Source: Texas Office of the Comptroller

**Poverty & Household Composition**

The 2006-2010 American Community Survey that 16.8 percent of persons in Texas were below the poverty level, which was significantly higher than the national rate of 13.8 percent.<sup>40</sup> Analyzing past Census data, Texas has historically had a poverty rate higher than that of the national average.

Based on Center for Demographic and Socioeconomic Research and Education projections for 2000, 2010, 2020, 2030, and 2040, the rate of families in poverty will increase. Projections based on the 0.5 migration scenario are provided for 2000, 2010, and 2020 below.

**Table 21. Poverty & Household Composition: 2010, 2020, and 2030**

Household Type	2010		2020		2030	
	Number	Poverty Rate	Number	Poverty Rate	Number	Poverty Rate
Family households	783,058	12.3%	983,798	13.1%	1,194,872	11.4%
Married couples	401,877	8.4%	516,708	9.2%	641,852	7.5%
With own children	283,781	11.5%	364,502	12.7%	447,923	10.3%
No own children	118,096	5.1%	152,206	5.5%	193,929	4.7%
Other families	381,181	24.5%	467,090	24.9%	553,020	23.7%
Male householders, no spouse	63,005	15.6%	79,359	16.0%	96,679	15.0%
With own children	40,696	20.8%	50,174	21.9%	59,488	19.8%
No own children	22,309	10.6%	29,185	10.9%	37,191	10.3%
Female householders, no spouse	318,176	27.7%	387,731	28.1%	456,341	26.7%
With own children	256,149	37.0%	306,053	38.3%	350,177	35.7%
No own children	62,027	13.6%	81,678	14.0%	106,164	13.0%

<sup>40</sup> U.S. Census. 2006-2008 American Community Survey. S1701.Poverty status in the past 12 months. Retrieved from <http://factfinder.census.gov>

Source: Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, 117

Increasing poverty populations will increase the demand for social services and emergency assistance, including rental assistance, energy assistance, and health and human services. In fact, the Center for Demographic and Socioeconomic Research and Education projects that the enrollment for Temporary Assistance for Needy Families, Food Stamps, and Medicaid will greatly increase between 2000 and 2040.<sup>41</sup>

*Educational Attainment*

Figures from the US Census reveal that between 2000 and 2010, the proportion of Texans with a high school degree or higher increased by 4.37% and the proportion of Texans with a bachelor’s degree or higher increased by 2.52%. However, the Center for Demographic and Socioeconomic Research and Education projects that by 2040, in the absence of change in the educational characteristics of Blacks and Hispanics, populations that are projected to grow more rapidly than the Anglo population, the labor force in Texas in the future will be less well educated than it was in 2010. The author finds that demographic change, in the absence of socioeconomic change, will lead to a less well educated labor force in Texas.<sup>42</sup>

**Table 22. Educational Attainment: 2000, 2010, and 2040**

	2000	%	2010	%	2040	%
<b>Educational Attainment</b>						
<b>Population 25 years and over</b>	12,790,893		15,116,371		23,270,122	
<b>Less than 9th grade</b>	1,465,420	11.46%	1,505,662	9.96%	3,626,497	15.58%
<b>9th to 12th grade, no diploma</b>	1,649,141	12.89%	1,515,336	10.02%	3,356,869	14.43%
<b>High school graduate (includes equivalency)</b>	3,176,743	24.84%	3,928,438	25.99%	6,674,661	28.68%
<b>Some college, no degree</b>	2,858,802	22.35%	3,318,190	21.95%	4,261,479	18.31%
<b>Associate's degree</b>	668,494	5.23%	954,622	6.32%	1,310,401	5.63%
<b>Bachelor's degree</b>	1,996,250	15.61%	2,609,718	17.26%	3,008,247	12.93%
<b>Graduate or professional degree</b>	976,043	7.63%	1,284,405	8.50%	1,031,968	4.43%
<b>Percent high school graduate or higher</b>	75.65%		80.02%		69.99%	
<b>Percent bachelor's degree or higher</b>	23.24%		25.76%		17.36%	

Source: US Census; Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, 117

Persons with lower education attainment levels tend to face greater difficulties in obtaining jobs that provide higher incomes. An increase in the lower wage households

<sup>41</sup>Center for Demographic and Socioeconomic Research and Education. (2002, December) Texas challenge in the twenty-first century. Retrieved from <http://txsdc.utsa.edu/download/pdf/TxChall2002.pdf> . Pg 329.

<sup>42</sup> Center for Demographic and Socioeconomic Research and Education. (2002, December) Texas challenge in the twenty-first century. Retrieved from <http://txsdc.utsa.edu/download/pdf/TxChall2002.pdf> . Pg 199

may increase the demand for social services and emergency assistance, including rental assistance, energy assistance, and health and human services.

### *Geographic Distribution*

The US Office of Management and Budget classifies areas as metropolitan statistical areas (MSAs) based on US Census data. These MSAs are comprised of core counties that have a high population density and surrounding counties that have economic integration with the core counties. Non-MSA counties are primarily rural. There are 25 designated MSAs in Texas that cover 77 of the 254 total counties<sup>43</sup>, see Figure 5: Texas MSA Counties below.

In 2010, of the 24,330,646 people residing in the state, 86.92 percent resided in MSAs and 13.08 percent resided in non-MSAs. For year 2015, the TSDC, using its 0.5 migration scenario, projected that 87.29percent of the population is living in MSAs compared to 12.71percent residing in non-MSAs. This trend of MSA growth is projected to occur in the long term. For the 2013-2017 planning period, the population in MSA areas is expected to increase by 1,363,907 or 6.16 percent, whereas the population in non-MSA areas is expected to increase by only 109,007, or 3.34 percent.

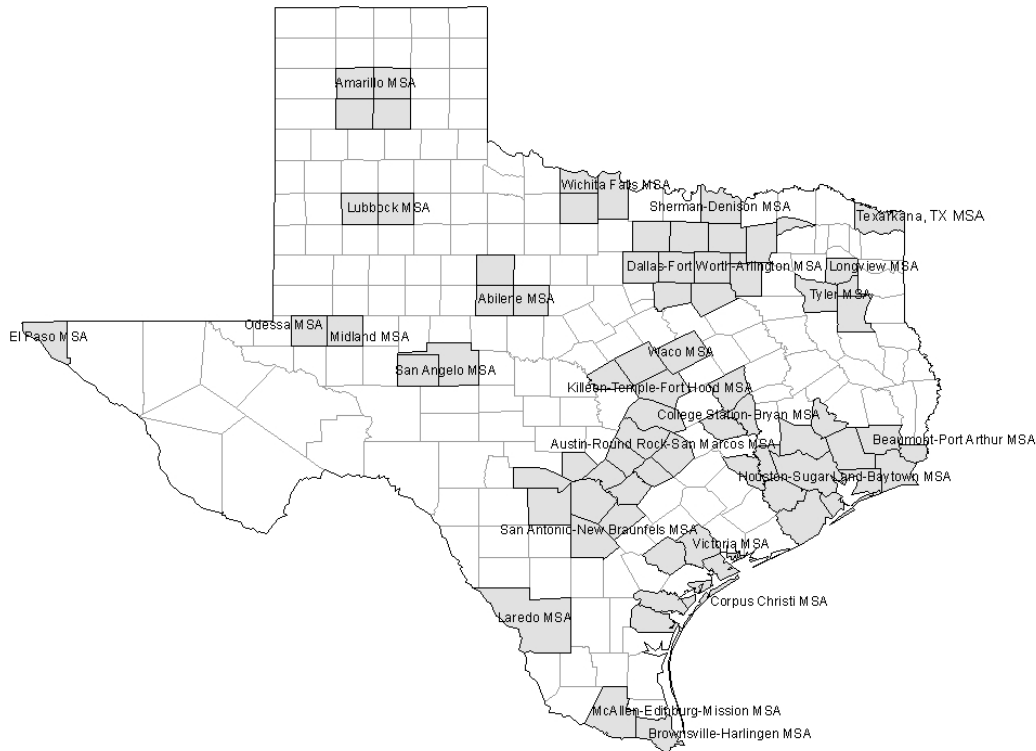
In addition to a greater share of the population, these metropolitan areas also generally have a greater share of industry and jobs, which leaves less-populous areas with dilapidated housing stock and households with lower incomes. According to the US Department of Housing and Urban Development, the FY 2012 median income for Texas Metropolitan areas was \$62,400 compared to \$49,300 for non-metropolitan areas.<sup>44</sup>

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<sup>43</sup> U.S. Census Bureau. (2008, November). OMB Bulletin No. 09-01. Retrieved from <http://www.whitehouse.gov/omb/assets/omb/bulletins/fy2009/09-01.pdf>

<sup>44</sup> HUD. (2012, May). FY 2012 HUD income limits briefing materials. Retrieved from: [http://www.huduser.org/portal/datasets/il/il12/IncomeLimitsBriefingMaterial\\_FY12\\_v2.pdf](http://www.huduser.org/portal/datasets/il/il12/IncomeLimitsBriefingMaterial_FY12_v2.pdf)

**Figure 4. Texas MSA Counties**



**Table 23. Texas MSA and Non-MSA Population Projections: 2010-2015**

	2012	2013	2014	2015	2016	2017
Abilene	172,959	173,856	174,685	175,467	176,142	176,777
Amarillo	260,367	263,162	265,981	268,770	271,524	274,308
Austin-Round Rock	1,630,438	1,663,535	1,696,729	1,730,267	1,763,821	1,797,837
Beaumont-Port Arthur	409,236	411,191	413,159	415,012	417,049	418,949
Brownsville-Harlingen	432,007	440,445	449,058	457,457	465,839	474,247
College Station-Bryan	213,519	216,071	218,673	221,285	223,757	226,177
Corpus Christi	471,933	477,867	483,678	489,570	495,186	500,767
Dallas-Fort Worth-Arlington	6,416,199	6,526,826	6,639,133	6,752,624	6,867,551	6,983,524
El Paso	829,464	842,216	854,676	867,475	879,714	891,970
Houston-Sugar Land-Baytown	5,720,333	5,809,147	5,898,186	5,988,118	6,078,352	6,168,975
Killeen-Temple-Fort Hood	402,991	408,845	414,614	420,350	425,971	431,601
Laredo	278,946	286,720	294,612	302,631	310,677	318,973
Longview	210,559	212,050	213,501	214,957	216,378	217,794
Lubbock	274,399	275,849	277,278	278,566	279,891	281,192
McAllen-Edinburg-Mission	789,779	809,567	830,120	850,592	871,458	892,266
Midland	126,578	127,564	128,530	129,479	130,367	131,250

Odessa	135,241	136,436	137,624	138,750	139,849	140,913
San Angelo	114,785	115,503	116,186	116,852	117,470	118,040
San Antonio	2,000,714	2,024,104	2,047,285	2,069,525	2,092,152	2,114,632
Sherman-Denison	119,563	120,335	121,066	121,810	122,503	123,164
Texarkana	91,223	91,324	91,410	91,477	91,515	91,528
Tyler	191,595	193,100	194,634	196,159	197,729	199,278
Victoria	126,835	128,106	129,339	130,678	131,899	133,067
Waco	235,709	237,746	239,726	241,694	243,640	245,576
Wichita Falls	160,709	161,459	162,161	162,846	163,493	164,126

**Table 24. Texas MSA and Non-MSA Population Projections Compared to Total Texas Population**

	2012	2013	2014	2015	2016	2017
<b>Total Texas Population</b>	<b>25,056,041</b>	<b>25,421,596</b>	<b>25,788,871</b>	<b>26,156,723</b>	<b>26,525,342</b>	<b>26,894,510</b>
<b>Total MSA Population</b>	<b>21,816,081</b>	<b>22,153,024</b>	<b>22,492,044</b>	<b>22,832,411</b>	<b>23,173,927</b>	<b>23,516,931</b>
<i>MSA Population Percentage of Total Texas Population</i>	<i>87.07%</i>	<i>87.14%</i>	<i>87.22%</i>	<i>87.29%</i>	<i>87.37%</i>	<i>87.44%</i>
<b>Total Non-MSA Population</b>	<b>3,239,960</b>	<b>3,268,572</b>	<b>3,296,827</b>	<b>3,324,312</b>	<b>3,351,415</b>	<b>3,377,579</b>
<i>Non-MSA Population Percentage of Total Texas Population</i>	<i>12.93%</i>	<i>12.86%</i>	<i>12.78%</i>	<i>12.71%</i>	<i>12.63%</i>	<i>12.56%</i>

Source: TSDC

## V. TECHNOLOGICAL DEVELOPMENTS

### A. Impact of Technology on Current Operations

The business of the Department continues to be enhanced by technology. Today, almost all agency services have a web component. TDHCA uses its website to provide easy access to Texas citizens searching for assistance. The Help for Texans feature allows customers to quickly search for resources for rent help, buying a home, utility bill help, weatherization, homebuyer education, emergency and homeless services, home repair, and manufactured housing. The website also includes pages designed specifically for 1) developers and builders and 2) communities and nonprofits. In FY 2012, TDHCA began using social media to provide customers additional avenues to communicate with the agency.

The Department's custom-designed applications are created using a combination of Oracle PL/SQL and Java. Both development languages are web-enabled; the latter is platform independent and license free. The database platform that backs new development work is Oracle.

TDHCA's financial management systems are PeopleSoft Financials and the Mitas Accounting and Loan Administration System. In cooperation with the Office of the Comptroller of Public Accounts, the Department upgraded to the current Integrated Statewide Accounting System version of PeopleSoft Financials in FY 2007. Mitas was implemented on September 1, 2003, and replaced and integrated the functions of four systems on separate platforms.

The Department supports both its internal and external technology-based services through a combination of Sun Solaris, Linux, FreeBSD, and Windows servers and gigabit-enabled Cisco networking equipment. TDHCA's computing environment includes multiple web, application, email, file, and database servers that work together to form the Department's Internet presence and to meet internal computing and network needs. Workgroup collaboration is facilitated by file sharing, intranet pages and postings, shared databases, and MS Exchange features such as email, Outlook WebAccess, calendars, and scheduling.

### B. Impact of Anticipated Technological Advances

In the FY 2013-2017 time period, TDHCA's Information Systems Division will continue to focus on the Department's mission, goals, and objectives. All current and future projects involving technology will support the business of the agency, and the Department will continue to make use of technology described in this and past strategic plans.

*C. Degree of Agency Automation and Telecommunications*

The Department's Internet and intranet web servers continue to serve as front-ends used to disseminate information to the public and employees and as places to update and maintain the Department's data in a dynamic fashion. Most critical business applications have been converted from legacy systems into a web format, making these applications accessible using a web browser. They can be accessed from the network or remotely using any Internet connection.

TDHCA's financial management system closely follows Office of the Comptroller of Public Accounts procedures to simplify interfaces and data exchange between the two agencies. Additionally, financial information is shared with other agency applications through interfaces and real-time database links.

Using desktop management software, TDHCA's Information Systems Division (ISD) can automatically deploy software applications, quickly rebuild PCs and laptops, and electronically obtain hardware and software information from individual workstations. These products allow staff to control personal computer configurations more effectively and provide faster support to Department employees.

Any agency employee can electronically submit a help desk request for a hardware or software problem. These requests are assigned according to the nature of the problem to be handled by appropriate ISD staff.

As technology and TDHCA systems evolve, ISD continuously aims to improve ease of data access, provide secure data exchanges, and increase the cost effectiveness of information technology solutions. In these efforts, ISD management works with executive and senior management and the steering committee to ensure alignment with business objectives and proper IT governance.

*D. Anticipated Need for Automation*

The Department renews its software and hardware maintenance contracts and disaster recovery services on a yearly basis. The Department leases one T-1 circuit for Internet services, five fractional T-1 circuits for TDHCA's regional offices, and one 100 Mbps WAN circuit between Austin offices.

Budgeted costs for planned IT acquisitions, contracts, and service renewals will be detailed in the TDHCA Information Technology Detail and Legislative Appropriations Request. Actual costs are maintained in the Department's financial management system.



## VI. ECONOMIC VARIABLES

### A. Identification of Key Economic Variables, Affected Service Populations & TDHCA Response

#### *Background*

The State of Texas is facing a severe shortage of affordable housing stock and housing assistance. Some of the causes of this shortage have been recent and are ever-growing. In the last year, the shale gas boom has created tens of thousands of new jobs in rural communities, causing skyrocketing rents and a dearth of affordable rental properties. The state is also witnessing a huge growth in the number of veterans returning home from combat in Iraq and Afghanistan, with many unable to find housing to meet their needs.

Other causes of this shortage are on-going issues that continue to build: the sustained migration of Americans from other parts of the country into Texas coupled with the national economic downturn has caused an increase in poor, unemployed households in need of affordable housing and community services. At the same time, economic conditions have limited the availability of capital sources for new affordable housing production and shaken the confidence of the industry's lenders and investors. These economic factors have hit rural communities particularly hard.

TDHCA strives to meet the affordable housing and community service needs of low, very low, and extremely low income Texans through the efficient administration of government programs and the strategic investment of state resources. The discussion below provides a brief description of each economic variable affecting the Department's targeted service populations, how changing conditions are affecting each variable, and how the Department attempts to address each variable and improve the lives of households in need.

#### *Economic Variable #1: Demand for Affordable Rental Housing*

Energy Boom: An energy rush that began in 2008 with the initial shale drilling, has mushroomed into one of the fastest growing economic sectors in Texas over the last two years. Drilling of the Eagle Ford shale in South Texas (focused in Maverick, Dimmit, Webb, and La Salle Counties), Barnett Shale in North Central Texas and Haynesville Shale in East Texas (in Panola, Shelby, San Augustine, and Sabine Counties) has transformed rural communities into boomtowns. According to a recent study released by the University of Texas at San Antonio's Institute for Economic Development, in 2011 shale development in the Eagle Ford formation generated over \$25 billion in revenue, supported 47,000 full-time jobs in the area.<sup>45</sup> The study projects the creation of

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<sup>45</sup> The University of Texas at San Antonio, Institute for Economic Development (2012, May). *Economic Impact of the Eagle Ford Shale*, Retrieved from: <http://iedtexas.org/>

approximately 117,000 full-time jobs by 2021. However, the influx of energy industry workers with expendable income has created the unintended consequence of raising rent costs and causing a void of affordable housing for low income households. It has also taxed the limited community assistance resources provided by local municipalities.

**Returning Veterans:** The US Department of Veterans Affairs reports that Texas has one of the largest veteran populations in the nation, with approximately 1.66 million veterans in 2010, the most recent year that statistics are available. In addition to those already residing in the state, Texas anticipates a large number of returning veterans from Operation Iraqi Freedom, Enduring Freedom, and New Dawn. This population increase will likely tax the affordable housing resources around military installations. Additionally, upon return many veterans are impeded from obtaining jobs and affordable housing and for many, the injuries sustained during combat provide a long-term obstacle to gainful employment, and thus income to afford a place to live.

**Rural Communities:** Many rural communities continue to grapple with shortages in quality affordable rental housing, as a growing proportion of apartment stock is at risk of being lost due to the expiration of affordability restrictions and/or physical deterioration. In many rural areas of the state, the main employment centers are surrounding county jails and state prisons. From 2000 to 2008, the number of admissions to Texas prisons increased by 3.5 percent and at 639 per 100,000 persons, the number of people incarcerated in Texas far exceeds the national average of 504 per 100,000.<sup>46</sup> Those employed by the prison industry often cannot find quality affordable housing, due to the lack of new construction in rural communities.

Another rural population that suffers from a lack of affordable housing development is Native American communities. The three federally recognized Indian tribes in Texas are the Alabama-Coushatta Tribe in Polk County, the Kickapoo Traditional Tribe in Maverick County, and the Ysleta del Sur Pueblo in El Paso County. These rural communities suffer from higher rates of unemployment and poverty more than metropolitan areas, exacerbating the need for affordable housing assistance.

#### *Addressing Economic Variable #1: Demand for Affordable Rental Housing*

The table below from TDHCA's 2012 State of Texas Low Income Housing Plan & Annual Report conveys the impact that the Department's affordable housing development have had in increasing the state inventory of reduced rent properties for low income individuals and families. Funding provided through the Housing Tax Credit (HTC) Program, Multifamily Bond Program, HOME Program, Neighborhood Stabilization Program (NSP) and Housing Trust Fund (HTF) has led to the creation of over 209,000 affordable rental housing units throughout the state, equitably distributed to both rural and urban areas of all 13 state service regions.

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<sup>46</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (2010, December). *Prisoners in 2009*, Retrieved from: <http://bjs.ojp.usdoj.gov/content/pub/pdf/p09.pdf>

**Table 25. Subsidized Multifamily Units, Texas 2011**

Source of Subsidized Units	State Total	Percent of State Inventory
THDCA Units	209,133	44.7%
HUD Units	57,648	12.3%
PHA Units	57,083	12.2%
Section 8 Vouchers	129,432	27.7%
USDA Units	14,165	3.0%
HFC Units*	100,596	21.5%
<b>Total</b>	<b>467,461</b>	

\*HFC developments report total units and do not specify assisted units. The majority of HFC-finance developments also receive housing tax credits from TDHCA, therefore these units are not included in the final total.

In addition to financing affordable housing development, TDHCA seeks to address the need for community services through its network of local providers. Community action agencies and other human service delivery organizations serving all 254 counties in the state are awarded Community Services Block Grant (CSBG) to assist in the provision of emergency and poverty-related programs to persons at or below 125% of the poverty level. The Department also provides these organizations with Comprehensive Energy Assistance Program (CEAP) funding to assist low income households with their energy costs, with particular priority given to the elderly; persons with disabilities; families with young children; households with the highest energy costs or needs in relation to income (highest home energy burden); and households with high energy consumption. Additionally, the Department annually sets aside CSBG funding to support innovative projects that address the causes of poverty for hard to serve populations. Two of the populations that have been targeted for these awards in past years and again in 2012 are low income Migrant and Seasonal Farmworkers and low income Native American populations.

*Economic Variable #2: Foreclosures and the Housing Market*

The mortgage crisis sent millions of American homeowners into foreclosure, precipitating a long-lasting economic recession. While Texas’ foreclosure inventory has been lower than the national level since 2007, foreclosures and mortgage loan delinquencies are still prevalent. According to the Mortgage Bankers Association’s National Delinquency Survey, 9.07% of all residential mortgage loans in Texas had delinquent payments as of the fourth quarter of 2011, as compared to a national total of 7.58%. However, Texas only had 1.78% of loans in foreclosure at the end of the fourth quarter, as compared to much higher national rate of 4.38%.<sup>47</sup> This substantiates a trend noted by the Federal Reserve Bank of Dallas that “Texas borrowers who missed one or two mortgage payments were often able to catch up later to avoid foreclosure.”<sup>48</sup>

<sup>47</sup> Mortgage Bankers Association (2012, February). National Delinquency Survey Q4 2011

<sup>48</sup> Federal Reserve Bank of Dallas (2012) e-Perspective Volume 12, Issue 1.

It should be noted that while the rate of “seriously delinquent” conventional prime loans has decreased (at 2.10% as of the fourth quarter of 2011), the overall rate in Texas between December 2010 and December 2011 has remain unchanged, largely due to an increase in defaults of FHA loans (at 6.74% as of the fourth quarter of 2011).<sup>49</sup> Additionally, there are scattered hotspots of sustained delinquencies around the state, particularly in the four county Dallas-Fort Worth area and the Rio-Grande Valley (Hidalgo, Cameron counties).<sup>50</sup>

### *Addressing Economic Variable #2: Foreclosures and the Housing Market*

Since 2008, TDHCA has continued its involvement in foreclosure prevention efforts. These efforts began with the Texas Foreclosure Prevention Taskforce facilitated by NeighborWorks America which is comprised of representatives from over 50 organizations representing state, local, and federal government organizations, the financial industry and the non-profit sector. . The primary activity of the Task Force is to raise awareness about the nationally endorsed bilingual Homeowner’s HOPE Hotline (1-888-995-HOPE) available to homeowners struggling with their mortgage payments. Additionally, the Task Force supports the outreach efforts of local foreclosure prevention initiatives; such as, the coordinated efforts already occurring in many Texas markets and monitors mortgage default patterns and trends in Texas. The Task Force also helps to support the creation of new initiatives in areas of high mortgage default rates.

In 2008, TDHCA in partnership with the Texas State Affordable Housing Corporation (TSACH) applied for the National Foreclosure Mitigation Counseling (NFMC) Program offered through NeighborWorks America. \$1,986,152 for foreclosure counseling efforts. TDHCA jointly administers NFMC with the Texas State Affordable Housing Corporation (TSAHC). Foreclosure mitigation counseling includes financial analysis of the client’s situation, research to determine the current value of the home and a review of options available to the client, such as financial restructuring. For NFMC Rounds 2 through 4, the counselors served 2,839 households. Only 62 of those counseled households ended in foreclosures, even though 87.2 percent of homeowners in TDHCA’s NFMC program were 30 days late or later on their mortgages when they entered counseling. A report prepared by the Urban Institute found that, nationwide, homeowners who received counseling under NFMC were twice as likely to obtain a mortgage modification and at least 67% more likely to remain up-to-date on their mortgage nine months after receiving a modification.<sup>51</sup> TDHCA is currently administering NFMC Round 5 and will begin NFMC Round 6 in the summer of 2012.

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<sup>49</sup> Mortgage Bankers Association (2012, February). National Delinquency Survey Q4 2011

<sup>50</sup> Federal Reserve Bank of Dallas (2012) e-Perspective Volume 12, Issue 1.

<sup>51</sup> The Urban Institute (2001, December) National foreclosure mitigation counseling program evaluation: final report rounds 1 and 2. Retrieved from

[http://www.nw.org/network/foreclosure/nfmcp/documents/NFMCEval\\_Rounds1-2\\_Final.pdf](http://www.nw.org/network/foreclosure/nfmcp/documents/NFMCEval_Rounds1-2_Final.pdf)

Additionally, TDHCA received \$102,000,000 for the Neighborhood Stabilization Program (NSP) in FY 2008 through HUD. An additional allocation of \$7,300,000 was provided through NSP3 in FY10. Awards were made to local units of government and nonprofit entities based on an allocation formula that considered local needs. The purpose of the program is to redevelop vacant, abandoned and foreclosed properties in order to reduce the negative impact of the housing crisis on Texas communities. NSP activities include assistance to households earning 120 percent of the Area Median Family Income (AMFI) or less for purchase of foreclosed properties, purchase and rehabilitation of foreclosed properties for resale or rental to eligible households, development of new affordable housing, land banking for development of housing in the future, and clearance of blighted properties that create health and safety concerns, and reduce surrounding property values. A minimum 25% of the NSP funds must be used to provide housing opportunities to very low-income households at or below 50% AMFI.

*Economic Variable #3: Tightened Lending Standards*

In the wake of the nationwide subprime mortgage and home foreclosure crisis, banks and other lending institutions tightened their lending standards and terms. Banks continued to tighten standards on residential real estate loans through the first half of 2010 and although a majority of commercial banks now state that they have generally ceased tightening standards on many loan types, progress towards unwinding the considerable tightening that occurred from 2008 to 2010 has been slow and halting.<sup>52</sup> Additionally, a majority of banks continued to report lower demand for revolving home equity lines of credit.<sup>53</sup> This trend limits the availability of home loans to borrowers, particularly those with weaker credit histories.

Beginning in the third quarter of 2009, homebuyers have seen historically low mortgage interest rates due to the Federal Reserve Bank's unprecedented purchase of nearly all the mortgage-backed securities issued by Fannie Mae and Freddie Mac. However, consumers can soon expect a return to higher mortgage rates once the government stops buying mortgage-backed securities.<sup>54</sup> Additionally, a crackdown on seller-funded down payment assistance programs by the Internal Revenue Service (Private Letter Ruling 201102064) has left a void for households needing such assistance.

*Addressing Economic Variable #3: Tightened Lending Standards*

Households assisted through TDHCA's First Time Homebuyer Program are offered competitive mortgage interest rates and down payment and closing cost assistance. The program is available to credit worthy borrowers that meet either FHA, VA, USDA or

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<sup>52</sup> The Federal Reserve Board (2012, April), April 2012 Senior Loan Officer Opinion Survey on Bank Lending Practices, Retrieved from: <http://www.federalreserve.gov/boarddocs/SnLoanSurvey/201205/default.htm>

<sup>53</sup> Federal Reserve. (2010, January). The January 2010 senior loan officer opinion survey on bank lending practices. Retrieved from <http://www.federalreserve.gov/boarddocs/snloansurvey/201002/default.htm>.

<sup>54</sup> Texas Real Estate Center. (2010, January). Rate expectations. Retrieved from <http://recenter.tamu.edu/news/NewsRel05-0110.pdf>.

Conventional underwriting guidelines. All loans made available under this program are 30-year, fixed rate mortgages, which help households to avoid the pitfalls of adjustable rate mortgage loans. Completion of a pre-purchase homebuyer education course is required of all borrowers utilizing the program. These programs continue to help low- and moderate-income Texans overcome obstacles to homeownership.

Additionally, two other TDHCA programs attempt to address the needs of homebuyers during this period of economic downturn. First, the Housing Trust Fund's Homebuyer Assistance (HBA) Program provides eligible borrowers with up to \$10,000 in the form of a zero percent interest loan for down payment and closing cost assistance for the acquisition of a single family home. Second, the HOME Homebuyer Assistance (HBA) program funds units of local government, Public Housing Authorities, and nonprofits to provide down payment and closing cost assistance for low income homebuyers.

Finally, the Department's Texas Statewide Homebuyer Education Program certifies providers who offer homebuyer classes to prospective buyers, allowing households to better understand the terms and agreements of their mortgage and avoid high risk or fraudulent lending practices.

### *Economic Variable #4: Population Boom, Unemployment, & Poverty*

Population & Unemployment: From 2007 to 2011, the state's number of working-age residents expanded by 6.6%, nearly twice the national average. According to a recent report by the Center for Public Policy Priorities, taking that population growth into consideration, Texas would need to create another 771,672 jobs to account for the state's job losses and booming population. In that same time frame the share of Texas workers experiencing long-term unemployment (more than 6 months) more than doubled from 15.8% in 2007 to 35.8% in 2011.<sup>55</sup>

Poverty: In 2010, approximately 550,000 workers were paid at the federal minimum wage of \$7.25 in Texas, more than double the number making those wages in 2008, according to the Bureau of Labor Statistics. In Texas, 9.5% of workers paid hourly rates earn at or below minimum wage, giving the state the highest percentage in the nation.<sup>56</sup> Households making the minimum wage of \$7.25 per hour are unable to afford the cost of rent and utilities. The National Low Income Housing Coalition (NLIHC) calculates affordable housing through the "housing wage," which they define as the estimated full-time hourly wage a household must earn to afford a decent rental unit at HUD estimated Fair Market Rent, while spending no more than 30% of their income on housing costs. In Texas, the 2012 housing wage is \$15.88 per hour for a two bedroom home at FMR, or

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<sup>55</sup> Center for Public Policy Priorities, *Texas Jobs Snapshot: March 2012*, Retrieved from: [http://www.cppp.org/files/2/2012\\_March\\_JobsSnapshot.pdf](http://www.cppp.org/files/2/2012_March_JobsSnapshot.pdf)

<sup>56</sup> Bureau of Labor Statistics (2011, March). *Minimum Wage Workers in Texas*, [http://www.bls.gov/ro6/fax/minwage\\_tx.htm](http://www.bls.gov/ro6/fax/minwage_tx.htm)

\$826 per month.<sup>57</sup> Thus, the housing wage in Texas is more than double minimum wage.

*Addressing Economic Variable #4: Population Boom, Unemployment, & Poverty*

TDHCA has witnessed firsthand the increased need for rent and utility assistance through the volume of calls to the Department's public information line. From SFY 2010 to SFY 2011 calls for emergency assistance (defined as short-term rental assistance and other social services) increased by 178.2% and calls for utility assistance increased by 88.4%.<sup>58</sup> TDHCA remains committed to providing funding to prevent eviction and homelessness through administration of the Emergency Solutions Grants Program (ESGP).

ESGP awards grants to units of local government and private nonprofit entities around the state that provide shelter and related services to homeless persons, intervention services to persons at risk of homelessness, rapid re-housing services to persons who have lost their homes. These services are intended to reach very low-income households at or below 50% AMFI. Housing relocation and stabilization services and the provision of short- and medium-term rental assistance help individuals or families move as quickly as possible into permanent housing and achieve stability in that housing. Households can receive assistance with paying utilities, rental application fees, security deposits, last month's rent, utility deposits and payments, moving costs, housing search and placement, housing stability case management, landlord-tenant mediation, tenant legal services, and credit repair.

TDHCA also provides on-going rental assistance to rural communities through the Section 8 Housing Choice Voucher Program, which provides rental assistance payments on behalf of low-income individuals and families, including the elderly and persons with disabilities. The Section 8 Program currently contracts with units of local governments, community action agencies and public housing authorities to assist with the administration of approximately 1,000 housing choice vouchers in 22 rural counties.

*Economic Variable #5: Developers and the Multifamily Construction Market*

The national construction industry has yet to fully emerge from the downturn that began five years ago. In January 2011, construction sector employment had fallen to 5.48 million, down 29% from its peak in April 2006. The industry's unemployment rate in February 2011 was 21.8%, the highest of any industry and more than double the all-industry rate. Additionally, lender and investor requirements remain more stringent than

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<sup>57</sup> National Low Income Housing Coalition, (2012). *Out of Reach 2012*, Retrieved from: <http://nlihc.org/sites/default/files/oor/2012-OOR.pdf>

<sup>58</sup> Texas Department of Housing & Community Affairs, *2012 State of Texas Low Income Housing Plan & Annual Report*

they were prior to the financial crisis, causing construction spending hit a 10-year low of \$816 billion in 2010.<sup>59</sup>

Without the construction of new multifamily developments to meet the demand of an increasing population and an influx of households renting rather than owning due to the foreclosure crisis, occupancy rates of existing properties have risen to all-time highs, allowing the private rental market to raise prices beyond what is affordable to low income households.

### *Addressing Economic Variable #5: Developers and the Multifamily Construction Market*

Turmoil in the housing and financial markets also had a ripple effect on the developers of low-income housing in 2008 and continuing through 2010. However, while production by the general construction industry has yet to rebound, the market for 9% housing tax credits has seen a recovery in pricing, as the syndication rate for credits has rebounded from a low of 65 cents per \$1 of credit in 2009 to a current average of around 85 cents per \$1 of credit. This has led to increased interest in TDHCA's tax credit program as the ability to structure financially viable developments has increased.

Developers are increasingly securing financing partners to bring multifamily developments to fruition throughout the state. In 2012, the 9% tax credit program saw its annual award cycle become increasingly competitive, with approximately 10 pre-applications submitted for every 1 award. Additionally, the Department's HOME Multifamily Rental Housing Program funds have become more attractive to developers seeking to compensate for a large gap in secondary financing sources. In the 2011 9% tax credit award cycle, HOME funds were used as a complete replacement for conventional first lien financing and as a second lien source with a favorable interest rate.

Unfortunately, the market for multifamily tax exempt bond developments continues to experience lingering difficulty related to investor interest in the municipal bond market leading to less favorable terms on tax exempt products. Additionally, while the 9% tax credit program benefited from several law changes in the American Recovery and Reinvestment Act, these changes did not extend to the 4% or tax exempt bond programs.

### *Economic Variable #6: Home Rehabilitation and the Single Family Construction Market*

While home builder confidence in the market for new single-family homes improves, several factors continue to constrain the market. According to a recent report by the National Association of Home Builders, "Foreclosures are still competing with new home

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<sup>59</sup> Ken Simonson, Chief Economist, Associated General Contractors of America (2011, March 4). The Economic Impact of Construction in the United States. Retrieved from: <http://www.agc.org/galleries/econ/National%20Fact%20Sheet.pdf>



sales, and many builders are seeing appraisals come in at less than the cost of construction. Additionally, prospective home buyers are finding it difficult to qualify for a mortgage.”<sup>60</sup> The decline in new housing starts over the last five years has caused many low income households to remain in older housing stock with declining conditions. The low replacement rate of aging homes has resulted in over 70,300 “physically inadequate” or substandard housing units in Texas.<sup>61</sup> The foreclosure crisis has also left vacant homes in many communities, many of which are left unattended and in a state of disrepair.

Beyond substandard conditions, many individuals, such as the 2.86 million persons in Texas with disabilities, require accessibility modifications and barrier removal assistance in order to remaining living in their homes. As stated in the Service Population Demographics section of this Plan, with the elderly population in Texas increasing and a portion of those individuals developing physical impairments, the need for such modifications will continue to increase.

#### *Addressing Economic Variable #6: Home Rehabilitation and the Single Family Construction Market*

TDHCA attempts to address the need for home rehabilitation, reconstruction, and modification through four programs. First, the Neighborhood Stabilization Program (NSP) can purchase and rehabilitate foreclosed properties for resale or rental to eligible households. Second, the HOME Homeowner Rehabilitation Assistance Program offers rehabilitation or reconstruction cost assistance to low income homeowners for the repair or reconstruction of their existing home. Third, the HOME Homebuyer Assistance Program can provide funds to perform accessibility modifications. Finally, the Housing Trust Fund’s Amy Young Barrier Removal Program provided funding to eligible entities for accessibility improvements to homes of low-income Persons with Disabilities.

#### *Economic Variable #7: Rising Energy Costs*

Energy costs often constitute the largest single housing expense after food and shelter for lower-income families. For low-income households that are eligible for weatherization, utility costs often consume 12.2 percent or more of annual gross incomes.<sup>62</sup> Texas also has residential electric prices higher than the national average: 11.70 cents per kilowatt average in Texas versus 10.93 cents per kilowatt for the national average in February 2010. In addition, per capita residential use of electricity is

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<sup>60</sup> National Association of Home Builders (2012, February 15) Builder Confidence Increases for Fifth Consecutive Month in February. Retrieved from:

[http://www.nahb.org/news\\_details.aspx?sectionID=134&newsID=15031](http://www.nahb.org/news_details.aspx?sectionID=134&newsID=15031)

<sup>61</sup> Texas Department of Housing & Community Affairs, *2012 State of Texas Low Income Housing Plan & Annual Report*

<sup>62</sup> Texas Data Center. (2006). Weatherization assistance program. Retrieved from <http://www.tdhca.state.tx.us/ea/wap.htm>.

significantly higher than the national average.<sup>63</sup> One cause of the high use may be the hot weather in Texas requiring air conditioning.

### *Addressing Economic Variable #7: Rising Energy Costs*

TDHCA Energy Assistance programs, funded by the U.S. Department of Health and Human Services' Low-Income Home Energy Assistance Program (LIHEAP), assist low- and very low-income households in making short-term home energy payments, weatherize homes, make other home energy efficiency improvements, and otherwise encourage home energy efficiency. LIHEAP and U.S. Department of Energy (DOE) grants enable TDHCA to assist about 8-10% of the income-eligible population – households with incomes at or below 200% (DOE) and 125% (LIHEAP) of federal poverty guidelines (adjusted annually).

TDHCA's Weatherization Assistance Program (WAP) allocates funding regionally to help households in each region control energy costs through the installation on weatherization measures. For a home that has been weatherized through TDHCA's WAP, on average the household's annual utility bill decreases by \$413. Additionally, through the 2009 American Recovery and Reinvestment Act, TDHCA received approximately \$326 million in supplemental funds for weatherization, allowing TDHCA's Subrecipients to reach even more low-income Texans. TDHCA will continue to administer these supplemental funds through a network of local providers through August 2012.

### *Economic Variable #8: Impact of Natural Disasters*

The Texas wildfire season that began on November 15, 2010 and lasted through October 31, 2011 resulted in 30,457 fires that burned 3,993,716 acres, destroyed 2,946 homes, and over 2,790 other structures. Of all acreage burned in the United States in 2011, approximately 47.3% was burned in Texas. The most destructive wildfire, known as the Bastrop County Complex Fire started on September 4, 2011, engulfed Bastrop, Texas, and by September 30 had destroyed 1,645 homes, burned 34,068 acres, and killed two people.<sup>64</sup> With thousands of people immediately made homeless, this natural disaster caused a significant need for immediate shelter. In the following months, a need also arose for rental assistance for low income households looking to relocate, home repair assistance for low income households attempting to salvage their damaged homes, and homebuyer assistance for households wanting to own a home.

### *Addressing Economic Variable #8: Impact of Natural Disasters*

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<sup>63</sup> U.S. Energy Information Administration. (2010, June 3). Independent statistics and analysis: Texas. Retrieved from [http://www.eia.doe.gov/state/state\\_energy\\_profiles.cfm?sid=TX](http://www.eia.doe.gov/state/state_energy_profiles.cfm?sid=TX).

<sup>64</sup> Texas Forest Service (n.d), Texas Wildfire Situation: 2011 Fire Season Statistics, Retrieved from: <http://tfsweb.tamu.edu/main/article.aspx?id=12888>

TDHCA immediately responded to the needs of displaced wildfire survivors. Approximately \$200,000 in TDHCA Community Services Block Grant (CSBG) Discretionary funds and \$321,000 in Low Income Home Energy Assistance Program (LIHEAP) funds were quickly deployed to provide temporary shelter and address other immediate needs of low income households. Then, HOME and NSP funds were jointly made available through a Consolidated Wildfire Response Application, for local nonprofit organizations to provide demolition, reconstruction, and tenant-based rental assistance (TBRA) for wildfire disaster victims. Finally, an additional \$1,000,000 in HOME funds were added to the program's Disaster Relief Set Aside to provide home repair, homebuyer assistance, and tenant-based rental assistance.

## **VII. IMPACT OF FEDERAL STATUTES/ REGULATIONS**

### A. Role of Federal Involvement

Of TDHCA's program funding, 96 percent came directly from the Federal Government in FY 2011. Since almost all of its funds are derived from federal sources, TDHCA activities and the corresponding beneficiaries have been and continue to be dictated by federal statutes. A brief description of each of those sources and their purposes that affect local agencies and populations is provided below.

### B. Description of Current Federal Activities

#### **Community Services Block Grant Program (CSBG)**

Source: US Department of Health and Human Services

Statue: P.L. 105-285, 42 U.S.C. 9901-9924

Purpose: CSBG funds provide administrative support to the Community Action Network (Network) in Texas. CSBG funds provide support which enables the Network to operate a comprehensive array of programs that address needs of low-income persons in the areas of education, nutrition, emergency services, employment, housing, health, income management, programs to assist persons obtain self-sufficiency, and information and referral services to link persons with other services available in the community. In many rural areas of the State, the Community Action Agency is one of a handful of organizations providing emergency services and services which help transition persons out of poverty into self-sufficiency.

CSBG discretionary funds are utilized to fund statewide projects, organizations serving migrant seasonal farmworkers, and Native Americans, and to fund innovative and demonstration projects. The Department releases a notice of funding availability annually and award recommendations are approved by the Department's board.

CSBG funds are also utilized for disaster related assistance. Community Action Agencies serving areas of the State which suffer a natural disaster are provided with CSBG discretionary funds which are utilized to provide emergency assistance to low-income households impacted by the disaster.

Status: The FY 2012 Health and Human Services Appropriations Act (PL 112-74) provided \$666,673,151 for CSBG. Texas will received \$32,435,360 in CSBG funds in FY 2012. A cut or loss of funding of CSBG would have a devastating impact on estimated 723,000+ low-income persons in Texas who are served annually by programs supported with CSBG funds. Due to the availability of CSBG funds in 2011, the Network in Texas

was able to leverage approximately \$617 million dollars of state, local, and private funds and resources.

**Emergency Solutions Grants Program (ESGP)**

Source: US Department of Housing and Urban Development

Statute: 24 CFR part 576

Purpose: The purpose of the ESGP program is to rehabilitate or convert buildings for use as emergency shelters for the homeless, to pay certain expenses related to operating emergency shelters; essential services related to emergency shelters and street outreach for the homeless; homelessness prevention and rapid re-housing assistance; Homeless Management Information Systems (HMIS) activities; and, for the payment of administrative costs

Status: The U.S. Department of Housing and Urban Development's Community Planning and Development Program (CPD) 2012 allocation for the Emergency Solutions Grants (ESG) totaled \$286 million. Texas received \$20,028,597 in ESG funds for eligible jurisdictions and, as of this writing, the Texas Department of Housing and Community Affairs received \$9,129,511 =.

**Home Investment Partnerships Program (HOME)**

Source: US Department of Housing and Urban Development

Statute: 24 CFR Part 92

Purpose: The HOME Investment Partnerships Program provides housing assistance for Low, Very Low, and Extremely Low Income households through homebuyer/downpayment assistance, tenant-based rental assistance, new construction, re-construction, or rehabilitation of owner-occupied housing and investment in the acquisition and/or new construction or rehabilitation of affordable multifamily rental housing.

Status: The FY 2012 HOME budget provided major changes in HOME funding including the lowest funding level for the HOME program since 1993. Funding for the HOME program was reduced by 38.5% to approximately \$1 billion down from the \$1.6 billion funding in 2011. TDHCA anticipates receiving \$24,284,636 in HOME Investment Partnership Program 2012 funds to be distributed to eligible entities by HOME program staff.

**Housing Tax Credit Program (HTC)**

Source: US Treasury Department

Purpose: The HTC program provides credits against federal income taxes for investors in qualified low income rental housing projects and the allocation of available tax credit amounts.

Status: It is projected based on the per capita allocation formula that the state will receive \$67,000,000 in Housing Tax Credits in 2013 (\$57 million in competitive credits and an unlimited ceiling that may result in \$10 million in non-competitive credits associated with tax exempt bond financing).

### **Low Income Home Energy Assistance Program (LIHEAP)**

Source: US Department of Health and Human Services

Statute: 42 USCA § 8621

Purpose: The LIHEAP program provides direct financial assistance to address the energy needs of low income persons through the Comprehensive Energy Assistance Program (CEAP), and to partially fund the Weatherization Assistance Program (see below).

Status: The Health and Human Services (HHS) received appropriated funds from the Consolidated Appropriations Act, 2012 (P.L. 112-174), which provided \$3.47 billion for LIHEAP. Texas will receive approximately \$129 million in LIHEAP funding for FY 2012.

### **Mortgage Revenue Bond Programs (MRBs)**

Source: US Treasury Department

Purpose: Under the MRB program, the Department issues mortgage revenue bonds for multifamily developments that are subject to income and rent restrictions for qualifying tenants.

Status: It is projected that the MRB program will receive \$106,000,000 in 2013. The actual part of this amount that will be utilized may change significantly based on market conditions in the parts of the state where the bonds are supported by income levels and allowable rents.

### **National Foreclosure Mitigation Counseling Program (NFMC)**

Source: U.S. Department of Housing and Urban Development

Statute: Department of Defense and Full Year Continuing Appropriations Act, 2011 (Public Law 112-10); Consolidated and Furthering Continuing Appropriations Act of 2012 (Public Law 112-55).

Purpose: The purpose of the program is to help defray counseling costs associated with foreclosure prevention.

Status: Funded \$619,696.50 for NFMC Round 5 and \$366,712.50 for Round 6. Reimburses for counseling performed between October 1, 2010 and June 30, 2012 for Round 5 and October 1, 2011 to December 31, 2012 for Round 6.

**Neighborhood Stabilization Program (HERA)**

Source: U.S. Department of Housing and Development

Statute: Housing and Economic Recovery Act of 2008 (NSP1)  
Wall Street Reform and Consumer Protection Act of 2010 (NSP3)

Purpose: The purpose of the program is to redevelop into affordable housing or acquire and hold abandoned and foreclosed properties in areas that are documented to have the greatest need for declining property values as a result of excessive foreclosures.

Status: Funded \$102,000,000 for FY 2008 (NSP 1); Funded \$7,300,000 for FY 2010 (NSP 3).

**Weatherization Assistance Program (WAP)**

Source: US Department of Energy (DOE) and US Department of Health and Human Services

Statute: 42 USCA § 6861

Purpose: WAP provides residential weatherization and other cost-effective energy-related home repair to increase the energy efficiency of dwellings owned or occupied by low income persons.

Status: The FY 2011 DOE award to the State of Texas is \$4,294,261. The Department estimates \$0 funding for FY 2012 from DOE. The WAP also receives approximately 20% (about \$25 million) of the LIHEAP allocation.

**Section 8 Housing Assistance Program (Section 8)**

Source: US Department of Housing and Urban Development

Statute: 42 USCA § 1437f

Purpose: Section 8 provides rent subsidy vouchers to families and individuals, including the elderly and persons with disabilities, whose annual gross income does not exceed 50 percent of HUD's median income guidelines. The statewide program is designed specifically for needy families in small cities and rural communities not served by similar local or regional programs.

Status: The FY 2012 HUD Appropriations Act (PL 112-55) provides \$18.9 billion for the Section 8 program. TDHCA, which administers 923 vouchers out of 144,000 in the state, will receive approximately \$5.7 million for FY 2012 activities.

*C. Anticipated Impact of Federal Actions on Agency Operations & Service Populations*

*CDBG Disaster Recovery Funding:* The federal allocation of Community Development Block Grant (CDBG) Disaster Recovery funding awarded to the State of Texas to address the damage incurred by Hurricanes Ike and Dolly was originally distributed to the Texas Department of Rural Affairs and TDHCA to administer. In July 2011, administration of all disaster recovery programs associated with this funding were moved to the Texas General Land Office, reducing the number of TDHCA's temporary staff with the Department by 29.

*End of Recovery Act Programs:* From 2009 to 2012, several temporary programs associated with HERA and ARRA were administered and have successfully completed all programmatic activities. The HOME Division administered the Tax Credit Assistance Program (TCAP). The Texas Homeownership Division administered the 90-Day Down Payment Assistance Program and the Mortgage Advantage Program. The Housing Tax Credit Division administered the Tax Credit Exchange Program (Exchange). Community Affairs administered the ARRA Community Service Block Grants, and the Homelessness Prevention and Rapid Re-Housing Program. The Community Affairs Division continues to administer the ARRA Weatherization Assistance Program, which will soon come to a close.

The end of these programs has consequences for both TDHCA and the populations we serve. The large decrease in funding administered by the Department means that less assistance will be available to households in need of affordable housing and community services assistance and developers in need of housing financing. However, the increased administrative costs tied to the management of Recovery Act programs will also decrease. For example, Davis-Bacon wage requirements no longer apply to the Weatherization Assistance Program with the end of ARRA, and environmental requirements no longer apply to Housing Tax Credit applicants with the end of TCAP.

*Continuing Impact of Recovery Act Programs:* Although most of the programs funded by HERA and ARRA have ended, these stimulus programs have many lingering impacts for TDHCA, including:

- The US Department of Housing & Urban Development (HUD) revived federal Section 3 requirements which require recipients of certain HUD financial assistance to provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods. Revival of this program has increased TDHCA's federal reporting requirements and the utilization of Program Services staff to ensure that TDHCA is complying with Section 3 requirements.
- HUD also revived federal Limited English Proficiency (LEP) requirements which require all recipients of certain federal assistance to establish Language Assistance Plans to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to



limited English proficiency cannot fully and equally participate in or benefit from those programs and activities. Revival of this program has increased TDHCA's federal reporting requirements and the utilization of Program Services and Legal staff to ensure that TDHCA is complying with LEP requirements.

- The Federal Funding Accountability and Transparency Act (FFATA) was passed to increase government accountability and reduce wasteful spending. The FFATA Subaward Reporting System (FSRS) is the reporting tool created by the Act to capture and report subaward and executive compensation data regarding state agency's first-tier subawards in order to meet the FFATA reporting requirements. FFATA has increased time spent by Housing Resource Center staff to ensure that TDHCA is complying with FFATA requirements.
- TDHCA is now in the unique role of performing asset management for properties funded through the Tax Credit Exchange program and TCAP. This has led to creation of an independent Asset Management Division to handle TCAP recipients, their properties, and program income. TDHCA expects to receive program income from TCAP for the next 10 - 15 years in the form of loan repayments. This program income can be spent on development or operation of housing that remains affordable, for a period of not less than 15 years, to households whose annual incomes does not exceed 80% of median family income.

*Recent HUD Actions:*

HOME Program & Rule: For Program Year (PY) 2012, the federal government reduced TDHCA's HOME allocation by 38%, which will significantly reduce funding for current HOME activities, including homebuyer assistance, home rehabilitation assistance, tenant-based rental assistance, multifamily rental housing, and more. This change could also have an indirect impact on Housing Tax Credit applicants who have recently used HOME multifamily rental housing funds as source of acquisition financing or gap/bridge financing.

Additionally, HUD's proposed changes to the HOME rule (which have not yet been finalized) include stricter qualifications for Community Housing Development Organizations (CHDOs) and substantially lower maximum values for existing homes that can be assisted by HOME program activities (ex – down payment or rehabilitation assistance).

ESG Program & Rule: Starting in PY 2012, HUD is implemented the HEARTH Act of 2010, which includes the change from administering the Emergency Shelter Grants Program to the Emergency Solutions Grants Program. This shift now focuses ESGP funding less on shelter services and more on homelessness prevention and re-housing activities that closely mirror the now defunct Homelessness Prevention and Rapid Re-Housing Program. These changes will impact the types of service needs met by recipients of TDHCA's ESGP allocation.

Additionally, HUD has released the new ESGP Interim Rule (24 CFR Parts 91 and 576) which requires that the Department consult with Continuums of Care (CoC) to establish

priorities for allocating ESG funds; developing performance standards for evaluating outcomes of projects and activities assisted with ESG funds; and developing funding, policies, and procedures for the administration of the Homeless Management Information Systems.

**Consolidated Plan:** HUD has revised regulations for submitting Consolidated Plan documentation, now requiring information on TDHCA's progress in meeting objectives for reducing and ending homelessness.

**Section 811 Program:** HUD is in the process of implementing the Melville Act of 2010 through changes to the Section 811 Program. In May 2012, HUD released a Notice of Funding Availability (NOFA) for the Section 811 Project Rental Assistance Demonstration Program. For the first time, state housing finance agencies, such as TDHCA, will be eligible to apply for these funds, which provide project-based rental assistance in the development of supportive housing for extremely low income persons with disabilities.

### *Recent HHS Actions:*

The US Department of Health and Human Services has recently revised LIHEAP household income eligibility for the Weatherization Assistance Program from 200% of federal poverty level back to the pre-Recovery Act maximum of 125% of federal poverty level. This change means that a smaller portion of households in need of weatherization assistance can be served through this program.

### *Recent DOE Actions:*

The Department of Energy has chosen not to fund the Weatherization Assistance Program for federal PY 2012. However, TDHCA intends to program the \$4.3 million in PY 2011 DOE award funds for use in 2012.

### *Centers for Medicare & Medicaid Services (CMS) Actions:*

In partnership with the Texas Department of Aging and Disability Services (DADS), TDHCA received a CMS Real Choice Systems Change Grant in September 2011 to increase affordable housing opportunities for low income persons with disabilities. Activities under the grant include application for the HUD Section 811 Project Rental Assistance Demonstration Program; creation and implementation of Housing and Services Partnership (HSP) Academies; and building and maintaining the Housing and Services for Persons with Disabilities Online Clearinghouse.

Again in partnership with DADS, TDHCA received a CMS Money Follows the Person Program Administrative Grant in December 2011 to hire staff to coordinate housing education and outreach work to expand housing options for persons with disabilities.

### *National Mortgage Settlement:*

In February 2012, a settlement was reached with the nation's five largest loan servicers, who were sued by the Attorney Generals of 49 states, including Texas, regarding negligent foreclosure practices. The State of Texas will receive \$141 million for the banks' violations of state law.<sup>65</sup> These funds were deposited into the treasury for future appropriation by the Legislature.<sup>66</sup>

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<sup>65</sup> Office of the Attorney General, (2012, February). *Agreement with Banks over Mortgage Servicing Practices Yields \$428 Million for Texas, Including \$287 Million to Texas Homeowners*, Retrieved from: <https://www.oag.state.tx.us/oagNews/release.php?id=3969>

<sup>66</sup> Enterprise Community Partners, Inc. (2012, April). *Understanding How States Are Spending Their Share of the National Mortgage Settlement*, Retrieved from: <http://www.enterprisecommunity.com/servlet/servlet.FileDownload?file=00P3000000CAEd8EAH>

## **X. OTHER LEGAL ISSUES**

### *A. Impact of State Statutory Changes*

The Eighty-second Texas Legislature passed a major piece of legislation during the First-called Session that affected TDHCA.

**Senate Bill 1**, passed during the First-called Session impacted the Department in a number of ways. The bill extended the agency until September 1, 2013, and codified the Housing and Homeless Services Program (HHSP) including the authority to promulgate rules for the program. The bill also exempted Housing Trust Fund activities from the Regional Allocation Formula if those activities were funded at \$3 million or less. The bill also made several changes to provisions regarding the Qualified Allocation Plan (QAP) including giving TDHCA's governing board the authority to pass a two-year QAP. The Eighty-second Texas Legislature also passed several major bills during the Regular Session which affected TDHCA.

**House Bill 726** requires TDHCA, and other state agencies to electronically notify any legislative member prior to distributing any publication to members of the legislature, and also requires the agency to first make the publication available electronically and then available in print, if requested.

Changes were made to the Texas Bootstrap Loan Program via **Senate Bill 992**. The legislation requires that at least two-thirds of funds must be made available to persons whose property is in a census tract that has a median household income at or below 75 percent of the median state household income for the most recent year for which statistics are available.

Finally, **Senate Bill 1233** required TDHCA to collect foreclosure data from counties around the state. More specifically, the bill directed the Department to create a form upon which county clerks can submit data on a notice of sale of foreclosed property indicating if the property was residential and the zip code of the property. TDHCA is required to report this information to the Legislature on a quarterly basis.

### *B. Impact of Current & Outstanding Court Cases*

The Department is involved in significant litigation styled Inclusive Communities Project (ICP) vs. TDHCA et al. This lawsuit is currently pending in the Federal District Court for the Northern District. In this lawsuit, Plaintiff alleges that TDHCA perpetuates housing segregation by disproportionately allocating Low Income Housing Tax Credits (LIHTC) for proposed developments in low-income, predominantly minority areas and denying tax credits for proposed developments in higher-income, predominantly Caucasian areas. Plaintiff alleges that with regard to the Department's allocation of LIHTC in the Dallas

metropolitan area, the Department intentionally discriminated based on race, in violation of the Equal Protection Clause of the Fourteenth Amendment and 42 U.S.C. § 1982, or in the alternative, that the Department's allocation decisions had a disparate racial impact, in violation of §§ 3604(a) and 3605(a) of the Fair Housing Act ("FHA"). The Department has denied Plaintiff's allegations and vigorously defended against the lawsuit.

On March 20, 2012, the Court issued a Memorandum Opinion and Order, finding that the Plaintiff failed to prove that the Department intentionally discriminated in the allocation of LIHTC's, but did find that, while unintentional, the allocation of LIHTC's in the Dallas area resulted in a disparate (discriminatory) impact. The Order requires the TDHCA to submit a "remedial plan" within 60 days of issuance of the Order. The Court's Order is not a final Order and cannot be appealed at this time. TDHCA has submitted a proposed remedial plan as required.

### C. State of Texas Plan for Fair Housing Choice: Analysis of Impediments

On December 1, 2009, a fair housing complaint was made against the State of Texas and was ultimately addressed through a HUD-approved conciliation agreement signed by the state and complainants on May 25, 2010. The Conciliation Agreement required the state to update its 2003 State of Texas Plan for Fair Housing Choice: Analysis of Impediments (AI) in two phases, known as Phase 1 and Phase 2. Phase 1 addresses a limited portion of the state impacted by Hurricanes Ike and Dolly and Phase 2 will cover the balance of the state. The state has determined that although Phase 1 will remain in effect, it will promote a comprehensive AI to conduct Phase 2 in a manner that covers the entire state.

As the agency which administers the larger portion of HUD-funded programs in the state, TDHCA has taken responsibility for updating and maintaining a current AI. TDHCA is committed to ensuring that the process for updating the AI will be inclusive and comprehensive, and that the resulting AI will include realistic recommendations to address fair housing barriers in Texas. Throughout the development of the AI, TDHCA will post updates on the progress through several different venues including TDHCA's fair housing webpage, an on-line forum to capture comments statewide on a real time basis, and on-site focus group meetings. Phase 1 was approved by HUD in May 2011 and Phase 2 is anticipated to be complete in December 2012.

### D. Impact of Local Governments

The Texas Legislature has given local governments significant discretion over applications in areas where a potential over concentration of HTC units may exist. The Department works to ensure that local governments are aware of possible TDHCA funding awards in their community through an extensive notification process. With the provision of these notifications, local officials and community organizations are encouraged to comment on the need and impact of the development on local

community. Such comments are considered in the final approval of the Board of the application.

In some programs, state and local support for an application is part of the scoring criteria in the application process. The Department's Multifamily Bond applications include scoring criteria that provides "points" for public comment from local officials. HTC and MRB applications receive points for receiving a commitment for local funding or in-kind contributions (i.e., donations of land, waivers of fees such as building permits, water and sewer tap fees or similar contributions) that would benefit the development. Applicants may also receive points for developing in locations with city or county-sponsored zones or districts or rehabilitating an existing Residential Development that is part of a Community Revitalization Plan.

Local governments control each applicant's ability to provide evidence of proper zoning for the development site and consistency with local consolidated planning documents. In instances where the property is not currently zoned for housing, the local government may deny a requested zoning change which would make the development ineligible for consideration.

Local governments have significant input on applications in their local areas.

- For applications that involve HTCs, applicants must receive a resolution from the local governing body for approval to add new units if the application is proposing new construction that is within one mile of an existing development that has received an allocation of Housing Tax Credits or Private Activity Bonds for new construction within the last three years and that serves the same population type (elderly/elderly or family/family). This applies to applications proposing New Construction and Adaptive Reuse in counties with over one million in population.
- Additionally, applications proposing development in a city or county that has more than twice the state average per capita of affordable housing units supported by Housing Tax Credits or Private Activity Bonds must receive a resolution from the local governing body for approval to develop in that city or county. This applies to applications proposing New Construction, Adaptive Reuse, and Acquisition / Rehabilitation.

While they do not impact TDHCA directly, the following local governmental issues can be barriers to the provision of affordable housing.

- Zoning provisions: A municipality's zoning authority governs the type and direction of growth within their boundaries. Ordinances may be passed to encourage affordable housing through measures such as lowering minimum lot sizes, decreasing building set-back requirements, and lowering minimum square footages of homes. However, ordinances that prohibit these types of activities can drive land and construction costs up to the point that affordable housing cannot be built.

- Impact Fees and Development Fees: As a condition of permit approval, municipalities may levy fees to pay for infrastructure costs. These impact fees increase the cost of developing all types of housing including affordable housing.

## IX. SELF-EVALUATION AND OPPORTUNITIES FOR IMPROVEMENT

### A. Effectiveness and Efficiency of the Department

#### *Performance Measures*

This section discusses key performance measures established by the 82nd Legislature. Goals one through five are established through interactions between TDHCA, the Legislative Budget Board and the Legislature. Included for each strategy are the SFY 2011 target numbers of each key measure, the SFY 2011 actual performance, and the targets for SFY 2012. The targets for SFY 2012 are referenced in the General Appropriations Act for the 2012-2013 Biennium. All key and non-key performance measure definitions are provided in Appendix D.

**GOAL 1:** TDHCA will increase and preserve the availability of safe, decent and affordable housing for very low-, low- and moderate-income persons and families.

#### **Strategy 1.1**

Provide mortgage financing and homebuyer assistance through the Single-Family Mortgage Revenue Bond Program

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of single-family households Assisted through the First Time Homebuyer Program	2,000	2,414	120.70%	2,002

**Explanation of Variance:** Due to fewer entities offering down payment assistance resources, more and more consumers are utilizing the Department's assisted Single Family MRB funds.

#### **Strategy 1.2**

Provide funding through the HOME Program for affordable housing

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of single-family households assisted with HOME funds	952	582	61.13%	580

**Explanation of Variance:** Various factors affected performance during the fourth quarter, including but not limited to the following: 1) Lower than expected demand for homebuyer assistance and tenant based rental assistance funds; since both of these activities have low per unit cost, decreased participation greatly impacts performance. The decreased demand for homebuyer assistance is due largely to economic conditions. 2) TDHCA has increased the allowable per unit cost under home rehabilitation, resulting in fewer persons served through funding reserved for this activity. Another important factor is a "lag" in reporting resulting from a new funding mechanism TDHCA has introduced. While the majority of TDHCA HOME funds continue to be made available through awards, a portion of HOME single family funds are now available through a reservation system. Under the award system, households are reported at the time of the award while under the reservation system, households are reported when a specific household is being served. As this is a new process, TDHCA anticipates that the majority of households served through these funds will be reported after SFY 2011.

#### **Strategy 1.3\***

Provide funding through the HTF program for affordable housing



Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of single-family households assisted through the Housing Trust Fund	344	191	55.52%	154

**Explanation of Variance:** Due to statutory limitations in the Texas Bootstrap Loan Program, all the units were not realized for this fiscal year. TDHCA anticipates that the amendment to statute by Senate Bill 992 will assist in meeting upcoming fiscal targets.

\* - In the 2012-2013 Fiscal Size-Up submitted to the Legislative Budget Board, the Housing Trust Fund revised their 2012-2013 targets from what was originally submitted in the 2012-2013 LAR. These revisions are based upon the following factors: (1) State appropriations decreased from \$10.96 million in SFY2011 to \$5.85 million in SFY2012, and (2) Starting in FY2012, ten percent of HTF funds are now transferred to the Texas Veterans Commission for the Veterans Housing Assistance Program.

**Strategy 1.4**

Provide tenant-based rental assistance through Section 8 certificates

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of households assisted through Statewide Housing Assistance Payments Program	1,100	1,048	95.27%	1,100

**Explanation of Variance:** None needed.

**Strategy 1.5**

Provide federal tax credits to develop rental housing

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of multifamily households assisted with Housing Tax Credits	10,874	5,250	48.28%	5,657

**Explanation of Variance:** The overall economy and financial market has limited private investment in the tax credit industry. While there was a slight increase in equity pricing compared to last year, on the whole equity pricing across the state still increased the amount of credit needed per unit which still resulted in a reduced number of units produced through the tax credit program.

**Strategy 1.6**

Provide funding through the Mortgage Revenue Bond Program for affordable multifamily housing

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of households assisted through the Mortgage Revenue Bond Program	1,611	0	0%	750

**Explanation of Variance:** Economic conditions in the equity markets made it difficult for developers to submit a financially feasible application for 4% credits and private activity bonds this quarter. The two applications that were under review in Quarter 3 of SFY 2011 were both withdrawn.

## External/Internal Assessment

**GOAL 2:** TDHCA will promote improved housing conditions for extremely low-, very low- and low-income households by providing information and technical assistance.

### Strategy 2.1

Provide information and technical assistance to the public through the Public Affairs Division and the Housing Resource Center

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of information and technical assistance requests completed	5,000	8,405	168.10%	5,000

**Explanation of Variance:** The number of informational and technical assistance requests handled by the Housing Resource Center (HRC) varies based on economic conditions across the state. Throughout SFY 2011, the HRC has experienced a higher volume of requests than usual due in large part to the continuing economic downturn.

### Strategy 2.2

To provide technical assistance to colonias through field offices

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of on-site technical assistance visits conducted annually from the field offices	900	993	110.33%	900

**Explanation of Variance:** The Office of Colonia Initiatives (OCI) exceeded its projected performance measures for on-site technical assistance visits due to the continued marketing efforts of the Programs offered by the Department to nonprofit organizations and units of local governments. In addition, Border Field Office staff continues to provide technical assistance for the Texas Bootstrap Self-Help Housing Technical Assistance Program and Colonia Self-Help Center Program.

**GOAL 3:** TDHCA will improve living conditions for the poor and homeless and reduce the cost of home energy for very low-income Texans.

### Strategy 3.1

Administer homeless and poverty-related funds through a network of community action agencies and other local organizations so that poverty-related services are available to very low-income persons throughout the state.

Strategy Measure #1	2011 Target	2011 Actual	% of Goal	2012 Target
Number of persons assisted through homeless and poverty related funds	531,498	831,801	156.50%	599,032

**Explanation of Variance:** Persons assisted through homeless and poverty-related funds is impacted by the number of persons assisted through the Community Services Block Grant (CSBG) and Emergency Shelter Grants Program (ESGP) as well as 10,093 persons served through the Homelessness Prevention and Rapid Re-Housing (HPRP) program, which is funded by the Recovery Act. CSBG funded organizations also received other Recovery Act funding which enabled them to serve many more persons and those numbers are reflected in the number of persons served through CSBG.

*External/Internal Assessment*

Strategy Measure #2	2011 Target	2011 Actual	% of Goal	2012 Target
Number of persons assisted that achieve incomes above poverty level.	2,800	1,145	40.89%	1,200

**Explanation of Variance:** The Department did not meet its projected target due to the increased difficulty of transitioning persons out of poverty during the economic downturn and period of high unemployment. Additionally, CSBG funded organizations received CSBG ARRA funds and other ARRA funds which enabled them to serve many more persons. The economic downturn impacting Texas has affected the ability to assist persons to achieve incomes above the poverty level.

**Strategy 3.2**

Administer the state energy assistance programs by providing grants to local organizations for energy related improvements to dwellings occupied by very low-income persons and for assistance to very low-income households for heating and cooling expenses and energy related emergencies.

Strategy Measure #1	2011 Target	2011 Actual	% of Goal	2012 Target
Number of households receiving Energy Assistance	48,152	207,913	431.78%	47,653

**Explanation of Variance:** Federal LIHEAP funding increased, allowing assistance to more households than expected.

Strategy Measure #2	2011 Target	2011 Actual	% of Goal	2012 Target
Number of dwelling units weatherized through Weatherization Assistance Program	2,257	36,656	1,624.10%	2,610

**Explanation of Variance:** TDHCA received federal stimulus funding, allowing additional households to be served. Households reported include 27,200 served through ARRA DOE WAP funds.

**GOAL 4:** TDHCA will ensure compliance with the Texas Department of Housing and Community Affairs' federal and state program mandates.

**Strategy 4.1**

The Portfolio Management and Compliance Division will monitor and inspect for Federal and State housing program requirements.

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Total number of monitoring reviews conducted	959	983	102.50%	933

**Explanation of Variance:** None needed.

**Strategy 4.2**

The Portfolio Management and Compliance Division will administer and monitor federal and state subrecipient contracts for programmatic and fiscal requirements.

Strategy Measure (A)	2011 Target	2011 Actual	% of Goal	2012 Target
Total number of contract monitoring reviews conducted	248	249	100.4%	208

**Explanation of Variance:** None needed.

**GOAL 5:** To protect the public by regulating the manufactured housing industry in accordance with state and federal laws.

**Strategy 5.1**

Provide titling and licensing services in a timely and efficient manner.

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of manufactured housing statements of ownership and location issued	80,000	60,126	75.15%	70,000

**Explanation of Variance:** This measure is under the targeted amount due to the high number of applications received incomplete, currently about 39 percent. The Statements of Locations returned to the applicant for additional information will be resubmitted and reviewed for issuance.

**Strategy 5.2**

Conduct inspections of manufactured homes in a timely manner.

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Number of installation reports received	13,000	10,739	82.61%	11,000

**Explanation of Variance:** Performance is under the targeted projection due to receiving fewer installation reports than projected.

**Strategy 5.3**

To process consumer complaints, conduct investigations and take administrative actions to protect the general public and consumers.

Strategy Measure #1	2011 Target	2011 Actual	% of Goal	2012 Target
Number of complaints resolved	850	588	69.18%	600

**Explanation of Variance:** The Department has received fewer complaints than targeted, resulting in fewer complaints needing resolution.

Strategy Measure #2	2011 Target	2011 Actual	% of Goal	2012 Target
Average time for complaints resolution	180	99.2	55.11%	180

**Explanation of Variance:** The average time is under the targeted projection, which is desirable.

Strategy Measure #3	2011 Target	2011 Actual	% of Goal	2012 Target
Number of jurisdictional complaints received	750	504	67.20%	550

**Explanation of Variance:** This measure is under the targeted projection because the Department is receiving fewer complaints than projected.

Riders 5 & 6 are established in legislation, as found in the General Appropriations Act.

**Rider 5 (a):** TDHCA will target its housing finance programs resources for assistance to extremely low-income households. The housing finance divisions shall adopt an annual goal to apply \$30,000,000 of the division's total housing funds toward housing assistance for individuals and families earning less than 30 percent of median family income.

Rider 5 (a)	2011 Target	2011 Actual	% of Goal	2012 Target
Amount of housing finance division funds applied towards housing assistance for individuals and families earning less than 30 percent of median family income.	\$30,000,000	\$37,914,380	126.4%	\$30,000,000

**Explanation of Variance:** The performance is higher than expected because the Rider 5 report captures actual incomes of households served by TDHCA and not projected income groups.

Note: For more information, see Rider 5 of TDHCA's Appropriations as found in HB 1 (General Appropriations Act), 82nd Legislature, Regular Session.

**Rider 5 (b):** TDHCA will target its housing finance resources for assistance to very low-income households. The housing finance divisions shall adopt an annual goal to apply no less than 20% of the division's total housing funds toward housing assistance for individuals and families earning between 31% and 60% of median family income.

Rider 5 (b)	2011 Target	2011 Actual	% of Goal	2012 Target
Percent of housing finance division funds applied towards housing assistance for individuals and families earning between 31% and 60% of median family income.	20%	45.1%	240.5%	20%

**Explanation of Variance:** The majority of TDHCA housing programs serve households under 60% of median family income. The Rider 5 Report includes Section 8, HOME Single Family, HOME Multifamily, Housing Trust Fund Single Family, Housing Trust Fund Multifamily, and Housing Tax Credit Programs.

Note: For more information, see Rider 5 of TDHCA's Appropriations as found in HB 1 (General Appropriations Act), 82nd Legislature, Regular Session.

**Rider 6:** TDHCA will provide contract for deed conversions for families who reside in a colonia and earn 60 percent or less of the applicable area median family income. TDHCA must Help colonia residents become property owners by converting their contracts for deed into traditional mortgages.

Strategy Measure	2011 Target	2011 Actual	% of Goal	2012 Target
Amount of TDHCA funds applied towards contract for deed conversions for colonia families earning less than 60% of median family income.	100	18	18%	100

**Explanation of Variance:** Rider 6 of the Department’s appropriations act requires that the Department direct \$2,000,000 a year towards completing 100 contract for deed conversions. For FY 2011 the Department allocated \$796,122.70 towards 18 contract for deed conversions. The decline in the number of contract for deed requests has inhibited the ability of the Department to attain the target. Note: For more information, see Rider 6 of TDHCA’s Appropriations as found in HB 1 (General Appropriations Act), 82nd Legislature, Regular Session.

The following TDHCA-designated goal addresses the housing needs of persons with special needs.

**HOME PROGRAM STATUTE REQUIREMENT:** TDHCA will work to address the housing needs and increase the availability of affordable and accessible housing for persons with special needs.

Dedicate five percent (5%) of the HOME project allocation for benefits of persons with disabilities who live in any area of this state.

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Amount of HOME project allocation awarded to applicants that target persons with disabilities.	\$2,000,000	\$2,072,087.57	103.6%	\$2,000,000

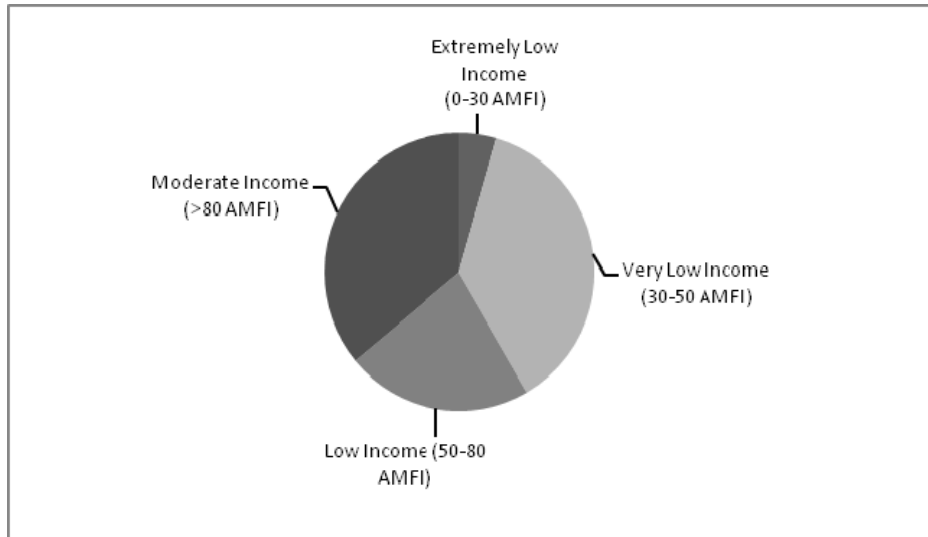
**Explanation of Variance:** These include funds from the Persons with Disabilities Set-Aside and HOME general funds that were used to assist households with persons with disabilities. It is important to note that while funds from the set-aside may be used anywhere in the state, HOME general funds may only be utilized in non-participating jurisdictions, those communities that do not receive funds directly from HUD.

Note: For more information, see 2306.111(c)(2).

*Serving Critical Populations*

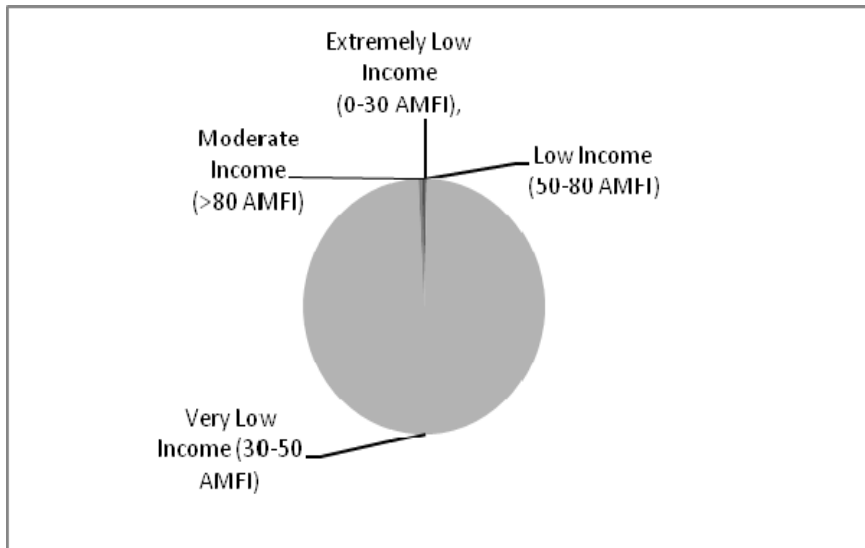
As shown in the figures below, the distribution of TDHCA’s housing resources in fiscal year 2011 showed a clear prioritization of assistance to individuals and households with the lowest incomes. The vast majority of households served by the Department were classified as extremely low income, very low income, and extremely low income.

**Figure 5. Total Funding by Income Level, FY 2011**



Type	Percent
Extremely Low Income (0-30 AMFI)	5%
Very Low Income (30-50 AMFI)	37%
Low Income (50-80 AMFI)	23%
Moderate Income (>80 AMFI)	36%

**Figure 6. Total Households Served by Income Level, FY 2011**



Type	Percent
Extremely Low Income (0-30 AMFI)	0.34%
Very Low Income (30-50 AMFI)	99.04%
Low Income (50-80 AMFI)	0.51%
Moderate Income (>80 AMFI)	0.25%

**Table 26. TDHCA Funding and Households/Persons Served by Income**  
**Table 27. Category, FY 2011 - All Activities**

Activity	Committed Funds	Number of Households/Individuals Served	% of Total Committed Funds	% of Total Households/Individuals Served
Extremely Low Income (0-30 AMFI)	\$26,322,185	2,442	5%	0.34%
Very Low Income (30-50 AMFI)	\$218,368,298	715,140	37%	99.04%
Low Income (50-80 AMFI)	\$131,533,117	3,678	23%	0.51%
Moderate Income (>80 AMFI)	\$211,607,912	1794	36%	0.25%
Total	\$587,831,512	723,054	101%	100.14%

*Industry Best Practices*

TDHCA is an active member of the following housing and community service industry groups. As a part of these groups, TDHCA strives to emulate the industry’s best practices. In addition, when working with local governments and organizations, TDHCA strives to incorporate their best practices, as described starting on page 95 in *E. Working with Federal, State and Local Entities to Achieve Success*.

- National Council of State Housing Agencies. This organization is comprised of housing finance agencies from of every state, the District of Columbia, Puerto Rico, and the Virgin Islands, and more than 350 profit and nonprofit firms in the affordable housing field. In addition to being a good source of research information on these agencies’ activities, this organization holds a number of conferences and training sessions throughout the year where its members meet to discuss changing regulations, best practices and success stories.
- The Affordable Housing Tax Credit Coalition. A group of developers, syndicators, lenders, nonprofit groups, public agencies, and others concerned with the low-income housing tax credit. The Coalition is a nonprofit corporation that has taken a leading role in all of the legislation concerning the low-incoming housing tax credit.
- AHTCC plays a major role in assuring the continuance of the low-income housing tax credit. The Coalition was founded in 1988 with the primary goal of achieving permanent extension of the low-income housing tax credit program. From that time



until the credit was permanently extended in 1993, the Coalition worked tirelessly to achieve that end by taking a leading role in coordinating the efforts of many concerned groups and individuals, both on Capitol Hill and throughout the country.

- The National Association of Housing and Redevelopment Officials (NAHRO). NAHRO is a professional membership organization comprised of over 23,200 housing and community development agencies and officials throughout the United States who administer a variety of affordable housing and community development programs at the local level. NAHRO's mission is to create affordable housing and safe, viable communities that enhance the quality of life for all Americans, especially those of low- and moderate-income by:
  - Ensuring that housing and community development professionals have the leadership skills, education, information and tools to serve communities in a rapidly changing environment;
  - Advocating for appropriate laws and policies which are sensitive to the needs of the people served, are financially and programmatically viable for our industry, are flexible, promote deregulation and local decision making; and
  - Fostering the highest standards of ethical behavior, service and accountability.
- NAHRO enhances the professional development and effectiveness of its members through its comprehensive professional development curriculum, conferences, and publications. Through these efforts we are working to equip NAHRO and our membership with the skills, knowledge, and abilities necessary to survive and prosper in a changing environment, and make our Association more efficient and effective.
- National Association for State Community Services Programs. Membership in this organization includes state administrators of both the CSBG and WAP. The organization was created to provide research, analysis, training and technical assistance to state CSBG and WAP offices, the Community Action Network, community action agencies and state associations, in order to increase their capacity to prevent and reduce poverty.
- National Energy Assistance Directors' Association. Membership in this organization consists of state administrators and tribal directors of the LIHEAP. The organization is the primary educational and policy organization for the state and tribal directors of the LIHEAP. The organization also works closely with the National Association for State Community Services Programs, representing the state weatherization program offices and the National Association of State Energy Officials to more effectively share ideas on the delivery of state energy services through the Energy Programs Consortium.

*Insights Gained and Implemented Programmatic Changes*

1. Internal & External Audits

TDHCA is the recipient of regular internal and external audits as well as monitoring reviews. These audits and reviews are performed by the Department's Internal Audit Division, its external auditors, its funding source agencies, and other state agencies such as the State Auditor's Office (SAO) and the Comptroller's Office.

An independent audit of the Department's financial statements is conducted annually by its external auditors, and regular audits of its major federal programs are conducted in connection with the Federal Single Audit coordinated by the SAO. Various monitoring reviews of the Department's federal programs are conducted by its federal funding agencies, and audits of various programs or processes are conducted by other state agencies. Audits of specific functions or processes within the Department are conducted by the Internal Audit Division.

The results of these audits and reviews have improved TDHCA's internal controls, which are designed to achieve the objectives and goals of the Department, ensure compliance with program rules and regulations, and safeguard the Department's assets. Some specific examples include:

- The Department has significantly improved the processes used to manage the Neighborhood Stabilization Program, a \$101 million program funded by the Housing and Economic Recovery Act of 2008 (HERA.) The Neighborhood Stabilization Program provides funds to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline in value of neighboring homes.
- Controls over the Department's process for contracting for services were enhanced by improving the procedures used for scoring and recommending contract awards.
- TDHCA enhanced its monitoring procedures for the Weatherization Assistance Program to help ensure that \$327 million in Recovery Act funds were spent according to program objectives. In addition, the processes used to prevent, detect and identify fraud, waste or abuse were formalized and strengthened. This resulted in increased training for both the Department's program staff and its subrecipients in fraud, waste and abuse prevention and detection.
- TDHCA improved its draw processes and draw checklists used for the Tax Credit Exchange Program to help ensure that payments were only made for costs which were already incurred and that the expenses were adequately documented.

TDHCA has also implemented an enterprise risk management program designed to identify, prioritize, assess, document, report, monitor and address other financial, operating, and legal risks of the Department.

## 2. Implementation of Recovery Act Program

Many insights have been gained through the implementation of Recovery Act programs. The Recovery Act authorized TDHCA to administer a far greater amount of funding than had been managed throughout the history of the agency and provided strict deadlines for the obligation and expenditure of these funds. More than ever before, Department staff gained valuable knowledge regarding how to distribute funding in an efficient and compliant manner, meeting all federal obligation and expenditure deadlines and managing an enlarged pool of local providers. The Department also engaged in more comprehensive training and technical assistance activities, so to ensure that new and existing providers of TDHCA funding would be able to successfully provide assistance to needy households. A final result of Recovery Act, as its activities come to a close, is a recalibration of internal staff and the creation of the Program Planning, Policy & Metrics (3PM) Team to provide accurate reporting and metrics, inform programming and funding decisions, make recommendations to Executive and the Board, and coordinate broad Department-wide policy-making.

## 3. Implementation of CDBG Disaster Recovery Funding

As an administrator of federal disaster recovery funding in the wake of Hurricanes Ike and Dolly, the Department became more adept at providing education and outreach around issues of fair housing choice.

### B. Agency Characteristics Requiring Improvement

#### *Communication Regarding the Need for Affordable Housing*

While statistics and anecdotal evidence support the enormous need for affordable housing, the Department has determined that additional efforts need to be made to communicate that need to public officials and organizations that can help to address this need in their communities. To that end, staff has made a strong effort to meet with elected officials and neighborhood groups to help them understand TDHCA's programs and processes and how to participate in those processes effectively. The Department has also established general and specific program email distribution lists to announce funding opportunities, hearings, or other events within the Department. In addition, the Department distributes press releases to media outlets throughout the state to promote departmental activities and those that they serve.

#### *Communication with Customers*

From the 2012 Report of Customer Service, 77.8 percent of respondents agreed or strongly agreed with the statement that they were satisfied with their experience with TDHCA. Regarding staff, 85.9 percent of respondents agreed or strongly agreed that TDHCA staff are courteous and 82.1 percent agreed or strongly agreed that TDHCA Staff members demonstrated a willingness to assist. However, 15.1 percent disagreed or strongly disagreed with the statement that " The time I had to wait for a concern or question to be addressed, whether by phone, in person, or by letter was reasonable" and 13.9 percent disagreed or strongly disagreed with the statement that "TDHCA automated phone system is easy to navigate and helps me reach the correct division or individual when I call."

To increase the Department's outreach to existing and potential customers, TDHCA implemented a new social media initiative in November 2011. Through TDHCA's Twitter account: [www.Twitter.com/TDHCA](http://www.Twitter.com/TDHCA) and Facebook page: <https://www.facebook.com/#!/TDHCA>, customers have access to information about programmatic activities, opportunities for public input, funding awards, upcoming trainings and more. By the same token, customers can also post questions about TDHCA programs, functions, and activities and receive quick responses from staff. Another interactive tool established by the Department in 2011 to increase the ways in which TDHCA customers can provide feedback is through online discussion forums. Using the <https://tdhca.websitetoolbox.com/>, the Department can receive input on strategic planning and program administration.

### *Gathering Accurate Data Regarding Special Needs Populations*

The Department is mandated to analyze the housing needs of special needs populations in the State Low-Income Housing Plan and Annual Report. Detailed data on housing needs for veterans, youth aging out of foster care, victims of domestic violence, and other special needs populations is current unavailable. The Department's Program Planning, Policy & Metrics (3PM) Team has begun a project to assess each program area's current data collection methods and create a standardized data collection method for capturing the housing need of these populations.

### C. Key Obstacles

A number of macro issues that present obstacles to TDHCA's ongoing efforts are below:

**On-going Legacy Issues:** The Department is currently experiencing a confluence of a number of "legacy" issues that are simultaneously reaching critical stages. These issues include the ICP vs. TDHCA et al. litigation, the creation of the State of Texas Plan for Fair Housing Choice: Analysis of Impediments (AI), the ramp-down of several Recovery Act programs, the fast approaching federal deadlines for the ARRA-WAP and NSP programs, and significant monitoring and compliance issues which have arisen with local recipients of TDHCA funding, including Community Action Agencies and multifamily

developments. These on-going tasks are each complex and significant in and of themselves and prove taxing on a limited staff at a time of great organizational change. Fiscal: The largest obstacle TDHCA faces is the limited amount of financial resources available for affordable housing. Even with all of its resources, TDHCA can serve only about 3.8 percent of those in need. The most apparent obstacle to meeting underserved housing needs in Texas is a severe shortage of affordable housing stock. There is a corresponding shortage of funding sources to maintain and increase this housing stock. With few exceptions, every housing program administered by TDHCA receives far more applications than could be funded from available resources. This is evidence that there is significant interest on the part of both the nonprofit and for-profit sectors to produce the housing that is needed. While layering, leveraging, and partnering helps to stretch available funds, there is no amount of innovation that will overcome this lack of funding.

To add to the fiscal obstacles, the economic downturn starting in 2008 has led to a decrease of the annual TDHCA financial sources. Housing tax credits were severely devalued as tax credits ceased to be in high demand; reduced earnings by businesses that would have bought tax credits resulted in less need for a reduction in their taxes and less need for tax credits. From 2008 to 2009 tax credits went from \$.80 cents on the dollar to \$.70 cents on the dollar. In addition, there was significantly less demand for bonds. In SFY 2010, no multifamily bonds were issued, whereas the prior fiscal year \$42,690,000 in multifamily bonds were issued.

To address the crisis with the devaluation of Housing Tax Credits, the federal government has created two new programs: Housing Tax Credit Exchange and Housing Tax Credit Assistance Program. In addition, several new programs were added to TDHCA through the 2008 Housing and Economic Recovery Act and 2009 American Recovery and Reinvestment Act, including the Neighborhood Stabilization Program, single-family bonds created through authority issued by HERA, the Homelessness Prevention and Rapid Re-housing Program, Mortgage Advantage Program, 90-Day Down Payment Assistance Program, and additional funds for Community Service Block Grant Program and Weatherization Assistance Program. These new programs resulted in approximately \$1.1 billion in additional funds for three years starting in 2009. However, a majority of these funds will most likely not address need that existed before the economic downturn; much of the need addressed will most likely be need created by the economic downturn, such as the housing tax credit exchange devaluation, falling property values as a result of excessive foreclosures and increased dangers of homelessness as households' incomes decrease.

Lack of Organizational Capacity: Service providers may also lack organizational capacity. Because of the remote nature of and smaller communities in rural areas, many of these communities are not aware of public or private resources or do not know how to successfully obtain them. The service providers in these communities may not know when or where to apply for funding, have availability of qualified staff, or have experience completing a successful housing program. As compared to larger metropolitan areas, these communities have fewer resources that can be used a

matching funds, staff members (if any) to put together an application and oversee an application is funding is obtained.

**Local Opposition to Affordable Housing:** Public opposition acts as a barrier to affordable housing, especially in regards to low-income multifamily development. During every application cycle for affordable multifamily housing, several communities submit letters to the Department stating their opposition to the proposed developments. Many of these complaints cite the communities' fear of falling property values or an increase in crime if a new affordable housing apartment is developed. However, direct association between affordable housing and crime or lower property values has not been proven by academic studies. These negative attitudes have been perpetuated by the "Not-In-My-Backyard" (NIMBY) mentality. TDHCA continues to work to educate the general public on affordable housing issues and encourages developers to interact directly with neighborhood organizations throughout the application process. This educational process is done with such tools as the public hearing process, TDHCA's website and publications, and the application scoring criteria for rental development funding.

**Water Service for Colonias:** Another obstacle applies to colonias projects. There have been cases when a county applies to provide water service to an area, but more than one water supply corporation or city may have a Certificate of Convenience and Necessity (CCN) in that territory (CCNs have been issued which have overlapping territories). In these cases, a dispute over which water supply corporation/city has the right to serve the territory (and therefore collect the revenues) may arise. A public hearing process may be necessary to resolve this issue, which can then delay projects for months.

**Clear Title:** Another obstacle to affordable housing can be difficulty obtaining a clear title for low-income homeowners. Clear titles are required for homeowners to meet program eligibility requirements and protect TDHCA's investment in affordable housing. Homeowners in need of housing repair or contract-for-deed conversions often have difficulty obtaining a clear title. Titles may not be in the homeowners' name because of divorce or widowhood, in which case the ex-spouse is also on the title. Titles with liens are a common occurrence when converting contract-for-deeds into traditional mortgages.

**Technological:** Since TDHCA was created in 1991 through the early 2000s, its program data has tended to be stored and accessed in a number of separate databases. These separate data sources have been an obstacle to effective agency operations. TDHCA has managed to consolidate much of this data into a single source, the Central Database. This has allowed for processes associated with community affairs and housing contract management, draw requests, and compliance reporting to be automated. Because financial data and some loan data exist in other systems (PeopleSoft Financials and Mitas), TDHCA is currently working on a data warehousing solution to integrate some Central Database, Mitas, and PeopleSoft data for reporting purposes. Additionally, in early FY2012, the Department launched the new Manufactured Housing System, which replaced the Manufactured Housing Division's legacy system with a web-based system that addresses all major MHD responsibilities.

## D. Opportunities

### *Organizational Training and Employee Development*

In February 2012, TDHCA participated in an Organizational Excellence Survey sponsored by the University of Texas. The survey helps TDHCA leadership by providing information about work force issues that impact the quality of service ultimately delivered its customers. The data provide information not only about employees' perceptions of the effectiveness of their own organization, but also about employees' satisfaction with their employer. This will help management work to address TDHCA's strengths and weaknesses as seen through the eyes of its employees. Results of this survey are described in Appendix F.

### *Technology*

In FY 2012 and in many cases continuing into the FY 2013-2017 time period, TDHCA will focus on the following technology initiatives in support of Department objectives:

- Provide citizens access to information and services through the TDHCA website and social media.
- Enhance and maintain TDHCA's Central Database systems, the Manufactured Housing System, and enterprise resource planning (ERP) systems. Specific projects and activities include:
  - Agency Scorecard Data Warehouse
  - Compliance Monitoring and Tracking System Enhancements
  - Help for Texans/2-1-1 Texas Data Integration
  - HR System Migration to Centralized Accounting and Payroll/Personnel System
  - Housing Contract System - Environmental Reviews Module
  - Manufactured Housing System Phase 2 - Expand Texas.gov Payment Options for Customers
  - Mitas Accounting and Loan Administration System - Periodic Version Upgrades
- Increase the reliability, performance, and security of the agency's network.

Through the TDHCA website, email list, webcasts, webinars, and social media, the Internet continues to offer new opportunities to communicate directly with the Department's customers. Important examples of Department services that customers can access online include board meetings, training sessions on agency programs, and an extensive, well organized collection of publications.

### *Political*

Communication with the Texas Legislature is a priority for the Department as it responds to informational requests and constituent queries. In addition to being responsive to members' needs, the Department provides members information on its affordable housing and community affairs programs available to their constituents and the impact these programs have on their districts. The Department services as a resource to

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Committees and individual members exploring policy issues and strives to provide the most current and comprehensive information on its programs to state's policy-makers as they deliberate on the important matters of affordable housing and community affairs.

### E. Working with Federal, State, and Local Entities to Achieve Success

Because the efficiency of service provision and the capacity of available resources to create successful housing and housing-related endeavors can be greatly increased through partnerships with federal, state, regional, and local organizations, TDHCA strives to develop and maintain partnerships with a wide variety of groups. Additionally, given TDHCA's current efforts to update the State of Texas Plan for Fair Housing Choice Analysis of Impediments (AI), the Department continues to seek collaborative partnerships with state, regional, and local organizations to provide education, training, and outreach around issues of affirmatively furthering fair housing choice.

#### *Coordination with Federal Agencies*

As discussed in detail in the "Description of Current Federal Activities" contained in Section VII, TDHCA works with a number of Federal organizations to allocate its funding. These organizations include the US Department of Housing and Urban Development, US Department of the Treasury, the US Department of Health and Human Services, the US Department of Energy and the Centers for Medicare and Medicaid Services. TDHCA works to establish effective working relationships with these organizations' personnel at both the national and regional level. In addition to ensuring that planning and oversight efforts are accomplished successfully, these partnerships leads to joint marketing of programs, cross program client referrals, and technical assistance with workshops and other training efforts.

As a provider of services to rural Texas communities, TDHCA has an ongoing relationship with USDA Rural Development. Collaborations have been achieved through several TDHCA programs (HTC, HTF, HOME) in the form of multifamily developments and single family homeownership initiatives.

#### *Coordination with State Agencies*

Below is a listing of state agencies that TDHCA works with on an ongoing basis:

- Texas Department of Agriculture (TDA): TDHCA and TDA have entered into an interagency contract to jointly administer the rural regional allocation of the HTC Program. TDHCA and TDA jointly provide outreach and training to promote rural area capacity building, develop threshold requirements and scoring criteria for the rural applications, and score the applications. TDA also participates in the site inspection of rural developments proposed under the rural allocation. TDHCA and TDA coordinate services in seven Colonia Self-Help Centers to provide housing and technical assistance to improve the quality of life for colonia residents. Finally, TDHCA and TDA are working



together to administer the Community Development Block Grant Disaster Recovery funding for Hurricanes Rita and Katrina and Hurricanes Dolly and Ike.

- Texas Interagency Council for the Homeless (TICH): TDHCA serves as a member of, and provides administrative support to, the Texas Interagency Council for the Homeless—a council comprised of six member state agencies.
- Texas Department of Aging and Disability Services (DADS): TDHCA, in cooperation with DADS, the Texas Department of State Health Services, and local PHAs, administers a housing voucher program called Project Access. Project Access helps low income persons with disabilities transition from nursing facilities into the community by providing access to affordable housing. TDHCA and DADS have also recently partnered on two different applications for federal funding through CMS. TDHCA serves on several committees coordinated by DADS, including the Aging Texas Well Committee, Promoting Independence Advisory Committee, and the Money Follows the Person Demonstration Project Advisory Committee. DADS representatives also serve on committees coordinated by TDHCA, including the Disability Advisory Workgroup and the Housing & Health Services Coordination Council.
- Texas State Affordable Housing Corporation (TSAHC): TDHCA works with TSAHC to share data and information in the development of the State of Texas Low Income Housing Plan and Annual Report. TSAHC also manages the bank account for the TDHCA Texas Statewide Homebuyer Education Program, collaborates with TDHCA to administer the National Foreclosure Mitigation Counseling program, and is a Neighborhood Stabilization Program provider.
- Department of State Health Services (DSHS): TDHCA serves on Council for Advising and Planning (CAP) for the Prevention and Treatment of Mental and Substance Use Disorders, coordinated by DSHS that focus on improving mental health and substance abuse services and supports.
- Texas Department of Criminal Justice (TDCJ): TDHCA serves on the Reentry Task Force that was created by the 81<sup>st</sup> legislature to make recommendations regarding successful reintegration of those released from the TDCJ facilities.
- The Housing and Health Services Coordination Council (HHSCC): The HHSCC was created by Senate Bill 1878 during the 81st Texas Legislative Session to increase the amount of service-enriched housing for seniors and people with disabilities; improve interagency understanding of housing and services, and increase the number of staff in state housing and state health services agencies that are conversant in both housing and health care policies; and offer a continuum of home and community-based services that are affordable to the state and the target population. The HHSCC includes eight members appointed by the Governor, and seven State agency representative members. The Executive Director of the Texas Department of Housing and Community Affairs serves as the Council Chair.
- Texas General Land Office (GLO): TDHCA partners with GLO to transition the administration of CDBG Disaster Recovery programs and continues to provide information technology support services for these programs.

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- Texas Veterans Commission (TVC): TDHCA partners with TVC to transfer Housing Trust Fund general revenue allocations for the purpose of administering the Fund for Veterans Housing Assistance.
- Texas Division of Emergency Management (TDEM): TDHCA continues to partner with TDEM to coordinate the provision of funding assistance in the event of a natural disaster or other emergency situation.
- Texas Department of Assistive & Rehabilitative Services (DARS): TDHCA serves on the State Independent Living Council which is funded by DARS to to develop, in cooperation with the DARS and the Network of Centers for Independent Living, the State Plan for Independent Living.
- One Star Foundation: TDHCA serves on the Faith and Community Based Initiative to increase the capacity of faith- and community-based organizations to provide to Texans in need, assist local governments with establishing faith- and community-based initiatives, and foster better partnerships between state government and these organizations.

### *Coordination with Local and Regional Governments and Other Organizations*

Organizations that TDHCA continues to partner with across the state include the following.

- Affordable housing providers: Department staff is highly sought out to serve as speakers for annual conferences sponsored by the Texas Affiliation of Affordable Housing Providers, the Rural Rental Housing Association of Texas, the Texas Association of Community Development Corporations, the Association of Rural Communities in Texas, and the Texas Association of Local Housing Finance Agencies.
- Local Utility Companies: TDHCA has partnerships with financial commitments between the Weatherization Assistance Program and El Paso Electric to provide energy conservation measures to very low and extremely low income utility customers.
- NeighborWorks America. TDHCA continues to contract with NeighborWorks America to facilitate the Texas Statewide Homebuyer Education Program training. The program also collaborates with several other partners including TSAHC, JP Morgan Chase, Fannie Mae, the Texas Home of Your Own Coalition, and Texas C-BAR to implement the trainings.
- Texas Association of Realtors: The Department since 2004 has worked with the Texas Association of Realtors and Fannie Mae in developing and keeping current an educational outreach campaign to help first time homebuyers access low-cost mortgage financing.
- Texas Homeless Network: TDHCA collaborates with the Texas Homeless Network through TDHCA's work on the Texas Interagency Council on Homelessness to build the capacity of homeless coalitions across the State of Texas, enabling them to become more effective in the communities they serve.

F. Access to Key Resources

*Technological*

TDHCA has access the following technological resources: an internal IT department with skilled, experienced staff; custom enterprise business applications, including contract systems for community affairs and housing programs, the Compliance Monitoring and Tracking System, and the Manufactured Housing System; data center and end-user hardware and software used in support of the TDHCA mission; and current and planned IT initiatives to expand and improve systems.

*Community/Business Resources*

There is an existing network of local service providers which represent a substantial community resource. TDHCA will continue to work closely to help support the ongoing efforts of the following types of organizations: community action agencies, community development corporations, PHAs, CHDOs, faith-based organizations, nonprofit and for-profit entities. The dedicated efforts of these organizations allow the State to make the most of limited funding.

G. Employees' Attitudes with Regards to TDHCA

In March of 2012, TDHCA participated in the Survey of Employee Engagement sponsored by the University of Texas Institute for Organizational Excellence. The results of the survey are outlined below.

*Overall Score*

The overall survey score for TDHCA was 370. The overall survey score is a broad indicator for comparison with other entities. The Overall Score is an average of all survey items and presents the overall score for the Department. For comparison purposes, overall scores typically range from 325 to 375.

*Response Rate*

Out of 313 employees who were invited to take the survey, 234 responded. The response rate of the survey for TDHCA was 75 percent, which is considered high. As a general rule, rates higher than 50 percent suggest soundness. Rates lower than 20 percent may indicate problem. This survey forms the basis of the following observations concerning TDHCA's strengths and weaknesses according to the employees of the Department:

*Construct Analysis*

Constructs are color coded to highlight the agency's areas of strengths and areas of concern. The 3 highest scoring constructs are blue, the 3 lowest scoring constructs are red, and the remaining 8 are yellow.

Highest scoring constructs are areas of strength for the agency while the lowest scoring constructs are areas of concern. Scores above 350 suggest that employees perceive the issue more positively than negatively, and scores of 375 or higher indicate areas of substantial strength. Conversely, scores below 350 are viewed less positively by employees, and scores below 325 should be a significant source of concern.

**Table 28. Survey of Organizational Excellence: 2010 and 2012 Comparison**

		Higher Scoring Constructs		Moderate Scoring Constructs		Lower Scoring Constructs	
		2012 SURVEY RESULTS		2010 SURVEY RESULTS			
CONS_NO	CONSTRUCT NAME	SCORES 2012		CONSTRUCT NAME	SCORES 2010	POINTS DEVIATED	
1	Supervision	390		Supervision	411	-21	
2	Team	387		Team	402	-15	
3	Quality	373		Quality	387	-14	
4	Pay	271		Pay	310	-39	
5	Benefits	387		Benefits	391	-4	
6	Physical Environment	372		Physical Environment	379	-7	
7	Strategic	398		Strategic	414	-16	
8	Diversity	361		Diversity	376	-15	
9	Information Systems	369		Information Systems	374	-5	
10	Internal Communication	346		Internal Communication	360	-14	
11	External Communication	375		External Communication	394	-19	
12	Employee Engagement	382		Employee Engagement	397	-15	
13	Employee Development	377		Employee Development	401	-24	
14	Job Satisfaction	381		Job Satisfaction	382	+1	

*Areas of Strength*

The Departments strengths lie in Strategic, Supervision, and Team. They are discussed below in the order of scores received, from highest to lowest.

**Strategic (Score: 398)**

The Strategic construct reflects employees’ thinking about how the organization responds to external influences that should play a role in defining the organization’s mission, vision, services, and products. Implied in this construct is the ability of the organization to seek out and work with relevant external entities.

High scores indicate employees view the organization as able to quickly relate its mission and goals to environmental changes and demands. It is viewed as creating programs that advance the organization and highly capable means of drawing information and meaning from the environment. Maintaining these high scores will require leadership to continually assess the ability of the organization and employees at all levels to test programs against need and to continue to have rapid feedback from the environment.

**Supervision (Score: 390)**

The Supervision construct provides insight into the nature of supervisor relationships within the organization, including aspects of leadership, the communication of expectations, and the sense of fairness that employees perceive between supervisors and themselves.

High Supervisor scores indicate that employees view their supervisors as fair, helpful, and critical to the flow of work. Maintaining these high scores will require leadership to carefully assess supervisory training and carefully make the selection of new supervisors.

**Team (Score: 387)**

The Team construct captures employees' perception of the people within the organization that they work with on a daily basis to accomplish their jobs (the work group or team). This construct gathers data about how effective employees think their work group is as well as the extent to which the organization supports cooperation among employees.

High Team scores indicate that employees view their work groups as effective, cohesive, and open to the opinions of all its members. Maintaining these high scores will require leadership to ensure employees are actively involved in their work groups and have opportunities to contribute to goal setting and other work processes.

*Areas of Concern*

**Fair Pay (Score: 271)**

Fair Pay is a common negative perception across most, if not all, state agencies. The Pay construct addresses perceptions of the overall compensation package offered by the Department. It describes how well the compensation package "holds up" when employees compare it to similar jobs in other organizations.

Low scores suggest that pay is a central concern or reason for satisfaction or discontent. In some situations pay does not meet comparables in similar organizations. In other cases individuals feel that pay levels are not appropriately set to work demands, experience and ability.

**Internal Communication (Score: 346)**

The Internal Communication construct captures the Department's communication flow from the top-down, bottom-up, and across divisions. It addresses the extent to which communication exchanges are open, candid, and move the Department toward its goal.

**Diversity (Score: 361)**

The Diversity construct addresses the extent to which employees feel personal differences, such as ethnicity, social class or lifestyle, may result in alienation from the larger organization and missed opportunities for learning or advancement. It examines

how the organization understands and uses creativity coming from individual differences to improve organizational effectiveness.

*Climate Analysis*

The climate in which employees work does, to a large extent, determine the efficiency and effectiveness of an organization. The appropriate climate is a combination of a safe, non-harassing environment with ethical abiding employees who treat each other with fairness and respect.

Each Climate Area is displayed below with its corresponding score. Scores above 350 suggest that employees perceive the issue more positively than negatively, and scores of 375 or higher indicate areas of substantial strength. Conversely, scores below 350 are viewed less positively by employees, and scores below 325 should be a significant source of concern for the organization and should receive immediate attention.

*Climate Definitions*

**Atmosphere:** The aspect of climate and positive Atmosphere of an organization must be free of harassment in order to establish a community of reciprocity.

**Ethics:** An Ethical climate is a foundation of building trust within an organization where not only are employees ethical in their behavior, but that ethical violations are appropriately handled.

**Fairness:** Fairness measures the extent to which employees believe that equal and fair opportunity exists for all members of the organization.

**Feedback:** Appropriate feedback is an essential element of organizational learning by providing the necessary data in which improvement can occur.

**Management:** The climate by Management as being accessible, visible, and an effective communicator of information is a basic tenant of successful leadership.

**Table 29. Climate Analysis: 2010 and 2012 Comparison**

		2012 SURVEY RESULTS		2010 SURVEY RESULTS		
CONS_NO	CONSTRUCT NAME	SCORES 2012		CONSTRUCT NAME	SCORES 2010	POINTS DEVIATED
	Higher Scoring Constructs					
	Moderate Scoring Constructs					
	Lower Scoring Constructs					
	<b>CLIMATE ANALYSIS</b>			<b>CLIMATE ANALYSIS</b>		
15	Climate/Atmosphere	390		Climate/Atmosphere	396	-6
16	Climate/Ethics	387		Climate/Ethics	386	-1
17	Climate/Fairness	345		Climate/Fairness	348	-3
18	Climate/Feedback	339		Climate/Feedback	360	-21
19	Climate/Management	365		Climate/Management	358	+7

*Strategies for Improvement*

The Department will continue to capitalize on the information derived from the 2012 Survey of Employee Engagement to improve in areas of concern as noted below.

While fair pay continues to be the lowest scoring category for the Department, the Department will continue to review equity among similar positions and make adjustments as appropriate to ensure equitable pay among positions.

The Department is committed to instilling a culture of diversity, transparency, fairness, professionalism, and integrity. The Department will continue to analyze recruitment efforts to promote a diverse workforce and will continue to promote programs to increase diversity awareness within the organization. The Department will continue to promote organizational development and encourage supervisors to provide employees with the opportunity to increase their knowledge, skills, and abilities through attending professional development training courses and on-the job training to enhance promotional opportunities for employees.

The Department will continue to have internal communications with staff through agency wide staff meetings and internal communication methods and will promote an environment that encourages employees to provide feedback to their supervisors and executive management.

## **TDHCA GOALS, OBJECTIVES, AND STRATEGIES AND THE ASSOCIATED OUTCOME, EFFICIENCY, EXPLANATORY, AND OUTPUT MEASURES**

The following TDHCA Goals, Objectives, and Strategies were provided in the Department's 2012-2013 Legislative Appropriations Request and approved by the Legislative Budget Board.

### Goal 1.

To increase and preserve the availability of safe, decent, and affordable housing for very low, low, and moderate income persons and families.

#### Objective 1.

Make loans, grants, and incentives available to fund eligible housing activities and develop/preserve single and multifamily units for very low, low, and moderate income households.

#### Outcome Measures

1. Percent of Households/Individuals of Very Low, Low, and Moderate Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance
2. Percent of Households/Individuals of Very Low Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance
3. Percent of Households/Individuals of Low Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance
4. Percent of Households/Individuals of Moderate Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance
5. Percent of Multifamily Rental Units Benefiting Very Low, Low and Moderate Income Households

#### Strategy 1.

Provide federal mortgage loans, through the department's Single Family Mortgage Revenue Bond (MRB) Program and Mortgage Credit Certificate Program, which are below the conventional market interest rates to very low, low, and moderate income homebuyers.

#### Efficiency Measures

1. Average Loan Amount Per Household Assisted through the First Time Homebuyer Program without Down Payment Assistance
2. Average First Time Homebuyer Program Loan with Down Payment Assistance
3. Average Mortgage Credit Certificate Program

#### Explanatory Measures

1. Number of Households Receiving Loans without Down Payment Assistance through the First Time Homebuyer Program
2. Number of Households Receiving Loans with Down Payment Assistance through the First Time Homebuyer Program
3. Number of Mortgage Credit Certificate Program

#### Output Measures



1. Number of Households Assisted with Single Family Mortgage Revenue Bond Funds

Strategy 2.

Provide federal housing loans and grants through the HOME Investment Partnership (HOME) Program for very low and low income families, focusing on the construction of single family housing in rural areas of the state.

Efficiency Measures

1. Average Amount Per Household for Single Family New Construction Redevelopment Activities
2. Average Amount Per Household for Single Family Rehabilitation Activities or Reconstruction
3. Average Amount Per Household Assisted with Homebuyer and Homebuyer/Home Rehabilitation Assistance
4. Average Amount Per Household Receiving Tenant-based Rental Assistance

Explanatory Measures

1. Number of Households Assisted through Single Family New Construction/Development Activities
2. Number of Households Assisted through Single Family Rehabilitation or Reconstruction Activities
3. Number of Households Assisted through Homebuyers and Homebuyer/Home Rehabilitation Assistance
4. Number of Households Assisted through Tenant-based Rental Assistance
5. Number of Single Family Home Contract Administration Reviews
6. Number of HOME Single Family Technical Assistance Visits, E-mail, and Calls
7. Number of HOME Single Family Workshops and Trainings Provided

Output Measures

1. Number of Households Assisted with Single Family HOME Funds
2. Number of Households Assisted with Home Funds

Strategy 3.

Provide state housing loans and grants through the Housing Trust Fund for very low and low income households.

Efficiency Measures

1. Average Amount Per Household for Single Family Owner-Builder Bootstrap Program
2. Average Amount Per Household for Single Family Nonowner-Builder (Non-Bootstrap) Activities

Explanatory Measures

1. Number of Households Assisted through Single Family Bootstrap
2. Number of Households Assisted through Single Family Nonowner-Builder (Non-Bootstrap) Activities

Output Measures

## Goals, Objectives, Strategies and Measures

1. Number of Single Family Households Assisted through the Single Family Housing Trust Fund Program

### Strategy 4.

Provide federal rental assistance through Section 8 certificates and vouchers for very low income households.

#### Efficiency Measures

- Average Cost Per Household to Administer Housing Choice Voucher Program

#### Output Measures

1. Number of Households Assisted through Statewide Housing Assistance Payments Program

### Strategy 5.

Provide federal tax credits to develop rental housing for very low and low income households.

#### Efficiency Measures

1. Average Amount of Annual Tax Credits per Household for New Construction Activities
2. Average Total Development Costs per Household for New Construction Activities
3. Average Amount of Annual Tax Credits per Household for Rehabilitation Activities
4. Average Total Development Costs per Household for Rehabilitation Activities

#### Explanatory Measures

1. Number of Households Assisted through New Construction Activities
2. Number of Households Assisted through Rehabilitation Activities

#### Output Measures

1. Number of Households Assisted through the Housing Tax Credit Program

### Strategy 6.

Provide federal mortgage loans through the department's Mortgage Revenue Bond (MRB) program for the acquisition, restoration, construction and preservation of multifamily rental units for very low, low and moderate income families.

#### Efficiency Measures

1. Average Amount of Bond Proceeds per Household for New Construction Activities
2. Average Total Development Costs per Household for New Construction Activities
3. Average Amount of Bond Proceeds per Household for Rehabilitation/Acquisition Activities
4. Average Total Development Costs per Household for Rehabilitation Activities

#### Explanatory Measures

1. Number of Households Assisted through New Construction Activities
2. Number of Households Assisted through Rehabilitation Activities

Output Measures

1. Number of Households Assisted through the Multifamily Mortgage Revenue Bond Program

Goal 2.

Promote improved housing conditions for extremely LI, VLI, and low income households by providing information and technical assistance.

Objective 1.

Provide information and technical assistance regarding affordable housing resources and community support services.

Outcome Measure.

Percent of Short Term and Long Term Information and Technical Assistance Requests Fulfilled Within Established Time Frames

Strategy 1.

Provide information and technical assistance to the public through the Housing Resource Center

Output Measures

1. Number of Information and Technical Assistance Requests Completed
2. Number of Short Term Information and Technical Assistance Consumer Requests Completed
3. Number of Long Term Information and Technical Assistance Requests Completed

Objective 2.

Promote and enhance homeownership opportunities along with the development of safe neighborhoods and effective community services for colonia residents and/or residents of LI, VLI, and ELI along the Texas-Mexico border.

Strategy 1.

Assist colonias, border communities, and non-profits through Department programs, Border Field Offices, and Colonia Self-Help Centers.

Output Measures

1. Number of Technical Assistance Contacts and Visits Conducted Annually from the Border Field Offices
2. Number of Colonia Residents Receiving Technical Assistance Annually through the Colonia Field Offices
3. Number of Entities and/or Individuals Receiving Informational Resources

Goal 3.

Improve living conditions for the poor and homeless and reduce cost of home energy for very low income Texans.

Objective 1.

To ease hardships of poverty and homelessness for 16 percent of the population of homeless and very low income persons each year.

## Goals, Objectives, Strategies and Measures

### Outcome Measures

1. Percent Eligible Population That Received Homeless and Poverty-Related Assistance
2. Percent of Emergency Shelters Assisted
3. Percent of Persons Assisted That Achieve Incomes above Poverty Level

### Strategy 1.

Administer homeless and poverty-related federal funds through a network of community action agencies and other local organizations so that poverty-related services are available to very low income persons throughout the state.

### Efficiency Measures

1. Average Agency Administrative Cost per Person Assisted

### Explanatory Measures

1. Total Number of Emergency Shelters
2. Total Number of Persons in Poverty Meeting Income Eligibility
3. Total Number of Shelters Served through Emergency Shelter Grant Program

### Output Measures

1. Number of Persons Assisted through Homeless and Poverty-related Funds
2. Number of Persons Assisted That Achieve Incomes Above Poverty Level
3. Number of Persons Assisted by the Community Services Block Grant Program
4. Number of Persons Assisted by the Emergency Shelter Grant Program
5. Number of Persons Assisted by the Homeless and Housing Services Program

### Objective 2.

To reduce cost of home energy for 6 percent of very low income households each year.

### Outcome 1.

Percent of Very Low Income Households Receiving Energy Assistance

### Strategy 1.

Administer state energy assistance programs by providing grants to local organizations for energy related improvements to dwellings occupied by very low income persons and general assistance to very low income households for heating and cooling expenses and energy-related emergencies.

### Efficiency Measures

1. Average Administrative Cost Per Household Served
2. Average Cost per Home Weatherized

### Explanatory Measures

1. Number of Very Low Income (VLI) Households Eligible for Energy Assistance

### Output Measures

1. Number of Households Assisted through the Comprehensive Energy Assistance Program
2. Number of Dwelling Units Weatherized by the Department

### Goal 4.

Ensure compliance with Department of Housing and Community Affairs federal and state program mandates.

Objective 1.

Administer and monitor housing developments and subrecipient contracts to determine compliance with federal and state housing program requirements.

Outcome Measures

1. Percent of Multifamily and/or Single Family Rental Properties Monitored Annually
2. Percent of Properties Monitored by the Portfolio Management and Compliance Division that are in Material Non-compliance

Strategy 1.

Monitor and inspect for federal and state housing program requirements.

Efficiency Measures

1. Average Cost to Monitor a Rental Property

Explanatory Measures

1. Total Number of Developments in the Compliance Monitoring Portfolio
2. Total Number of Units Administered

Output Measures

1. Total Number of Monitoring Reviews Conducted
2. Total Number of Desk Reviews Conducted
3. Total Number of Onsite Reviews Conducted
4. Total Number of Land Use Restriction Agreements Processed

Strategy 2.

Administer and monitor federal and state subrecipient contracts for programmatic and fiscal requirements.

Efficiency Measures

1. Average Cost to Monitor a Contract

Explanatory Measures

1. Number of Contracts Monitored
2. Number of Previous Participation Reviews

Output Measures

1. Total Number of Contract Monitoring Reviews Conducted
2. Number of Single Audit Reviews Conducted

Goal 5.

Protect the public by regulating the manufactured housing industry in accordance with state and federal laws.

Objective 1.

## Goals, Objectives, Strategies and Measures

Operate a regulatory system to ensure responsive handling of Statement of Ownership and Location (SOL) and license applications, inspection reports, and complaints.

### Outcome Measures

1. Percent of Applications Processed within Established Time Frames
2. Percent of Consumer Complaint Inspections Conducted within 30 Days of Request
3. Percent of Complaints Resulting in Disciplinary Action
4. Percent of Documented Complaints Resolved within Six Months
5. Recidivism Rate for Those Receiving Disciplinary Action

### Strategy 1.

Provide services for Statement of Ownership and Location and licensing in a timely and efficient manner.

### Efficiency Measures

1. Average Cost per Manufactured Housing Statement of Ownership and Location Issued

### Explanatory Measures

1. Number of Manufactured Homes of Record in Texas

### Output Measures

1. Number of Manufactured Housing Statements of Ownership and Location Issued
2. Number of Licenses Issued

### Strategy 2.

Conduct inspections of manufactured homes in a timely and efficient manner.

### Efficiency Measures

1. Average Cost per Inspection

### Explanatory Measures

1. Number of Installation Reports Received
2. Number of Installation Inspections with Deviations

### Output Measures

1. Number of Routine Installation Inspections Conducted
2. Number of Non-routine Inspections Conducted

### Strategy 3.

Process consumer complaints, conduct investigations, and take administrative actions to protect general public and consumers.

### Efficiency Measures

1. Average Cost per Complaint Resolved
2. Average Time for Complaint Resolution (Days)

### Explanatory Measures

1. Number of Jurisdictional Complaints Received

Output Measures

1. Number of Complaints Resolved

Strategy 4.

Provide for the processing of occupational licenses, registrations, or permit fees through TexasOnline. Estimated and nontransferable.

Goal 6.

Indirect administrative and support costs.

Objective 1.

Indirect administrative and support costs.

Strategies

1. Central Administration.
2. Information Resource Technologies.
3. Operations and Support Services.

**TECHNOLOGY INITIATIVE ASSESSMENT AND ALIGNMENT**

The following template is provided for the completion of the Technology Resources Planning section.

<b>1. Initiative Name:</b> Name of the technology initiative.	
Provide citizens access to information and services through the TDHCA website and social media.	
<b>2. Initiative Description:</b> Brief description of the technology initiative.	
This initiative involves managing an expansive amount of existing information on the agency website, continuously preparing new information and posting it to the website, and communicating with agency customers through social media.	
<b>3. Associated Project(s):</b> Name and status of current or planned project(s), if any, that support the technology initiative and that will be included in agency’s Information Technology Detail.	
<b>Name</b>	<b>Status</b>
No associated ITD projects.	
<b>4. Agency Objective(s):</b> Identify the agency objective(s) that the technology initiative supports.	
<ul style="list-style-type: none"> <li>• Goal/Objective 2-1 – Provide Information and Assistance - Provide Information and Assistance for Housing and Community Services</li> <li>• Goal/Objective 5-1 – Regulate Manufactured Housing Industry - Operate a Regulatory System To Ensure Responsive SOL/Licensing/Other</li> </ul>	
<b>5. Statewide Technology Priority(ies):</b> Identify the statewide technology priority or priorities the technology initiative aligns with, if any.	
<ul style="list-style-type: none"> <li>• P1 – Cloud</li> <li>• P2 – Data Management</li> <li>• P3 – Data Sharing</li> <li>• P4 – Infrastructure</li> <li>• P5 – Legacy Applications</li> </ul>	<ul style="list-style-type: none"> <li>• P6 – Mobility</li> <li>• P7 – Network</li> <li>• P8 – Open Data</li> <li>• P9 – Security and Privacy</li> <li>• P10 – Social Media</li> </ul>
This initiative aligns with the following statewide technology priorities:	
<ul style="list-style-type: none"> <li>• P2 – Data Management</li> <li>• P3 – Data Sharing</li> <li>• P8 – Open Data</li> <li>• P10 – Social Media</li> </ul>	
<b>6. Guiding Principles:</b> As applicable, describe how the technology initiative will address the following statewide technology guiding principles:	
<ul style="list-style-type: none"> <li>• Connect – expanding citizen access to services</li> <li>• Innovate – leveraging technology services and solutions across agencies</li> <li>• Trust – providing a clear and transparent accounting of government services and data</li> <li>• Deliver – promoting a connected and agile workforce</li> </ul>	
<ul style="list-style-type: none"> <li>• Connect and Trust – The website is the primary agency communication tool for providing citizens information about agency programs and services. At TDHCA, posting up-to-date, accessible information to the website is a collaborative effort in which all agency divisions invest significant amounts of time and resources. In FY 2011, TDHCA began using social media technologies,</li> </ul>	



<p>including Facebook and Twitter. Through the use of social media, TDHCA has added another method (in addition to the website and agency email list) of communicating with citizens.</p>
<p><b>7. Anticipated Benefit(s):</b> Identify the benefits that are expected to be gained through the technology initiative. Types of benefits include:</p> <ul style="list-style-type: none"> <li>• Operational efficiencies (time, cost, productivity)</li> <li>• Citizen/customer satisfaction (service delivery quality, cycle time)</li> <li>• Security improvements</li> <li>• Foundation for future operational improvements</li> <li>• Compliance (required by State/Federal laws or regulations)</li> </ul>
<p>TDHCA expects to gain the following benefits through this initiative:</p> <ul style="list-style-type: none"> <li>• Increased citizen/customer satisfaction through easy access to information about agency programs and services and multiple avenues to provide feedback to TDHCA, ask questions, or request additional information.</li> <li>• Increased customer knowledge of program rules and funding availability, which helps TDHCA move funding from TDHCA through subrecipients to citizens. Increased customer knowledge of program rules assists compliance objectives.</li> </ul>
<p><b>8. Capabilities or Barriers:</b> Describe current agency capabilities or barriers that may advance or impede the agency’s ability to successfully implement the technology initiative.</p>
<p>Capabilities include a well-organized website, knowledgeable and skilled business and technology staff, and free technologies.</p> <p>The major barrier associated with this initiative is limited staffing resources compared to the volume of information maintained on the website.</p>

<p><b>1. Initiative Name:</b> Name of the technology initiative.</p>
<p>Enhance and maintain TDHCA’s Central Database systems, the Manufactured Housing System, and enterprise resource planning (ERP) systems.</p>
<p><b>2. Initiative Description:</b> Brief description of the technology initiative.</p>
<p>This initiative consists of software development projects and operational activities that TDHCA will carry out to improve the capabilities of core agency systems for administering contracts and grants, originating and servicing loans, monitoring subrecipient compliance with program rules, regulating the manufactured housing industry, and managing agency financial and human resources.</p> <p>Projects included in this initiative are the following:</p> <ul style="list-style-type: none"> <li>• Agency Scorecard Data Warehouse (in progress)</li> <li>• Compliance Monitoring and Tracking System Enhancements (in progress)</li> <li>• Help for Texans/2-1-1 Texas Data Integration (in progress)</li> <li>• HR System Migration to Centralized Accounting and Payroll/Personnel System (evaluating)</li> <li>• Housing Contract System - Environmental Reviews Module (in progress)</li> </ul>

## Technology Resource Planning

<ul style="list-style-type: none"> <li>• Manufactured Housing System Phase 2 - Expand Texas.gov Payment Options for Customers (in progress)</li> <li>• Mitas Accounting and Loan Administration System - Periodic Version Upgrades (ongoing)</li> </ul> <p>None of the above are IT capital budget projects and therefore will not be included in TDHCA's Information Technology Detail.</p>			
<p><b>3. Associated Project(s):</b> Name and status of current or planned project(s), if any, that support the technology initiative and that will be included in agency's Information Technology Detail.</p>			
<b>Name</b>	<b>Status</b>		
No associated ITD projects.			
<p><b>4. Agency Objective(s):</b> Identify the agency objective(s) that the technology initiative supports.</p> <ul style="list-style-type: none"> <li>• Goal/Objective 1-1 – Increase Availability of Safe/Decent/Affordable Housing - Make Loans/Grants/Incentives to Fund/Develop/Preserve Housing</li> <li>• Goal/Objective 2-1 – Provide Information and Assistance - Provide Information and Assistance for Housing and Community Services</li> <li>• Goal/Objective 3-1 – Improve Poor/Homeless Living Conditions &amp; Reduce VLI Energy Costs - Ease Hardships for 16% of Homeless &amp; Very Low Income Persons Each Year</li> <li>• Goal/Objective 4-1 – Ensure Compliance with Program Mandates - Monitor Developments &amp; Subrecipient Contracts for Compliance</li> <li>• Goal/Objective 5-1 – Regulate Manufactured Housing Industry - Operate a Regulatory System To Ensure Responsive SOL/Licensing/Other</li> </ul>			
<p><b>5. Statewide Technology Priority(ies):</b> Identify the statewide technology priority or priorities the technology initiative aligns with, if any.</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• P1 – Cloud</li> <li>• P2 – Data Management</li> <li>• P3 – Data Sharing</li> <li>• P4 – Infrastructure</li> <li>• P5 – Legacy Applications</li> </ul> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• P6 – Mobility</li> <li>• P7 – Network</li> <li>• P8 – Open Data</li> <li>• P9 – Security and Privacy</li> <li>• P10 – Social Media</li> </ul> </td> </tr> </table>		<ul style="list-style-type: none"> <li>• P1 – Cloud</li> <li>• P2 – Data Management</li> <li>• P3 – Data Sharing</li> <li>• P4 – Infrastructure</li> <li>• P5 – Legacy Applications</li> </ul>	<ul style="list-style-type: none"> <li>• P6 – Mobility</li> <li>• P7 – Network</li> <li>• P8 – Open Data</li> <li>• P9 – Security and Privacy</li> <li>• P10 – Social Media</li> </ul>
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<p>This initiative aligns with the following statewide technology priorities:</p> <ul style="list-style-type: none"> <li>• P2 – Data Management</li> <li>• P3 – Data Sharing</li> <li>• P4 – Infrastructure</li> <li>• P5 – Legacy Applications</li> <li>• P8 – Open Data</li> <li>• P9 – Security and Privacy</li> </ul>			
<p><b>6. Guiding Principles:</b> As applicable, describe how the technology initiative will address the following statewide technology guiding principles:</p> <ul style="list-style-type: none"> <li>• Connect – expanding citizen access to services</li> <li>• Innovate – leveraging technology services and solutions across agencies</li> <li>• Trust – providing a clear and transparent accounting of government services and data</li> <li>• Deliver – promoting a connected and agile workforce</li> </ul>			

<ul style="list-style-type: none"> <li>• Connect – Through projects in this initiative TDHCA will a) interface TDHCA Help for Texas data with the Health and Human Services Commission’s 2-1-1 Texas to expand citizen/customer access to housing and community services provider information, b) enhance Central Database systems with new features such as the Environmental Reviews Module to expand customer access to program data, and c) provide Manufactured Housing Division customers the ability to submit required forms and associated fees online.</li> <li>• Innovate – TDHCA and HHSC are leveraging 2-1-1 Texas to increase access to housing and community services provider information. The General Land Office leverages TDHCA’s Housing Contract System in the administration of Community Development Block Grant Disaster Recovery funding.</li> </ul>
<p><b>7. Anticipated Benefit(s):</b> Identify the benefits that are expected to be gained through the technology initiative. Types of benefits include:</p> <ul style="list-style-type: none"> <li>• Operational efficiencies (time, cost, productivity)</li> <li>• Citizen/customer satisfaction (service delivery quality, cycle time)</li> <li>• Security improvements</li> <li>• Foundation for future operational improvements</li> <li>• Compliance (required by State/Federal laws or regulations)</li> </ul>
<p>TDHCA expects to gain the following benefits through this initiative:</p> <ul style="list-style-type: none"> <li>• Increased operational efficiencies through the Agency Scorecard Data Warehouse, Compliance Monitoring and Tracking System Enhancements, HR System Migration to Centralized Accounting and Payroll/Personnel System, Housing Contract System - Environmental Reviews Module, and Manufactured Housing System Phase 2 - Expand Texas.gov Payment Options for Customers projects.</li> <li>• Increased citizen/customer satisfaction through the Agency Scorecard Data Warehouse, Compliance Monitoring and Tracking System Enhancements, Help for Texans/2-1-1 Texas Data Integration, Housing Contract System - Environmental Reviews Module, and Manufactured Housing System Phase 2 - Expand Texas.gov Payment Options for Customers projects.</li> </ul>
<p><b>8. Capabilities or Barriers:</b> Describe current agency capabilities or barriers that may advance or impede the agency’s ability to successfully implement the technology initiative.</p>
<p>Capabilities include existing software applications that can be expanded to meet changing business requirements and talented and knowledgeable business and technology staff.</p> <p>Barriers include limited technology staffing resources compared to the number of projects and operational activities, limited budgets, and the complexity of projects and systems.</p>

<p><b>1. Initiative Name:</b> Name of the technology initiative.</p>
<p>Increase the reliability, performance, and security of the agency’s network.</p>
<p><b>2. Initiative Description:</b> Brief description of the technology initiative.</p>

## Technology Resource Planning

<p>This initiative consists of infrastructure projects and activities that TDHCA will carry out to ensure that agency systems and data are highly available to citizens and employees, perform at a highly responsive level, and are secured from unintended access.</p>	
<p><b>3. Associated Project(s):</b> Name and status of current or planned project(s), if any, that support the technology initiative and that will be included in agency's Information Technology Detail.</p>	
<b>Name</b>	<b>Status</b>
No associated ITD projects.	
<p><b>4. Agency Objective(s):</b> Identify the agency objective(s) that the technology initiative supports.</p>	
<p>This initiative indirectly supports all agency objectives.</p>	
<p><b>5. Statewide Technology Priority(ies):</b> Identify the statewide technology priority or priorities the technology initiative aligns with, if any.</p>	
<ul style="list-style-type: none"> <li>• P1 – Cloud</li> <li>• P2 – Data Management</li> <li>• P3 – Data Sharing</li> <li>• P4 – Infrastructure</li> <li>• P5 – Legacy Applications</li> </ul>	<ul style="list-style-type: none"> <li>• P6 – Mobility</li> <li>• P7 – Network</li> <li>• P8 – Open Data</li> <li>• P9 – Security and Privacy</li> <li>• P10 – Social Media</li> </ul>
<p>This initiative aligns with the following statewide technology priorities:</p> <ul style="list-style-type: none"> <li>• P2 – Data Management</li> <li>• P4 – Infrastructure</li> <li>• P7 – Network</li> <li>• P9 – Security and Privacy</li> </ul>	
<p><b>6. Guiding Principles:</b> As applicable, describe how the technology initiative will address the following statewide technology guiding principles:</p> <ul style="list-style-type: none"> <li>• Connect – expanding citizen access to services</li> <li>• Innovate – leveraging technology services and solutions across agencies</li> <li>• Trust – providing a clear and transparent accounting of government services and data</li> <li>• Deliver – promoting a connected and agile workforce</li> </ul>	
<ul style="list-style-type: none"> <li>• Connect – This initiative will expand citizen access through a focus on high availability for systems used to present information to agency subrecipients, Manufactured Housing Division customers, and the public in general.</li> <li>• Innovate – TDHCA shares a small data center with the Texas Treasury Safekeeping Trust Company.</li> <li>• Deliver – Through this initiative TDHCA will continue to ensure that employees have secure remote access to information systems and data needed to fulfill job responsibilities when away from the office.</li> </ul>	
<p><b>7. Anticipated Benefit(s):</b> Identify the benefits that are expected to be gained through the technology initiative. Types of benefits include:</p> <ul style="list-style-type: none"> <li>• Operational efficiencies (time, cost, productivity)</li> </ul>	

- Citizen/customer satisfaction (service delivery quality, cycle time)
- Security improvements
- Foundation for future operational improvements
- Compliance (required by State/Federal laws or regulations)

TDHCA expects to gain the following benefits through this initiative:

- Increased operational efficiencies through the improved performance and reliability of agency systems, including Central Database systems, PeopleSoft Financials, and the Mitas Accounting and Loan Administration System.
- Security improvements, through an increased focus on policies, patch management, and vulnerability analysis.

**8. Capabilities or Barriers:** Describe current agency capabilities or barriers that may advance or impede the agency's ability to successfully implement the technology initiative.

Capabilities include newly acquired server hardware, existing security software and hardware, and talented and knowledgeable technology staff.

Barriers include limited technology staffing resources and the difficulty in dedicating time to infrastructure activities given other projects that directly benefit agency goals and a high daily volume of work orders submitted by business employees.

## **APPENDIX A. DESCRIPTION OF TDHCA'S PLANNING PROCESS**

In the course of creating or revising required state or federal documents or other activities that require long-term planning, TDHCA takes into account assessment, analysis, and public input. The Department's planning process centers around forming agency policies and programs on the basis of reliable data analysis, staff expertise, and informed public input from consumers, advocates, housing providers, and legislative members.

In general, the planning process involves the following steps:

1. review of legislative and/or regulatory requirements,
2. development of a timeline,
3. data collection,
4. analysis and policy development,
5. legal and executive review,
6. public comment acceptance and response,
7. board review and approval (if appropriate), and
8. implementation.

The planning process begins with the review of the legislative and/or regulatory requirements by legal staff and the appropriate divisional staff. After the requirements are determined, divisional staff will establish a timeline for the planning process through implementation.

A focused effort is made to collect information required to develop the draft rule or planning document. Appropriate staff is consulted for their expertise and to request any required supporting data. A round table discussion with members of the public may be held to insure that a variety of viewpoints on the relevant issues are obtained. Relevant demographic, economic, and subjective data is also typically assembled from outside sources. This data is obtained from a wide variety of appropriate sources, such as the US Census, Texas State Data Center, Real Estate Center, surveys, interviews, and best practices from other agencies.

The assembled data are then analyzed and used to develop preliminary policies to address the identified need. These policies are developed to be consistent with the goals, objectives, and performance measures as outlined in the TDHCA Plan and reported to the LBB and the Governor's Office of Budget, Planning, and Policy. After the draft policy has been developed, a black-lined rule or plan is drafted to communicate it to all stakeholders. The draft is then reviewed by legal and executive staff, and is also approved by the TDHCA Board. Any outstanding issues are resolved, and the draft rule or planning document (or a summary of the draft) is published in the *Texas Register* for public comment, if applicable. Announcements about the rule revision or document and the public comment period are also sent out over the Department's listserv and by any legislatively required means.

## Appendix A: Description of TDHCA's Planning Process

While quantifying the housing needs of Texas is vital to the TDHCA planning process, it is also essential to reconcile the data with local needs to establish regional priorities. Therefore the next phase of planning revolves around dialogue with public officials, consumers and interested parties. All data and resulting conclusions are made available to the public followed by public comment periods and public hearings.

In addition to the many special topic hearings and round tables held each year, TDHCA holds a set of consolidated public hearings annually (Consolidated Hearings) to cover all aspects of the Department's services and the provision of those services. The Consolidated Hearings are held throughout the state in cities selected to reach approximately half of the regions in Texas. The hearings ensure that TDHCA customers have direct contact with agency staff. The discussions at the public hearings focus on the state's affordable housing and community service needs, Department program rules, and Department policies as outlined in the *State of Texas Low Income Housing Plan and Annual Report* and the *State of Texas Consolidated Plan*.

TDHCA strongly encourages public involvement in the Department's policy development process. In addition to public hearings, written comment is accepted by mail, email and fax during the public comment periods. At the close of the public comment period, TDHCA staff reviews public input and develops reasoned responses. All public comment, both written comment and the hearing transcripts, is published on the Department's website or in the planning document with the reasoned responses.

After all information is compiled, policies developed, and public comment is taken, the planning document or rule is finalized. General Department policies are outlined in the *State of Texas Low Income Housing Plan*. Individual programs may have specific documents that govern their activities (i.e., the Qualified Allocation Plan for the Housing Tax Credit Program and the Biennial Plan for the Housing Trust Fund).

Where required by statute or the Board, documents and rules are brought before the Department's Board for approval. The Department's Board meets once a month to review funding and policy recommendations and reports. All Department policies are brought before the Board and are open for public comment at the meeting. The final document or rule is posted for public review seven days before the meeting. Action is taken on the item by the Board. If approved, the policy will be implemented.

For the programs that are competitive or open to various nonprofit and for-profit entities, the Department holds application and implementation workshops. These workshops are used to inform program customers of the services available from TDHCA, as well as train organizations on the implementation of the programs for which they have successfully applied. These workshops present the public the opportunity to address program policies.

## Appendix A: Description of TDHCA's Planning Process

Once the document or rule is approved and in place, TDHCA uses performance measurement to review its effectiveness. The performance measurements are reported to the Legislative Budget Board and in planning documents, such as the State Low Income Housing Plan and Annual Report. Strategies, which are ways to accomplish key objectives, become the basic building blocks for the budgeting and expenditure of state funds. Objectives, strategies, and measures funded in the Legislative Appropriations Request relate specifically to the primary functions or areas of the Department. Department and program effectiveness feeds into the strategic planning process by showing goals that have been met and by showing areas that need additional attention.

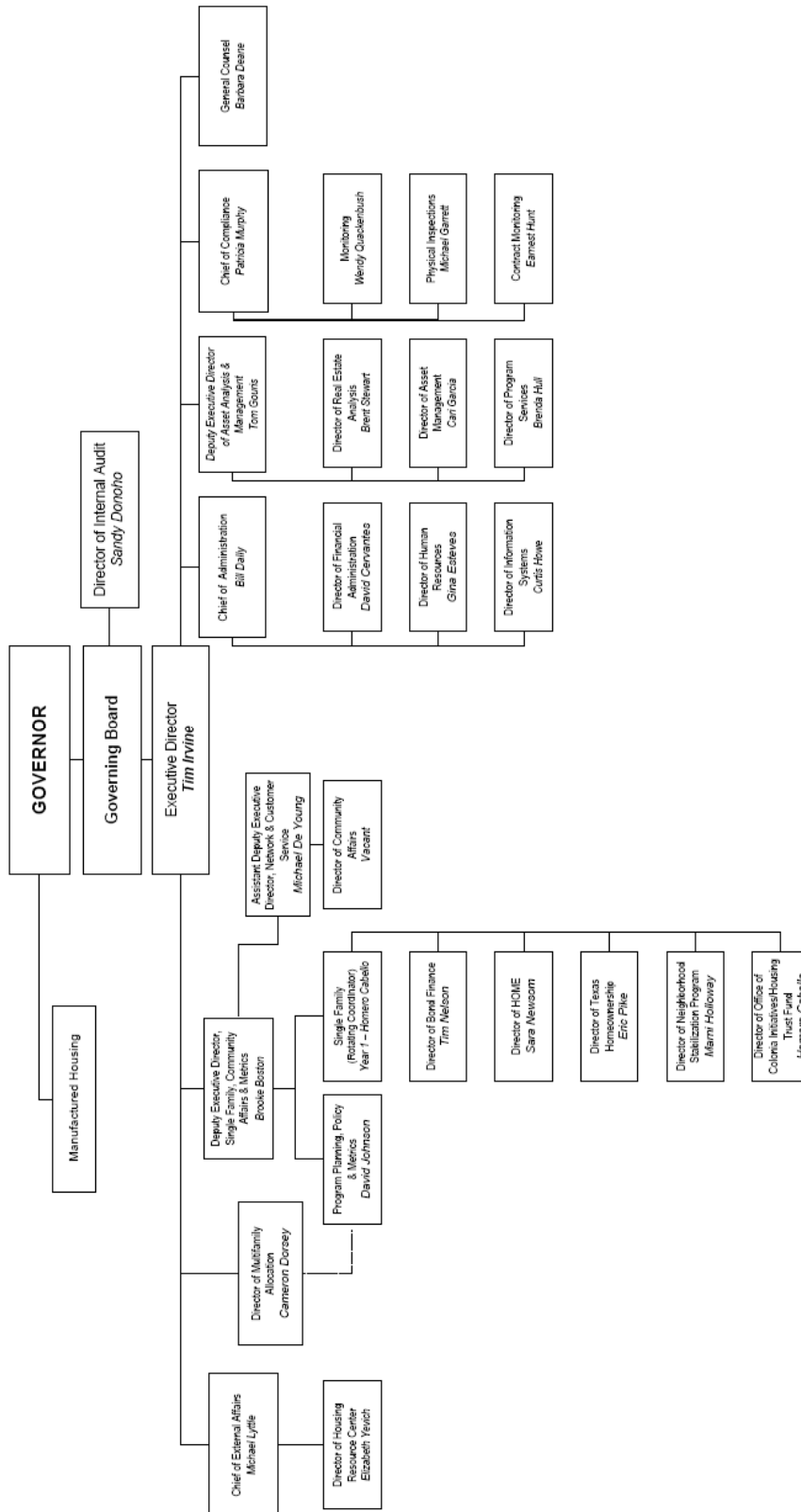
Finally, TDHCA uses enterprise risk management as part of the agency's planning process. Risk management identifies and measures critical operational, strategic, and environmental risks. The process involves the following steps: identify key processes, identify risks that threaten key processes, rate severity and probability of each risk, and decide what internal controls can be used to avoid/reduce risk. The results of this assessment are then used to implement risk mitigation. This activity is an important component of strategic planning because it helps to clarify the agency's key processes and ensure that they are successfully maintained.

TDHCA continues to work toward a comprehensive approach to planning, focusing on its missions, goals, and objectives, and establishing meaningful performance measures to report its progress toward those goals and objectives.



**APPENDIX B. CURRENT ORGANIZATIONAL CHART**

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**



4/27/2012

Effective: 4/27/12

## APPENDIX C. FIVE-YEAR PROJECTIONS FOR OUTCOMES

Table 1. Five-Year Projections for Outcomes\*

\*Key Outcome Measures are shown in bold.

1 Increase Availability of Safe/Decent/Affordable Housing	2012	2013	2014	2015	2016	2017
<b>1 Make Loans/Grants/Incentives to Fund/Develop/Preserve Housing</b>						
<b>% of Households/Individuals of Very Low, Low, and Moderate Income Needing Affordable Housing that Subsequently Receive Housing or Housing-Related Assistance</b>	0.44%	0.46%	0.46%	0.46%	0.46%	0.46%
<b>% of Households/Individuals of Very Low Income Needing Affordable Housing that Subsequently Receive Housing or Housing-Related Assistance</b>	0.30%	0.31%	0.31%	0.31%	0.31%	0.31%
<b>% of Households/Individuals of Low Income Needing Affordable Housing that Subsequently Receive Housing or Housing-Related Assistance</b>	0.73%	0.80%	0.80%	0.80%	0.80%	0.80%
<b>% of Households/Individuals of Moderate Income Needing Affordable Housing that Subsequently Receive Housing or Housing-Related Assistance</b>	0.56%	0.56%	0.56%	0.56%	0.56%	0.56%
% of Multi-family Rental Units Benefiting Very Low, Low and Moderate Income Households	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
<b>2 Provide Information and Technical Assistance</b>						
<b>1 Provide Info &amp; Technical Assistance for Housing and Community Services</b>						
% of Short Term and Long Term Information and Technical Assistance Requests Fulfilled Within Established Time Frames	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
<b>3 Improve Poor/Homeless Living Conditions &amp; Reduce VLI Energy Costs</b>						
<b>1 Ease Hardships for 16% of Homeless &amp; Very Low Income Persons Each Year</b>						
<b>% of Persons in Poverty that Received Homeless and Poverty-related Assistance</b>	15.34%	15.57%	15.57%	15.57%	15.57%	15.57%
% of Emergency Shelters Assisted	5.28%	8.81%	8.81%	8.81%	8.81%	8.81%
% of Persons Assisted that Achieve Incomes above Poverty Level	0.03%	0.03%	0.03%	0.03%	0.03%	0.03%
<b>2 Reduce Cost of Home Energy for 6% of Very Low Income Households</b>						
<b>% of Very Low Income Households Receiving Energy Assistance</b>	5.21%	4.82%	4.82%	4.82%	4.82%	4.82%
<b>4 Ensure Compliance with Program Mandates</b>						
<b>1 Monitor Developments and Subrecipient Contracts for Compliance</b>						
% of Properties Monitored Annually	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
% of Properties Monitored by the PMC Division that Are in Material Non-compliance	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%

*Appendix C. Five Year Projections for Outcomes*

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<b>5 Regulate Manufactured Housing Industry</b>	2012	2013	2014	2015	2016	2017
<b>1 Operate a Regulatory System Ensure Responsive SOL/Licensing/Other</b>						
% of Applications Processed within Established Time Frames	95.00%	100.00%	100.00%	100.00%	100.00%	100.00%
<b>% of Consumer Complaint Inspections Conducted within 30 Days of Request</b>	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
<b>% of Complaints Resulting in Disciplinary Action</b>	12.00%	20.00 %	20.00 %	20.00 %	20.00 %	20.00 %
% of Documented Complaints Resolved within Six Months	80.00%	75.00%	75.00%	75.00%	75.00%	75.00%
Recidivism Rate for those Receiving Disciplinary Action	26.00%	20.00%	20.00%	20.00%	20.00%	20.00%

## **APPENDIX D. LIST OF MEASURE DEFINITIONS**

The following Outcome, Output, Efficiency, and Explanatory Measure definitions were provided to the Governor's Office and the Legislative Budget Board in April 2012 for utilization by the Department during SFY 2014-2015 biennium.

### **OUTCOME MEASURE DEFINITIONS**

#### 1.1.1 Outcome

**Definition:** The percentage of households/individuals of very low, low, and moderate income that need housing and subsequently receive housing or housing related assistance represents services provided by the Housing Trust program, the HOME program, the Section 8 program, the Housing Tax Credit program, the First Time Homebuyer program, the Multifamily Bond program and other housing funds.

**Data Limitations:** The Department contracts with local entities to administer its various housing programs. The intake, eligibility review, and actual service is provided at the local level. The reporting of households served is provided by the contracted entity. Reported performance is considered reliable.

**Data Source:** The number of households served is maintained by each housing program and reported quarterly. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The percentage of households assisted is based on: (numerator) an actual count of households/individuals using TDHCA's housing programs and (denominator) the most recent census data of Texans who need affordable housing.

**Purpose:** This measure addresses the extent to which services are provided by all housing programs and calculates the level of service compared to the need. This measure is important because it identifies the total population in need and of that population identifies how many households/individuals the housing programs were able to serve.

#### 1.1.2 Outcome

**Definition:** The percentage of very low income households receiving housing assistance represents services provided by the Housing Trust program, the HOME program, the Section 8 program, the Housing Tax Credit program, the First Time Homebuyer program, the Multifamily Bond program and other housing funds..

**Data Limitations:** The Department contracts with local entities to administer its various housing programs. The intake, eligibility review, and actual service are provided at the local level. The reporting of households served is provided by the contracted entity. Reported performance is considered reliable.

**Data Source:** The number of very low income households served is maintained by each housing program and reported quarterly. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The percentage of households of very low income served with housing or housing related assistance is based on: (numerator) an actual count of households/individuals using TDHCA's housing programs and (denominator) the most recent census data of very low income Texans who need affordable housing.

Purpose: The measure addresses the extent to which services are provided by all housing programs for very low income households and calculates the level of service provided to the very low income population.

#### 1.1.3 Outcome

Definition: The percentage of low income households receiving housing assistance represents services provided by the Housing Trust program, the HOME program, the Section 8 program, the Housing Tax Credit program, the First Time Homebuyer program, the Multifamily Bond program and other housing funds.

Data Limitations: The Department contracts with local entities to administer its various housing programs. The intake, eligibility review, and actual service are provided at the local level. The reporting of households served is provided by the contracted entity. Reported performance is considered reliable.

Data Source: The number of low income households served is maintained by each housing program and reported quarterly. Data is entered by staff and maintained in the agency's computer system.

Methodology: The percentage of low income households served with housing or housing related assistance is based on: (numerator) an actual count of households/individuals using TDHCA's housing programs and (denominator) the most recent census data of low income Texans who need affordable housing.

Purpose: The measure addresses the extent to which services are provided by all housing programs for low income households and calculates the level of service provided to the low income population. This measure is important because it identifies, of the number of low income, how many low income households/individuals the housing programs were able to serve.

#### 1.1.4 Outcome

Definition: The percentage of moderate income households receiving housing assistance represents services provided by the First Time Homebuyer program and other housing funds.

Data Limitations: The Department contracts with a Master Servicer to maintain data of households served. The intake, eligibility review and actual service is provided by the participating lender. The reporting of households served is also provided by the Master Servicer. Reported performance is considered reliable.

Data Source: The number of moderate income households served is maintained by the Single Family Bond program and reported quarterly. Data is provided by the Master Servicer, entered by staff and maintained in the agency's computer system.

Methodology: The percent of households of moderate income served with housing or housing related assistance is based on: (numerator) an actual count of moderate income households/individuals using TDHCA's housing programs and (denominator) the most recent census data of moderate income Texans who need affordable housing.

Purpose: The measure addresses the extent to which services are provided by the Single Family Bond program, which is the only housing program serving the moderate income population. This measure is important because it identifies, of the number of moderate

## *Appendix D: List of Measure Definitions*

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income, how many moderate income households/individuals the Single Family Bond program was able to serve.

### 1.1.5 Outcome

**Definition:** Under the multifamily bond programs, developers/borrowers can designate either 20% of the units in each property at 50% area median family income or 40% of the units at 60% area median family income. It is not possible to determine on a projection basis the overall percentage of units within these categories that will be financed in a given year.

**Data Limitations:** The number of units available for very low and low income households is reported by the project developer. Performance depends on the allocation of volume cap by state lottery conducted by the Texas Bond Review Board.

**Data Source:** The number of very low and low income households served is maintained by the Multifamily Bond program and reported quarterly. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** To calculate the percentage of units financed at the end of the year for any category, divide the number of total units within each category by the number of total units financed.

**Purpose:** The measure addresses the number of units in a development that have been designated for very low and low income families. This measure is important because it measures how effectively the Multifamily Bond program has been in providing rental units to very low and low income households/individuals.

### 2.1.1 Outcome

**Definition:** This measure tracks the percentage of information and technical assistance requests completed within established time frames by the Center for Housing Research, Planning, and Communications.

**Data Limitations:** No limitations

**Data Source:** The receipt and response to requests is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The percent of requests completed on time will be based on (numerator) total requests completed by the deadline established and (denominator) the total amount of requests completed.

**Purpose:** To ensure that the Department is responding to consumer information and technical assistance requests in a timely manner.

### 3.1.1 Outcome

**Definition:** The percentage of the population eligible for homeless and poverty-related assistance that receives assistance is derived by dividing the number of persons assisted through these programs by the total number of persons eligible for assistance in Texas.

**Data Limitations:** No limitations of data.

**Data Source:** The number of persons served is based on subrecipient data which is tracked on a daily basis and submitted monthly to TDHCA. The most recent census data, including

projections, is utilized to determine the eligible population. The eligible population is based on current TDHCA program income requirement as allowed under federal guidelines.

**Methodology:** Based on the monthly performance reports submitted by subrecipients, the Department determines the percent of very low income persons served by dividing the total number of low income persons (at or below 125% of poverty) by the total number of persons eligible for assistance in Texas. Monthly performance information is entered in the Department's database and maintained by the Department.

**Purpose:** The measure identifies the percent of the income eligible population assisted by Community Services programs. This measure is important because it identifies the impact Community Services programs have had on the target population.

### 3.1.2 Outcome

**Definition:** The percent of emergency shelters assisted is based on the number of shelters/service providers assisted through ESGP funds during the fiscal year. Each project funded through ESGP subrecipients is counted as a shelter assisted.

**Data Limitations:** No limitations of data.

**Data Source:** The total number of shelters is determined by counting the number of shelters/services providers included in the ESGP mailing list maintained by the Community Services section. The Department counts each project funded through ESGP subrecipients as a shelter assisted. The Department tracks this information from contract records.

**Methodology:** The percent of emergency shelters assisted is based on the number of shelters/service providers assisted through ESGP funds during the fiscal year divided by the number of homeless shelters/service providers that exist in Texas.

**Purpose:** The measure identifies the percent of all homeless shelters/service providers in Texas that receive assistance in a fiscal year. This measure is important because it indicates how effective the program has been in providing assistance to emergency shelters in the State.

### 3.1.3 Outcome

**Definition:** The percent of persons assisted in the CSBG program that achieve incomes above 125% of poverty is the number of persons assisted that achieve incomes above 125% of poverty, and maintain that income level for a minimum of 90 days, divided by the total number of persons at or below 125% of poverty in Texas.

**Data Limitations:** No limitations.

**Data Source:** The number of persons achieving incomes above poverty is based on monthly reports submitted by subrecipients. The data is entered on the Department's database and maintained by the Department. The most recent census data information available is utilized to determine the total population at or above 125% of poverty in Texas.

**Methodology:** The percentage of very low income persons assisted by the CSBG programs (persons at or below 125% of poverty) maintaining that level of income for a minimum of 90 days divided by the total number of persons at or below 125% of poverty in Texas using the most recent census data available. Information on the number of persons assisted is submitted to the Department by subrecipients.

## *Appendix D: List of Measure Definitions*

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Purpose: CSBG Subrecipients are required to track the number of persons assisted that achieve incomes above 125% of poverty as a result of efforts by the subrecipients.

### 3.2.1 Outcome

Definition: This measure reflects the percentage of very low income households receiving energy assistance represents all Energy Assistance programs. Information on the number of households assisted is submitted to the Department by subrecipients. A household may be assisted by more than one Energy Assistance program activity depending on need.

Data Limitations: No limitations of data.

Data Source: The percent of income-eligible households that received energy assistance through all Energy Assistance programs is based on monthly data reported by subrecipients. The income eligible population is based on the most recent census data available, including projections.

Methodology: The data is entered in an automated system and maintained by the Department. The percent of very low income households receiving energy assistance is calculated by dividing the number of very low income households receiving CEAP or WAP assistance by the most current census data representing the number of households meeting current program income requirements. Number may reflect households receiving both energy assistance and weatherization assistance; in these instances households are counted separately for each program.

Purpose: The measure identifies the percent of the very low income population assisted by Energy Assistance programs. This measure indicates how effectively the Department has provided energy related services to the target population and the impact of the programs statewide.

### 4.1.1 Outcome

Definition: Measure represents the percentage of Housing Tax Credit (HTC), Affordable Housing Disposition, HOME, Tax-Exempt Bond, Housing Trust Fund, and other affordable housing rental projects monitored annually through on-site, in-depth, or desk reviews of tenant files. Onsite reviews also include a property and unit inspection.

Data Limitations: No limitations of data.

Data Source: Projects are monitored through on-site, in-depth, or desk reviews. Data is gathered from Departmental databases.

Methodology: The percent is derived by dividing the actual number of rental projects monitored by the total number of rental projects required to be monitored in the TDHCA Compliance portfolio.

Purpose: The Compliance section was formed to address long term compliance responsibilities of the various housing programs administered by TDHCA. The measure is important because it identifies the percent of projects monitored. Each program dictates the frequency and type of monitoring.

### 4.1.2 Outcome

Definition: Measure represents the percentage of Housing Tax Credit (HTC), Affordable Housing Disposition, HOME, Tax-Exempt Bond, Housing Trust Fund, and other affordable



housing rental developments monitored that are determined to be in material non-compliance. Material non-compliance is identified through on-site monitoring reviews and in-depth desk reviews.

Data Limitations: No limitations.

Data Source: Information is tracked in Departmental databases.

Methodology: The percent is derived by dividing the total number of rental developments in material non-compliance by the number of rental developments monitored.

Purpose: This measure will report the developments that are in "material non-compliance" status.

#### 5.1.1 Outcome

Definition: The percentage of Statement of Ownership & Location (SOL) and License applications processed within established time frames as opposed to those that are not.

Data Limitations: No limitations of data.

Data Source: Both the Statement of Ownership & Location and Licensing functional areas of the Manufactured Housing Division review a random selection of 25 or more applications (per month) within a reporting period.

Methodology: To obtain the percentage, divide the number of applications that are processed within the required time frame by the total number reviewed by random selection. The percentage is attained by combining the results of the SOL and Licensing functional areas. Information is manually prepared.

Purpose: Applications are processed within established time frames. The time frame for SOL applications is 15 working days; the time frame for Licensing applications is 7 working days. The importance is to measure the ability of the agency to process applications in a timely manner.

#### 5.1.2 Outcome

Definition: The percentage of consumer complaint inspections conducted within 30 days is based on the number of consumer and industry requested inspections completed within 30 calendar days from the date that an inspection is requested.

Data Limitations: No limitations of data.

Data Source: Information is maintained in the Exodus Database.

Methodology: To obtain the percentage, divide the total number of inspections conducted within the required 30 calendar days by the total number of required inspections conducted within the reporting period.

Purpose: Consumer complaints must be addressed as required by the Act. The importance is to measure the ability of the agency to conduct consumer complaint inspections in a timely manner and to comply with the requirements set forth in the Act.

#### 5.1.3 Outcome

Definition: The percentage of complaints that result in disciplinary action, including agreed orders, reprimands, warnings, suspensions, probation, revocation, restitution and/or penalties on which the board or executive director has acted when violations cannot be resolved informally.

## *Appendix D: List of Measure Definitions*

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Data Limitations: No limitations of data.

Data Source: Information is maintained in the Exodus Database.

Methodology: To obtain the percentage, divide the number of closed complaints with a disciplinary action by the total number of jurisdictional complaints closed.

Purpose: Efforts are made to informally resolve complaints. Violations of manufactured housing standards that cannot be resolved result in disciplinary actions. It is important that the consumers and the manufactured housing industry have an expectation that the agency will ensure fair and effective enforcement of the Act.

### 5.1.4 Outcome

Definition: The percentage of complaints resolved within a period of 6 months (183 days) or less from the date of receipt as opposed to complaints which take longer than six months to resolve.

Data Limitations: No limitations of data.

Data Source: Information is maintained in the Exodus Database.

Methodology: The number of jurisdictional complaints resolved within a period of six months (183 days) or less from the date of receipt divided by the total number of jurisdictional complaints resolved.

Purpose: Of the number of complaints resolved, the measure identifies those complaints that have been resolved within six months. It is important to ensure the timely enforcement of the Act, which is an agency goal.

### 5.1.5 Outcome

Definition: The recidivism rate for those receiving disciplinary action is the percentage of offenders who were repeat offenders during the most recent three-year period. A repeat offender is an individual or license holder with two or more disciplinary actions taken by the executive director or board within the current and preceding two fiscal years.

Data Limitations: No limitations of data.

Data Source: Information is maintained in the Exodus Database.

Methodology: To obtain the percentage, calculate the number of individuals or license holders against whom two or more disciplinary actions were taken by the executive director or board within the current and preceding two fiscal years divided by the total number of individuals or license holders receiving disciplinary actions within the current and preceding two fiscal years.

Purpose: The measure is intended to show how effectively the agency enforces its regulatory requirements and prohibitions. It is important that the agency enforce its act and rules strictly enough to ensure that consumers are protected from unsafe, incompetent and unethical practices by the license holder.

## **OUTCOME, EFFICIENCY, AND EXPLANATORY MEASURE DEFINITIONS**

### 1.1.1.1 Efficiency

Definition: A measure that tracks the average First Time Homebuyer Program loan amount without down payment assistance.

Data Limitations: No limitations

**Data Source:** The number and amounts of the loans are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The total amount of the loans will be summed and divided by the corresponding number of households.

**Purpose:** This measure identifies the costs and efficiency of loans without down payment assistance made through the First Time Homebuyer Program.

#### 1.1.1.2 Efficiency

**Definition:** A measure that tracks the average First Time Homebuyer loan with down payment assistance.

**Data Limitations:** No limitations

**Data Source:** The number and amounts of the loans are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The total dollar amount of loans will be summed and divided by the corresponding number of loans.

**Purpose:** This measure identifies the costs and efficiency of loans with down payment assistance made through the First Time Homebuyer Program.

#### 1.1.1.3 Efficiency

**Definition:** A measure that tracks the average Mortgage Credit Certificate (MCC) amount.

**Data Limitations:** There are no data limitations.

**Data Source:** The numbers and amounts of the MCCs are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The total dollar amount of the MCCs will be summed and divided by the number of MCCs.

**Purpose:** This measure identifies the cost and efficiency of MCCs.

#### 1.1.1.1 Explanatory

**Definition:** A measure that tracks the number of households receiving loans without down payment assistance through the First Time Homebuyer Program.

**Data Limitations:** No Limitations

**Data Source:** The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The number will be a count of loans without down payment assistance funded through the First Time Homebuyer Program.

**Purpose:** To track the amount households receiving loans without down payment assistance through the First Time Homebuyer Program.

#### 1.1.1.2 Explanatory

**Definition:** A measure that tracks the number of households receiving loans with down payment assistance through the First Time Homebuyer Program.

**Data Limitations:** No limitations

**Data Source:** The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

## *Appendix D: List of Measure Definitions*

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**Methodology:** The number will be a count of loans with down payment assistance funded through the First Time Homebuyer Program. Performance is measured when loans are funded.

**Purpose:** To track the number of households receiving loans with down payment assistance through the First Time Homebuyer Program.

### 1.1.1.3 Explanatory

**Definition:** A measure that tracks the number of Mortgage Credit Certificates (MCCs).

**Data Limitations:** There are no data limitations.

**Data Source:** The number of MCCs is tracked by the Single Family Finance Production Division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The number will be a count of the issued MCCs.

**Purpose:** This measure identifies the number of households receiving MCCs.

### 1.1.1.4. Explanatory

**Definition:** A measure that tracks the estimated impact of First Time Homebuyer Program activities on local employment.

**Data Source:** The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** Impact on local employment is calculated using the economic impact model provided by the Texas Comptroller of Public Accounts, the National Association of Home Builders' local impact model, or other appropriate model.

**Purpose:** This measure identifies the estimated economic impact of First Time Homebuyer Program activities on local employment.

### 1.1.1.1 Output

**Definition:** A measure that tracks the number of households assisted with single family mortgage revenue bond funds or other alternative mortgage financing.

**Data Limitations:** No limitations

**Data Source:** The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The number will be a count of households assisted through the single family bond funds or other alternative mortgage financing and mortgage credit certificates. Performance is measured when loans are funded or Mortgage Credit Certificates are issued.

**Purpose:** To track the total number of households assisted with single family mortgage revenue bond funds or other alternative mortgage financing.

### 1.1.2.1 Efficiency

**Definition:** A measure that tracks the average amount per unit of HOME loans/grants awarded in support of single family development and redevelopment activities, including new construction infill development.

**Data Limitations:** No limitations

Data Source: The number and amounts of the grants and loans are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The total dollar amount of new construction, including new construction under single family development or redevelopment activities utilizing HOME funds will be totaled and divided by the awarded number of units assisted through single family development or redevelopment utilizing HOME funds.

Purpose: This measure identifies the costs associated with new construction and other single family development and redevelopment activities utilizing HOME funds.

#### 1.1.2.2 Efficiency

Definition: A measure that tracks the average amount per household of loans/grants for rehabilitation or reconstruction of housing utilizing single family HOME Homeowner Rehabilitation Assistance (HRA) funds.

Data Limitations: No limitations

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The total dollar amount of rehabilitation or reconstruction of owner-occupied housing utilizing HOME funds will be summed and divided by the number of households awarded through rehabilitation or reconstruction of housing utilizing single family HOME Homeowner Rehabilitation Assistance (HRA) funds.

Purpose: This measure identifies the costs associated with rehabilitation or reconstruction of owner-occupied housing utilizing HOME funds.

#### 1.1.2.3 Efficiency

Definition: A measure that tracks the average amount per household of mortgage financing and homebuyer assistance utilizing single family HOME funds, including mortgage financing and homebuyer assistance provided in conjunction with home modifications or rehabilitation..

Data Limitations: No limitations

Data Source: The amounts of the financing and grants and number of units are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The total dollar amount of mortgage financing and homebuyer assistance funds, inclusive of funding provided for associated modification or rehabilitation, awarded utilizing HOME funds will be summed and divided by the number of units awarded through financing and homebuyer assistance activities.

Purpose: This measure identifies the costs associated with financing affordable housing utilizing HOME funds.

#### 1.1.2.4 Efficiency

Definition: A measure that tracks the average amount per household of tenant based rental assistance awarded with HOME funds.

Data Limitations: No limitations

Data Source: The amounts of the financing and grants and number of units are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

## *Appendix D: List of Measure Definitions*

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**Methodology:** The total dollar amount of tenant based rental assistance awarded with HOME funds will be summed and divided by the number of households awarded through tenant based rental assistance utilizing HOME funds.

**Purpose:** This measure identifies the costs associated with tenant based rental assistance utilizing HOME funds.

### 1.1.2.5. Efficiency

**Definition:** A measure that tracks the average amount of loans and grants per low income unit awarded HOME multifamily funds.

**Data Source:** The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated by dividing the amount of HOME multifamily funds awarded by the corresponding number of restricted units to be developed, through new construction or rehabilitation.

**Purpose:** This measure identifies the loan/grant amount associated with developing housing units and measures the efficiency of utilizing HOME multifamily funds.

### 1.1.2.1 Explanatory

**Definition:** A measure that tracks the number of households awarded HOME funds provided in support of single family development and redevelopment activities, including construction, acquisition, and/or rehabilitation.

**Data Limitations:** No limitations

**Data Source:** The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The number will be a count of households awarded HOME funds provided in support of single family development and redevelopment activities, including new construction, acquisition, and/or rehabilitation. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

**Purpose:** To track the number of households assisted utilizing HOME funds provided in support of single family development and redevelopment activities, including new construction, acquisition, and/or rehabilitation.

### 1.1.2.2 Explanatory

**Definition:** A measure that tracks the number of households awarded through single family HOME funds for rehabilitation or reconstruction utilizing single family HOME Homeowner Rehabilitation Assistance (HRA) funds..

**Data Limitations:** No limitations

**Data Source:** The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** The number will be a count of projected households assisted through HOME funds for rehabilitation or reconstruction of owner-occupied housing. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

Purpose: To track the number of households awarded through HOME funds for rehabilitation or reconstruction utilizing single family Homeowner Rehabilitation Assistance (HRA) HOME funds.

#### 1.1.2.3 Explanatory

Definition: A measure that tracks the projected number of households awarded through single family HOME funds for mortgage financing and homebuyer assistance, including mortgage financing, homebuyer assistance provided in conjunction with home modification or rehabilitation..

Data Limitations: No limitations

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of households awarded through HOME funds for mortgage financing and homebuyer assistance, including households receiving home modification rehabilitation with these. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

Purpose: To track the number of households awarded through HOME funds for mortgage financing and homebuyer assistance, including mortgage financing and homebuyer assistance provided in conjunction with home modification or rehabilitation.

#### 1.1.2.4 Explanatory

Definition: A measure that tracks the number of households awarded HOME tenant based rental assistance.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of households awarded HOME tenant based rental assistance. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

Purpose: To track the number of households awarded with HOME tenant based rental assistance.

#### 1.1.2.5 Explanatory

Definition: A measure that tracks the average amount of loans and grants per low income unit awarded HOME multifamily funds.

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the amount of HOME multifamily funds awarded by the corresponding number of restricted units to be developed, through new construction or rehabilitation.

Purpose: This measure identifies the loan/grant amount associated with developing housing units and measures the efficiency of utilizing HOME multifamily funds.

## *Appendix D: List of Measure Definitions*

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### 1.1.2.6 Explanatory

Definition: A measure that tracks the estimated impact of HOME Multifamily activities on local employment.

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: Impact to local employment is calculated using the economic impact model provided by the Texas Comptroller of Public Accounts, the National Association of Home Builders' local impact model, or other appropriate model.

Purpose: This measure identifies the direct economic impact of HOME Multifamily activities on local employment.

### 1.1.2.1 Output

Definition: A measure that tracks the number of households awarded through single family HOME funds .

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of households assisted through single family HOME funds. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

Purpose: To track the amount of households awarded through single family HOME funds.

### 1.1.2.3. Output

Definition: A measure that tracks the number of households assisted with multifamily HOME funds.

Data Limitations: No limitations.

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This measure will be calculated as the sum of all restricted units awarded HOME funds for rental development. Numbers may reflect units receiving both HOME funds and Housing Tax Credit assistance; in these instances units are counted separately for each program.

Purpose: To track the amount of multifamily units assisted utilizing HOME funds.

### 1.1.3.1 Efficiency

Definition: A measure that tracks the average amount per unit of loans/grants for single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund.

Data Limitations: No limitations

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The total dollar amount of Bootstrap loans/grants utilizing the Housing Trust Fund will be summed and divided by the number of households assisted through the Bootstrap Program utilizing the Housing Trust Fund. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.



Purpose: This measure identifies the costs associated with the single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund.

#### 1.1.3.2 Efficiency

Definition: A measure that tracks the average amount per unit of loans/grants for single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The total dollar amount of loans/grants for rehabilitation utilizing the Housing Trust Fund will be summed and divided by the number of non-Bootstrap single households assisted utilizing the Housing Trust Fund. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

Purpose: This measure identifies the costs associated with the single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund.

#### 1.1.3.1 Explanatory

Definition: A measure that tracks the number of households assisted through the single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of households assisted through the single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

Purpose: To track the number of households assisted through the single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund.

#### 1.1.3.2 Explanatory

Definition: A measure that tracks the number of households assisted through the single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of households assisted through the single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

Purpose: To track the number of households assisted through the single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund.

## *Appendix D: List of Measure Definitions*

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### 1.1.3.3. Explanatory

Definition: A measure that tracks the estimated impact of HTF Single Family activities on local employment.

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: Impact to local employment is calculated using the economic impact model provided by the Texas Comptroller of Public Accounts, the National Association of Home Builders' local impact model, or other appropriate model.

Purpose: This measure identifies the estimated economic impact of HTF Single Family activities on local employment.

### 1.1.3.4. Explanatory

Definition: A measure that tracks the estimated impact of HTF Multifamily activities on local employment.

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: Impact to local employment is calculated using the economic impact model provided by the Texas Comptroller of Public Accounts, the National Association of Home Builders' local impact model, or other appropriate model.

Purpose: This measure identifies the direct economic impact of HTF Multifamily activities on local employment.

### 1.1.3.1 Output

Definition: A measure that tracks the number of single family households assisted through the HTF program.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of households assisted through single family HTF funds. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.

Purpose: To track the amount of households assisted through single family HTF funds.

### 1.1.4.1 Efficiency

Definition: The average cost per household served represents an average of TDHCA administrative expenditures.

Data Limitations: No limitations

Data Source: Expenditures are tracked through the Department's financial automated system.

Methodology: The average cost per household served is the sum of TDHCA administrative expenditures divided by the total number of active contracts as of September 1 plus new contracts added over the course of the year.

Purpose: The measure identifies the efficiency in costs to provide Section 8 services to a very low income household.

#### 1.1.4.1 Output

Definition: The number of very low income households receiving rent supplements represents the total number of households participating in the Section 8 Housing Choice Voucher program.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of households assisted through Section 8 tenant based rental assistance. The performance figure reported for the first quarter represents the total number of households receiving Section 8 assistance as of September 1. Subsequent quarters report only new contracts executed for the reporting period.

Purpose: To track the amount of households assisted through Section 8 tenant based rental assistance.

#### 1.1.4.2. Output

Definition: The number of very low income persons with disabilities transitioning from institutions into community based housing that participate in the Project Access Program.

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of households assisted with Project Access tenant based rental assistance. The performance figure reported for the first quarter represents the number of households receiving Project Access assistance as of September 1. Subsequent quarters report only new contracts executed for the reporting period.

Purpose: To track the amount of persons with disabilities transitioning from institutions into community based housing through the Project Access Program.

#### 1.1.5.1 Efficiency

Definition: A measure that tracks the projected average amount of annual credits per low income unit of new construction utilizing the Housing Tax Credit program.

Data Limitations: Federal regulations establish the amount and value of tax credits available.

Data Source: The projected number of low income units and amount of credits for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the sum of total new construction tax credits awarded by the number of restricted units to be newly constructed. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.

Purpose: This measure identifies the subsidy associated with developing affordable housing units and measures the efficiency of allocating tax credits.

## *Appendix D: List of Measure Definitions*

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### 1.1.5.2 Efficiency

Definition: A measure that tracks the average total development costs per unit of new construction utilizing the Housing Tax Credit program.

Data Limitations: Information is based on preliminary estimates by the applicants.

Data Source: The projected total number of units in the development and total development costs for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the sum of total new construction development costs by the number of restricted units to be newly constructed. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.

Purpose: This measure identifies the total development costs associated with developing affordable housing units. Although useful to track, this measure is outside of the Department's control.

### 1.1.5.3 Efficiency

Definition: A measure that tracks the projected average amount of credits per rehabilitated and acquired low income unit utilizing Housing Tax Credits.

Data Limitations: Federal regulations establish the amount and value of tax credits available.

Data Source: The projected number of low income units and amount of credits for rehabilitation and acquisition is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the sum of total annual rehabilitation tax credits awarded by the number of restricted units to be rehabilitated. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.

Purpose: This measure identifies the subsidy associated with rehabilitating and acquiring affordable housing and measures the efficiency of allocating tax credits.

### 1.1.5.4 Efficiency

Definition: A measure that tracks the average total development costs per rehabilitated and acquired unit utilizing Housing Tax Credits.

Data Limitations: Information is based on preliminary estimates by the applicants.

Data Source: The total development costs and the projected total number of units in the development are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the sum of total rehabilitation development costs by the number of restricted units to be rehabilitated. This calculation will

include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.

Purpose: This measure identifies the total development costs associated with rehabilitating and acquiring affordable housing.

#### 1.1.5.1 Explanatory

Definition: A measure that tracks the projected number of low income new construction units assisted through the Housing Tax Credit program.

Data Limitations: Federal regulations establish the amount of tax credits available.

Data Source: The projected number of units is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of all units to be newly constructed as proposed in awarded applications. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.

Purpose: To track the number of new construction units assisted through the Housing Tax Credit program.

#### 1.1.5.2 Explanatory

Definition: A measure that tracks the projected number of low income rehabilitation and acquisition units assisted through the Housing Tax Credit program.

Data Limitations: Federal regulations establish the amount of tax credits available.

Data Source: The projected number of units is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of all units to be rehabilitated as proposed in awarded applications. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.

Purpose: To track the number of rehabilitation and acquisition units assisted through the Housing Tax Credit program.

#### 1.1.5.3. Explanatory

Definition: A measure that tracks the estimated impact of Housing Tax Credit Development activities on local employment.

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

## *Appendix D: List of Measure Definitions*

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**Methodology:** Impact to local employment is calculated using the economic impact model provided by the Texas Comptroller of Public Accounts, the National Association of Home Builders' local impact model, or other appropriate model. This may include separate models for Elderly and Non-Elderly Housing Tax Credit Developments based upon development characteristics.

**Purpose:** This measure identifies the estimated economic impact of Housing Tax Credit Development activities on local employment.

### 1.1.5.1 Output

**Definition:** A measure that tracks the projected number of low income units financed through the multifamily division utilizing Housing Tax Credits.

**Data Limitations:** No limitations

**Data Source:** The number of units is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated as the sum of all units to be newly constructed or rehabilitated as proposed in awarded applications. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.

**Purpose:** To track the total amount of multifamily units assisted utilizing the Housing Tax Credit program.

### 1.1.6.1 Efficiency

**Definition:** A measure that tracks the projected average amount or loans/grants per low income unit of new construction utilizing HOME multifamily funds.

**Data Limitations:** No limitations

**Data Source:** The projected number of low income units and amount of funds utilized for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated by dividing the amount of HOME multifamily new construction funds awarded by the corresponding number of restricted units to be newly constructed. This figure will not include Operating Grants or Predevelopment Loans.

**Purpose:** This measure identifies the loan/grant amount associated with developing housing units and measures the efficiency of utilizing HOME multifamily funds.

### 1.1.6.2 Efficiency

**Definition:** A measure that tracks the projected average amount per low income unit of rehabilitation and acquisition utilizing HOME multifamily funds.

**Data Limitations:** No limitations

**Data Source:** The projected number of low income units and amount of funds utilized for rehabilitation and acquisition is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated by dividing the amount of HOME multifamily rehabilitation/acquisition funds awarded by the corresponding number of units to be rehabilitated or acquired. This figure will not include Operating Grants or Predevelopment Loans.

**Purpose:** This measure identifies the amount associated with the rehabilitation and acquisition of affordable housing units and measures the efficiency of utilizing HOME multifamily funds.

#### 1.1.6.1 Explanatory

**Definition:** A measure that tracks the projected number of households assisted utilizing multifamily HOME funds for new construction.

**Data Limitations:** No limitations

**Data Source:** The projected number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated as the sum of all restricted units awarded HOME multifamily funds for new construction activities. This figure will not include Operating Grants or Predevelopment Loans.

**Purpose:** To track the number of households assisted utilizing HOME funds for new construction.

#### 1.1.6.2 Explanatory

**Definition:** A measure that tracks the projected number of households assisted utilizing multifamily HOME funds for rehabilitation and acquisition.

**Data Limitations:** No limitations

**Data Source:** The projected number of units is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated as the sum of all restricted units awarded HOME multifamily funds for rehabilitation or acquisition activities. This figure will not include Operating Grants or Predevelopment Loans.

**Purpose:** To track the number of households assisted utilizing HOME multifamily funds for rehabilitation and acquisition.

#### 1.1.6.3. Explanatory

**Definition:** A measure that tracks the estimated impact of Multifamily MRB Development activities on local employment

**Data Source:** The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** Impact to local employment is calculated using the economic impact model provided by the Texas Comptroller of Public Accounts, the National Association of Home Builders' local impact model, or other appropriate model. This may include separate models for Eldery and Non-Eldery MRB Developments, based on development characteristics.

**Purpose:** This measure identifies the estimated economic impact of Multifamily MRB Development activities on local employment.

## *Appendix D: List of Measure Definitions*

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### 1.1.6.4 Explanatory

Definition: A measure that tracks the number of multifamily technical assistance visits, e-mail messages and phone calls provided by HOME Division staff.

Data Limitations: No limitations

Data Source: Staff tracks the number of multifamily technical assistance visits, e-mail messages and phone calls related to multifamily technical assistance in the division's database.

Methodology: The number will be a count of actual multifamily technical assistance visits, e-mail messages and phone calls supported by staff to contract administrators or those seeking to apply for funding.

Purpose: This measure identifies the number of multifamily technical assistance visits, e-mail messages and phone calls provided by the HOME Division staff.

### 1.1.6.5 Explanatory

Definition: A measure that tracks the actual number of multifamily workshops and trainings provided through the HOME Division.

Data Limitations: No limitations

Data Source: The total number of multifamily workshops and trainings is tracked by Department staff.

Methodology: The number will be an actual count of multifamily workshops and trainings provided through the HOME Division. This will include application, implementation, and any other workshops or trainings provided by HOME Division staff for the HOME program.

Purpose: This measure identifies the number of multifamily workshops and trainings provided through the HOME Division staff for the purposes of administering a HOME contract.

### 1.1.6.1 Output

Definition: A measure that tracks the projected number of households assisted through the multifamily division utilizing HOME funds.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of all restricted units awarded HOME funds for rental development activities by the MF Division. This figure will not include CHDO Operating Grants or Predevelopment Loans.

Purpose: To track the total amount of multifamily units assisted utilizing HOME funds.

### 1.1.7.1 Efficiency

Definition: A measure that tracks the projected average loan/grant amount per low income unit of Housing Trust Fund (HTF) multifamily new construction.

Data Limitations: No limitations

Data Source: The projected number of low income units and amount of funds is tracked by the division. Data is entered by staff and maintained in the agency's computer system.



**Methodology:** This figure will be calculated by dividing the sum of all funds awarded for new rental development activities by the total number of estimated units as represented in applications to be newly constructed.

**Purpose:** This measure identifies the average costs associated with developing affordable multifamily housing units and measures the efficiency of awarding HTF monies.

#### 1.1.7.2 Efficiency

**Definition:** A measure that tracks the average loan/grant amount per low income unit of Housing Trust Fund (HTF) multifamily rehabilitation and acquisition.

**Data Limitations:** No limitations

**Data Source:** The projected number of low income units and amount of funds is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated by dividing the sum of all funds awarded for rehabilitation rental development activities by the total number of estimated units as represented in applications to be rehabilitated.

**Purpose:** This measure identifies the costs associated with rehabilitating and acquiring affordable multifamily housing units and measures the efficiency of awarding HTF monies

#### 1.1.7.1 Explanatory

**Definition:** A measure that tracks the projected number of multifamily households assisted through new construction activities using the Housing Trust Fund (HTF) program.

**Data Limitations:** No limitations

**Data Source:** The projected number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated as the sum of all restricted units planned to be developed through new construction.

**Purpose:** To track the number of multifamily households assisted through new construction activities using the HTF program.

#### 1.1.7.2 Explanatory

**Definition:** A measure that tracks the projected number of multifamily households assisted through rehabilitation and acquisition activities using the Housing Trust Fund (HTF) program.

**Data Limitations:** No limitations

**Data Source:** The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated as the sum of all restricted multifamily units planned to be rehabilitated.

**Purpose:** To track the number of multifamily households assisted through rehabilitation and acquisition using the HTF program.

#### 1.1.7.3 Explanatory

**Definition:** This measure tracks the awards using HTF that are not tracked by other performance measures including capacity building and predevelopment loans.

**Data Limitations:** No limitations

## *Appendix D: List of Measure Definitions*

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**Data Source:** The number of awards is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated as the sum of awards using HTF that are not captured in other performance measures. This will include, but is not limited to, capacity building and predevelopment loans.

**Purpose:** To track the awards made with HTF that are not tracked by other existing performance measures.

### 1.1.7.1 Output

**Definition:** A measure that tracks the projected number of multifamily households assisted through the multifamily division utilizing the Housing Trust Fund (HTF) program.

**Data Limitations:** No limitations

**Data Source:** The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated as the sum of all restricted units planned to be developed by applicants awarded funds for rental developments.

**Purpose:** To track the total amount of multifamily units assisted utilizing the HTF program.

### 1.1.8.1 Efficiency

**Definition:** A measure that tracks the projected average amount of bonds per low income unit of Mortgage Revenue Bond (MRB) new multifamily construction.

**Data Limitations:** No limitations

**Data Source:** The projected number of low income units and amount of bonds for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated by dividing the total value of mortgage revenue bonds awarded by the number of units to be newly constructed.

**Purpose:** This measure identifies the average amount of bonds associated with developing affordable housing and measures the efficiency of awarding multifamily MRB funds. Although useful to track, this measure is outside of the Department's control.

### 1.1.8.2 Efficiency

**Definition:** A measure that tracks the projected average total development costs per unit of Mortgage Revenue Bond (MRB) new multifamily construction.

**Data Limitations:** Information is based on preliminary estimates by the applicants.

**Data Source:** The projected total number of units in the development and total development costs for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

**Methodology:** This figure will be calculated by dividing the sum of total development costs estimated in applications by the number of units to be newly constructed.

**Purpose:** This measure identifies the costs associated with developing affordable housing units.

### 1.1.8.3 Efficiency

Definition: A measure that tracks the projected average bond amount per low income unit of multifamily Mortgage Revenue Bond (MRB) rehabilitation and acquisition.

Data Limitations: No limitations

Data Source: The projected number of low income units and amount of bonds is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the total value of mortgage revenue bonds awarded by the number of units to be rehabilitated.

Purpose: This measure identifies the average amount of bonds associated with rehabilitating and acquiring affordable housing and measures the efficiency of awarding multifamily MRB funds.

#### 1.1.8.4 Efficiency

Definition: A measure that tracks the projected average total development costs per unit of multifamily Mortgage Revenue Bond (MRB) rehabilitation and acquisition.

Data Limitations: Information is based on preliminary estimates from the applicants.

Data Source: The projected total number of units in the development and amount of total development costs is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the sum of total development costs estimated in applications by the number of units to be rehabilitated.

Purpose: This measure identifies the total development costs amount associated with rehabilitating and acquiring affordable housing units.

#### 1.1.8.1 Explanatory

Definition: A measure that tracks the projected number of households assisted through new construction activities utilizing the multifamily Mortgage Revenue Bond (MRB) program.

Data Limitations: No limitations

Data Source: The projected number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of all restricted units to be newly constructed as proposed in awarded applications.

Purpose: To track the number of households assisted through new construction units assisted utilizing multifamily MRB program.

#### 1.1.8.2 Explanatory

Definition: A measure that tracks the projected number of households assisted through rehabilitation and acquisition activities utilizing the multifamily Mortgage Revenue Bond (MRB) program.

Data Limitations: No limitations

Data Source: The projected number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of all restricted units to be rehabilitated as proposed in awarded applications.

## *Appendix D: List of Measure Definitions*

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Purpose: To track the number of households assisted through rehabilitation and acquisition activities utilizing the multifamily MRB program.

### 1.1.8.1 Output

Definition: A measure that tracks the projected number of low income units financed through the multifamily division utilizing mortgage revenue bond funds.

Data Limitations: No limitations

Data Source: The number of units is tracked by the division for each separate program. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of all restricted units to be newly constructed or rehabilitated as proposed in awarded applications.

Purpose: To track the total amount of low income multifamily units assisted utilizing mortgage revenue bond funds.

### 2.1.1.1 Output

Definition: A measure tracking the number of information and technical assistance requests completed by the Center for Housing Research, Planning, and Communications.

Data Limitations: No limitations

Data Source: The requests are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number of requests received is a total of the requests entered into the division database.

Purpose: To track the consumer information and technical assistance requests received and fulfilled.

### 2.1.1.2 Output

Definition: A measure tracking the number of short term (completed by phone) information and technical assistance requests completed by the Center for Housing Research, Planning, and Communications.

Data Limitations: No limitations

Data Source: The requests are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number of short term requests received is a total of the short term requests entered into the division database.

Purpose: To track the short term consumer information and technical assistance requests received.

### 2.1.1.3 Output

Definition: A measure tracking the number of long term (completed by email or mail) information and technical assistance requests completed by the Center for Housing Research, Planning, and Communications.

Data Limitations: No limitations

Data Source: The requests are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number of long term requests received is a total of the long term requests entered into the division database.

Purpose: To track the long term consumer information and technical assistance requests received.

#### 2.2.1.1 Output

Definition: The number of technical assistance visits is based on actual on-site technical assistance visits, telephone calls and written and electronic correspondence conducted by the field office staff. Technical assistance visits includes: meeting with local governments (cities & counties) staff and nonprofits providing agency information on programs and services more specifically providing detailed technical assistance in implementing and managing Office of Colonia Initiatives and other Department programs; follow-up on contract compliance measures with the Bootstrap Loan Program and Colonia Self-Help Centers; and general interview sessions with individuals to provide referral services to other office and agencies available to address issues of concern.

Data Limitations: No limitations.

Data Source: Actual technical assistance contacts and visits are reported by staff.

Methodology: On-site visits, e-mails and telephone calls are manually tracked by staff and maintained in the Department's database.

Purpose: The purpose of the measure is to identify the level technical assistance provided to nonprofit organizations and units of local government. This measure is important because it identifies the effectiveness of the program and compliance with legislative mandates.

#### 2.2.1.2 Output

Definition: The number of Colonia residents receiving assistance annually through the Colonia Self-Help Centers. This includes the following types of assistance: housing rehabilitation, new construction, surveying and platting, construction skills training, tool library access for self-help construction, housing finance; credit and debt counseling, infrastructure constructions and access, and capital access for mortgages, and other activities which provide direct assistance and/or benefit to Colonia residents.

Data Limitations: Deviation from targeted performance could occur if participation of Colonia residents is lower than expected or with changes in available resources.

Data Source: Actual assistance provided.

Methodology: The Self Help Centers will provide the most recent quarterly report on the assistance provided. This data will be maintained in the Department's records.

Purpose: This measure is important because it identifies the effectiveness of the program in providing assistance to Colonia residents with a wide array of services.

#### 3.1.1.1 Efficiency

Definition: The average agency administrative cost per person assisted represents personnel costs, operating costs, capital expenditures and indirect expenditures as identified in the LAR. The Department's fiscal section calculates expenditures related to personnel, operations, capital items, and indirect costs.

## *Appendix D: List of Measure Definitions*

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**Data Limitations:** A possible limitation could be limitations on obtaining expenditure data for the reported period.

**Data Source:** The total number of persons served is gathered from the subrecipients' monthly performance reports.

**Methodology:** The efficiency measure is determined by dividing the total administrative expenditure of Community Service funds by the total number of clients served in Community Service programs.

**Purpose:** The purpose of the measure shows the efficiency in costs to administer the program.

### 3.1.1.1 Explanatory

**Definition:** Figure represents the estimated number of emergency shelters in Texas.

**Data Limitations:** There is no accurate way to count the actual number of emergency shelters in Texas.

**Data Source:** The estimated number of emergency shelters is based on the total number of entities on the ESGP mailing list less those entities that do not represent shelters.

**Methodology:** Number is estimated.

**Purpose:** The purpose of the measure is to identify the number of emergency shelters available to assist homeless individuals.

### 3.1.1.2 Explanatory

**Definition:** Figure represents the most recent census data.

**Data Limitations:** Information is collected every ten years.

**Data Source:** Information is obtained from the most recent census data.

**Methodology:** Number is actual.

**Purpose:** The purpose of the measure identifies the number of persons at or below 125% of poverty (4,172,890) and identifies the number of persons in need.

### 3.1.1.3 Explanatory

**Definition:** Measure relates to the number of shelters assisted through ESGP funds.

**Data Limitations:** No limitations on data.

**Data Source:** The Department tracks information from contract records. Assistance to a shelter is reported only once a year during the quarter the contract is initiated.

**Methodology:** Performance reported is the actual number. The Department counts each project funded through ESGP contractor as a shelter assisted.

**Purpose:** The purpose of this measure is to identify the number of shelters the program is able to assist.

### 3.1.1.1 Output

**Definition:** This measure tracks the number of persons assisted through homeless and poverty related programs.

**Data Limitations:** A possible limitation could be subrecipients failing to submit required reports on a timely basis.

Data Source: Subrecipients track the data on a daily basis, incorporate it in a monthly performance report, and electronically submit the report to the Department. The monthly performance report information is entered in the Department database and maintained by the Department.

Methodology: Performance reported is actual number.

Purpose: The purpose of the measure is to identify the number of assisted through the Community Services Block Grant Program in order to gauge impact of that program.

#### 3.1.1.2 Output

Definition: Measure relates to the number of persons assisted through the Community Services Block Grant Program (CSBG) that achieve incomes above 125% of poverty level for a minimum of 90 days.

Data Limitations: A possible limitation could be subrecipients failing to submit required reports on a timely basis.

Data Source: The number of persons achieving incomes above 125% of poverty is reported in the subrecipients' monthly performance reports. Subrecipients are required to track the number of persons assisted that achieve incomes above the poverty level as a result of efforts by the subrecipients. Subrecipients report this information in their monthly performance report. The data is entered on the Department database and maintained by the Department.

Methodology: Performance reported is actual number.

Purpose: The purpose of the measure is to identify the number of persons the CSBG program has helped to achieve incomes above the poverty level.

#### 3.1.1.3 Output

Definition: This measure tracks the number of persons assisted through the Community Services Block Grant Program.

Data Limitations: Data could be limited if subrecipients fail to submit required reports on a timely basis.

Data Source: Subrecipients track the data on a daily basis, incorporate it in a monthly performance report, and electronically submit the report to the Department. The monthly performance report information is entered in the Department database and maintained by the Department.

Methodology: Performance reported is actual number.

Purpose: The purpose of the measure is to identify the number of persons at or below 125% of poverty assisted through the Community Services Block Grant Program in order to gauge impact of that program.

#### 3.1.1.4 Output

Definition: This measure tracks the number of persons assisted through the Emergency Solutions Grant Program.

Data Limitations: A possible limitation could be subrecipients failing to submit required reports on a timely basis.

## *Appendix D: List of Measure Definitions*

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**Data Source:** Subrecipients track the data on a daily basis, incorporate it in a monthly performance report, and electronically submit the report to the Department. The monthly performance report information is entered in the Department database and maintained by the Department.

**Methodology:** Performance reported is actual number.

**Purpose:** The purpose of the measure is to gauge the impact of the program in serving the needs of homeless persons and persons at-risk of homelessness.

### 3.1.1.5. Output

**Definition:** This measure tracks the number of persons assisted through the Homeless and Housing Services Program.

**Data Limitations:** A possible limitation could be subrecipients failing to submit required reports on a timely basis.

**Data Source:** Subrecipients track the data on a daily basis, incorporate it in a monthly performance report, and electronically submit the report to the Department. The monthly performance report information is entered in the Department database and maintained by the Department.

**Methodology:** Performance reported is the actual number.

**Purpose:** The purpose of the measure is to gauge the impact of the program in serving the needs of homeless persons and persons at-risk of homelessness.

### 3.2.1.1 Efficiency

**Definition:** The average cost per household served is calculated based on the number of households assisted by CEAP and WAP from the Monthly Funding Performance Report from subrecipients and the administrative expenditures report from TDHCA Budget and Accounting section.

**Data Limitations:** Performance reports received past the due date from subrecipients could result in incomplete data. Increase or decrease in funding could create a variance in the targeted goal.

**Data Source:** The average cost per household served is calculated based on the number of households assisted by CEAP and WAP from the subrecipient Monthly Funding Performance Report divided by the administrative expenditures as reported by TDHCA Budget and Accounting Section.

**Methodology:** Calculations are based on the total administrative expenditures including indirect cost for the Energy Assistance section divided by the total number of households served.

**Purpose:** The measure identifies the average administrative cost to provide service to a household.

### 3.2.1.2 Efficiency

**Definition:** The statewide average cost to weatherize a home includes the cumulative cost of labor, materials, and program support for all completed units in the state divided by the number of completed units.



Data Limitations: Increase or decrease in funding could create a variance in the targeted goal.

Data Source: Monthly expenditures and performance reports are entered by subrecipients through the Department's online reporting system.

Methodology: Calculations are based on the cumulative cost of labor, materials, and program support for all completed units in the state divided by the number of completed units.

Purpose: The measure identifies the average cost to perform weatherization on a home.

#### 3.2.1.1 Explanatory

Definition: The number of very low income households income-eligible for energy assistance in Texas is determined based on the maximum eligibility limit of 125% of the Federal OMB poverty guidelines.

Data Limitations: No limitations.

Data Source: According to the publication entitled LIHEAP Home Energy Notebook for Fiscal Year 2001, issued on April 7, 2003 (via transmittal no. LIHEAP-IM-2003-7) to LIHEAP grantees by the Office of Community Services of the US Department of Health and Human Services, the number of very income-eligible households for LIHEAP grantees by the Office of Community Services of the US Department of Health and Human Services, the number of very income-eligible households for Survey (CPS) 1999-2001.

Methodology: Data represents an actual number.

Purpose: The purpose of the measure is to identify the eligibility population of the state. It is important because it identifies the level of need in the state.

#### 3.2.1.1 Output

Definition: The number of households assisted through the Comprehensive Energy Assistance Program (CEAP) represents the number of unduplicated households receiving services under the program components, consisting of co-pay, the elderly/disabled, and the Household Crisis Program, components. Each of these program components provides stand-alone services. A household may be assisted by more than one component depending on needs.

Data Limitations: Targeted performance could be impacted by changes in funding levels, the price of energy and extremes in temperature.

Data Source: Monthly expenditures and performance reports are entered by subrecipients through the Department's online reporting system.

Methodology: Number is actual.

Purpose: The LIHEAP program provides direct financial assistance for energy needs of low income persons through the Comprehensive Energy Assistance Program (CEAP). The measure is important because it identifies the effectiveness of the CEAP program through the number of households receiving CEAP.

#### 3.2.1.2 Output

## *Appendix D: List of Measure Definitions*

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**Definition:** The number of dwelling units weatherized is based on Monthly Progress Expenditure/Monthly Fund Request Reports submitted to the Department by the weatherization subrecipients.

**Data Limitations:** Targeted performance could be impacted by changes in funding levels.

**Data Source:** Monthly expenditures and performance reports are entered by subrecipients through the Department's online reporting system. Performance data from these reports is entered in an automated system and maintained by the Department. Performance figures represent an unduplicated number of weatherization units from the Department's DOE and LIHEAP Weatherization programs.

**Methodology:** The performance number reported represents the actual number of dwelling units weatherized.

**Purpose:** The WAP program provides residential weatherization and other cost-effective energy-related home repair to increase the energy efficiency of dwellings owned or occupied by low-income persons. The measure is important because it identifies the effectiveness of the program through the number of homes receiving weatherization services.

### 4.1.1.1 Efficiency

**Definition:** The average cost to monitor a rental development includes the resources needed to provide determination of program compliance and effectiveness of rental programs.

**Data Limitations:** No limitations.

**Data Source:** Expenditure data is maintained in the Department's automated information systems.

**Methodology:** The average cost is derived by dividing the total budgeted cost for rental development monitoring activities by the number of rental developments monitored.

**Purpose:** The measure identifies the average cost to monitor a rental development.

### 4.1.1.1 Explanatory

**Definition:** The total number of rental developments in the TDHCA compliance monitoring portfolio. This number represents the portfolio for which the Portfolio Management and Compliance division is responsible. This includes developments monitored by on-site file review, desk review, a combination of onsite and desk reviews, or other compliance activities depending on program requirements. Program development totals vary throughout the year.

**Data Limitations:** No limitations.

**Data Source:** Program totals are maintained by the Department's databases.

**Methodology:** Figure represents actual number of developments in the compliance monitoring portfolio.

**Purpose:** The measure provides the total number of housing developments in the compliance monitoring portfolio.

### 4.1.1.2 Explanatory

**Definition:** Total number of housing units in the multi and single family rental developments monitored by the Department. The total number includes both restricted and unrestricted units. Units under construction as well as units available for lease are included in the total.

Data Limitations: No limitations.

Data Source: Unit totals are maintained by the Department's databases.

Methodology: Figure represents actual number of units constructed or rehabilitated.

Purpose: The measure provides information of the total rental units monitored by the Department.

#### 4.1.1.1 Output

Definition: Measure represents the number of both onsite and desk reviews conducted under rental monitoring programs.

Data Limitations: No limitations.

Data Source: The data is gathered by program from Department data bases.

Methodology: Number is actual.

Purpose: The measure meets statutory and agency requirements.

#### 4.1.1.2 Output

Definition: Measure represents the number of desk reviews conducted under rental programs. In addition to on-site reviews, monthly, quarterly, and-or annual compliance reporting is required. These reports are a vehicle for measuring overall and ongoing compliance with rent, income, and other controls and requirements. The frequency in the number of reports is determined by program requirement, and may vary depending on the level of compliance. Desk reviews conducted also include the review of Fair Housing Sponsor Reports, substantial construction certification reviews, construction inspection reviews, and other reviews.

Data Limitations: No limitations.

Data Source: The data is gathered by program from Department data bases.

Methodology: Number is actual.

Purpose: The measure meets statutory and agency requirements.

#### 4.1.1.3 Output

Definition: Measure represents the number of on-site, in-depth desk reviews (done in lieu of on-site reviews for projects with 10 or less units), and 8609 inspections conducted under rental programs. The reviews provide the best measure of program compliance and effectiveness of affordable housing programs. The frequency of reviews is either statutorily or agency required, therefore the number meets or exceeds the specific program requirement.

Data Limitations: No limitations.

Data Source: The data is gathered by program from Department databases.

Methodology: The number reported is the actual number of reviews performed.

Purpose: The measure meets statutory and agency requirements.

#### 4.1.2.1 Efficiency

Definition: The average cost to monitor a contract includes the resources needed for effective contract monitoring.

Data Limitations: No limitations.

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Data Source: Expenditure data is maintained in the Department's automated information systems.

Methodology: The average cost is derived by dividing the total budgeted cost for contract monitoring administration activities by the number of contracts subject to monitoring.

Purpose: The measure identifies the average cost to monitor a contract.

### 4.1.2.1 Explanatory

Definition: The total number of Local Administrators subject to monitoring by the Compliance Division. This number represents the portfolio of contract responsibility, whether or not a contract is processed and/or monitored through desk or onsite reviews, or other contract monitoring activities depending on program requirements. Measure includes Administrators for all activities, including HOME, Housing Trust Fund, Community Services, and Energy Assistance programs, and other types of contract activity.

Data Limitations: No limitations

Data Source: Data on contracts administered is maintained in the Department's database.

Methodology: Number is actual. Local Administrators may administer more than one TDHCA contract.

Purpose: The measure meets statutory and agency requirements..

### 4.1.2.1 Output

Definition: Measure represents the number of monitoring reviews conducted as part of contract monitoring in the Compliance Division, including risk assessments determining whether an on-site review is necessary..

Data Limitations: No limitations.

Data Source: The data is gathered from Department data bases.

Methodology: Number is actual. Local Administrators may administer more than one TDHCA contract.

Purpose: The measure meets statutory and program requirements.

### 4.1.2.2 Output

Definition: The number of desk reviews conducted of Federal and State grant sub-recipients. Single Audits are required annually if the federally mandated expenditure threshold is exceeded as defined by OMB Circular A-133. OMB Circular A-133 defines which single audit reports must be submitted to the pass-through agency. These reports are used to measure overall and ongoing compliance with program requirements, financial accountability of Federal and State grants and the overall internal controls of the sub-recipient.

Data Limitations: No limitations.

Data Source: The data is gathered from Department data bases.

Methodology: Number is actual.

Purpose: The measure meets statutory and program requirements.

### 5.1.1.1 Efficiency

**Definition:** The average cost to the Department of the processing of a Statement of Ownership and Location (SOL) application based on total funds expended and encumbered during the reporting period for the issuance of manufactured housing SOLs. Cost includes department overhead, salaries (permanent and temporary personnel), supplies, travel, postage, and other costs directly related to SOLs , including document review, handling, proofing, and notification.

**Data Limitations:** No limitations of data.

**Data Source:** Information is obtained from either a management report from the Department's Financial Administration Division or USAS, the Exodus Database, and the Travel Database.

**Methodology:** To obtain the average, divide the total funds by the total number of SOLs issued in a reporting period.

**Purpose:** The measure shows the efficiency in costs to issue a SOL.

#### 5.1.1.1 Explanatory

**Definition:** The number of Manufactured Homes of record in Texas represents the total number of manufactured homes with an existing record in the official manufactured housing database that is maintained by the department.

**Data Limitations:** No limitations of data.

**Data Source:** Automated compilation through the Exodus Database.

**Methodology:** Actual number.

**Purpose:** The measure represents the total number of manufactured homes in Texas for which the Department has an ownership and location record.

#### 5.1.1.1 Output

**Definition:** The total number of manufactured housing Statements of Ownership and Location (SOL) issued for which a fee is charged (includes SOLs issued as a result of changes in ownership, location, lien information, election, and use).

**Data Limitations:** No limitations of data.

**Data Source:** Data is computer generated (Department's Exodus Database) reports and accounting receipts.

**Methodology:** Number is actual.

**Purpose:** This measure identifies the total number of SOLs issued in a reporting period. It is important because it shows the workload associated with issuing SOLs.

#### 5.1.1.2 Output

**Definition:** The total number of manufactured housing licenses issued to qualifying applicants (applicant types broker, installer, manufacturer, retailer, retailer/broker, retailer/broker/installer, retailer/installer, salvage rebuilder and salespersons). The number calculated includes reprints of and revisions to existing licenses.

**Data Limitations:** No limitations.

**Data Source:** Data is computer generated through the Exodus Database.

**Methodology:** Number is actual.

## *Appendix D: List of Measure Definitions*

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Purpose: This measure identifies the total number of licenses issued in a reporting period. It is important because it shows the workload associated with issuing licenses.

### 5.1.2.1 Efficiency

Definition: The average cost to the Department of each inspection based on the total funds expended and encumbered during the reporting period to conduct or attempt inspections, including both installation and non-routine inspections. Cost includes department overhead, salaries (permanent and temporary personnel), supplies, travel; postage, and other costs directly related to the enforcement of the inspection function.

Data Limitations: No limitations.

Data Source: Data is obtained from either a management report from the Department's Financial Division or USAS, Installation Tracking System and the Travel Database.

Methodology: To obtain the average, divide the total funds expended by the total number of routine and non-routine inspections (completed and/or attempted) within the reporting period.

Purpose: The measure identifies the cost efficiency to perform or attempt an inspection.

### 5.1.2.1 Explanatory

Definition: The total number of installation reports received within a reporting period. Installation reports are received from lenders, retailers, installers, consumers, and other sources.

Data Limitations: No limitations.

Data Source: Source: Exodus Database.

Methodology: Actual number.

Purpose: The measure provides information on the total number of installation reports received.

### 5.1.2.2 Explanatory

Definition: The total number of installation inspections with deviations documented. An inspector may list several violations on a single installation inspection, but it only accounts for one reported deviation.

Data Limitations: No limitations.

Data Source: Source: Exodus Database.

Methodology: Actual number.

Purpose: The measure provides information on the total number of installation inspections with deviations. The importance of this measure is to ensure that homes are installed in a safe manner to prevent injury to consumers and the general public.

### 5.1.2.1 Output

Definition: The total number of routine inspections conducted to inspect the anchoring and support systems of manufactured homes (includes reviewing installation report for completeness, inspecting stabilizing devices to confirm that the installer used approved materials, inspecting the home for proper installation, and verifying that the installer is

licensed with TDHCA). Unsuccessful attempted inspections (identified as skirted, not accessible, unable to locate, or no unit at location) are not included in the number reported.

Data Limitations: No limitations on data.

Data Source: Collection of data is based on the Exodus Database.

Methodology: Number is actual.

Purpose: The measure identifies the total number of inspections performed (attempted inspections are not included) in a reporting period. It is important because it shows the workload for inspections and confirms that the Department meets the statutory requirement to inspect at least 75 percent.

#### 5.1.2.2 Output

Definition: The total number of special/complex inspections performed upon request from the public, other regulated entities, or as part of a complaint investigation. Special inspections consist of, but are not limited to the following: consumer complaints, habitability, permanent foundations, SAA, and retailer monitoring.

Data Limitations: No limitations.

Data Source: Collection of data is based on the Inspector's Travel Voucher Database.

Methodology: The number is retrieved from the Travel Voucher Database by generating a report which lists the inspections conducted within the reporting period.

Purpose: The measure identifies the total number of inspections performed in a reporting period. It is important because it identifies inspections that result from unusual or special circumstances.

#### 5.1.3.1 Efficiency

Definition: The average cost to the Department to resolve a complaint based on the total funds expended and encumbered during the reporting period for complaint processing, investigation, and resolution divided by the number of complaints resolved. Cost includes department overhead, salaries (permanent and temporary personnel), supplies, travel, postage, subpoena expenses, and other costs directly related to the agency's enforcement function.

Data Limitations: No limitations.

Data Source: Data is obtained from either a management report from the Department's Financial Administration Division or USAS and the Exodus Database.

Methodology: To obtain the average, divide the total funds expended by the total number of resolved complaints within the reporting period. Non-jurisdictional complaints (closed as DISJ) are not included in this measure.

Purpose: The measure identifies the efficiency in costs for resolving a complaint.

#### 5.1.3.2 Efficiency

Definition: The average length of time to resolve a jurisdictional complaint, for jurisdictional complaints resolved during the reporting period. The number of days to reach a resolution is calculated from the initial date of receipt of a consumer complaint to the date closed.

Data Limitations: No limitations.

Data Source: Data is obtained from the Exodus Database.

## *Appendix D: List of Measure Definitions*

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**Methodology:** The total number of calendar days per jurisdictional complaint resolved, summed for all complaints resolved during the reporting period, that elapsed from receipt of a request for agency intervention to the date upon which final action on the complaint was taken (numerator) is, divided by the number of complaints resolved during the reporting period (denominator). The calculation excludes complaints determined to be non-jurisdictional of the agency's statutory responsibilities.

**Purpose:** The measure tracks the average number of days spent to resolve a complaint. The measure is important because it shows how efficient the division has been in resolving complaints.

### 5.1.3.1 Explanatory

**Definition:** The total number of complaints received in a reporting period that are within the agency's jurisdiction of statutory responsibility.

**Data Limitations:** No limitations.

**Data Source:** The number is retrieved from the Exodus Database.

**Methodology:** Actual number.

**Purpose:** The measure provides information on the total number of jurisdictional complaints. This measure is important to determine the division's workload.

### 5.1.3.1 Output

**Definition:** The total number of complaints resolved during the reporting period upon which final action was taken by the board or the Department through informal and formal means. Non-jurisdictional complaints (closed as DISJ) are not included in this measure.

**Data Limitations:** No limitations.

**Data Source:** Data is maintained in the Exodus Database.

**Methodology:** Actual number.

**Purpose:** The measure shows the workload associated with resolving complaints. The measure is important because it also identifies consumer problems.



## **APPENDIX E. WORKFORCE PLAN**

### **INTRODUCTION**

Each state agency is required to conduct a strategic planning staffing analysis and develop a workforce plan that follows guidelines developed by the State Auditor. This workforce plan addresses the agency's critical staffing and training needs, including the need for experienced employees to impart knowledge to their potential successors pursuant to Section 2056.002, Government Code.

### **AGENCY OVERVIEW**

This section describes the mission, strategic goals, objectives, and business functions of the agency. Potential changes to these items over the next five years are also discussed.

#### *TDHCA Mission*

The mission of the Texas Department of Housing and Community Affairs is to administer its assigned programs efficiently, transparently, and lawfully. To invest its resources strategically and develop high quality affordable housing which allows Texas communities to thrive.

#### *TDHCA Philosophy*

The Department's philosophy is one of openness to input, consideration of new methods that brings about improvement, and balanced adherence to laws, rules, and policy provided from state leadership as articulated by its Governing Board. This philosophy embraces:

- A trained and committed staff that is freed up to improve processes and efficiencies, collaborative with other agencies, and of the utmost integrity.
- Operations that are continually assessed and improved based on principles of enterprise wide risk management, adherence to documented operating procedures, transparency, and prudent use of the taxpayer resources.
- Respect for customers and stakeholders built on a continuous understanding of their needs and which have at their core a constant and open dialogue to develop effective responses to those needs.

The Department's key words are:

- Compliance
- Adaptability
- Collaboration
- Respect
- Simplicity
- Accountability
- Transparency

## Appendix E: Workforce Plan

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State resources entrusted to the Department are limited and cannot accommodate every need or demand. Therefore, the Department's ultimate objective is to provide unassailable QUALITY in all we do such that our programs and services command universal respect.

### TDHCA's Goals, Objectives, and Strategies to Fulfill its Mission

#### Goal 1.

To increase and preserve the availability of safe, decent, and affordable housing for very low, low, and moderate income persons and families.

Objective 1. Make loans, grants, and incentives available to fund eligible housing activities and preserve/create single and multifamily units for very low, low, and moderate income households.

Strategy 1. Provide federal mortgage loans, through the department's Mortgage Revenue Bond (MRB) Program, which are below the conventional market interest rates to very low, low, and moderate income homebuyers.

Strategy 2. Provide federal housing loans and grants through the HOME Investment Partnership (HOME) Program for very low and low income families, focusing on the construction of affordable housing in rural areas of the state through partnerships with the private sector.

Strategy 3. Provide state housing loans and grants through the HTF for very low and low income households.

Strategy 4. Provide federal rental assistance through Section 8 certificates and vouchers for very low income households.

Strategy 5. Provide federal tax credits to develop rental housing for very low and low income households.

Strategy 6. Provide federal mortgage loans through the department's Mortgage Revenue Bond (MRB) program for the acquisition, restoration, construction and preservation of multifamily rental units for very low, low and moderate income families.

Goal 2. Promote improved housing conditions for extremely LI, VLI, and low income households by providing information and technical assistance.

Objective 1. Provide information and technical assistance regarding affordable housing resources and community support services.

Strategy 1. Provide information and technical assistance to the public through the Center for Housing Research, Planning, and Communications.

Objective 2. Promote and enhance homeownership opportunities along with the development of safe neighborhoods and effective community services for colonia residents and/or residents of LI, VLI, and ELI along the Texas-Mexico border.

Strategy 1. Assist colonias, border communities, and nonprofits serving these populations.

Goal 3. Improve living conditions for the poor and homeless and reduce cost of home energy for very low income Texans.

Objective 1. To ease hardships of poverty and homelessness for 16 percent of the population of very low income persons each year.

Strategy 1. Administer homeless and poverty-related funds through a network of community action agencies and other local organizations so that poverty-related services are available to very low income persons throughout the state.

Objective 2. To reduce cost of home energy for 6 percent of very low income households each year

Strategy 1. Administer state energy assistance programs by providing grants to local organizations for energy related improvements to dwellings occupied by very low income persons and general assistance to very low income households for heating and cooling expenses and energy-related emergencies.

Goal 4. Ensure compliance with Department of Housing and Community Affairs federal and state program mandates.

Objective 1. Administer and monitor housing developments and subrecipient contracts to determine compliance with federal and state program requirements.

Strategy 1. Monitor and inspect for federal and state housing program requirements.

Strategy 2. Monitor federal and state subrecipient contracts for programmatic and fiscal requirements.

Goal 5. Protect the public by regulating the manufactured housing industry in accordance with state and federal laws.

Objective 1. Operate a regulatory system to ensure responsive handling of Statement of Ownership and Location and license applications, inspection reports, and complaints

Strategy 1. Provide services for Statement of Ownership and Location and licensing in a timely and efficient manner.

Strategy 2. Conduct inspections of manufactured homes in a timely and efficient manner.

Strategy 3. Process consumer complaints, conduct investigations, and take administrative actions to protect general public and consumers.

Strategy 4. Provide for the processing of occupational licenses, registrations, or permit fees through TexasOnline.

### Core Business Functions

TDHCA business functions can be broadly grouped into three categories: providing housing and community services assistance, regulating the manufactured housing industry, serving as an informational resource. To ensure the success of the Department's efforts in these areas, a variety of supporting functions are required. These support areas include financial administration, human resources, information systems, portfolio management and compliance, policy and public affairs, purchasing, and real estate analysis.

### **Housing and Community Services Assistance**

Types of housing and community services assistance include:

- housing assistance for individual households (homebuyer mortgage and down payment, home repair, and rental payment assistance);
- funding for the development of apartments (new construction or rehabilitation of rental units);
- energy assistance (utility payments or home weatherization activities);

- assistance for homeless persons and emergency relief for individuals or families in crisis poverty (transitional housing, energy assistance, home weatherization, health and human services, child care, nutrition, job training and employment services, substance abuse counseling, medical services, and other emergency assistance); and
- capacity building assistance (training and technical assistance, assistance with operating costs, and predevelopment loans to help local housing organizations develop housing).

### **Manufactured Housing Activities**

TDHCA's Manufactured Housing Division is an independent entity within TDHCA. It is administratively attached, but it has its own Board of Directors. This division administers the Texas Manufactured Housing Standards Act. The act ensures that manufactured homes are well-constructed, safe, and installed correctly; that consumers are provided fair and effective remedies; and that measures are taken to provide economic stability for the Texas manufactured housing industry. Services of the Manufactured Housing Division include issuances of SOL research; training and license issuances to individuals for manufactured housing manufacturing, retailing, rebuilding, installations, broker, or sales; records and releases on tax and mortgage liens; installation inspections; consumer complaints; and federal oversight under a cooperative agreement with HUD.

### **Information Resources**

TDHCA is an informational resource for individuals, federal, state, and local governments, the Legislature, community organizations, advocacy groups, housing developers, and supportive services providers. Examples of information provided includes: general information on TDHCA activities, application and implementation technical assistance, housing need data and analysis, and direct consumer information on available assistance statewide. This information is provided through a myriad of communication methods: a 1-800 phone line, publications and guidebooks, via email and the TDHCA website, public hearings, trainings and workshops, planning roundtables, field offices, mass mailings, television, radio, and print media, speaking engagements, and conferences.

In all of its activities, TDHCA strives to promote sound housing policies; promote leveraging of state and local resources; prevent discrimination; and ensure the stability and continuity of services through a fair, nondiscriminatory, and open process.

### **Anticipated Changes to the Mission, Strategies, and Goals over the Next Five Years**

The Department does not anticipate any significant changes of the mission, strategies and goals over the next five years.

**CURRENT WORKFORCE PROFILE (SUPPLY ANALYSIS)**

This section describes the agency’s current workforce by assessing whether current employees have the knowledge, skills, and abilities needed to address critical business issues in the future.

Size and Composition of Workforce

As of April 1, 2012, TDHCA had a total headcount of 308 employees. This number includes 291 regular full-time employees and 17 temporary full-time employees. The following tables profile the agency’s workforce. TDHCA’s workforce is comprised of 38.3 percent males and 61.6 percent females. Over 28 percent of the agency’s work force is over 50 years old with over 33 percent of the work force having 16 or more years of state service.

Statistics show that over one-half or 66 percent of the work force has 10 years or less of experience working at TDHCA with proficiency levels ranging from working knowledge of processes to gaining mastery level of processes. Thirty one percent of TDHCA’s workforce has 11-20 years of tenure with expertise levels ranging from mastery to acknowledged subject matter expert. Employees with 21 years or more of tenure compromise a little over two percent of the work force and are also keepers of institutional business knowledge.

The agency realizes that to prevent disparity in knowledge and experience levels, succession planning strategies must address the transfer of institutional business knowledge and professional expertise.

**WORK FORCE BREAKDOWN**

**Gender**

	Number of Employees	Percent of Employees
Male	118	38.3%
Female	190	61.6%

*Source: Uniform Statewide Payroll System*

**Age**

	Number of Employees	Percent of Employees
Under 30	18	5.8%
30-39	76	24.7%
40-49	105	34.1%
50 – 59	89	28.8%
60 and over	20	6.4%

*Source: Uniform Statewide Payroll System*

**Agency Tenure**

	Number of Employees	Percent of Employees
0-5 years	145	47%
6-10 years	59	19.2%
11-15 years	54	17.5%
16-20 years	42	13.6%
21-25 years	6	1.9%
Over 25 years	2	.06%

Source: Uniform Statewide Payroll System

**State Tenure**

	Number of Employees	Percent of Employees
0-5 years	103	33.4%
6-10 years	58	18.8%
11-15 years	43	13.9%
16-20 years	62	20.1%
21-25 years	19	6.1%
Over 25 years	23	7.4%

Source: Uniform Statewide Payroll System

**TDHCA WORK FORCE COMPARED TO STATWIDE CIVILIAN WORKFORCE**

The “Statewide Employment Statistics” table below compares the percentage of African American, Hispanic and Female TDHCA employees (as of April 1, 2012) to the statewide civilian work force as reported by the Texas Workforce Commission’s Civil Rights Division. For most job categories, the agency is comparable to or above statewide work force statistics; however, there are some areas that are under-represented. TDHCA is dedicated to ensuring quality in the workforce and specifically targets recruitment resources such a diverse community organizations and colleges that reach out to the workforce in the under-represented EEO categories to generate a larger applicant pool to achieve the EEO goals of the state.

**Statewide Employment Statistics**

Job Category	African American		Hispanic American		Females	
	TDHCA	State	TDHCA	State	TDHCA	State
Officials/Administrators	0	7.5%	18.1%	21.1%	40.9%	37.5%
Professionals	11.1%	9.7%	40%	18.8%	69.7%	53.3%
Technicians	10.2%	13.9%	24.4%	27.1%	16.3%	53.9%
Para-Professionals	33.3%	14.1%	33.3%	49.9%	93.3%	39.1%
Administrative Support	15.3%	12.7%	15.3%	31.9%	69.2%	67.1%

Source: Uniform Statewide Payroll System and Texas Workforce Commission (TWC).  
TWC statistics extracted from “Equal Employment Opportunity and Minority Hiring Practices Report, Fiscal Years 2009-2010.”

**Employee Turnover**

In FY2011 the turnover rate for TDHCA was at its highest point in comparison to the previous years; however, it was still lower than the statewide turnover rate of 16.8 percent. TDHCA employed about 65 temporary employees through ARRA funds and through other funds related to Article IX funding. Many of the temporary employees found permanent positions within TDHCA; however, many employees that were nearing their temporary assignment end date left for other employment outside of TDHCA prior to their assignment end date.

According to the State Auditor’s Office Turnover Report for fiscal year 2011, the statewide turnover rate for full-time and part-time classified employees at state agencies was 16.8 percent. This does not include interagency transfers since the state does not consider this to be a loss to the state.

As shown by the chart below, TDHCA’s turnover rates have historically been at least 5 percent under the state turnover rates. In fiscal year 2010 the turnover rate for TDHCA was at its lowest point in comparison to the previous years. Employee turnover is normal to any organization but can be negative if it reaches abnormal levels. Negatives include the associated costs of turnover, such as training and orientation of new employees, recruitment and selection of new employees, leave payout to departing employees, and lower productivity in the workplace during the time that a position is vacant and during the time that a new employee is learning the job. However, some turnover will always occur and is normal to any organization.

The Department’s highest areas of turnover by Job Classification were for the Program Specialist, Auditor, and Administrative Assistant series for fiscal year 2011.

**Overall Turnover**

Fiscal Year	TDHCA	State
2011	11.5%	16.8%
2010	5.8%	14.6%
2009	6.9%	14.4%
2008	8.4%	17.3%
2007	6.8%	17.4%

Source: State Auditor Officer (SAO) Classified Employee Turnover Report FY2011. Turnover rates exclude interagency transfers

**Turnover by Job Classification**

Classification Job Series	Total Terminations
Program Specialist	16
Auditor	7
Administrative Assistant	3

Source: SAO E-Class data for Fiscal Year 2011. Data excludes interagency transfers

**Turnover by Length of Service**

FY	# Terms	0-5 Years	6-10 Years	11-15 Years	16-20 Years	21-25 Years	Over 25 Years
2011	43	27	3	5	7	1	0
2010	20	11	3	4	1	1	0
2009	21	12	4	2	2	0	1
2008	24	14	2	4	2	2	0
2007	19	7	8	4	0	0	0

Source: SAO E-Class. Data excludes interagency transfers

**Turnover by Age**

FY	# Terms	20-29 Years	30-39 Years	40-49 Years	50-59 Years	60-69 Years
2011	43	7	9	12	9	6
2010	20	2	6	3	4	5
2009	21	2	10	0	7	2
2008	24	1	8	3	9	3
2007	19	4	6	3	4	2

Source: SAO E-Class. Data excludes interagency transfers

**Retirement Eligibility**

Data obtained from the Employees Retirement System shows projected retirements TDHCA over the next five fiscal years.

The loss of employees due to retirement is, and will continue to be, a critical issue facing the agency. The loss of institutional business knowledge and expertise in key management and senior-level professional positions, coupled with normal attrition, poses a critical work force dilemma for the agency as well as the state. It is important to ensure that this technical knowledge and organizational experience is not lost. Management is aware of the impact that retirees will have on the Department within the next biennium and is continually looking at methods to replace these skills and knowledge through:

- Employee Development
- On-the-job training
- Leadership Development
- Succession Planning



- Cross divisional training
- Mentoring

**Projected TDHCA Retirements**

Fiscal Year	Projected Retirements	Percent of Total Agency Employees (FTE Cap of 314)
2013	36	11.4%
2014	12	3.8%
2015	10	3.1%
2016	7	2.2%
2017	5	1.5%
Total Projected Retirements	70	22%

*Source: Employees Retirement System*

Workforce Skills Critical to the Mission and Goals of the Agency

**Core Functions**

- Mortgage and loan management
- Environmental science
- Underwriting
- Asset Management
- Emergency Response and Management
- Contract Management
- Building Inspection
- Community Services
- Loan Management
- Portfolio management and compliance
- Capital Market Bond Financing
- Governmental Accounting and Reporting
- Information Systems and Web Administration

**Critical Work Force Skills**

Although the agency has many talented and qualified employees, there are a number of critical skills the Department’s workforce needs in order to effectively accomplish its business functions and provide a high level of customer service which include:

- Leadership and management
- Customer service
- Project management, quality oversight, and evaluation
- Analysis/research/planning/problem solving
- Communication (verbal and written)
- Financial management, financial analysis, and accounting expertise

- Auditing
- Legislative relations and bill tracking
- Housing market industry
- Marketing
- Multi-lingual
- Outreach and technical assistance
- Computer skills ranging from entry level data entry to highly skilled information systems programmers and database administrators
- Investigation
- Inspection
- Legal analysis
  
- Manufactured housing rules and regulations
- Titling and licensing

*Use of Consultants*

To effectively achieve its mission, TDHCA will continue to use consultants and contract workers in areas where their unique skills and experience represents the most effective use of the State's resources. Two divisions that expect the greatest ongoing use of consultants are Information Systems, and Bond Finance.

**ISD**

TDHCA's Information Systems Division makes limited, targeted use of consultants for approved capital budget projects and software development support. In the current biennium, the Department has employed one contract developer to assist in the support of PeopleSoft Financials 8.8.

**Bond Finance**

Bond Finance uses the following types of consultants:

- Bond Counsel – A nationally recognized law firm or firms experienced in the issuance of mortgage revenue bonds.
- Financial Advisor – Typically an investment banking firm experienced in issuance of mortgage revenue bonds.
- Master Servicer/Administrator – A financially sound bank or trust company experienced in tax compliance review and loan servicing for tax-exempt single family mortgage revenue bond programs.
- Disclosure Counsel – A law firm experienced in securities laws particularly as it relates to disclosure of information by securities issuers to the private markets.
- Rating Agencies – A national rating agency which analyzes bond issues and assigns a rating to them to indicate to prospective bondholders the investment quality of the issue.
- Interest Rate Swap Advisor – Primarily monitors interest rate swaps used to hedge single family mortgage revenue bonds.

- Guaranteed Investment Contract Broker – Provides reinvestment services for single family mortgage revenue bond issues, single family commercial paper issues, and/or multifamily mortgage revenue bond issues.

## **FUTURE WORKFORCE PROFILE (DEMAND ANALYSIS)**

This section describes the Department's future business and staffing outlook. This analysis helps to identify trends, future influences, and challenges for the agency's business functions, new and at-risk business, and workforce composition.

### Expected Workforce Changes Driven by Factors such as Changing Missions, Goals, Strategies, Technology, Work, Workloads, and Work Processes

#### Expected Workforce Changes

- The Information Systems Division anticipates challenges in managing risks associated with potential ISD employee turnover. The rate of systems change associated with new programs has been especially high in FY 2011, leaving less time for cross training, documentation, and contingency planning. This combined with a legacy application development environment that houses critical applications such as the HR System, but has an extremely limited pool of qualified programmers, makes planning for turnover an important management priority.
- The Compliance Division has seen significant changes within the last two years to the utility allowance regulations for the housing tax credit program. These changes new require the Department to review the allowance on an annual basis for certain methodologies and for every methodology, review if the owner wants to switch, which could result in the need for additional staff.
- The Human Resources Division anticipates additional requests for technical compensation support, general support, and information distribution due to the increase of temporary staff and employment opportunities.

### Future Workforce Skills Needed

In addition to those skills described above in the "Workforce Skills Critical to the Mission and Goals of the Agency" section it is expected that the following skills will also be needed:

- The Bond Finance Division may need to bring some specialized functions in-house over the next several years that the Department currently relies upon consultants to complete. Those tasks may require new staff and new skill sets.
- The Legal Services Division is called upon to provide increasingly complex transactional documentation skills and assist in developing increasingly detailed and complex rules, as new programs continue to emerge in response to federal legislative changes and new strategic directions. Both require significant real estate experience, detailed knowledge of state and federal laws, plus exceptional drafting skills. As more asset resolution and enforcement issues are brought forward, additional capabilities in contested case proceedings, loan restructurings, and bankruptcy matters are required.

- The Housing Trust Fund has a current and future need for data analysis and programming skills.
- The Neighborhood Stabilization Program has a current and future need for additional skills in the management of longer-term subrecipient contracts.
- The Human Resources Division anticipates needing to build strong overall HR knowledge, including HR certification; compensation skills; recruitment skills; the ability to administer HR programs effectively (strategically and assisting with development of programs); and skills in becoming an effective change agent for the Department.
- Many of the program areas have ongoing needs for expertise in data management and reporting.

*Anticipated Increase or Decrease in the Number of Employees Needed to Do the Work*

Anticipated Increases:

- The Housing Resource Center anticipates the addition of one staff person to conduct housing outreach and education activities for persons with disabilities in accordance with the CMS grant award received for this purpose.
- The Bond Finance Division anticipates the possible addition of one staff person to handle specialized data analysis.
- The Compliance & Asset Oversight Division anticipates the need for more staff if the volume of utility allowance reviews for the housing tax credit program continues or increases.
- The Real Estate Analysis Division anticipates an increase in the number of employees needed to underwrite an expanding pipeline of multifamily transactions as a result of stimulus funding; these transactions are expected to continue to increase over the next few years.

Anticipated Decreases:

- The Financial Administration Division anticipates a decrease in temporary positions currently supporting the ongoing efforts related to the Recovery Act.
- As the Recovery Act funding for the Weatherization Assistance Program, Homelessness Prevention & Rapid Re-housing Program, and Community Services Block Grant program ends, the current staff within the Energy Assistance Division and Community Services Division have been and continue to be reduced.
- Upon the completion of federal reporting on the Recovery Act in February 2013, the staff of the Recovery Act Accountability & Oversight Office will decrease to zero.
- As the Neighborhood Stabilization Program (NSP) Round 1 Grant Agreement expires in March 2013, and the NSP Round 3 program requires full expenditure before March 2014, NSP anticipates possible reduction in staff upon expenditure of NSP Round 3 funds.

Anticipated Use of Consultants

- Based on projected growth in applications and data supporting the mission of the agency, the Information Systems Division anticipates a need to maintain the continued use of one consultant for PeopleSoft support and, depending on Central Database expansion for new programs, one consultant to augment Java software development efforts.
- The Homeownership Division anticipates the continued use of a large number of consultants utilized in conjunction with the structuring and transactions that fund the Texas First Time Homebuyer and Texas Mortgage Credit Programs.
- The Bond Finance Division anticipates the continued use of a number of consultants, including advisors to provide us with financial advice, non-financial advisors to help us market our structured transactions, legal advisors to assist in the documentation of our structured transactions, and service providers to assist us in meeting our tax compliance requirements.
- The Compliance & Asset Oversight Division anticipates the continued use of outside contractors for Uniform Physical Condition Standards Inspections.
- The Legal Services Division anticipates the use of an outside administrative law judge in addition to possible increases in the use of outside counsel.
- The Housing Resource Center anticipates the use of one or more consultants for extensive external research or research used for reports, such as an inventory of government funded housing and analyses for the Housing & Health Services Coordination Council and the Texas Interagency Council for the Homeless.

## **GAP ANALYSIS**

***Anticipated surplus or shortage of employees/ skills:***

Due to the changing workforce of the Department it is anticipated that there may be a shortage of the following personnel and/or skills:

- The Bond Finance Division may experience a shortage related to the specialized data analysis personnel and associated skill sets.
- The Legal Services Division anticipates a shortage in qualified real estate professionals, specifically those skilled and versed in HUD and LIHTC issues.
- The Information Systems Division has a continued need for employees with expertise in Java and the specific Java framework used at TDHCA, Oracle, APPX, PeopleSoft, Mitas, and network and technical support.

## **STRATEGY DEVELOPMENT**

This section describes strategies for workforce transition.

Specific Goals to Address Workforce Competency Gaps or Surpluses

To plan for TDHCA's future workforce needs, the following goals have been developed.

**Gap: Retain and attract the right person for the job.**

**Goal:** To attract and retain a competent well-trained workforce.

**Rationale:** Over 11 percent of TDHCA's workforce is projected to be eligible to retire by the end of FY 2013. In addition, shortage of certain workers in the labor market will make filling some positions difficult. As experienced TDHCA employees retire or as employees otherwise leave, TDHCA must be ready to either fill these vacancies with existing staff or aggressively recruit from the outside.

The Department must be able to retain existing employees, especially those with institutional knowledge, skills, and experience. The Department must also develop those employees with interest and ability to learn new skills and develop leadership skills in order to be prepared to advance into critical positions. The Department must also be prepared to recruit external candidates with the necessary skills needed.

**Action Steps:**

- Conduct an assessment of risk of TDHCA regarding the potential loss of knowledge, particularly in areas of loss due to retirement of key positions.
- Identify positions that should be targeted for succession planning, determine critical competencies and skills needed for those positions, and consider how to develop staff for these position and how to aggressively recruit for these positions.
- Provide employee training to develop critical skills needed.
- Develop and provide cross/rotational training for employees who are seeking new challenges.
- Create training and development plans for employees to assume higher level positions as vacancies occur.
- Establish recruitment resources that market specific to the housing industry, attend career fairs at colleges and universities, use the Work in Texas database to recruit applicants, and continue to have TDHCA job fairs in an effort to recruit and achieve a diverse qualified pool of applicants.
- Encourage management to identify recruitment resources, organizations, colleges, and university to establish and applicant pool of individuals with the critical skills needed for their positions.
- Continue the Department's summer internship program and encourage management to recruit individuals that are interested in public service with hands on experience with the Department's programs and to serve as a good source of potential employees when vacancies occur.
- Continue to market TDHCA's compensation package to ensure that applicants and candidates are informed about state benefits.
- Encourage employees to pursue professional certification(s) in their areas of employment.

## Appendix E: Workforce Plan

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- Continue to conduct the Organizational Excellence Survey to determine trends in employee satisfaction and address areas or trends that could be affecting employee turnover
- Continue to provide staff with flex hours, compressed workweek schedules, telecommuting and other avenues to balance work and family needs.
- Continue to provide staff with a relaxed dress code.
- Develop a formal Employee Recognition and Awards Program.
- Determine positions with high turnover rates and implement more aggressive recruitment and retention strategies for these positions.
- Promote the Wellness Program.

**Gap: IS staff with advanced technology skills needed to maintain the Department's continually advancing computer systems and programs.**

Goal: To provide the Department with technology that will increase efficiency of information for customers and staff, increase customer satisfaction, and provided streamlining of technology based programs

Rationale: Training is needed to stay current with emerging technology. There are increased requests for changes to IT systems to better serve our customers and staff

Action Steps:

- Continue to develop IT staff by providing ongoing training.
- Determine anticipated changes needed to systems and allow for training and staff development of new technologies.
- Cross functional training of IT staff.
- Develop plans for future needs of the Department web-based programs.

**Gap: Employees with skills needed to work with and manage others in a diverse environment.**

Goal: To employ staff who can function in a diverse work environment.

Rationale: As the workforce continues to change there is an increase in multi-generational and diverse backgrounds entering the workforce. Employees will need to be able to work with and manage people with differing opinions and work ethics.

Action Steps:

- Offer speakers and training on a variety of topics to promote a work environment that is inclusive and continues to develop a strong diverse workforce.
- Conduct team building retreats.
- Continue to celebrate multi-cultural events at the Department to promote diversity and an opportunity for staff to participate in these events.
- Regularly review Department demographics.
- Continue to provide the opportunity for staff to participate on committees such as the Events Planning Committee, Wellness Committee and as other committees are formed.



**Gap: Managers with the skills needed to lead, communicate effectively, resolve conflict, mentor, and develop staff.**

**Goal:** To recruit and develop employees with strong management skills and lead their staff in a time of a change and challenges.

**Rationale:** The Department has had an increase in funding which has created the need for temporary staff and an increased workload of all staff in a fast-paced environment. Managers need to be able to lead their staff during this time of changes and challenges.

**Action Steps:**

- Continue to send employees in team lead, project management, and management positions to the Governor's Center for Management Development and provide information on trainings for leadership and management workshops.
- Identify critical skills needed for key management positions and provide training opportunities, rotational/cross functional training.
- Encourage management to mentor employee with the potential and desire for leadership roles.

## **APPENDIX F. SURVEY OF ORGANIZATIONAL EXCELLENCE** **RESULTS AND UTILIZATION PLANS**

### Employees' Attitudes and Possibilities for Change

In March of 2012, TDHCA participated in the Survey of Employee Engagement sponsored by the University of Texas Institute for Organizational Excellence. The results of the survey are outlined below.

#### **Overall Score**

The overall survey score for TDHCA was 370. The overall survey score is a broad indicator for comparison with other entities. The Overall Score is an average of all survey items and presents the overall score for the Department. For comparison purposes, overall scores typically range from 325 to 375.

#### **Response Rate**

Out of 313 employees who were invited to take the survey, 234 responded. The response rate of the survey for TDHCA was 75 percent, which is considered high. As a general rule, rates higher than 50 percent suggest soundness. Rates lower than 20 percent may indicate problem. This survey forms the basis of the following observations concerning TDHCA's strengths and weaknesses according to the employees of the Department:

#### **Construct Analysis**

Constructs are color coded to highlight the agency's areas of strengths and areas of concern. The 3 highest scoring constructs are blue, the 3 lowest scoring constructs are red, and the remaining 8 are yellow.

Highest scoring constructs are areas of strength for the agency while the lowest scoring constructs are areas of concern. Scores above 350 suggest that employees perceive the issue more positively than negatively, and scores of 375 or higher indicate areas of substantial strength. Conversely, scores below 350 are viewed less positively by employees, and scores below 325 should be a significant source of concern.

**Table 1. Survey of Organizational Excellence: 2010 and 2012 Comparison**

2012 SURVEY RESULTS			2010 SURVEY RESULTS		
CONS_NO	CONSTRUCT NAME	SCORES 2012	CONSTRUCT NAME	SCORES 2010	POINTS DEVIATED
1	Supervision	390	Supervision	411	-21
2	Team	387	Team	402	-15
3	Quality	373	Quality	387	-14
4	Pay	271	Pay	310	-39
5	Benefits	387	Benefits	391	-4
6	Physical Environment	372	Physical Environment	379	-7
7	Strategic	398	Strategic	414	-16
8	Diversity	361	Diversity	376	-15
9	Information Systems	369	Information Systems	374	-5
10	Internal Communication	346	Internal Communication	360	-14
11	External Communication	375	External Communication	394	-19
12	Employee Engagement	382	Employee Engagement	397	-15
13	Employee Development	377	Employee Development	401	-24
14	Job Satisfaction	381	Job Satisfaction	382	+1

**Areas of Strength**

The Departments strengths lie in Strategic, Supervision, and Team. They are discussed below in the order of scores received, from highest to lowest.

**Strategic (Score: 398)**

The Strategic construct reflects employees’ thinking about how the organization responds to external influences that should play a role in defining the organization’s mission, vision, services, and products. Implied in this construct is the ability of the organization to seek out and work with relevant external entities.

High scores indicate employees view the organization as able to quickly relate its mission and goals to environmental changes and demands. It is viewed as creating programs that advance the organization and highly capable means of drawing information and meaning from the environment. Maintaining these high scores will require leadership to continually assess the ability of the organization and employees at all levels to test programs against need and to continue to have rapid feedback from the environment.

**Supervision (Score: 390)**

The Supervision construct provides insight into the nature of supervisor relationships within the organization, including aspects of leadership, the communication of expectations, and the sense of fairness that employees perceive between supervisors and themselves.

High Supervisor scores indicate that employees view their supervisors as fair, helpful, and critical to the flow of work. Maintaining these high scores will require leadership to carefully assess supervisory training and carefully make the selection of new supervisors.

**Team (Score: 387):**

The Team construct captures employees’ perception of the people within the organization that they work with on a daily basis to accomplish their jobs (the work group or team). This

## Appendix F: Survey of Organizational Excellence

construct gathers data about how effective employees think their work group is as well as the extent to which the organization supports cooperation among employees.

High Team scores indicate that employees view their work groups as effective, cohesive, and open to the opinions of all its members. Maintaining these high scores will require leadership to ensure employees are actively involved in their work groups and have opportunities to contribute to goal setting and other work processes.

### **Areas of Concern**

#### ***Fair Pay (Score: 271)***

Fair Pay is a common negative perception across most, if not all, state agencies. The Pay construct addresses perceptions of the overall compensation package offered by the Department. It describes how well the compensation package “holds up” when employees compare it to similar jobs in other organizations.

Low scores suggest that pay is a central concern or reason for satisfaction or discontent. In some situations pay does not meet comparables in similar organizations. In other cases individuals feel that pay levels are not appropriately set to work demands, experience and ability.

#### ***Internal Communication (Score: 346)***

The Internal Communication construct captures the Department’s communication flow from the top-down, bottom-up, and across divisions. It addresses the extent to which communication exchanges are open, candid, and move the Department toward its goal.

#### ***Diversity (Score: 361)***

The Diversity construct addresses the extent to which employees feel personal differences, such as ethnicity, social class or lifestyle, may result in alienation from the larger organization and missed opportunities for learning or advancement. It examines how the organization understands and uses creativity coming from individual differences to improve organizational effectiveness.

### **Climate Analysis**

The climate in which employees work does, to a large extent, determine the efficiency and effectiveness of an organization. The appropriate climate is a combination of a safe, non-harassing environment with ethical abiding employees who treat each other with fairness and respect.

Each Climate Area is displayed below with its corresponding score. Scores above 350 suggest that employees perceive the issue more positively than negatively, and scores of 375 or higher indicate areas of substantial strength. Conversely, scores below 350 are viewed less positively by employees, and scores below 325 should be a significant source of concern for the organization and should receive immediate attention.

**Table 2. Climate Analysis: 2010 and 2012 Comparison**

	Higher Scoring Constructs				
	Moderate Scoring Constructs				
	Lower Scoring Constructs				
2012 SURVEY RESULTS			2010 SURVEY RESULTS		
CONS_NO	CONSTRUCT NAME	SCORES 2012	CONSTRUCT NAME	SCORES 2010	POINTS DEVIATED
	CLIMATE ANALYSIS		CLIMATE ANALYSIS		
15	Climate/Atmosphere	390	Climate/Atmosphere	396	-6
16	Climate/Ethics	387	Climate/Ethics	386	-1
17	Climate/Fairness	345	Climate/Fairness	348	-3
18	Climate/Feedback	339	Climate/Feedback	360	-21
19	Climate/Management	365	Climate/Management	358	+7

**Climate Definitions:**

Atmosphere: The aspect of climate and positive Atmosphere of an organization must be free of harassment in order to establish a community of reciprocity.

Ethics: An Ethical climate is a foundation of building trust within an organization where not only are employees ethical in their behavior, but that ethical violations are appropriately handled.

Fairness: Fairness measures the extent to which employees believe that equal and fair opportunity exists for all members of the organization.

Feedback: Appropriate feedback is an essential element of organizational learning by providing the necessary data in which improvement can occur.

Management: The climate by Management as being accessible, visible, and an effective communicator of information is a basic tenant of successful leadership.

**Strategies for Improvement**

The Department will continue to capitalize on the information derived from the 2012 Survey of Employee Engagement to improve in areas of concern as noted below.

While fair pay continues to be the lowest scoring category for the Department, the Department will continue to review equity among similar positions and make adjustments as appropriate to ensure equitable pay among positions.

The Department is committed to instilling a culture of diversity, transparency, fairness, professionalism, and integrity. The Department will continue to analyze recruitment efforts to promote a diverse workforce and will continue to promote programs to increase diversity awareness within the organization. The Department will continue to promote organizational development and encourage supervisors to provide employees with the opportunity to increase their knowledge, skills, and abilities through attending professional development training courses and on-the job training to enhance promotional opportunities for employees.

The Department will continue to have internal communications with staff through agency wide staff meetings and internal communication methods and will promote an environment

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that encourages employees to provide feedback to their supervisors and executive management.

## **APPENDIX G. HISTORICALLY UNDERUTILIZED BUSINESS PLAN**

### **GOAL**

The Texas Department of Housing and Community Affairs strives to provide procurement and contracting opportunities for all businesses, with efforts to maximize inclusion of minority and women owned businesses.

### **OBJECTIVE**

The Department shall make a good faith effort to maximize the award of goods and services to HUBs in all facets of contracting, subcontracting, and purchases. Through all reasonable means, the Department strives to award procurement and subcontracting opportunities to minority and women owned businesses.

### **STRATEGY**

The following programs have been developed and are part of TDHCA's good faith effort to achieve these goals:

- HUB Orientation/Assistance Package
- Actively participate in Economic Opportunity Forums (EOFs) enhancing the vendor knowledge of procurement opportunities at the Department.
- Utilization of the Electronic State Business Daily web-site provides opportunity to all HUBs and HUB subcontractors to acquire and participate in the Department's bid opportunities.
- Multiple Awards of single requisitions to enhance HUB vendor participation.
- Specifications, delivery dates, and guidelines are reasonable and concise.
- Ensuring that specifications and terms and conditions reflect the actual needs.
- Inclusion of contractors with reference list with possible NIGP Class/Items for vendors to explore for subcontracting opportunities.
- Ensuring subcontracting plans are appropriately and accurately included in services and commodities contracts of which the value exceeds \$100,000. Evaluation of the contractor compliance with subcontracting plans as applicable in contracts of \$100,000 or greater.

**OUTPUT MEASURES**

**Table 1. HUB Goals and TDHCA Performance**

Category	TDHCA Performance		TDHCA Goals for 2012
	2010	2011	
Heavy Construction	N/A	N/A	N/A
Building Construction	0%	N/A	N/A
Special Trades Contracts	0%	0%	N/A
Professional Services Contracts	18.2%	34.8%	23.6%
Other Services Contracts	19.5%	12.9%	24.6%
Commodities Contracts	82.4%	64.2%	21.0%
Grand Total HUB Participation	55.5%	44.0%	

**Table 2. TDHCA Performance – Fiscal Year 2010**

Category	TDHCA Performance		Percentage Spent With HUBS	Statewide Goal
	Total Dollar Amount Spent	Total Dollar Amount Spent With HUBS		
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	26,554.00	0.0	0%	26.1%
Special Trades Contracts	2,237.00	0.0	0%	57.2%
Professional Services Contracts	320,347.00	58,600.00	18.2%	20.0%
Other Services Contracts	3,813,713.00	745,477.00	19.5%	33.0%
Commodities Contracts	663,408.00	546,778.00	82.4%	12.6%
Grand Total Expenditures	4,826,261.00	1,350,856.00	27.9%	

**Table 3. TDHCA Performance – Fiscal Year 2011**

Category	TDHCA Performance		Percentage Spent With HUBS	Statewide Goal
	Total Dollar Amount Spent	Total Dollar Amount Spent With HUBS		
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trades Contracts	1,974.00	0.0	0%	57.2%
Professional Services Contracts	220,779.00	76,934.00	34.8%	20.0%
Other Services Contracts	4,452,787.00	542,600.00	12.9%	33.0%
Commodities Contracts	463,523.00	297,851.00	64.2%	12.6%
Grand Total Expenditures	5,139,065.00	917,385.00	17.8%	



## **EXTERNAL/INTERNAL ASSESSMENT**

TDHCA continues to increase the use of HUBs through education of staff on procurement policy rules and procedures; through aggressively recruiting and educating prospective HUB businesses; assisting HUBs with the state HUB Certification program; and participation in EOFs with other state entities, local and federal entities and elected officials. Through participation in these Forums, TDHCA has developed new vendor relationships and continues to pursue new avenues for HUB participation. TDHCA has established and strives to exceed the previous year's goals for procurement from HUB and subcontracting of HUB vendors.

## **APPENDIX H. LIST OF ABBREVIATIONS**

<b>Acronym/Abbreviation</b>	<b>Description</b>
<b>AAA</b>	Local Area Agencies on Aging
<b>ADA</b>	Americans with Disabilities Act
<b>AGI</b>	Annual Gross Income
<b>AHNS</b>	Affordable Housing Needs Score
<b>AMFI</b>	Area Median Family Income
<b>AMGI</b>	Area Median Gross Income
<b>AMI</b>	Area Median Income
<b>ARRA/Recovery Act</b>	American Recovery and Reinvestment Act of 2009
<b>ATWAC</b>	Aging Texas Well Advisory Committee
<b>BRB</b>	Texas Bond Review Board
<b>CAA</b>	Community Action Agency
<b>CAO</b>	Compliance and Asset Oversight Division
<b>CAP</b>	Community Action Program
<b>CAPER</b>	Consolidated Annual Performance Report
<b>CDB</b>	Central Data Base
<b>CDBG</b>	Community Development Block Grant
<b>CDC</b>	Community Development Corporation
<b>CEAP</b>	Comprehensive Energy Assistance Program
<b>CFD</b>	Contract for Deed
<b>CFR</b>	Code of Federal Regulations
<b>CHDO</b>	Community Housing Development Organization
<b>CMTS</b>	Compliance Monitoring and Tracking System
<b>CNFP</b>	Community Food and Nutrition
<b>CoC</b>	Continuum of Care
<b>COG</b>	Council of Governments
<b>CPA</b>	Texas Comptroller of Public Accounts
<b>CRCG</b>	Community Resource Coordination Groups
<b>CSBG</b>	Community Services Block Grant
<b>DADS</b>	Texas Department of Aging and Disability Services
<b>DARS</b>	Texas Department of Assistive & Rehabilitative Services
<b>DAW</b>	Disability Advisory Workgroup
<b>DHHS</b>	US Department of Health and Human Services
<b>DOE</b>	U.S. Department of Energy
<b>DOT</b>	US Department of Transportation
<b>DSHS</b>	Texas Department of State Health Services
<b>EEO</b>	Equal Employment Opportunity
<b>ELI</b>	Extremely Low Income
<b>DPPA</b>	Division of Policy and Public Affairs
<b>ESGP</b>	Emergency Shelter Grants Program
<b>Fannie Mae</b>	Federal National Mortgage Association.
<b>FEMA</b>	Federal Emergency Management Agency
<b>Freddie Mac</b>	Federal Home Loan Mortgage Corporation
<b>FTE</b>	Full Time Employee
<b>FTHB</b>	First Time Homebuyer Program
<b>FY</b>	Fiscal Year
<b>GR</b>	General Revenue
<b>HBA</b>	Homebuyer Assistance Program

<b>HBAR</b>	Homebuyer Assistance with Rehabilitation Program
<b>HERA</b>	Housing and Economic Recovery Act of 2008
<b>HFA</b>	Housing Finance Authority
<b>HOME</b>	HOME Investment Partnerships Program
<b>HOPWA</b>	Housing Opportunities for Persons with AIDS
<b>HQS</b>	Housing Quality Standards
<b>HRC</b>	Housing Resource Center
<b>HTF</b>	Housing Trust Fund
<b>HUB</b>	Historically Underutilized Business.
<b>HUD</b>	U.S. Department of Housing and Urban Development
<b>IDIS</b>	HUD's Integrated Disbursement and Information System
<b>IS</b>	Information Systems
<b>LAN</b>	Local Area Network
<b>LAR</b>	Legislative Appropriation Request
<b>LBB</b>	Legislative Budget Board
<b>LI</b>	Low Income
<b>LIHEAP</b>	Low Income Home Energy Assistance Program
<b>LIHTC</b>	Low Income Housing Tax Credit (Federal)
<b>LURA</b>	Land Use Restriction Agreement
<b>MCC</b>	Mortgage Credit Certificate
<b>MFB</b>	Multifamily Bond
<b>MI</b>	Moderate Income
<b>MOU</b>	Memorandum of Understanding
<b>MRB</b>	Mortgage Revenue Bond
<b>MSA</b>	Metropolitan Statistical Area
<b>NIMBY</b>	Not In My Backyard
<b>NOFA</b>	Notice of Funding Availability
<b>NOHP</b>	Nonprofit Owner-Builder Housing Program
<b>NSP</b>	Neighborhood Stabilization Program
<b>OCI</b>	Office of Colonia Initiatives
<b>PHA</b>	Public Housing Agency
<b>PIAC</b>	Promoting Independence Advisory Committee
<b>PITI</b>	Principal, Interest, Taxes, and Insurance
<b>PJ</b>	Participating Jurisdiction
<b>PY</b>	Program Year
<b>QAP</b>	Qualified Allocation Plan
<b>RAF</b>	Regional Allocation Forecast
<b>RFP</b>	Request For Proposals
<b>RFQ</b>	Request for Qualifications
<b>RHD</b>	Rental Housing Development
<b>Section 8 Program</b>	Statewide Housing Assistance Payments Program
<b>SFY</b>	State Fiscal Year
<b>SHC</b>	Colonia Self-Help Centers
<b>SLIHP</b>	State Low Income Housing Plan and Annual Report
<b>SOA</b>	State Auditor's Office
<b>SOL</b>	Statement of Ownership and Location
<b>SOP</b>	Standard Operating Procedure
<b>TANF</b>	Temporary Assistance for Needy Families
<b>TCAP</b>	Texas Credit Assistance Program
<b>TDA</b>	Texas Department of Agriculture
<b>TDHCA</b>	Texas Department of Housing and Community Affairs
<b>TFPTF</b>	Texas Foreclosure Prevention Task Force

## *Appendix H: List of Abbreviations*

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<b>THN</b>	Texas Homeless Network
<b>TML</b>	Texas Municipal League
<b>TSAHC</b>	Texas State Affordable Housing Corporation
<b>TSDC</b>	Texas State Data Center
<b>TSEHP</b>	Texas Statewide Homebuyer Education Programs
<b>VL</b>	Very Low Income
<b>WAN</b>	Wide Area Network
<b>WAP</b>	Weatherization Assistance Program

5

**BOARD ACTION REQUEST**  
**HOUSING RESOURCE CENTER**

**June 14, 2012**

Presentation, Discussion, and Possible Action on submitting an application to the U.S. Department of Housing and Urban Development for Section 811 Project Rental Assistance (PRA) Demonstration Program

**Recommended Action**

Approve the submittal of an application to the U.S. Department of Housing and Urban Development for the Section 811 Project Rental Assistance Demonstration Program.

**WHEREAS**, the U.S. Department of Housing and Urban Development has made funds available through a Notice of Funding Availability, to enable State Housing Agencies to provide project-based rental assistance in the development of supportive housing for extremely low-income persons with disabilities,

**WHEREAS**, to be eligible for Section 811 Project Rental Assistance Demonstration funds, these housing agencies must have a formal partnership with the State health and human service agency and the state agency designated to administer or supervise the administration of the State plan for medical assistance under Title XIX of the Social Security Act,

**WHEREAS**, on July 28, 2011, the Governing Board approved a submission by the Texas Department of Housing and Community Affairs, in conjunction with the Texas State Medicaid Agency, the Texas Health and Human Services Commission via the Texas Department of Aging and Disability Services, of an application to the Center for Medicare and Medicaid Services for a *Real Choice Systems Change: Building Sustainable Partnerships for Housing Grant*, and

**WHEREAS**, staff is concerned that the successful implementation of an award, if the application is successful, may require resources beyond what the limited administrative funding will cover, however believes that the important opportunity still merits pursuit,

**RESOLVED**, that the Executive Director and his designees be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to apply to the U.S. Department of Housing and Urban Development for Section 811 Project Rental Assistance Demonstration Program and to do all things they may deem necessary or advisable to effectuate the foregoing.

**Background**

On July 28, 2011, the Texas Department of Housing and Community Affairs (TDHCA) Governing Board approved a submission by TDHCA, in conjunction with the Texas State Medicaid Agency, the Texas Health and Human Services Commission (HHSC) via the Texas Department of Aging and Disability Services (DADS), of an application to the Center for Medicare and Medicaid Services (CMS) for a *Real Choice Systems Change: Building Sustainable Partnerships for Housing Grant*.

On September 30, 2011 the State of Texas was awarded \$330,000 in grant funds. The grant allows TDHCA to expand its partnership with DADS and other Texas health and human service agencies to create the necessary infrastructure for the State and local communities to access future affordable housing funds for persons with disabilities. DADS received the funds from CMS but is administering them in partnership with TDHCA. TDHCA is monitoring all grant activities, while DADS has been delegated to provide grant oversight.

As part of this grant, TDHCA was funded to implement *Strategy 1: Capitalizing on New Opportunities in HUD's Section 811 Supportive Housing for Persons with Disabilities*. The U.S. Department of Housing and Urban Development (HUD) Section 811 NOFA currently open is available to State Housing Agencies for the first time. The PRA funds will provide rental assistance for persons with disabilities at or below 30 percent of area median family income in existing TDHCA funded multifamily properties, such as those with HOME or Low-Income Housing Tax Credits. Additionally, the grant has funded the state to do the following activities in preparation for HUD Section 811 funds:

- **Interagency Agreement:** To apply for HUD Section 811 funds, TDHCA must enter into an Interagency Agreement with the State Medicaid Office. The agreement will outline how services will be provided to tenants in the 811 units and the referral process to those units. The State Medicaid Agency, the Department of Health and Human Services (HHSC) has delegated this authority to the Department of Aging and Disability Services (DADS). To be eligible for Section 811 PRA Demo funds, housing agencies must have a formal partnership with the State health and human service agency and the state agency designated to administer or supervise the administration of the State plan for medical assistance under Title XIX of the Social Security Act (Medicaid).
- **Apply for HUD Section 811 Funds:** The grant funds will assist TDHCA to submit a successful application to HUD for Section 811 PRA Funds.

On May 15, 2012, HUD released the highly anticipated Notice of Funding Availability (NOFA) for HUD's Fiscal Year 2012 Section 811 Supportive Housing for Persons with Disabilities Project Rental Assistance Demonstration (PRA Demo) Program. This NOFA announces the availability of \$85 million in Section 811 PRA Demo funding to identify, stimulate, and support innovative state-level partnerships and strategies that will transform and increase affordable and permanent supportive housing for extremely low income people with disabilities. The PRA option within Section 811 was authorized by Congress through the Frank Melville Supportive Housing Investment Act of 2010, which modernized and reinvigorated this important HUD supportive housing program. HUD anticipates that a minimum of \$2 million and a maximum of \$12 million will be awarded to between 9 and 16 applicants.

In order to serve persons with disabilities in the most effective way, while making the program as cost efficient as possible, staff is exploring different issues related to the NOFA, to include the following:

- How to distribute future Section 811 PRA Demo funds through a competitive NOFA to include how units will be distributed in existing or new TDHCA funded Multifamily properties.
- Pros and cons of limiting the 811 PRA Demo units to certain regions or areas of the State to create a pilot program.

- Fair housing implications of program design.
- Possibility of identifying and contracting with Property Management companies that have a portfolio of TDHCA units.

Staff plans to conduct five public roundtables throughout the state in late June and early July. These roundtables will provide feedback to the Department on program design to be incorporated in the application. In addition, the Department will solicit feedback from persons with disabilities as well as agencies and advocates for persons with disabilities. This will include feedback on the Interagency Agreement that is being developed in coordination with DADS. TDHCA also has funds from the *Real Choice Systems Grant* to provide stipends for persons with disabilities that need financial assistance to attend the hearings.

Staff has identified several areas in need of clarification in the NOFA and has submitted questions into HUD for further guidance. If awarded the funding, the full amount of the Administrative costs provided by this grant will be no more than five percent of the annual amount awarded which is approximately \$600,000 over the five year period or \$120,000 per year for the award max of \$12m. Additionally, staff has estimated that this new effort might take up to three full-time equivalent positions (FTE's). Administrative funds provided by the grant would not be sufficient to cover the cost of three FTE's. However, despite these uncertainties in funding and staffing the Department feels Section 811 would serve a great need identified by the state to serve very low income persons with disabilities.

Staff recommends the Department be authorized to apply to HUD for the Section 811 Project Rental Assistance Demonstration Program as staff identifies issues and develops a program design in response to this NOFA.



6

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Presentation, Discussion, and Possible Action to Issue a list of Approved Applications for Housing Tax Credits (“HTC”) in accordance with §2306.6724(e) of Texas Government Code

**RECOMMENDED ACTION**

**WHEREAS**, the Department must approve a list of approved 9% housing tax credit applications each year by June 30, 2012, in accordance with §2306.6724(e) of Texas Government Code, from which final commitments may be made prior to July 31, 2012, in accordance with §2306.6724(f); and

**WHEREAS**, not all applications on the approved list have completed the review process; some may be subject to pending or future appeals, challenges or waivers; and not all will ultimately receive awards of housing tax credits;

It is hereby,

**RESOLVED**, the attached list of active applications for 2012 Competitive Housing Tax Credits is approved in accordance with §2306.6724(e) of Texas Government Code, subject to meeting the requirements of the Qualified Allocation Plan.

**BACKGROUND**

The Department’s Board is required by §2306.6724(e) of Texas Government Code to “review the recommendations of department staff regarding applications and shall issue a list of approved applications each year in accordance with the qualified allocation plan no later than June 30.” As required by §2306.6724(f) of Texas Government Code, the Board “shall issue final commitments for allocations of housing tax credits each year in accordance with the qualified allocation plan not later than July 31.” At the July 26, 2012 Board meeting, the list presented to the Board will clearly identify those applications being recommended for a Commitment Notice.

One hundred sixty-two (162) Competitive (9%) Housing Tax Credit applications were submitted prior to the application deadline of March 1, 2012. To date, ten (10) applications have been withdrawn or terminated, excluding those terminated but with appeal rights remaining. Of the one-hundred fifty-two (152) applications remaining, many have not been fully reviewed and may be determined to be ineligible at a later date, including several applications appealing a staff termination on today’s agenda.

**Not all of the one hundred and fifty-two (152) approved applications will be recommended for an award and receive a commitment of housing tax credits; this list today merely reflects the pool of applications from which awarded applications may be selected.** In fact,

staff currently anticipates that there will only be funds sufficient to award approximately fifty (50) new developments in addition to those that received forward commitments last year. The attached list includes the current score for each active application as well as relevant application information. Those applications that have received a final scoring notice are identified in the "Review Status" column with a "C," indicating that Eligibility, Threshold, and Selection reviews have been completed. Those applications that are currently under review are identified with a "UR" and those with an "N" have not been prioritized for review.

At this time, all applications remain subject to underwriting, previous participation review, completion of any remaining program review, and a complete review of any challenges that may have been filed by the challenge deadline of June 13, 2012. Further, the credit amount reflected on this list is the requested credit amount and may change to reflect a recommended credit amount and/or may have conditions placed on the allocation in July. In addition to applications that may be removed from the list for issues of financial feasibility, applications may also be added to or removed from the list of approved applications by the Executive Director as determinations are made on appeals.



## Texas Department of Housing and Community Affairs 2012 Competitive (9%) Housing Tax Credit Application Summary Log

The Application log is organized by region and subregion. Applicants selecting the At-Risk/USDA Set-Asides are listed first and are organized by score rather than by region. Forward commitments approved by the Board in 2011 and being allocated from the 2012 ceiling are not reflected below. These forward commitments are accounted for separately and have already been removed from the estimates of the available funding for each region.

**Updated June 6, 2012.** Staff expects to update the log periodically to reflect final scores for those applications under review.

### HOW DO I READ THE SCORING COLUMNS?

Several columns of the log relate to the scoring of the applications, beginning with "Points Requested" and ending with "Review Status." For the applications that have received a complete program review the review status column reflects a "C" and for these applications the "Best Possible Score" column reflects the staff determined final score. These final scores are subject to appeal. The remaining applications do not have final scores. For these remaining applications, the review status is either reflected as "UR" for under review or "N" for not reviewed or prioritized for review. Additionally, the "Best Possible Score" column reflects the maximum points staff believes an application could achieve. However, an appeal or staff review may ultimately increase or decrease any of the scores listed. **The applications with a review status of "N" or "UR" may have final scores for Quantifiable Community Participation (§50.9(b)(2)) and State Senator and Representative Support or Opposition (§50.9(b)(6)). Logs with more information regarding these specific scoring items are available on the HTC section of the website.** The log has been organized based on the "Best Possible Score" column for each subregion or At-Risk Set-Aside. Where two or more applications have the same score, the "Tie Breaker Factors" columns on the far right are used to determine the ranking of each tied application. Several issues may still affect the ranking of applications, such as testing for the \$3 million cap (§50.5(c)) or the impact of challenges. Applicants are encouraged to exercise caution in drawing conclusions from the log.

Application Number	Development Name	Development Address	Development City	Development County	Development Zip Code	Region	Nonprofit Set-Aside	At-Risk Set-Aside	USDA Set-Aside	Rural/Urban	Construction Type	Total HTC Units	Total IMR/EO Units	Total Units	Target Population	TDHCA HOME	Credit/Funding Request	Points requested	Review Status: C=Complete, UR=under review, N=not reviewed					Tie Breaker Factors			
																			Base Score Awarded	+ Community Support §50.9(b)(2) & (13)	+ State Elected Official Points §50.9(b)(6)	Best Possible Score	Review Status	Notes	Units / Capita §50.6(f)(1)(A)	Tax Credits / Person §50.6(f)(1)(B)	
<b>At-Risk Set-Aside</b>																											
12252	Gulf Coast Arms	6603 Hirsch Rd.	Houston	Harris	77026	6		X		Urban	Reconstruction	160	0	160	General	\$	1,795,385	174	174	24	16	214	C		-	\$	2,992
12302	Farm Labor Apartments	2201 Saltillo	Laredo	Webb	78046-6802	11		X		Urban	New Construction	48	0	48	General	\$	560,000	174	174	24	16	214	C	Terminated - Pending appeal	-	\$	3,333
12248	Lexington Manor Apartments	3126 B Ray Ellison /5201 Kostoryz	Corpus Christi	Nueces	78415	10	X	X		Urban	Reconstruction	153	0	153	General	\$	1,908,152	174	174	24	16	214	C		-	\$	3,476
12264	LULAC Hacienda Apartments	2625 Greenwood Dr.	Corpus Christi	Nueces	78405	10		X		Urban	Reconstruction	60	0	60	Elderly	\$	946,919	179	173	24	16	213	C		-	\$	9,565
12084	San Gabriel Apartments	1100 Leander Rd.	Georgetown	Williamson	78628-8705	7		X	X	Rural	Acq/Rehab	135	1	136	General	X \$	1,171,537	171	171	24	16	211	C		-	\$	3,684
12314	Parkview Place	1100 Ave. N St.	Huntsville	Walker	77340-4454	6		X		Rural	Acq/Rehab	41	0	41	Elderly	X \$	393,944	170	170	24	16	210	C		-	\$	6,406
12121	Memorial Apartments	501 E. Jasmine Ave.	McAllen	Hidalgo	78501	11		X	X	Rural	Acq/Rehab	246	0	246	General	\$	909,468	169				209	UR		-	\$	924
12366	Pecan Creek & Pecan Grove	205 Riverview	Lampasas	Lampasas	76550	8		X	X	Rural	Acq/Rehab	81	15	96	General	X \$	484,218	169				209	UR		0.01361	\$	24,455
12045	Elmwood Apartments	231 Gene St.	Buffalo	Leon	75831	8		X	X	Rural	Acq/Rehab	24	0	24	General	X \$	220,296	173	168	24	16	208	C		0.00359	\$	3,060
12249	Grand Manor Apartments	2700 N Grand Avenue	Tyler	Smith	75702	4		X		Urban	Acq/Rehab	120	0	120	General	\$	1,344,130	173	168	24	16	208	C		0.02527	\$	4,000
12100	Pinewood Park	120 Kirksey St.	Lufkin	Angelina	75901	5		X		Rural	Reconstruction	94	0	94	General	X \$	920,000	168				208	N		0.09011	\$	2,866
12048	Cottonwood Apartments	1205 Murray Street	Taft	San Patricio	78390	10		X	X	Rural	Acq/Rehab	24	0	24	General	X \$	211,956	173	167	24	16	207	C		-	\$	5,047
12166	Villa Brazos	850 N. Ave J	Freeport	Brazoria	77541	6		X		Urban	Acq/Rehab	108	0	108	General	X \$	1,118,000	171	166	24	16	206	C		0.03269	\$	4,284
12365	Stepping Stone & Taylor Square Apts.	2501 Davis St./1005 Cottonbowl	Taylor	Williamson	76574	7		X	X	Rural	Acq/Rehab	96	0	96	General	X \$	889,865	175	165	24	16	205	C		0.01363	\$	42,989
12112	Inez Tims	800 N. Chestnut St.	Lufkin	Angelina	75901	5		X		Rural	Acq/Rehab	70	0	70	Elderly	X \$	750,000	177	164	24	16	204	C	Scoring - Pending appeal	-	\$	7,143
12042	Brentwood Apartments	1000 N. 13th St.	West Columbia	Brazoria	77486	6		X	X	Rural	Acq/Rehab	24	0	24	General	X \$	209,142	173	163	24	16	203	C		0.01192	\$	2,905
12165	GardenWalk of La Grange, Schulenburg and Weimar	1018 N. Madison, 104 Simpson, 303 N. Smith	La Grange, Schulenburg, Weimar	Fayette and Colorado	78945, 78956, 78962	6 and 7			X	Rural	Acq/Rehab	40	0	40	General	\$	319,177	150				190	UR	Terminated - Pending appeal	0.00408	\$	2,660
12058	Plantation Manor	1423 McClanahan Rd.	Marlin	Falls	76661-6411	8		X	X	Rural	Acq/Rehab	66	0	66	General	\$	455,724	175						Withdrawn	-	\$	2,979

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																			Base Score Awarded	+ Community Support \$50.9(f)(2) & (1.3)	+ State Elected Official Points \$50.9(f)(6)	= Best Possible Score	Review Status	Notes	Units / Capita \$50.6(f)(1)(A)	Tax Credits / Person \$50.6(f)(1)(B)	
12059	Retirement Acres	1139 McClanahan Road	Marlin	Falls	76661-6411	8		X	X	Rural	Acq/Rehab	56	0	56	Elderly		\$ 498,500	175						Terminated		0.00863	\$ 5,035
<b>Max Eligible Request In At-Risk</b>		<b>\$2,000,000</b>					<b>Amount Available</b>		<b>\$7,853,300</b>			<b>At-Risk</b>		<b>19</b>	<b>Total</b>		<b>\$15,106,413</b>										
							<b>USDA Set-Aside Amount Available</b>		<b>\$3,145,264</b>																		
<b>Region 1 / Rural</b>																											
12060	The Reserves at High Plains	NEC N. 7th and Oak	Dumas	Moore	79029	1				Rural	New Construction	60	4	64	General	X	\$ 603,448	179	179	24	16	<b>219</b>	<b>C</b>			-	\$ 2,453
12245	Perryton Apartments	W side of Jefferson St., N of SW 24th Ave.	Perryton	Ochiltree	79070	1				Rural	New Construction	72	8	80	General	X	\$ 860,868	179				<b>219</b>	<b>UR</b>			-	\$ 2,870
12223	Hidden Hollow	North Birge Ave. at NW 2nd St.	Dumas	Moore	79029	1				Rural	New Construction	72	0	72	General		\$ 750,000	179				<b>219</b>	<b>N</b>			-	\$ 2,976
12268	Stonebridge of Plainview	NEC of Mesa Dr. and 16th St.	Plainview	Hale	79072	1				Rural	New Construction	66	14	80	General	X	\$ 904,060	179				<b>219</b>	<b>N</b>			-	\$ 3,139
12108	Amarillo Senior Living Community	E side of 8600 Block of Barstow Dr.	Amarillo ETJ	Randall	79118	1				Rural	New Construction	86	0	86	Elderly	X	\$ 999,975	178						Withdrawn		-	\$ 4,975
<b>Max Eligible Request</b>		<b>\$1,055,095</b>					<b>Amount Available</b>		<b>\$727,369</b>			<b>Region 1 Rural</b>		<b>5</b>	<b>Total</b>		<b>\$4,118,351</b>										
<b>Region 1 / Urban</b>																											
12125	Monarch Meadows	NEC of Dowden Ave.	Wolfthorh	Lubbock	79382	1				Urban	New Construction	80	0	80	General		\$ 1,182,143	179	179	24	16	<b>219</b>	<b>C</b>			-	\$ 2,718
12269	Stonebridge of Kelsey Park	SEC of FM 1585 and Norfolk Ave.	Lubbock	Lubbock	79424	1				Urban	New Construction	145	7	152	General	X	\$ 1,549,990	179				<b>219</b>	<b>N</b>			-	\$ 3,189
12246	The Grove at Elm Park	.18 miles West of the intersection of 34th St. and Milwaukee Ave.	Lubbock	Lubbock	79407	1				Urban	New Construction	131	13	144	General		\$ 1,472,499	178				<b>218</b>	<b>N</b>			-	\$ 2,757
12290	Woodbridge of Lubbock	SWC of 71st St. and Ironton Ave.	Lubbock	Lubbock	79424	1				Urban	New Construction	84	6	90	Elderly	X	\$ 1,073,290	178				<b>218</b>	<b>N</b>		0.03891	\$ 5,679	
12222	Playa Lake Apartments	Ave. U, 1 block S of 82nd St.	Lubbock	Lubbock	79423	1				Urban	New Construction	119	1	120	General		\$ 1,220,000	177				<b>217</b>	<b>N</b>			-	\$ 2,641
12225	Cypress Lake Apartments	90th St., 1-block E of Hwy. 62	Wolfthorh	Lubbock	79382	1				Urban	New Construction	96	0	96	General		\$ 950,000	179	179	22	16	<b>217</b>	<b>C</b>	Scoring - Pending appeal		-	\$ 2,730
12184	SilverLeaf at Quail Creek	6601 Lowes Ln.	Amarillo	Potter	79124	1				Urban	New Construction	100	0	100	Elderly		\$ 1,100,000	174				<b>214</b>	<b>N</b>		0.03734	\$ 4,889	
<b>Max Eligible Request</b>		<b>\$1,550,098</b>					<b>Amount Available</b>		<b>\$1,068,618</b>			<b>Region 1 Urban</b>		<b>7</b>	<b>Total</b>		<b>\$8,547,922</b>										
<b>Region 2 / Rural</b>																											
12075	Saddlebrook Apartments	N of Sycamore Dr. and E of IH 44	Burkburnett	Wichita	76354	2				Rural	New Construction	60	4	64	General	X	\$ 614,616	179	179	24	16	<b>219</b>	<b>C</b>			-	\$ 2,498
12228	Iowa Park Homes	SE Access Rd. Hwy 287 and Karen Ln.	Iowa Park	Wichita	76367	2				Rural	New Construction	64	8	72	General	X	\$ 750,000	178				<b>218</b>	<b>N</b>			-	\$ 2,857
<b>Max Eligible Request</b>		<b>\$750,000</b>					<b>Amount Available</b>		<b>\$500,000</b>			<b>Region 2 Rural</b>		<b>2</b>	<b>Total</b>		<b>\$1,364,616</b>										
<b>Region 2 / Urban</b>																											
12065	La Ventana Apartments	Approximately 2401 Union Ln (Union & Hwy 351)	Abilene	Taylor	79601	2				Urban	New Construction	72	12	84	General		\$ 710,000	179	179	24	16	<b>219</b>	<b>C</b>			-	\$ 2,518
12034	Meadow Place Apartments	E of McNiel Ave., North of S Regent Dr.	Wichita Falls	Wichita	76308	2				Urban	New Construction	64	0	64	General	X	\$ 699,758	178				<b>218</b>	<b>N</b>			-	\$ 3,240





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																			Base Score Awarded	+ Community Support \$50.9(b)(2) & (1.3)	+ State Elected Official Points \$50.9(b)(6)	= Best Possible Score	Review Status	Notes	Units / Capita \$50.6(f)(1)(A)	Tax Credits / Person \$50.6(f)(1)(B)	
<b>Region 5 / Urban</b>																											
12089	Briar Bend	6500 block Sienna Trails Dr.	Beaumont	Jefferson	77708	5				Urban	New Construction	40	0	40	General		\$ 750,000	173	172	24	16	212	C		0.03181	\$ 3,968	
12080	Place of Grace	4400 Warren St.	Beaumont	Jefferson	77705	5				Urban	New Construction	70	10	80	Elderly		\$ 750,000	172				212	N		0.14258	\$ 5,155	
<b>Max Eligible Request</b>		<b>\$750,000</b>	<b>Amount Available</b>					<b>\$500,000</b>		<b>Region 5 Urban</b>			<b>2</b>	<b>Total</b>			<b>\$1,500,000</b>										
<b>Region 6 / Rural</b>																											
12361	El Campo Village	Olivia & Way Streets	El Campo	Wharton	77437	6				Rural	New Construction	72	8	80	General		\$ 936,100	179	179	24	16	219	C		-	\$ 2,400	
12206	Spring Hills Apartments	E corner of State Hwy 75 and Gospel Hill Rd.	Huntsville	Walker	77447	6				Rural	New Construction	72	8	80	General	X	\$ 770,000	179				219	N		-	\$ 2,730	
12368	Heritage Plaza	Flagship Blvd. and Hwy 149	Montgomery	Montgomery	77356	6				Rural	New Construction	80	0	80	Elderly		\$ 935,397	177				217	N		-	\$ 5,285	
12310	The Monarch at Bay Prairie	12th St., near the intersection of Moore Ave.	Bay City	Matagorda	77414	6				Rural	New Construction	62	10	72	Elderly	X	\$ 624,072	175				215	N		-	\$ 4,426	
12114	Timberedge Village	E side of Magnolia Ridge Blvd. at the entrance to Magnolia Ridge	Magnolia	Montgomery	77354	6				Rural	New Construction	80	0	80	General		\$ 803,168	173				213	N		-	\$ 3,347	
<b>Max Eligible Request</b>		<b>\$936,108</b>	<b>Amount Available</b>					<b>\$645,341</b>		<b>Region 6 Rural</b>			<b>5</b>	<b>Total</b>			<b>\$4,068,737</b>										
<b>Region 6 / Urban</b>																											
12218	The Reserve at Rosharon	S of Highway 6, E of Judy Street, N of Loop Drive, W of Brazoria County	Ft. Bend County	Fort Bend	77583	6				Urban	New Construction	120	0	120	General		\$ 1,305,000	179	179	24	16	219	C		-	\$ 3,152	
12092	The Huntington	Murphy Rd. (Fm1092) & Cartwright	Missouri City	Fort Bend	77459	6				Urban	New Construction	106	14	120	Elderly		\$ 1,274,000	178	178	24	16	218	C		-	\$ 4,591	
12192	The Hamilton	1800 St. Joseph Parkway	Houston	Harris	77003-5018	6				Urban	New Construction	133	15	148	General		\$ 2,000,000	177				217	UR	Terminated - Pending appeal	-	\$ 6,144	
12276	AT Villages at Cypress	7.3+/- SE of Huffmeister & Cypress North Houston Rd.	Houston	Harris	77065	6				Urban	New Construction	146	16	162	Elderly		\$ 1,483,963	176	176	24	16	216	C		-	\$ 4,645	
12367	Justice Park Senior Villas	Justice Park Dr. N of W. 43rd	Houston	Harris	77092	6				Urban	New Construction	144	0	144	Elderly		\$ 1,600,943	176	176	24	16	216	C		-	\$ 4,918	
12170	Fairfield Creek Estates	27800 block of Hwy 290, E of Fairfield Creek Dr.	Cypress (Houston ETJ)	Harris	77433-4907	6				Urban	New Construction	134	6	140	Elderly		\$ 1,429,741	176	176	24	16	216	C		-	\$ 5,237	
12118	Spring Trace	W side of Aldine Westfield Rd, N of Gwenfair Dr, E of Hardy Toll Rd, S of 5800 W. Mount Houston Rd.	Spring	Harris	77373	6				Urban	New Construction	179	1	180	Elderly		\$ 1,607,550	175				215	UR		-	\$ 3,969	
12020	Palisades of Inwood	5800 W. Mount Houston Rd.	Houston	Harris	77088	6				Urban	New Construction	127	0	127	Elderly		\$ 1,500,000	175				215	N		-	\$ 5,236	
12188	Independent Missionary Village	6607 Prino Road	Hitchcock	Galveston	77563	6				Urban	Acq/Rehab	72	0	72	General	X	\$ 640,683	169				209	N		-	\$ 2,373	
12038	Colonial Ridge Apartments	E side of the Eastex Fwy (US Hwy. 59) on the S side of Aldine Bender	Houston ETJ	Harris	77396	6				Urban	New Construction	170	14	184	General		\$ 1,772,995	178	178	24	0	202	C		-	\$ 2,814	
12383	Clear Springs	SWQ of W Lake Houston Pkwy. And Will Clayton Pkwy.	Atascocita	Harris	77346	6				Urban	New Construction	187	21	208	General		\$ 1,258,642	177	177	24	0	201	C		-	\$ 1,639	
12107	Calhoun Street Seniors	5426 Calhoun	Houston	Harris	77021	6				Urban	New Construction	120	0	120	Elderly		\$ 1,234,081	173				197	N		-	\$ 5,274	
12109	Montgomery County Living Community	NWQ of Carriage Hills Blvd. & N. FM 1488	Conroe ETJ	Montgomery	77384	6				Urban	New Construction	168	0	168	General		\$ 2,000,000	178				162	N		-	\$ 4,040	
12022	Galveston Initiative I	1502, 1601, and 1701 Strand St.	Galveston	Galveston	77550	6				Urban	New Construction	96	64	160	General		\$ 1,369,360	177				161	N		-	\$ 2,926	
12342	The Tribute Apartments	1725 & 1720 Gulf Fwy	La Marque	Galveston	77568	6				Urban	New Construction	85	27	112	General		\$ 1,037,729	178						Terminated	-	\$ 2,790	
12370	Cypress Creek at Highway 6	9300 block of Jackrabbit Rd.	Houston ETJ	Harris	77095	6				Urban	New Construction	153	27	180	General		\$ 1,838,420	177						Withdrawn	-	\$ 3,225	



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																			Base Score Awarded	+ Community Support \$50.9(f)(2) & (1.3)	+ State Elected Officials \$50.9(f)(6)	= Best Possible Score	Review Status	Notes	Units / Capita \$50.6(f)(1)(A)	Tax Credits / Person \$50.6(f)(1)(B)	
12197	Campanile on Briar Forest	NEC of Briar Forest and Hwy 6	Houston	Harris	77077-	6				Urban	New Construction	120	0	120	Elderly		\$ 1,300,000	177						Withdrawn	-	\$ 4,788	
12706	Starwood 105	4157 W. Davis Rd.	Conroe	Montgomery	77304	6				Urban	New Construction	140	0	140	Elderly		\$ 1,539,765	176						Withdrawn	-	\$ 4,888	
<b>Max Eligible Request</b>		<b>\$2,000,000</b>							<b>\$9,870,256</b>	<b>Region 6 Urban</b>			<b>18</b>	<b>Total</b>			<b>\$26,192,872</b>										
<b>Region 7 / Rural</b>																											
12346	Merritt Hill Country	NEC of Ems Dr. and Burrows Pl.	Dripping Springs	Hays	78620	7				Rural	New Construction	67	13	80	Elderly	X	\$ 750,000	178	178	24	16	<b>218</b>	<b>C</b>		-	\$ 3,906	
12371	Mariposa at Ranch Road 12	14400 block of Ranch Rd. 12 on the E side of Ranch Road 12		Hays	78678	7				Rural	New Construction	60	20	80	Elderly	X	\$ 750,000	178				<b>218</b>	<b>UR</b>		-	\$ 4,464	
12179	River Terrace	Intersection of Mesquite St. and Wilson St.	Bastrop	Bastrop	78602	7				Rural	New Construction	38	0	38	General		\$ 733,976	176				<b>216</b>	<b>N</b>	0.00451	\$ 4,044		
12318	Cottonwood Square	Exchange Blvd. between W Metcalfe and Liberty St.	Hutto	Williamson	78634-5554	7				Rural	New Construction	50	11	61	Elderly	X	\$ 500,000	175				<b>215</b>	<b>N</b>	-	\$ 4,566		
12191	Riverwood Commons II	SEC of Old Austin Hwy and Hasler Blvd.	Bastrop	Bastrop	78602	7				Rural	New Construction	36	0	36	Elderly		\$ 510,954	144				<b>184</b>	<b>N</b>	0.00451	\$ 5,677		
<b>Max Eligible Request</b>		<b>\$750,000</b>							<b>\$500,000</b>	<b>Region 7 Rural</b>			<b>5</b>	<b>Total</b>			<b>\$3,244,930</b>										
<b>Region 7 / Urban</b>																											
12345	Merritt Legacy	S of Old Quarry Rd., W of S. Bagdad Rd. behind Public library, N of Nightshade Ln.	Leander	Williamson	78641	7				Urban	New Construction	166	42	208	General	X	\$ 2,000,000	179	179	24	16	<b>219</b>	<b>C</b>		-	\$ 3,333	
12300	Capital Studios	309 E. 11th St.	Austin	Travis	78701	7				Urban	New Construction	135	0	135	Supportive Housing		\$ 1,100,000	179	179	24	16	<b>219</b>	<b>C</b>		-	\$ 5,432	
12140	KIRON at Mesquite Lane	2805 Mesquite Ln.	Georgetown	Williamson	78628	7				Urban	New Construction	74	8	82	General	X	\$ 879,122	178				<b>218</b>	<b>UR</b>		-	\$ 3,531	
12347	Merritt Estates	S of Old Quarry Rd., W of S. Bagdad Rd. behind Public library, N of Nightshade Ln.	Leander	Williamson	78641	7				Urban	New Construction	79	21	100	Elderly	X	\$ 1,000,000	178				<b>218</b>	<b>N</b>		-	\$ 4,065	
12262	Georgetown Senior	Shell Rd., N of Williams Dr.	Georgetown	Williamson	78627	7				Urban	New Construction	120	0	120	Elderly		\$ 1,334,337	175				<b>215</b>	<b>N</b>		-	\$ 4,448	
12028	Heritage Oak Hill	8922 Manchaca Rd.	Austin	Travis	78748	7				Urban	New Construction	96	0	96	Elderly		\$ 1,141,080	173				<b>213</b>	<b>N</b>		-	\$ 5,897	
12239	Songhai at West Gate	8700 West Gate Blvd.	Austin	Travis	78745	7				Urban	New Construction	118	0	118	General		\$ 1,220,000	179						Terminated	-	\$ 2,757	
<b>Max Eligible Request</b>		<b>\$2,000,000</b>							<b>\$3,189,642</b>	<b>Region 7 Urban</b>			<b>7</b>	<b>Total</b>			<b>\$8,674,539</b>										
<b>Region 8 / Rural</b>																											
12053	The Manor at Hancock Park	SWQ of US Hwy 190 & US Hwy 183	Lampasas	Lampasas	76550-3518	8				Rural	New Construction	58	0	58	Elderly		\$ 657,176	178	178	24	16	<b>218</b>	<b>C</b>		-	\$ 4,762	
12334	The Overlook at Linheir Farm	NEQ of Market and Cantey	Brenham	Washington	77833	8				Rural	New Construction	68	7	75	Elderly	X	\$ 750,000	175				<b>215</b>	<b>N</b>	0.01299	\$ 4,587		
12395	Colonial Point Apartments	2328 S. Hwy 36	Gatesville	Coryell	76528	8				Rural	New Construction	60	0	60	General	X	\$ 683,006	172				<b>212</b>	<b>N</b>		-	\$ 4,066	
<b>Max Eligible Request</b>		<b>\$750,000</b>							<b>\$500,000</b>	<b>Region 8 Rural</b>			<b>3</b>	<b>Total</b>			<b>\$2,090,182</b>										
<b>Region 8 / Urban</b>																											
12393	Highland Villas	+/- 8 ac. near SH-6 and Briarcrest	Bryan	Brazos	77802-3047	8				Urban	New Construction	180	0	180	General	X	\$ 2,000,000	179	179	24	16	<b>219</b>	<b>C</b>		-	\$ 4,004	



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																			Base Score Awarded	+ Community Support \$50.9(b)(2) & (1.3)	+ State Elected Official Points \$50.9(b)(6)	= Best Possible Score	Review Status	Notes	Units / Capita \$50.6(f)(1)(A)	Tax Credits / Person \$50.6(f)(1)(B)
<b>Region 11 / Rural</b>																										
12379	Sunrise Terrace	N side of 49 Acre Lot on NEC of FM 2556	La Feria	Cameron	78559	11				Rural	New Construction	70	0	70	General	X	\$ 932,106	178	178	24	16	218	C	-	\$	2,633
12177	Royal Garden	Eisenhower St.	Rio Grande City	Starr	78582	11				Rural	New Construction	80	0	80	General	X	\$ 804,898	179	178	24	16	218	C	-	\$	3,946
12306	Stardust Apartments	2300 Block of Milam St.	Uvalde	Uvalde	78801-3120	11				Rural	New Construction	80	0	80	General	X	\$ 855,000	177				217	N	-	\$	3,098
12397	Cottonwood II Apartments	between US Hwy 77 and Bus 77, 0.3 miles S of FM 490	Raymondville	Willacy	78580	11				Rural	New Construction	80	0	80	General	X	\$ 925,000	177				217	N	-	\$	3,351
12120	Villas at the Orchard	10 acres of Lot 9 of Diamond Commercial Park Subdivision	Pefitas	Hidalgo	78576	11				Rural	New Construction	80	0	80	General		\$ 932,000	176				216	N	-	\$	3,883
12147	Sunflower Gardens	1000 block of N. 17th st.	Carrizo Springs	Dimmit	78834	11				Rural	New Construction	72	0	72	Elderly	X	\$ 815,000	173				213	N	0.01322	\$	5,031
<b>Max Eligible Request</b>		<b>\$932,106</b>	<b>Amount Available</b>		<b>\$677,850</b>		<b>Region 11 Rural</b>		<b>6</b>	<b>Total</b>	<b>\$5,264,004</b>															
<b>Region 11 / Urban</b>																										
12388	Paseo Pointe	S side of Whipple Rd., E of Esalante Rd.	Los Fresnos	Cameron	78566	11				Urban	New Construction	187	21	208	General	X	\$ 1,398,642	179	179	24	16	219	C	-	\$	1,865
12339	Hacienda del Sol	SWC of Stookey and Bus 77	San Benito	Cameron	78586	11				Urban	New Construction	136	16	152	General	X	\$ 1,064,246	179	179	24	16	219	C	-	\$	1,928
12309	Ana M Lozano Apartments	6500 Springfield Ave.	Laredo	Webb	78041-6710	11				Urban	New Construction	80	0	80	General		\$ 825,641	179				219	UR	-	\$	2,928
12308	North Bartlett Ave Apartments	Intersection of E. Calton Road (aka South Sandman	Laredo	Webb	78041	11				Urban	New Construction	102	0	102	General		\$ 1,165,000	179				219	N	-	\$	3,263
12277	TGO Villages at Ridge	10.64+/- acres out of Lot 17, M.L Woods Properties	San Juan	Hidalgo	78589	11				Urban	New Construction	130	14	144	General		\$ 1,550,000	179				219	N	-	\$	3,690
12202	Park Laureate	NEC of N Breedlove and N Loop 499	Harlingen	Cameron	78550	11				Urban	New Construction	82	10	92	General		\$ 920,000	178				218	N	-	\$	2,893
12134	CHRISTIE'S COVE	Ramsey Rd. and Lafayette Ave.	Harlingen	Cameron	78550	11				Urban	New Construction	125	0	125	General		\$ 2,000,000	178				218	N	-	\$	5,333
12267	Cornerstone Apartment Homes	150 North Vermillion Avenue	Cameron County	Cameron	78521	11				Urban	New Construction	104	0	104	General	X	\$ 1,487,870	175				215	N	-	\$	4,509
12136	SIERRA COVE	Seminary Rd.	Edinburg	Hidalgo	78541	11				Urban	New Construction	120	0	120	General		\$ 2,000,000	176				200	N	-	\$	3,268
<b>Max Eligible Request</b>		<b>\$2,000,000</b>	<b>Amount Available</b>		<b>\$3,101,869</b>		<b>Region 11 Urban</b>		<b>9</b>	<b>Total</b>	<b>\$12,411,399</b>															
<b>Region 12 / Rural</b>																										
12243	Dunes Apartments	SE Ave. G and SE 4th St.	Seminole	Gaines	79630	12				Rural	New Construction	60	0	60	General		\$ 620,000	179	179	24	16	219	C	-	\$	2,870
12244	Monahans Apartments	E. Sealy Ave. & S. Gary Ave.	Monahans	Ward	79756	12				Rural	New Construction	66	0	66	General	X	\$ 750,000	173				213	N	-	\$	3,125
<b>Max Eligible Request</b>		<b>\$750,000</b>	<b>Amount Available</b>		<b>\$500,000</b>		<b>Region 10 Rural</b>		<b>2</b>	<b>Total</b>	<b>\$1,370,000</b>															
<b>Region 12 / Urban</b>																										
12049	Brownstones Midland	500 W. Front St.	Midland	Midland	79701	12				Urban	New Construction	70	0	70	General	X	\$ 750,000	179	179	24	16	219	C	-	\$	4,237
12031	Mesquite Terrace	SEC of Loop 250 and Leisure Dr.	Midland	Midland	79703	12				Urban	New Construction	60	0	60	Elderly	X	\$ 740,000	176				216	N	-	\$	5,873
<b>Max Eligible Request</b>		<b>\$750,000</b>	<b>Amount Available</b>		<b>\$500,000</b>		<b>Region 12 Urban</b>		<b>2</b>	<b>Total</b>	<b>\$1,490,000</b>															

Texas Department of Housing and Community Affairs  
Competitive (9%) Housing Tax Credit Application Summary Log

Application Number	Development Name	Development Address	Development City	Development County	Development Zip Code	Region	Nonprofit Set-Aside	At-Risk Set-Aside	USDA Set-Aside	Rural/Urban	Construction Type	Total HTC Units	Total MR/EO Units	Total Units	Target Population	TDHCA HOME	Credit/Funding Request	Points requested	Review Status: C=Complete, UR=under review, N=not reviewed					Tie Breaker Factors					
																			Base Score Awarded	+	Community Support \$50.9(f)(2) & (1.3)	+	State Elected Official Points \$50.9(f)(6)	=	Best Possible Score	Review Status	Notes	Units / Capita \$50.6(f)(1)(A)	Tax Credits / Person \$50.6(f)(1)(B)
<b>Region 13 / Rural</b>																													
12127	Clint Palms	Near 13500 Alameda Rd.	Clint	El Paso	79836	13				Rural	New Construction	76	0	76	General		\$ 750,000	169	169	24	16	209	C		0.01864	\$	2,717		
12126	San Elizario Palms II	Parcel Directly behind 13850 Socorro Rd.	San Elizario	El Paso	79849	13				Rural	New Construction	68	0	68	General		\$ 750,000	168					208	N		0.01864	\$	2,976	
12155	Laureles del Este	S side of Fabens St., W of Citizens Transfer Station Rd.	Fabens	El Paso	79838	13				Rural	New Construction	42	0	42	General	X	\$ 475,288	168					208	N		0.00600	\$	3,371	
<b>Max Eligible Request</b>		<b>\$750,000</b>																											
												<b>Region 13 Rural</b>	<b>3</b>	<b>Total</b>		<b>\$1,975,288</b>													
<b>Region 13 / Urban</b>																													
12149	North Desert Palms	11001 Dyer Street	El Paso	El Paso	79934	13				Urban	New Construction	100	72	172	General		\$ 1,268,841	179	179	24	16	219	C		-	\$	2,014		
12152	Eastside Crossings	Intersection of Zaragoza and Nour H.	El Paso	El Paso	79936	13				Urban	New Construction	143	45	188	General		\$ 1,246,056	178					218	N		-	\$	1,905	
12154	Villas at West Mountain	SWQ Helen of Troy and New Harvest	El Paso	El Paso	79912	13				Urban	New Construction	76	0	76	General		\$ 821,153	178					218	N		-	\$	3,075	
12153	Eastpointe Estates	NEQ Zaragoza and Pebble Hills	El Paso	El Paso	79938	13				Urban	New Construction	100	0	100	General		\$ 1,228,911	178					214	N		0.00223	\$	3,472	
<b>Max Eligible Request</b>		<b>\$1,869,069</b>																											
												<b>Region 13 Urban</b>	<b>4</b>	<b>Total</b>		<b>\$4,564,961</b>													
<b>Total Applications</b>		<b>162</b>											<b>Total Funding Requested</b>		<b>\$168,893,984</b>														

7

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, a 2012 competitive housing tax credit scoring notice was provided to the applicant of Cadillac Apartments (#12062);

**WHEREAS**, the staff identified one (1) point that the applicant elected but the application does not qualify to receive; and

**WHEREAS**, the applicant appealed the scoring notice and requested that the Board award the one (1) point under §50.9(b)(12);

**RESOLVED**, the applicant's appeal of the scoring notice for Cadillac Apartments (#12062) is hereby denied.

**BACKGROUND**

On May 22, 2012, staff sent a scoring notice to the applicant of Cadillac Apartments, a 2012 competitive housing tax credit application submitted in Urban Region 3. After a complete staff review, it was determined that the application did not qualify to receive one (1) of the points elected by the Applicant. The area subject to appeal is summarized below.

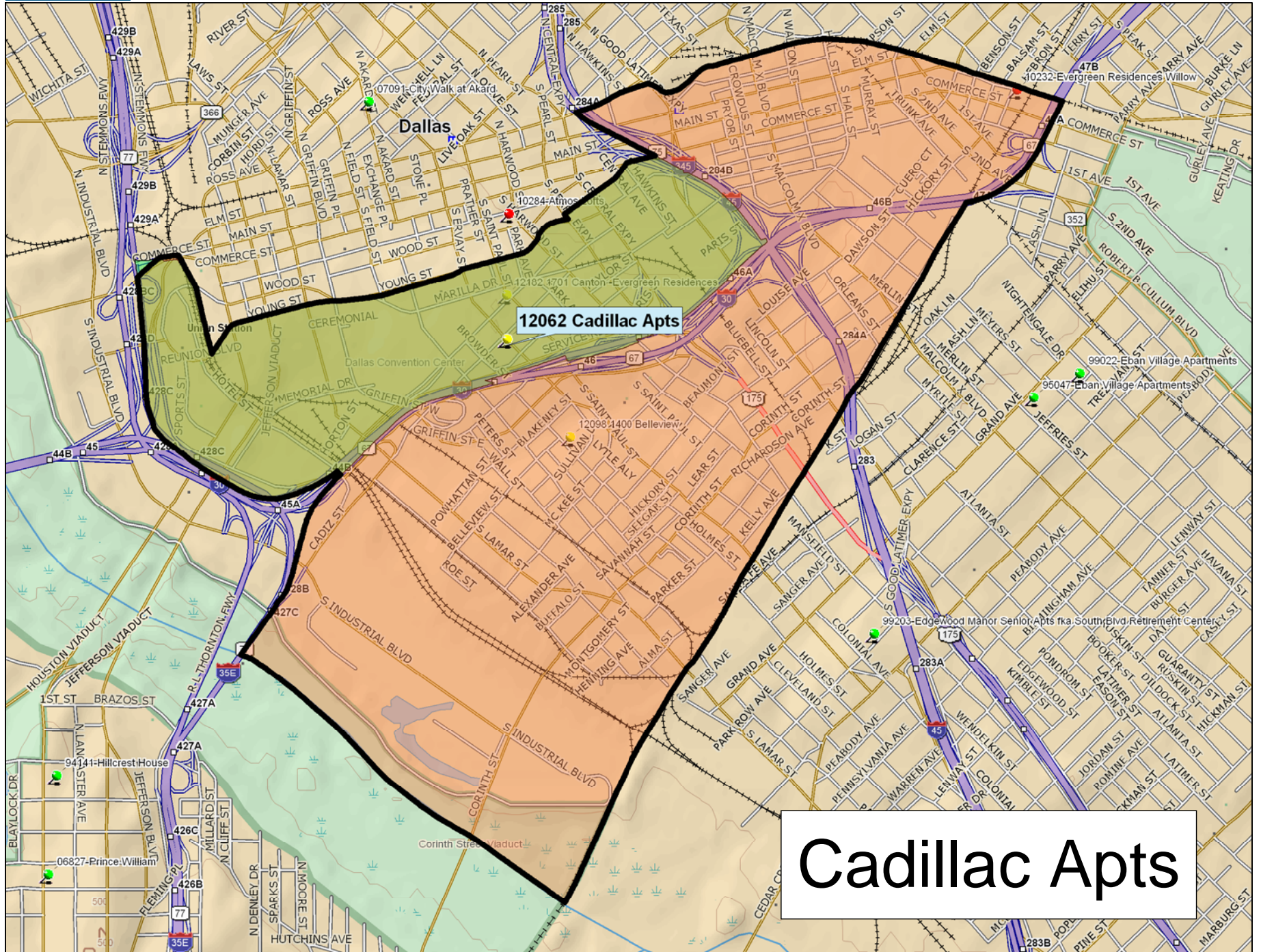
§50.9(b)(12) Leveraging of Private, State, and Federal Resources

Seven (7) points may be elected by those applicants whose development site is not located in a Qualified Census Tract (QCT), that propose the use of financing sources meeting certain requirements, and that propose 30% of AMFI units. However, if the development site is located in a QCT and the other requirements are met then an application can only receive a maximum of six (6) points. The applicant elected seven (7) points but was determined to be located in a 2012 QCT, so staff issued a scoring notice that reflected six (6) points.

For the purpose of the 2012 QCT designations, the development site is located in a QCT according to the HUD published list (tract # 481130032.01). At the time HUD published the 2012 data they did not have access to data using the most recent decennial census tract numbers. Therefore, none of the new tract numbers from the most recent census appear as 2012 QCTs and are not relevant for a determination in this regard. In the subject case, the applicant is relying on this new census tract number to contend that they are not in a QCT. In fact, the site is in a 2012

QCT. Moreover, HUD recently released the list of 2013 QCTs which does use the most recently assigned census tract numbers and the site remains in a QCT.

Staff recommends denial of the appeal.



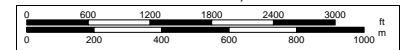
Data use subject to license.

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www.delorme.com



Scale 1 : 22,400



1" = 1,866.7 ft

Data Zoom 13-2



Cadillac Apartments, LLC  
Housing Tax Credit Program  
2012 Competitive Housing Tax Credit (HTC) Application  
To the Texas Department of Housing & Community Affairs  
TDHCA Number: 12062

## **APPEAL TO THE EXECUTIVE DIRECTOR AND THE TDHCA BOARD**

### Documentation in Support

#### **Introduction**

Cadillac Apartments, LLC is a project of Green Eggs and Ham Development, LLC (“GEH Development”). GEH Development is a historically underutilized business certified by the State of Texas as a HUB. It is owned by Rebecca Garza Greenan, John P. Greenan, Jill Hamilton, and Lawrence E. Hamilton, III. These owners have developed more than 1,000 units of housing in downtown Dallas over the last decade, including the only two affordable housing projects in downtown Dallas.

GEH Development's application for an award of Low Income Housing Tax Credits (“LIHTC”) from the Texas Department of Housing and Community Affairs (“TDHCA”) is for the Cadillac Lofts development, a proposed 164-unit permanent supportive housing project located at 901 S. Ervay in Dallas’s Central Business District. On May 22, 2012, the TDHCA staff issued its preliminary scoring of this year’s LIHTC applications. Under the preliminary scoring, Cadillac Lofts' ranking placed it as the next eligible project, just below the cut-off for LIHTC.

TDHCA staff awarded GEH Development 6 points in its project scoring instead of the 7 points that GEH Development is entitled to receive. With that one additional point, Cadillac Lofts would receive an award of LIHTC. With that award, the project can be built. Without that award, the project cannot proceed, and Dallas will lose the opportunity to have 164 housing units for the chronically homeless.

## Grounds for Appeal

Under the 2012 Qualified Allocation Plan ("QAP"), GEH Development's application for LIHTC for the Cadillac Lofts is entitled to receive 7 points as a development located outside a Qualified Census Tract ("QCT"). TDHCA staff only gave 6 points.

The relevant language of the QAP is in Paragraph 50.9(b)(12):

(12) Leveraging of Private, State, and Federal Resources. (§2306.6725(a)(3)). The purpose of this scoring item is to provide an incentive for the leveraging of financial resources, when economically feasible, for a Development that proposes to serve a specified percentage of households at or below 30% of AMGI. Applications may qualify to receive (7 points) for a Development located outside of a Qualified Census Tract and (6 points) for a Development located inside a Qualified Census Tract.

GEH Development and TDHCA staff agree that the Cadillac Lofts project leverages private, state, and federal resources. The sole question is whether the project at the time of the application was located outside or inside a QCT, which in turn decides whether the project is entitled to 7 or 6 points.

According to TDHCA:

(107) Qualified Census Tract – Means any census tract which is designated by the Secretary of Housing and Urban Development and for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25 percent. (IRS §42(d)(5)(C)(i))

Furthermore, under Internal Revenue Code Section 42 (1986), the Secretary of Housing and Urban Development, or the Secretary's designee, has sole authority to designate Qualified Census Tracts.

The Cadillac Lofts project is located in census tract 48113020400 ("204"). Established in 2010, this census tract was not designated as a Qualified Census Tract when GEH Development filed its application for LIHTC for Cadillac Lofts. Though the HUD Secretary has advised that this census tract will appear on a

new list of designated QCTs effective January 1, 2013, census tract 204 is not currently, and was not at the time GEH Development's application was submitted, designated as a QCT.

In refusing to provide a score of 7, TDHCA staff determined that projects located in census tracts created in 2010 should be scored as though still located in 2000 census tracts, and that because the territory of a 2000 census tract that had been designated a QCT covered the territory where the project is proposed, then the project only deserved a score of 6. This determination was not based on any fact finding relevant to the merits of the application. Rather, it was the result of TDHCA staff developing and applying a generally applicable statement of policy affecting not only the scoring in this case, but also the scoring of any other project assigned to a new tract number for which the HUD Secretary's designation had not yet been made. As such, the action by TDHCA staff amounts to promulgation of a substantive rule. And because the rule was not properly promulgated under the Texas Administrative Procedures Act, the rule is invalid and cannot be used in refusing the full award of points required in this case.

The QAP is clear and unambiguous. Absent a designation of QCT, which is within the sole discretion of the HUD Secretary, and which does not, as yet, exist for census tract 204, a score of 7 for the Cadillac Lofts project is proper. That TDHCA staff created and applied a substantive rule to determine whether the project is located in a QCT for purposes of Section 50.9(b)(12) makes the determination improper, and the Executive Director or the TDHCA Board should reconsider that determination and award the full 7 points GEH Development is entitled to under the QAP.

#### **Awarding 7 Points is Consistent with the Policy Intent of QAP**

A plain reading of the existing QAP and the undisputed fact that census tract 204 is not designated by the HUD Secretary as a QCT alone warrant the award of the full 7 points. But GEH Development offers this additional reason

why the Executive Director or the TDHCA Board should award the Cadillac Lofts project the 7 points it is entitled to.

First, attached are two maps. One identifies the location of the Cadillac Lofts project (a satellite photo is also included). The other shows the boundaries of the 2010 census tract 204. Attached as well are photos of an existing building to be renovated and the site plan for the Cadillac Lofts project. The primary reason the TDHCA should award the Cadillac Lofts project 7 points is because of the public policy behind awarding 7 points for non-QCT tracts. This point system implements public policy that favors distributing LIHTC projects throughout a community and to avoid concentrating the projects within impoverished neighborhoods.

The Cadillac Lofts development site, as seen on the map, is on the north side of Interstate Highway I-30, within the highway boundaries encapsulating downtown Dallas. As shown by the 2010 census tract 204 map, and similar to previous census tracts, the tract captures not only property within the central business area, but also a large swath of territory outside the downtown highway boundaries. The unique location of the Cadillac Lofts development site should be a significant consideration for the Executive Director.

The downtown Dallas business district (on the north side of I-30) commands some of the highest apartment rents in the metropolitan area, while the community south of I-30 commands the lowest. According to the Dallas Housing Authority (which issues HUD rental vouchers, the amounts of which vary according to neighborhood demographics), the Cadillac Lofts project would be eligible for the highest HUD voucher amount authorized within the DFW Metroplex. Yet for projects south of I-30, even within this same census tract, the authorized HUD voucher amounts are the lowest.

Further, the Cadillac Lofts development site is in the 75201 zip code. The demographic characteristics of that zip code are:

- Median House/Condo value (in 2010) - \$288,463; State average - \$127,400;
- Real estate property taxes per housing unit - \$4,980; State average - \$2,392;
- Average (reported for 2004 in returns filed in 2005) adjusted gross income - \$95,256; State average - \$47,881;
- Salary/Wage - \$84,838; State average - \$41,947;
- Deductions for charity contributions - \$20,042; State average - \$4,753;
- Taxable interest for individuals - \$17,024; State average - \$2,255;
- Taxable dividends - \$64,910; State average - \$4,261.

See <http://www.city-data.com/zip/75201.html>.

The public policy behind awarding 7 points to non-QCT tracts is to promote housing diversity. The Cadillac Lofts project application promotes that diversity.

### **Conclusion**

The Executive Director or the TDHCA Board has the opportunity to correctly apply the QAP based on the undisputed fact that census tract 204 was not designated a QCT when GEH Development filed its application for LIHTC, and is not designated a QCT now. In addition, the Executive Director or the TDHCA Board can recognize the merits of this project in promoting housing diversification by awarding this project 7 points for being in a non-QCT.

Respectfully Submitted

For GEH Development/Cadillac Apartments LLC

By:

A handwritten signature in black ink, appearing to read 'Craig T. Enoch', written over a horizontal line.

Craig T. Enoch, Justice (Ret.)

**ENOCH KEVER PLLC**

600 Congress Ave., Suite 2800

Austin, TX 78701

(512) 615-1202 (o)

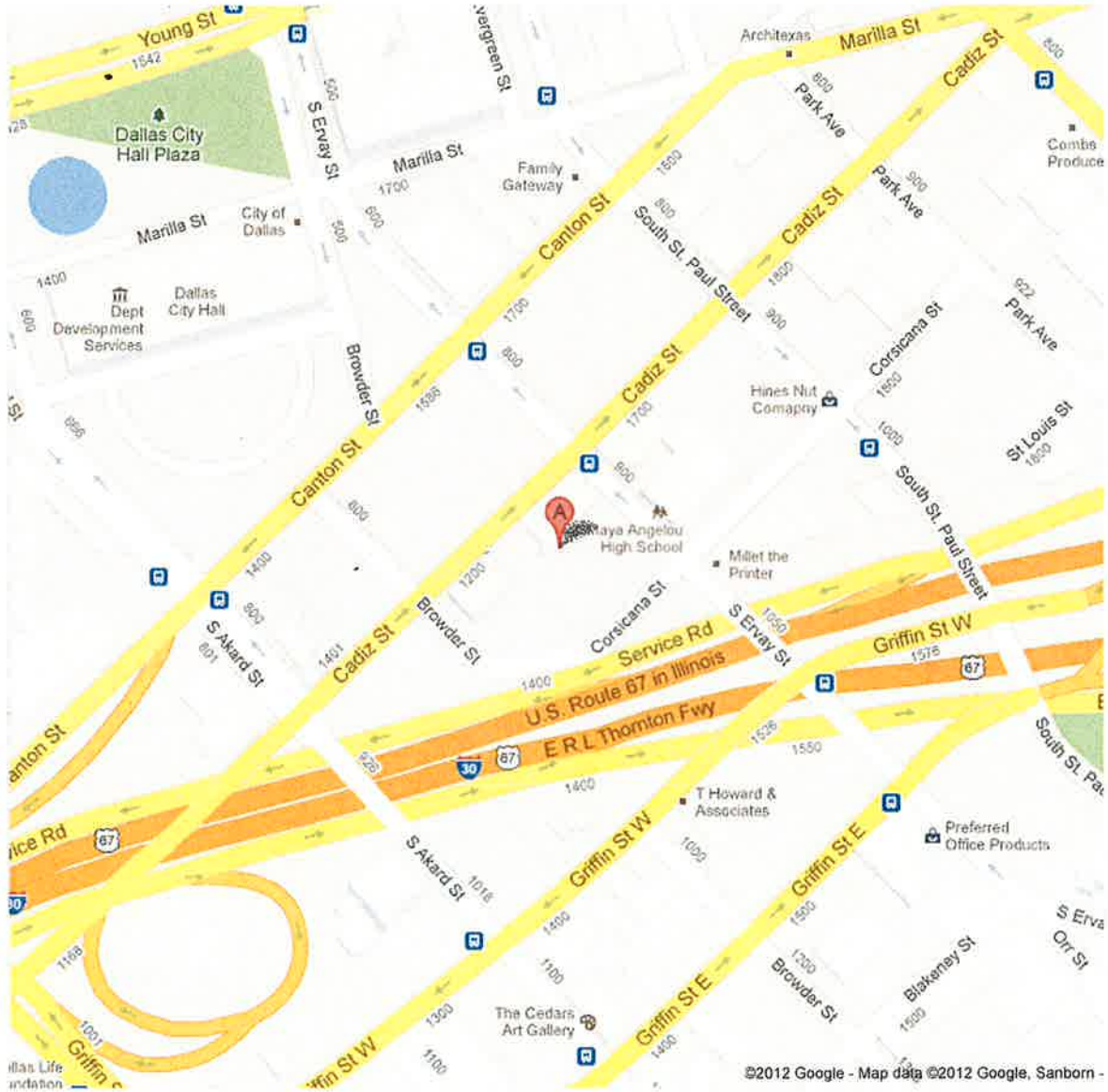
(512) 615-1198 (f)

[cenoch@enochkever.com](mailto:cenoch@enochkever.com)

Attachments

cc: Ted Hamilton  
John Greenan

Address 901 S Ervay St  
Dallas, TX 75201

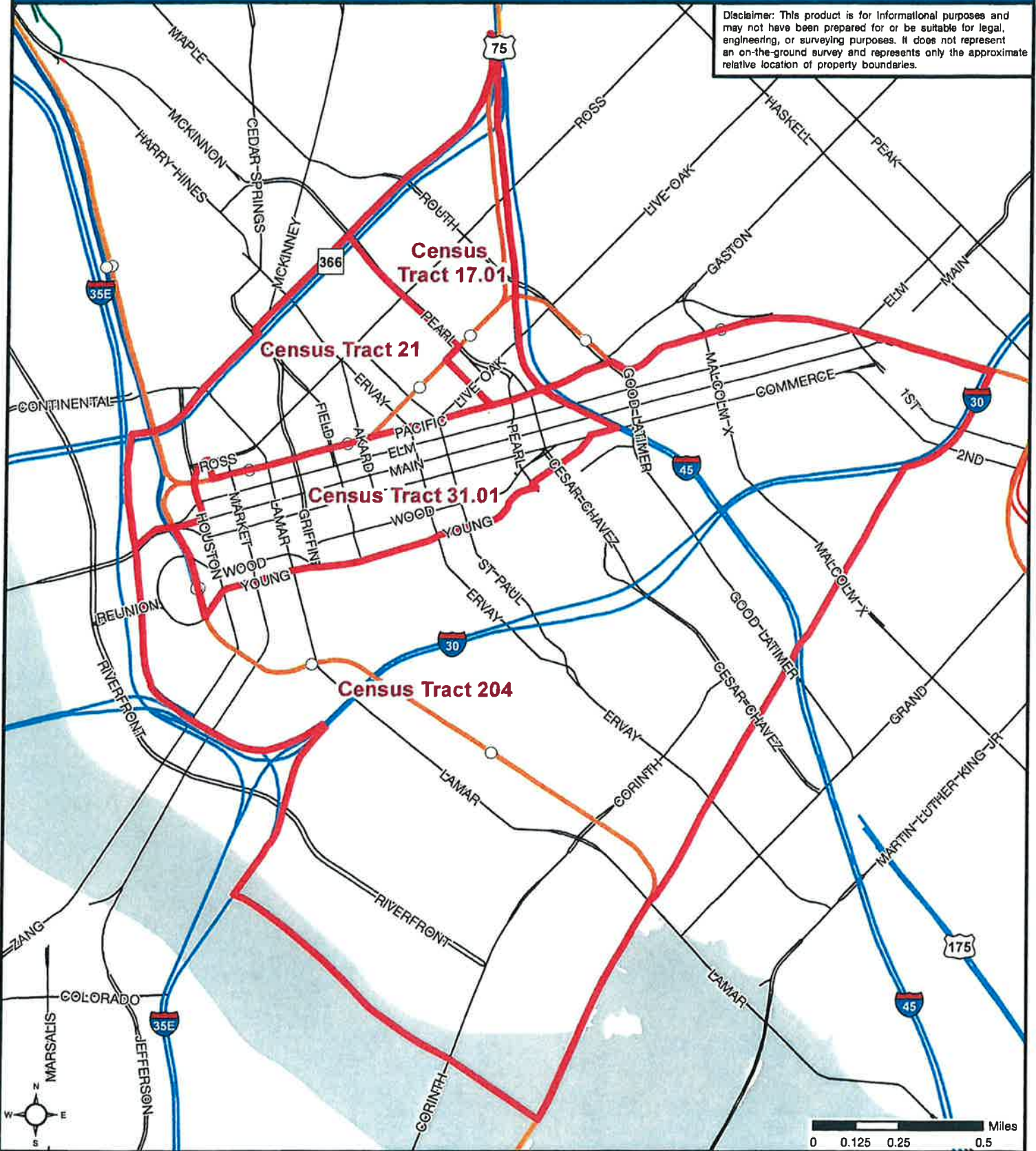






# CBD Census 2010 Tracts

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



**DALLAS  
ECONOMIC  
DEVELOPMENT**

Research & Information Division  
214.670.1685  
dallas-ecodev.org

## Legend

- Census Tract
- Rail Station
- DART Light Rail
- Commuter Rail
- Freeway
- Tollway
- Arterial
- Local Road
- Flood Plain

Source: Census geography - US Census Bureau, 2011; All Other Data - City of Dallas, 2012







**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, the housing tax credit application for Barron's Branch (#12066) was terminated due to an ineligible unit mix under 10 TAC §50.4(d)(7);

**WHEREAS**, termination was necessary because after the Board's denial of the applicant's request for a waiver of the unit mix requirements at the May 10, 2012 Board meeting, the application neither met threshold nor had a waiver; and

**WHEREAS**, the applicant has appealed the termination and again raised their fair housing concerns; and

**WHEREAS**, staff, under the advice of counsel, does not believe that requiring adherence to threshold unit mix requirements would be a violation of fair housing;

**RESOLVED**, the appeal for the termination of the housing tax credit application for Barron's Branch (#12066) is hereby denied.

**BACKGROUND**

The Applicant previously sought a waiver of the unit mix requirement established under the Qualified Allocation Plan ("QAP"). The waiver was denied by the Board. Since the unit mix did not comply with §50.4(d)(7) of the QAP and the waiver was not obtained, the applicant was given notice of termination. They have appealed the termination. Their appeal letter, attached, speaks for itself. Staff believes that the waiver issue was fully considered and that the Board knew that the applicant had the ability to seek the waiver, or else the matter would have been addressed by denying the ability to have the waiver request heard. The applicant has re-urged its previous position that the application ought to be allowed to move forward with its non-compliant unit mix because of fair housing concerns. The applicant has indicated that it is pursuing the unit mix issue with HUD and has asked that if HUD finds that the unit mix needs to be changed in order to comply with fair housing laws, the applicant ought to receive their award.

Staff does not believe it is appropriate to provide assurances that the applicant could receive its award if the HUD determination is that a change in unit mix is required in order to meet the requirements of the fair housing laws. Unless these issues can be fully resolved prior to the award of credits at the board meeting on July 26, the credits will have been otherwise awarded. There can be no assurance that the application will be competitive under the 2013 QAP.

As regards the assertion that the applicant's proposed unit mix, a unit mix outside the scope of the QAP, is required in order for the proposed development to comply with fair housing laws, staff has had general discussion with HUD and those concerns have not been expressed. In fact, it was staff's impression that HUD would entertain approving a change in the terms of its financing to permit a QAP-compliant unit mix. Staff continues to be of the belief that the unit mix requirements in the QAP are not inconsistent with fair housing laws and do not evidence any sort of anti-family bias. HUD has in no way intimated or implied that it was imposing different unit mix requirements in order to address fair housing concerns. Staff does not know if the applicant advised HUD, when HUD set an approved unit mix, that the unit mix was outside of the parameters established in the QAP.

Staff recommends denial of the appeal.

May 29, 2012

Mr. Tim Irvine, Executive Director  
Texas Department of Housing and Community Affairs  
PO Box 13941  
Austin, TX 78711



Dear Mr. Irvine,

Please consider this a formal appeal of the termination of TDHCA Application # 12066 (Barron's Branch Apartments) to be located in Waco, TX.

Per the termination notice we received, we understand that we are only eligible to appeal the decision of the TDHCA Board to deny our request for a waiver of §50.4(d)(7) of the 2012-2013 Qualified Allocation Plan (QAP), which states that the Department will terminate an application if any development proposed in a Central Business District includes more than 20% three bedroom units. The application for Barron's Branch includes 40 three bedroom units out of 150 total units, or 26.7% three bedroom units.

As we stated in our original appeal, we believe that this section of the QAP is in violation of fair housing law. When the QAP directly equates the Central Business District with High Opportunity Areas, and then purposely limits the availability of housing choice for larger families in that area, it cannot be seen as anything but discrimination against families and a violation of fair housing law.

Attached is the letter that was submitted to staff prior to the Board meeting where this was discussed. As was mentioned on the record, this was not made available to the Board prior to the meeting. We believe that if the Board had access to this letter, they would have a better understanding and appreciation of the problems with this part of the QAP.

Additionally, we believe that the Board's decision was based on a misunderstanding of the rules of the program. From a review of the meeting, it seems that the Board made their decision based on a belief that the Applicant somehow did not adequately follow the rules of the QAP. This simply is not true. The QAP lays out an appeal process that has no associated timeline. In fact it specifically says "An Applicant may, at any time, make a specific written request for a waiver." While we concede that it would have been better to submit the waiver request prior to submission of the Application, when it was submitted should have had no bearing on the merits of the waiver itself. Unfortunately, none of the discussion regarding the waiver actually focused on the merits of the waiver request, but instead in procedural issues that were not relevant. In fact, there seemed to be no disagreement as to whether the waiver was necessary to fulfill the purposes or policies of Chapter 2306 of the Texas Government Code.

We respectfully request that the waiver request for this Application be reviewed and reconsidered, and the application be reinstated. In the event that our appeal is denied but the fair housing issues are found to have merit at a later date, we trust that the Application will be eligible for consideration for an award at that time.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'Sarah Andre', is written over a light blue horizontal line.

Sarah Andre, Consultant to the Project

May 8, 2012

Mr. Cameron Dorsey  
Director of Housing Tax Credits  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> St.  
Austin, TX 78701

*(via overnight courier &  
email Cameron.dorsey@tdhca.state.tx.us)*

RE: Fair Housing Implications of CBD Unit Mix Limitations

We have been asked by one of the applicants for 2012 9% low income housing tax credits to provide our opinion on whether the Qualified Allocation Plan (QAP) provision restricting Central Business District (CBD) developments to 80% one- and two- bedroom units (QAP Section 50.4(d)(7)) (the **CBD Unit Mix Limitation**) violates Fair Housing laws.

The CBD Unit Mix Limitation in the QAP on its face discriminates against families with children -- a protected class under the federal Fair Housing laws.<sup>1</sup> The Fair Housing Act prohibits discrimination in the financing of dwellings on the basis of familial status, meaning the presence or possible presence of children under the age of 18 in the home.<sup>2</sup> By limiting the unit mix in a CBD to 80% one- and two-bedroom units (and allowing 100% of the units to be one- and two- bedrooms), the QAP violates Fair Housing by restricting TDHCA's low income housing tax credit financing in the CBD to those projects where the vast majority of units can only accommodate single persons and small households.

The HUD commentary on fair housing regulations states that "**families with children must be provided the same protections as other classes of persons**" protected by the Fair Housing Act and "it is appropriate to **interpret the protections afforded [families with children] in the same manner** as the protections provided others under provisions of the Fair Housing Act"<sup>3</sup> (emphasis added). Clearly if a city passed a zoning law prohibiting more than 20% of the units in an apartment complex from being occupied by minorities, or if a city restricted family apartment housing to only certain parts of the city, no one would question whether these laws violate the Fair Housing Act. Applying HUD's logic that families with

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<sup>1</sup> Prohibitions against familial status discrimination were added to the Fair Housing Act by the Fair Housing Amendments Act of 1988.

<sup>2</sup> 42 U.S.C.A. §§ 3602(k).

<sup>3</sup> 54 Fed. Reg. 3236 and 53 Fed. Reg. 44995.



Mr. Cameron Dorsey  
May 8, 2012  
Page 2 of 2

children be provided the same protections as other classes, the CBD Unit Mix Limitation, restricting CBD apartment developments to no more than 20% 3-bedroom units, has a discriminatory impact on families with children. The 3-bedroom limitation substantially impairs housing choice in the CBD for families in general and minority families in particular, who statistically tend to be larger, and is thus also highly suspect as having a discriminatory impact against minorities.

Simply stated, given the familial status protected class, limitations based on the number of children in a family are illegal,<sup>4</sup> and housing providers cannot segregate families with children in certain areas of a housing complex [or in the case of the CBD limitations, in only certain parts of the city], any more than racial minorities could be restricted in this way.<sup>5</sup>

Fair Housing does allow one exemption to familial status. A housing development may restrict occupancy to seniors (age 55 and up) if at least 80 percent of the units are set aside for and occupied by seniors, and it is therefore permissible for the QAP to require that seniors projects have only one- and two-bedroom units.<sup>6</sup> The CBD Unit Mix Limitation closely parallels the senior unit mix limitation; however, a seniors' project unit mix limitation is only acceptable due to the specific, limited federal exemption for seniors' projects from the familial status Fair Housing protections. There is no similar Fair Housing Act exemption for CBD, downtown or urban developments that are not seniors restricted.

If you have any questions regarding Fair Housing issues with the CBD Unit Mix Limitation, please feel free to call me.

Very truly yours,



Robert H. Voelker

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<sup>4</sup> See, e.g., *Reeves v. Rose*, 108 F. Supp. 2d 720, 722 (E.D. Mich. 2000); *HUD v. Sams*, 1993 WL 5990076, aff'd 76 F.3d 375 (4<sup>th</sup> Cir. 1996).

<sup>5</sup> See 24 C.F.R. § 100.70(c)(4); 54 Fed. Reg. 3252; *Llanos v. Estate of Coehlo*, 24 F. Supp. 2d 1052, 1056-1059 (E.D. Cal. 1998); *Fair Housing Congress v. Weber*, 993 F. Supp. 1286, 1293-94 (C.D. Cal. 1997); *HUD v. Edelstein*, 1991 WL 442784, aff'd without opinion, 978 F.2d 1258 (6<sup>th</sup> Cir. 1992).

<sup>6</sup> When the Fair Housing Amendments Act of 1988 added "familial status" as a protected class, an exemption was added for housing for older persons.

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, a 2012 competitive housing tax credit scoring notice was provided to the applicant of Inez Tims (#12112);

**WHEREAS**, the staff identified nine (9) points that the applicant elected but the application does not qualify to receive; and

**WHEREAS**, the applicant appealed the scoring notice and requested that the Board award the nine (9) points under §§50.9(b)(14) and (20);

**RESOLVED**, the applicant's appeal of the scoring notice for Inez Tims (#12112) is hereby denied.

**BACKGROUND**

On May 22, 2012, staff sent a scoring notice to the applicant of Inez Tims, a 2012 competitive housing tax credit application submitted under the At-Risk Set-Aside. After a complete staff review, it was determined that the application did not qualify to receive nine (9) of the points elected by the Applicant. The areas subject to appeal are summarized below.

§50.9(b)(14) Pre-Application Incentive Points

Six (6) points may be elected by those applicants that submitted a pre-application in accordance with the QAP provided that certain components of the pre-application remain consistent with the full application. The applicant's pre-application identified the target population as General Population. The applicant indicates that this was an error and identified the correct target population as Elderly when the full application was submitted. The six (6) points were not awarded in accordance with §50.9(b)(14)(C), which requires that the target population remain the same in order to qualify for the points. The applicant indicates their belief that this should have been the subject of an Administrative Deficiency since the property is an existing development targeting the elderly. However, information sufficient to identify any such discrepancy was not available in the pre-application materials. Moreover, resolution of the issue now defeats the purpose of the requirement since the information is intended to be available for the public and competitors making decisions to pursue a full application.

§50.9(b)(20) Repositioning of Existing Developments

Three (3) points may be elected by those applicants proposing the substantial rehabilitation of an existing non-affordable development constructed between 1980 and 1990. The purpose is to encourage the conversion of the market rate housing to affordable housing. The points were not awarded because the application does not meet the requirement that “the Development, as of the beginning of the Application Acceptance Period, has no rent or income restrictions recorded in the property records of the county.” They contend that the rent and income restrictions applicable to the property are only in the Housing Assistance Payment Contract which is not a recorded document and that incorporation by reference to this document in the recorded Regulatory Agreement doesn’t violate this provision of the rule. Staff disagrees. The recorded Regulatory Agreement specifically indicates that the rent levels must be approved by HUD along with any rent increases. Additionally, the recorded Regulatory Agreement incorporates by reference tenant income eligibility and additional restrictions related to rent restriction through its reference to the owner’s obligation to comply with the Housing Assistance Payment (HAP) Contract, and it clearly places the public on notice of rent and income restrictions already in place with respect to the property. Violation of the terms of the rent or income restrictions reflected in the HAP Contract would, as a result, constitute a violation of the recorded Regulatory Agreement.

Staff recommends denial of the appeal.



May 30, 2012

By Email to [tim.irvine@tdhca.state.tx.us](mailto:tim.irvine@tdhca.state.tx.us)  
[cameron.dorsey@tdhca.state.tx.us](mailto:cameron.dorsey@tdhca.state.tx.us)  
[jean.latsha@tdhca.state.tx.us](mailto:jean.latsha@tdhca.state.tx.us)

Texas Department of Housing  
and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410  
Attention: Director of Housing Tax Credits

RE: Inez Tims Apartments, Lufkin, Angelina County, Texas (TDHCA # 12112);  
**Appeal of Denial of a Total of 9 Points under §50.9(b)(14) and (20).**

Ladies and Gentlemen:

This letter appeals the denial of a total of nine (9) points claimed by Lufkin ITPP Housing I, LP (the "Applicant") in the 2012 Competitive Housing Tax Credit Application (the "Application") filed for Inez Tims Apartments (the "Project").

**1. §50.9(b)(14) – Pre-Application Incentive Points (6 Points Requested; 0 Awarded).**

The Pre-Application contained a mistake, in that it erroneously referred to a General population, when in fact the Existing Residential Development is currently deed restricted to the Elderly, and that will not change for the new project. We believe that this discrepancy is a clear indication that there was never any intent on the Applicant's part to serve a General population. Section 50.7(b)(2) of the 2012-2013 QAP states: *"The purpose of the Administrative Deficiency process is to allow the Applicant an opportunity to provide clarification, correction or non-material missing information (i.e. not rising to the level of a Material Deficiency) to resolve inconsistencies in the original Application."* Because an inconsistency is permitted to be resolved, we request that the Applicant be permitted an opportunity to provide clarification or correction to resolve the inconsistency of indicating proposed service to a General population when the land is deed restricted to use for the Elderly. This request was initially made to TDHCA staff as soon as the problem came to light, but we were advised that any appeal would have to wait until the scoring was released.

The inconsistency appears to have been introduced by cloning the Pre-Application off of a Pre-App for another project and overlooking the drop-down list created for selection of the Target Population. As evidence of the clear and unequivocal intent to have this Project directed toward an Elderly population, we enclose as **Exhibit A** copies of (i) Notifications which were sent and received on January 6, 2012, showing that the project is Elderly; and (ii) each of the two tracts making up the project site is subject to a

“Regulatory Agreement – Housing for the Elderly – Nonprofit” which requires that the occupancy be limited to elderly and handicapped persons and families [See highlighted Paragraph (12)(a) in each]. Given that the properties are use-restricted, and that the Notifications clearly indicated that the project would be for the Elderly, we request that you permit the correction of the Pre-Application designation of Target Population and grant the Application the six points requested under §50.9(b)(14).

**2. §50.9(b)(20) – Repositioning of Existing Developments (3 Points Requested; 0 Awarded).**

Applicant requested three (3) points because (i) the Project proposes Rehabilitation, (ii) the existing residential buildings were originally constructed in two phases, with Phase 1 being completed in 1982 and Phase 2 being completed in 1984, (iii) the Application includes a scope of work for the interior rehabilitation sufficient to require an intentional lease-down of the property and possible relocation of tenants, which may be accommodated by comparable units elsewhere on the Project site, and (iv) the Development has no income or rent restrictions recorded in the Real Property Records of Angelina County. The Applicant’s qualification under these requirements is as follows:

(i) The Project is an Existing Residential Development with 18 residential buildings, 17 of which will be rehabilitated and one that will be demolished and reconstructed. The definition of “Reconstruction” is the “*demolition of one or more residential buildings in an Existing Residential Development and the re-construction of an equal number of Units or less on the Development Site.*” The Existing Residential Development has 70 units and the proposed Project will continue to have 70 units.

(ii) Phase 1 was completed in 1982 (See **Exhibit B(i)** - Certificate of Occupancy) and Phase 2 was completed in 1984 (See **Exhibit B(ii)** -Owner’s Certification of Completion).

(iii) The Relocation Plan provided in the Application anticipates a voluntary lease-down through attrition in order to provide unoccupied Units for rehabilitation or demolition and reconstruction. The remaining tenants will be relocated on-site as necessary, in order to vacate buildings as needed. In the alternative, if needed to qualify for these Repositioning Points, the remaining tenants could be relocated off-site to another affiliated development that is nearby. A budget of \$40,000 for tenant relocation costs was included in the Development Cost Schedule.

(iv) The Commitment for Title Insurance provided in the Application (See **Exhibit B(iii)**) indicates in Schedule B, Item 1 that there are restrictive covenants contained in two recorded documents:

- Volume 137, Page 288 (See **Exhibit B(iv)**) which is a Warranty Deed and does not contain any rent or income restriction;

- Volume 556, Page 27 (See **Exhibit B(v)**) which is a Contract which releases a use restriction and imposes a restriction requiring consent to construct any commercial or residential building.

Additionally, Schedule C items 9 and 10 reflect Deeds of Trust and Regulatory Agreements which were filed in connection with Section 202 financing by HUD on Phases 1 and 2 of the Existing Residential Development. The Deeds of Trust (Volume 243, Page 660 and Volume 288, Page 714) (virtually identical - See **Exhibit B(vi) and (vii)**) do not contain any restrictions, although they do require, as does any other lender's deed of trust, that the rental rates be approved by the lender. The Regulatory Agreements (Volume 243, Page 666 and Volume 559, Page 880) (virtually identical - See **Exhibit A (ii) and (iii)**) establish use restrictions (Elderly and Handicapped individuals and families) but do not contain any income limitations or any rent restrictions. Please see Paragraph 12(b) which indicates that the Mortgagor shall make its dwelling accommodations and services available to eligible tenants (the elderly and handicapped) at charges established in accordance with a schedule approved by HUD and Paragraph 12(f) which provides that the maximum rent that may be charged for occupancy of a Section 8 units shall be in accordance with the Provisions of the Housing Assistance Payments Contract and adjustments made in accordance with the terms of the Housing Assistance Payment Contract. There is no recorded restriction regarding either the income levels of the tenants or the rents that they may be charged. There is reference to some Section 8 units, but there is no recorded Housing Assistance Payment Contract establishing either income or rent restrictions. Because the Regulatory Agreements refer to rent limitations that may be imposed by a Housing Assistance Payment Contract, but such limitations are not spelled out in the Regulatory Agreements themselves, this Project complies with the requirement that there be "**no income or rent restrictions recorded in the property records of the county**" as required by §50.9(20)(D) of the QAP. We accordingly request that the three requested points be granted.

Thank you for your consideration of this appeal. In the event that the Executive Director does not grant this appeal on all points, we request that the appeal be heard by the TDHCA Board as to all points requested but denied at its June 14, 2012 meeting or as soon thereafter as possible.

Sincerely,



K. T. (Ike) Akbari,  
Authorized Representative

## **EXHIBIT A**

To be attached:

- (i) Example of the Notifications which were sent and received on January 6, 2012, showing that the project is Elderly.
- (ii) Regulatory Agreement – Housing for the Elderly – Nonprofit (Volume 243, Page 666).
- (iii) Regulatory Agreement – Housing for the Elderly – Nonprofit (Volume 559, Page 880).

A(i)

\* \* \* COMMUNICATION RESULT REPORT ( JAN. 6. 2012 4:57PM ) \* \* \*

FAX HEADER 1: ITEX PROPERTY MGMT (409) 721-6603  
FAX HEADER 2:

TRANSMITTED/STORED : JAN. 6. 2012 4:57PM  
FILE MODE OPTION

ADDRESS

RESULT

PAGE

9520 MEMORY TX

63 :

936 639 9843

OK

1/1

REASON FOR ERROR  
E-1) HANG UP OR LINE PALE  
E-3) NO ANSWER  
E-5) MAIL SIZE OVER

E-2) BUSY  
E-4) NO FACSIMILE CONNECTION

January 6, 2012

Via Fax: 936-639-9843

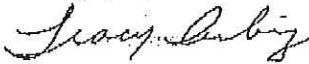
Mayor Jack Gorden, JR  
City of Lufkin  
300 E. Shepherd Avenue  
Lufkin, TX 75901

Dear Mayor Gorden, JR,

Lufkin ITPP Housing I, LP is making an application for 2012 Competitive Housing Tax Credits and HOME Investment Partnership Funds with the Texas Department of Housing and Community Affairs for the Inez Tims Apartments, 800 N Chestnut in Lufkin, Texas, Angelina County which will be a rehabilitation of an existing elderly apartment housing community comprised of approximately 70 units of which 100% will be for low-income tenants.

There will be a public hearing to receive public comment on the proposed development. Information regarding the date, time, and location of that hearing will be disseminated at least 30 days prior to the hearing date.

Sincerely,



Tracy Ambridge  
Authorized Agent for Applicant

Lufkin ITPP Housing I, LP  
3735 Honeywood Ct.,  
Port Arthur, TX 77642  
Ph: 409-724-0020 | Fx: 409-721-6603



\* \* \* COMMUNICATION RESULT REPORT ( DEC. 15. 2011 5:48PM ) \* \* \*

FAX HEADER 1: ITEX PROPERTY MGMT 4097216603  
FAX HEADER 2:TRANSMITTED/STORED : DEC. 15. 2011 5:43PM  
FILE MODE OPTION

ADDRESS

RESULT

PAGE

8896 MEMORY TX

03 :

936 639 9843

OK

1/1

## REASON FOR ERROR

E-1) HANG UP OR LINE FAIL  
E-3) NO ANSWER  
E-5) MAIL SIZE OVERE-2) BUSY  
E-4) NO FACSIMILE CONNECTION

December 16, 2011

FAX # 936-639-9843

Mayor Jack Gorden, JR  
City of Lufkin  
300 E. Shepherd Avenue  
Lufkin, TX 75901

Dear Honorable Gorden, JR,

Lufkin ITPP Housing I, LP is considering a possible submission of an application for 2012 Housing Tax Credits and HOME Funds through the Texas Department of Housing and Community Affairs (the "Department"). In accordance with the Department's rules, this letter serves as a request for a list from your records of any neighborhood organizations which are on record with the county or state and whose boundaries include the following area: City of Lufkin, TX.

If there are no such neighborhood organizations on record with your municipality or county, or if your office does not keep these records and you know the appropriate entity to request this list from, please respond by letter, email or fax stating such. Please respond by December 31, 2011.

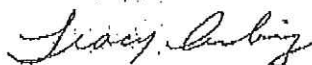
Please note that this request is to ensure compliance with §§2306.6704(b)(1) and 2306.6705(9)(A) of Texas Government Code, which requires that we notify "any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development". This notification must be made prior to submitting an application to the Department. Unfortunately, although this is a statutory requirement that must be met, there is not a specific central agency with the state that keeps a searchable list of these neighborhood organizations and their boundaries.

In general, neighborhood organization lists are kept within local municipalities; therefore, we are required to request a list of these neighborhood organizations from your office no later than [insert deadline] to be eligible for the 2012 Housing Tax Credits and HOME Funds. Should we decide to submit an application, we are required to use any list you provide to identify all neighborhood organizations on record with the state or county whose boundaries include the proposed development site. We will notify all of those neighborhood organizations prior to submitting an application to the Department.

It should also be noted that if we choose to submit an application, we are required to notify you under separate letter prior to submitting the proposed application. That notification will provide details of all relevant information to the proposed application. If you do not receive this notification, it is because we have decided not to submit an application to the Department.

I thank you in advance for any assistance in meeting these statutory requirements.

Sincerely,


Tracy Ambridge  
Authorized Agent for ApplicantLufkin ITPP Housing I, LP  
3735 Honeywood Ct  
Port Arthur, TX 77642  
Phone: 409-724-0020 | Fax: 409-721-6603

Acii)

REGULATORY AGREEMENT  
HOUSING FOR THE ELDERLY - NONPROFIT  
(Section 202 of the Housing Act of 1959)  
(Section 8 Housing Assistance Payments Contracts)

54659

VOL 243 PAGE 666

Project Number 114-EK016-L8-NP-YAH (TX24-1781-006)

Amount of Mortgage Note \$1,348,300.00

Date March 25, 1981

Mortgage Recorded: State TEXAS

County ANGELINA

Date

This Agreement entered into this 25th day of March, 1981, between CHESTNUT PARK APARTMENTS, INC. whose address is 701 Treadwell, Lubbock, Texas, 75901 hereinafter called Mortgagor, and the undersigned Secretary of Housing and Urban Development herein after called HUD.

In consideration of the making of the loan by HUD and the disbursement of any part thereof, and in order to comply with the requirements of the Housing Act of 1959, and the Regulations adopted by the Secretary pursuant thereto, the Mortgagor agrees for itself, its successors and assigns, and any owner of the mortgaged property, that in connection with the mortgaged property and the project operated thereon and so long as the loan is outstanding.

- (1) Mortgagor shall promptly make all payments due under the Note and Mortgage.
- (2) (a) Mortgagor will establish and maintain a special fund to be known as the revenue fund account in a bank which is a member of the Federal Deposit Insurance Corporation into which will be deposited (i) the minimum capital investment required pursuant to the Regulations and (ii) all rentals, charges, income and revenue arising from the operation or ownership of the project. Expenditures shall be made from the revenue fund account only in accordance with the operating budget submitted to and approved by HUD.
- (3) On or before the first day of each fiscal year during which the loan is outstanding Mortgagor will submit an operating budget for that fiscal year to HUD. The budget shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, taxes and special assessment levies, prorated amounts required for insurance and all other expenses incident to the operation of the project; and shall show the expected revenues to pay such expenses, including annual debt service requirements and reserve fund deposits. The expenses incurred and disbursements shall not exceed the reasonable and necessary amount thereof, and the Mortgagor will not expend any amounts or incur any obligations in excess of the amounts approved in the annual operating budget except upon written certification by the Mortgagor to HUD that such expenses were unanticipated and are necessary and provided further, that nothing in this section shall limit the amount which the Mortgagor may expend from funds obtained from some other source than project revenues or other funds required of the Mortgagor pursuant to this Agreement or the Building Loan Agreement.
- (4) As security for the loan, for the required payments under this Agreement into the reserve fund for replacements, and for all other obligations of the Mortgagor under this Agreement, the Mortgagor hereby assigns, pledges and mortgages to HUD all its rights to the income and charges of whatever sort which it may receive or be entitled to receive from the operation of the mortgaged property, subject, however, to any assignment of rents or project income in the mortgage referred to herein. Until a default occurs under this Agreement, however, permission is granted to Mortgagor to collect and retain under the provisions of this Agreement such rents, profits, income and charges, but upon default this permission is terminated, as to all rents, profits, income and charges due or collected thereafter.
- (5) Mortgagor will establish and maintain a reserve fund for replacements by the allocation to such reserve fund in a separate account in a bank which is insured by the Federal Deposit Insurance Corporation, concurrently with the beginning of payments towards amortization of the principal of the Mortgage held by HUD of an amount equal to \$ 390.17 per month unless a different rate or amount is approved in writing by HUD. Such fund, whether in the form of a cash deposit or invested in obligations of, or fully guaranteed as to principal by, the United States of America shall at all times be subject to the control of HUD. Disbursements from such fund, whether for the purpose of effecting replacement of structural elements, and mechanical equipment of the project or for any other purpose, may be made only after the consent in writing of HUD. In the event of a default in the terms of the mortgage, HUD may demand the full or partial application of the balance in such fund to the amount due on the mortgage debt. The Mortgagor additionally shall deposit into the reserve fund for replacements within 60 days after the end of each fiscal year, any Residual Receipts realized from the operation of the mortgaged property.
- (6) The real property covered by the mortgage and this agreement is described in Schedule A attached herein.

- (7) Mortgagor shall not without the written approval of the Secretary:
- (a) Transfer, dispose of or encumber any of the mortgaged property. Any such transfer shall be only to a person or persons or corporation satisfactory to and approved by HUD, who shall, by legal and valid instrument in writing, to be recorded or filed in the same recording office in which conveyances of the property covered by the mortgage are required to be filed or recorded, duly assume all obligations under this agreement and under the Note and Mortgage;
  - (b) Assign, transfer, dispose of, or encumber any personal property, including rents or charges, and shall not disburse or pay out any funds except as provided herein and in the Building Loan Agreement;
  - (c) Remodel, reconstruct, add to, or demolish any part of the mortgaged property or subtract from any real or personal property of the project;
  - (d) Pay any compensation or make any distribution of income or other assets to any of its officers, directors or stockholders;
  - (e) Enter into any contract or contracts for supervisory or managerial services;
  - (f) Require, as a condition of occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent (the gross family contribution in Section B units) plus a security deposit in an amount not in excess of one month's rent to guarantee the performance of the covenants of the lease. Any fund collected as security deposits shall be kept separate and apart from all other funds of the project in a trust account the amount of which shall at all times equal or exceed the aggregate of all outstanding obligations under said account;
  - (g) Permit the use of the dwelling accommodations of the project for any purpose except the use which was originally intended, or permit commercial use greater than that originally approved by HUD;
  - (h) Amend its articles of incorporation or by-laws other than as permitted under the terms of the articles of incorporation approved by HUD.
- (8) Mortgagor shall maintain the mortgaged premises, accommodations and the grounds and equipment appurtenant thereto, in good and substantial repair and condition: PROVIDED THAT, in the event all or any of the buildings covered by the mortgage shall be destroyed or damaged by fire or other casualty, the money derived from any insurance on the property shall be applied in accordance with the terms of the mortgage.
- (9) Mortgagor shall not file any petition in bankruptcy, or for a receiver, or in insolvency, or for reorganization or composition, or make any assignment for the benefit of creditors or to a trustee for creditors; or permit an adjudication in bankruptcy, the taking possession of the mortgaged property or any part thereof by a receiver, or the seizure and sale of the mortgaged property or any part thereof under judicial process or pursuant to any power of sale and fail to have such adverse actions set aside within 45 days.
- (10) Mortgagor shall from funds other than project income immediately satisfy or release any mechanic's lien, attachment, judgment lien, or any other lien which attaches to the mortgaged property or any personal property used in the operation of the project, and shall dismiss or have dismissed or vacated any receivership, or petition in bankruptcy or assignment for benefit of creditors, creditors bill or insolvency proceeding involving the project or the mortgaged property.
- (11) (a) If the Mortgagor has any business or activity other than the project and operation of the mortgaged property, it shall maintain all income and other funds of the project segregated from any other funds of the mortgagor and segregated from any funds of any other corporation or person. Income and other funds of the project shall be expended only for the purposes of the project.
- (b) Mortgagor shall contract for independent professional management of the project in a manner satisfactory to HUD. Any management contract entered into by the mortgagor involving the project shall contain a provision that it shall be subject to termination, without penalty and with or without cause, upon written request by HUD addressed to the Mortgagor and the management agent. Upon receipt of such request the Mortgagor shall immediately move to terminate the contract within a period of not more than 60 days and shall make arrangements satisfactory to HUD for continuing proper management of the project.
- (c) Neither Mortgagor nor its agents shall make any payment for services, supplies, or materials unless such services are actually rendered for the project or such supplies or materials are delivered to the project and are reasonably necessary for its operation. Payments for such services, or materials shall not exceed the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.
- (d) The mortgaged property, equipment, buildings, plans, offices, devices, books, apparatus, contracts, records, documents, and all other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by HUD and its duly authorized agents. Mortgagor and its successors, assigns or its agents shall retain copies of all written contracts or other instruments which affect the mortgaged property, all or any of which may be subject to inspection and examination by HUD or its duly authorized agents.

- (e) The books and accounts of the operations of the mortgaged property and of the project shall be kept in accordance with the requirements of HUD.
  - (f) Within 60 days following the end of each fiscal year HUD shall be furnished with a complete annual financial report based upon an examination of the books and records of mortgagor prepared in accordance with the requirements of HUD, certified to by an officer of the Mortgagor and, when required by HUD, prepared and certified by a Certified Public Accountant, or other person acceptable to HUD.
  - (g) At the request of HUD, its agents, employees, or attorneys, the Mortgagor shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operation, and condition of the property and the status of the Mortgage and any other information with respect to the Mortgagor or the mortgaged property and of the project which may be requested.
  - (h) All receipts of the project shall be deposited in the name of the project in a bank, whose deposits are insured by the F.D.I.C. Such funds shall be withdrawn only in accordance with the provisions of this agreement for expenses of the project. Any person receiving funds of the project shall immediately deposit such funds in the project bank account and failing so to do in violation of this Agreement shall hold such funds in trust. Any person receiving property of the project in violation of this Agreement shall immediately deliver such property to the project and failing so to do shall hold such property in trust.
  - (i) Mortgagor shall at all times, if required by the laws of the jurisdiction, maintain in full force and effect a license to operate the project from the state and/or other licensing authority. Mortgagor shall lease any portion of the project only on terms approved by HUD.
  - (j) The Mortgagor shall not collect from tenants or occupants or prospective tenants or occupants of the project any admission fee, founder's fee, life-care fee, or similar payment pursuant to any agreement, oral or written, whereby the Mortgagor agrees to furnish accommodations or services in the project to persons making such payments.
  - (k) No officer, director, trustee, member, stockholder nor authorized representative of the Mortgagor shall have any financial interest in any contractual arrangement entered into by the Mortgagor in connection with rendition of services, the provision of goods or supplies, management of the project, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever.
- (12) (a) Mortgagor will limit public occupancy of the project to elderly, and handicapped persons and families as defined in Section 202 of the Housing Act of 1959 and applicable HUD Regulations. The criteria governing eligibility of tenants for admission to Section 8 units and the conditions of continued occupancy shall be in accordance with the Housing Assistance Payments Contract.
- (b) Except as provided in (d) below Mortgagor will make its dwelling accommodations and services available to eligible occupants at charges established in accordance with a schedule to be approved in writing by HUD. Such accommodations shall not be rented for a period less than thirty days nor more than three years. Commercial facilities, if any, shall be rented only in accordance with a schedule of charges fixed by the Mortgagor and approved in writing by HUD. Subleasing of dwelling accommodations or commercial facilities shall be permitted only upon the terms and conditions approved by HUD in writing.
  - (c) Upon prior written approval by the Secretary, Mortgagor may charge to and receive from any tenant such amounts as from time to time may be mutually agreed upon between the tenant and the Mortgagor for any facilities and/or services which may be furnished by the Mortgagor or others to such tenant upon his request, in addition to the facilities and services included in the approved rental schedule.
  - (d) The Secretary will at any time entertain a written request for a rent increase properly supported by substantiating evidence and within a reasonable time shall:
    - (i) Approve a rental schedule that is necessary to compensate for any net increase occurring since the last approved rental schedule, in taxes (other than income taxes) and operating and maintenance cost over which Mortgagor has no effective control, or
    - (ii) Deny the increase stating the reasons therefor.
  - (e) The criteria governing eligibility of tenants for admission to Section 8 units and the conditions of continued occupancy shall be in accordance with the Housing Assistance Payments Contract.
  - (f) The maximum rent that may be charged for occupancy of a Section 8 unit shall be in accordance with the provisions of the Housing Assistance Payments Contract and adjustments in such rents shall be made in accordance with the terms of the Housing Assistance Payments Contract.
  - (g) Nothing contained in this Agreement shall be construed to relieve the Mortgagor of any obligations under the Housing Assistance Payments Contract.

- (13) Mortgagor will comply with the provisions of any Federal, State or local law prohibiting discrimination in housing on the grounds of race, color, creed or national origin, including Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. 2000d-1), Title VIII of the Civil Rights Act of 1968 (P.L. 90-284, 42 U.S.C. 3601) and Executive Order 11063 (27 P.R. 11527), and all requirements imposed by or pursuant to the regulations of the Department of Housing and Urban Development (24 CFR) issued pursuant to Title VI, Title VIII, or Executive Order 11063.
- (14) No litigation seeking the recovery of a sum in excess of \$5,000 nor any action for specific performance or other equitable relief shall be instituted nor shall any claim for a sum in excess of \$5,000 be settled or compromised by the Mortgagor unless prior written consent thereto has been obtained from HUD. Such consent may be subject to such terms and conditions as HUD may prescribe.
- (15) Upon a violation of any of the above provisions of this Agreement by Mortgagor, HUD may give written notice, thereof, to Mortgagor, by registered or certified mail, addressed to the address stated in this Agreement, or such other address as may subsequently, upon appropriate written notice thereof to HUD, be designated by the Mortgagor as its legal business address. If such violation is not corrected to the satisfaction of HUD within 30 days after the date such notice is mailed or within such further time as HUD determines it is necessary to correct the violation, without further notice HUD may declare a Default under this Agreement effective on the date of such declaration of default and upon such Default HUD may:
- (1) Take possession of the project, bring any action necessary to enforce any rights of the mortgagor growing out of the project operation, and operate the project in accordance with the terms of this Agreement until such time as HUD in its discretion determines that the mortgagor is again in a position to operate the project in accordance with the terms of this Agreement and in compliance with the requirements of the Note and Mortgage.
  - (2) Collect all rents and charges in connection with the operation of the project and use such collections to pay the mortgagor's obligations under this Agreement and under the Note and Mortgage, and the necessary expenses of preserving the property and operating the project.
  - (3) Declare the whole of said indebtedness immediately due and payable and then proceed with the foreclosure of the mortgage.
  - (4) Apply to any court, State or Federal, for specific performance of this Agreement, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and operate the property in accordance with the terms of the Agreement, or for such other relief as may be appropriate, since the injury to HUD arising from a default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain.
- (16) (a) Mortgagor has executed an Agreement to enter into a Housing Assistance Payments Contract. The terms of the Housing Assistance Payments Contract, when executed, shall be incorporated by reference into this Regulatory Agreement;
- (b) A violation of the Housing Assistance Payments Contract may be construed to constitute a default hereunder in the sole discretion of HUD;
- (c) In the event said Housing Assistance Payments Contract expires or terminates before the expiration or termination of this Agreement, the provisions of this paragraph and any other reference to said contract, to Section 8 and to Section 8 units contained herein shall be self-cancelling shall no longer be effective as of the date of the expiration or termination of the Housing Assistance Payments Contract.
- (17) As used in this Agreement the terms:
- (a) "Mortgage" includes "Deed of Trust", "Chattel Mortgage" and any other security for the Note identified herein;
  - (b) "Mortgagee" refers to the holder of the mortgage identified herein, its successors and assigns;
  - (c) "Mortgaged Property" includes property, real, personal, or mixed; covered by the mortgage or mortgages securing the note held by HUD;
  - (d) "Project" includes the mortgaged property and all its other assets or whatsoever situate, used in or owned by the business conducted on said mortgaged property;
  - (e) "Distribution" means any withdrawal or taking of cash or other assets of the project other than for mortgage payments or for payment of reasonable expenses incident to its construction, operation and maintenance;
  - (f) "Default" means a default declared by HUD when a violation of this Agreement is not corrected to its satisfaction within the time allowed by this Agreement or such further time as may be allowed by HUD after written notice;

(c) "Residual Receipts" means any cash remaining after:

- (1) The payment of
  - (i) All sums due or currently required to be paid under the terms of any mortgage or note held by the Secretary of Housing and Urban Development;
  - (ii) All amounts required to be deposited in the reserve fund for replacements;
  - (iii) All obligations of the project other than the mortgage held by HUD unless funds for payment are set aside or deferment of payment has been approved by HUD; and
- (2) The segregation of
  - (i) An amount equal to the aggregate of all special funds required to be maintained by the project;
  - (ii) All tenant security deposits held.

(h) "Section 8 Units" refers to units assisted under Section 8 of the United States Housing Act of 1937 pursuant to a Housing Assistance Payments Contract.

(i) "Housing Assistance Payments Contract" refers to a written contract between the Mortgagor and HUD, or the Mortgagor and a Public Housing Agency, or the Mortgagor and a Housing Finance Agency for the purpose of providing housing assistance payments to the Mortgagor on behalf of eligible families under Section 8 of the United States Housing Act of 1937.

(18) HUD shall not be liable for any of its actions hereunder except for flagrant misfeasance.

(19) This instrument shall bind, and the benefits shall inure to, the respective parties hereto, their legal representatives, executors, administrators, successors in office or interest, and assigns, and all owners of the mortgaged property, so long as the loan is outstanding.


(20) The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

(21) Mortgagor warrants that it has not, and will not, execute any other agreement with provisions contradictory of, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict therewith.

Secretary of Housing and Urban Development

By: James M. [Signature]

(S&A1)


  
 I. D. HENDERSON

Name of Mortgagor CHESTNUT PARK APARTMENTS, INC.

By: C. A. ALLEN  
(President) C. A. ALLEN

BEING all that certain tract or parcel of land lying and situated in the City of Lufkin, Angelina County, Texas out of the J.L. QUINALTY SURVEY, A-40 and being a part or portion of that certain 6-2/5 acre tract described in a deed from W.L. Evans et ux to Joe DeStifano dated May 9, 1928 and recorded in Volume 71, on Page 112 of the Deed Records of Angelina County, Texas and being all of Lot 7 of Block 2 of the Atkinson Drive Addition to the City of Lufkin, Texas of which the plat of said Addition appears of record in Cabinet A, Slide 30A of the Map or Plat Records of Angelina County, Texas and the said Lot 7 of Block 2 being described in a deed from B.E. Atkinson to Joe DiStifano et ux dated August 24, 1948 and recorded in Volume 137, on Page 288 of the Deed Records of Angelina County, Texas to which references are hereby made for all purposes and the said tract or parcel being described by metes and bounds as follows, to-wit:

BEGINNING at the NW corner of the aforesaid referred to 6-2/5 acre tract and the SW corner of the said Atkinson Drive Addition, a concrete monument found for corner on the East margin line of Chestnut Street;

THENCE N 70° 05' 39" E, with the North boundary line of the said 6-2/5 acre tract and the South boundary line of the said Atkinson Drive Addition, at 529.94 feet, the SW corner of the said Lot 7 of Block 2, an iron bolt found for corner;

THENCE N 3° 23' 04" E, with the West boundary line of the said Lot 7 of Block 2, at 83.95 feet (called 88 feet), the NW corner of same, an iron bolt found for corner on the curving South R.O.W. line of Atkinson Drive;

THENCE Southeasterly, with the said curving South R.O.W. line of Atkinson Drive on a 4.8298 degree curve to the left (Long Chord brg. & dist. = S 83° 06' 07" E, 107.12 feet), at 107.15 feet intersect the West boundary line of the J.S. Moore Revised Addition to the City of Lufkin, Texas of which the Plat of same appears of record in Cabinet A, Slide 21A of the Map or Plat Records of Angelina County, Texas, a 1/2" iron pipe set for corner;

THENCE Two (2) lines with the West boundary line of the said J.S. Moore Revised Addition as follows:

(1) S 20° 22' 14" E, at 140.77 feet, a 1/2" iron pipe set for an angle corner;

(2) S 18° 05' 00" W, at 243.77 feet intersect the South boundary line of the said 6-2/5 acre tract, a 1/2" iron pipe set for corner;

THENCE S 70° 05' 39" W, with the South boundary line of the said 6-2/5 acre tract, at 338.24 feet an ell corner of same, a 1/2" iron pipe set for corner in an oiled street;

THENCE S 19° 54' 21" E, with the most Southern East boundary line of the said 6-2/5 acre tract, at 300.00 feet the South corner of same, a 1/2" iron pipe set for corner on the East side of the said street;

THENCE N 64° 35' 51" W, with the SW boundary line of the said 6-2/5 acre tract, at 445.52 feet, the SW corner of same, a 1/2" iron pipe set for corner on the said East margin line of Chestnut Street;

THENCE N 20° 00' 00" W, with the West boundary line of the said 6-2/5 acre tract and the said East margin line of Chestnut Street, at 338.89 feet, the point and place of beginning and containing 6.524 acres of land, more or less.

STATE OF TEXAS  
COUNTY OF HARRIS

LVOL 243 PAGE 672

ON THIS 25th day of March, 1981, before me appeared James M. Wilson to me personally known and known to me to be the duly appointed Authorized Agent and the person who executed the aforesaid instrument bearing date of March 25, 1981, by virtue of the authority vested in him by 24 C.F.R. 200.95 and acknowledged that he executed the aforesaid instrument for and on behalf of the Federal Housing Commissioner, for the purpose therein expressed.



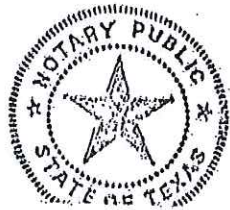
STATE OF TEXAS  
COUNTY OF HARRIS

A. T. Underwood, Jr.  
NOTARY PUBLIC IN AND FOR  
HARRIS COUNTY, TEXAS  
MY COMMISSION EXPIRES \_\_\_\_\_

A. T. UNDERWOOD, JR., Notary Public  
County, Texas.  
My Commission Expires 7-5-84

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared C.A. ALLEN, President of CHESTNUT PARK APARTMENTS, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said CHESTNUT PARK APARTMENTS, INC., and that he executed the same as the act of such Non-profit corporation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN under my hand and seal of office this the 25th day of March, 1981.



A. T. Underwood, Jr.  
NOTARY PUBLIC IN AND FOR  
HARRIS COUNTY, TEXAS  
MY COMMISSION EXPIRES \_\_\_\_\_

A. T. UNDERWOOD, JR., Notary Public  
ANGELINA County, Texas.  
My Commission Expires 7-5-84



STATE OF TEXAS  
COUNTY OF ANGELINA

I hereby certify that this instrument was FILED IN  
File Number Sequence on the date and at the time stamped  
hereon by me; and was duly RECORDED, in the Official  
Public Records of the State of Texas on

MAR 26 1981



*Pauline Grisham*  
COUNTY CLERK  
ANGELINA COUNTY, TEXAS

FILED  
AT 1:00 O'CLOCK P.M.

MAR 25 1981

PAULINE GRISHAM, Clerk, County Court  
Angelina County, Texas

By *LB* \_\_\_\_\_

85824

REGULATORY AGREEMENT  
 HOUSING FOR THE ELDERLY - NONPROFIT  
 (Section 202 of the Housing Act of 1959)  
 (Section 8 Housing Assistance Payments Contracts)

VOL 559 PAGE 880

Project Number 114-EH059-18-NP-WAH

Amount of Mortgage Note \$593,800.00

Date May 10, 1984

Mortgage Recorded: State Texas County Angelina

Date May 10, 1984

This Agreement entered into this 10th day of May, 1984, between CHESTNUT VILLAGE APARTMENTS, INC. whose address is 800 N. Chestnut Street, Lufkin, Texas 75901 hereinafter called Mortgagor, and the undersigned Secretary of Housing and Urban Development hereinafter called HUD.

In consideration of the making of the loan by HUD and the disbursement of any part thereof, and in order to comply with the requirements of the Housing Act of 1959, and the Regulations adopted by the Secretary pursuant thereto, the Mortgagor agrees for itself, its successors and assigns, and any owner of the mortgaged property, that in connection with the mortgaged property and the project operated thereon and so long as the loan is outstanding.

- (1) Mortgagor shall promptly make all payments due under the Note and Mortgage.
- (2) (a) Mortgagor will establish and maintain a special fund to be known as the revenue fund account in a bank which is a member of the Federal Deposit Insurance Corporation into which will be deposited (i) the minimum capital investment required pursuant to the Regulations and (ii) all rentals, charges, income and revenue arising from the operation or ownership of the project. Expenditures shall be made from the revenue fund account only in accordance with the operating budget submitted to and approved by HUD.
- (3) On or before the first day of each fiscal year during which the loan is outstanding Mortgagor will submit an operating budget for that fiscal year to HUD. The budget shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, taxes and special assessment levies, prorated amounts required for insurance and all other expenses incident to the operation of the project; and shall show the expected revenues to pay such expenses, including annual debt service requirements and reserve fund deposits. The expenses incurred and disbursements shall not exceed the reasonable and necessary amount thereof, and the Mortgagor will not expend any amounts or incur any obligations in excess of the amounts approved in the annual operating budget except upon written certification by the Mortgagor to HUD that such expenses were unanticipated and are necessary and provided further, that nothing in this section shall limit the amount which the Mortgagor may expend from funds obtained from some other source than project revenues or other funds required of the Mortgagor pursuant to this Agreement or the Building Loan Agreement.
- (4) As security for the loan, for the required payments under this Agreement into the reserve fund for replacements, and for all other obligations of the Mortgagor under this Agreement, the Mortgagor hereby assigns, pledges and mortgages to HUD all its rights to the income and charges of whatever sort which it may receive or be entitled to receive from the operation of the mortgaged property, subject, however, to any assignment of rents or project income in the mortgage referred to herein. Until a default occurs under this Agreement, however, permission is granted to Mortgagor to collect and retain under the provisions of this Agreement such rents, profits, income and charges, but upon default this permission is terminated, as to all rents, profits, income and charges due or collected thereafter.
- (5) Mortgagor will establish and maintain a reserve fund for replacements by the allocation to such reserve fund in a separate account in a bank which is insured by the Federal Deposit Insurance Corporation, concurrently with the beginning of payments towards amortization of the principal of the Mortgage held by HUD of an amount equal to \$ 168.08 per month unless a different date or amount is approved in writing by HUD. Such fund, whether in the form of a cash deposit or invested in obligations of, or fully guaranteed as to principal by, the United States of America shall at all times be subject to the control of HUD. Disbursements from such fund, whether for the purpose of effecting replacement of structural elements, and mechanical equipment of the project or for any other purpose, may be made only after the consent in writing of HUD. In the event of a default in the terms of the mortgage, HUD may demand the full or partial application of the balance in such fund to the amount due on the mortgage debt. The Mortgagor additionally shall deposit into the reserve fund for replacements within 60 days after the end of each fiscal year, any Residual Receipts realized from the operation of the mortgaged property.
- (6) The real property covered by the mortgage and this agreement is described in Schedule A attached hereto.

A(ciii)

- (7) Mortgagor shall not without the written approval of the Secretary:
- (a) Transfer, dispose of or encumber any of the mortgaged property. Any such transfer shall be only to a person or persons or corporation satisfactory to and approved by HUD, who shall, by legal and valid instrument in writing, to be recorded or filed in the same recording office in which conveyances of the property covered by the mortgage are required to be filed or recorded, duly assume all obligations under this agreement and under the Note and Mortgage;
  - (b) Assign, transfer, dispose of, or encumber any personal property, including rents or charges, and shall not disburse or pay out any funds except as provided herein and in the Building Loan Agreement;
  - (c) Remodel, reconstruct, add to, or demolish any part of the mortgaged property or subtract from any real or personal property of the project;
  - (d) Pay any compensation or make any distribution of income or other assets to any of its officers, directors or stockholders;
  - (e) Enter into any contract or contracts for supervisory or managerial services;
  - (f) Require, as a condition of occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent (the gross family contribution in Section 8 units) plus a security deposit in an amount not in excess of one month's rent to guarantee the performance of the covenants of the lease. Any fund collected as security deposits shall be kept separate and apart from all other funds of the project in a trust account the amount of which shall at all times equal or exceed the aggregate of all outstanding obligations under said account;
  - (g) Permit the use of the dwelling accommodations of the project for any purpose except the use which was originally intended, or permit commercial use greater than that originally approved by HUD;
  - (h) Amend its articles of incorporation or by-laws other than as permitted under the terms of the articles of incorporation approved by HUD.
- (8) Mortgagor shall maintain the mortgaged premises, accommodations and the grounds and equipment appurtenant thereto, in good and substantial repair and condition PROVIDED THAT, in the event all or any of the buildings covered by the mortgage shall be destroyed or damaged by fire or other casualty, the money derived from any insurance on the property shall be applied in accordance with the terms of the mortgage.
- (9) Mortgagor shall not file any petition in bankruptcy, or for a receiver, or in insolvency, or for reorganization or composition, or make any assignment for the benefit of creditors or to a trustee for creditors; or permit an adjudication in bankruptcy, the taking possession of the mortgaged property or any part thereof by a receiver, or the seizure and sale of the mortgaged property or any part thereof under judicial process or pursuant to any power of sale and fail to have such adverse actions set aside within 45 days.
- (10) Mortgagor shall from funds other than project income immediately satisfy or release any mechanic's lien, attachment, judgment lien, or any other lien which attaches to the mortgaged property or any personal property used in the operation of the project, and shall dismiss or have dismissed or vacated any receivership, or petition in bankruptcy or assignment for benefit of creditors, creditors bill or insolvency proceeding involving the project or the mortgaged property.
- (11) (a) If the Mortgagor has any business or activity other than the project and operation of the mortgaged property, it shall maintain all income and other funds of the project segregated from any other funds of the mortgagor and segregated from any funds of any other corporation or person. Income and other funds of the project shall be expended only for the purposes of the project.
- (b) Mortgagor shall contract for independent professional management of the project in a manner satisfactory to HUD. Any management contract entered into by the mortgagor involving the project shall contain a provision that it shall be subject to termination, without penalty and with or without cause, upon written request by HUD addressed to the Mortgagor and the management agent. Upon receipt of such request the Mortgagor shall immediately move to terminate the contract within a period of not more than 60 days and shall make arrangements satisfactory to HUD for continuing proper management of the project.
- (c) Neither Mortgagor nor its agents shall make any payment for services, supplies, or materials unless such services are actually rendered for the project or such supplies or materials are delivered to the project and are reasonably necessary for its operation. Payments for such services, or materials shall not exceed the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.
- (d) The mortgaged property, equipment, buildings, plans, offices, devices, books, apparatus, contracts, records, documents, and all other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by HUD and its duly authorized agents. Mortgagor and its successors, assigns or its agents shall retain copies of all written contracts or other instruments which affect the mortgaged property, all or any of which may be subject to inspection and examination by HUD or its duly authorized agents.

- (e) The books and accounts of the operations of the mortgaged property and of the project shall be kept in accordance with the requirements of HUD.
  - (f) Within 60 days following the end of each fiscal year HUD shall be furnished with a complete annual financial report based upon an examination of the books and records of mortgagor prepared in accordance with the requirements of HUD, certified to by an officer of the Mortgagor and, when required by HUD, prepared and certified by a Certified Public Accountant, or other person acceptable to HUD.
  - (g) At the request of HUD, its agents, employees, or attorneys, the Mortgagor shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operation, and condition of the property and the status of the Mortgage and any other information with respect to the Mortgagor or the mortgaged property and of the project which may be requested.
  - (h) All receipts of the project shall be deposited in the name of the project in a bank, whose deposits are insured by the F.D.I.C. Such funds shall be withdrawn only in accordance with the provisions of this agreement for expenses of the project. Any person receiving funds of the project shall immediately deposit such funds in the project bank account and failing so to do in violation of this Agreement shall hold such funds in trust. Any person receiving property of the project in violation of this Agreement shall immediately deliver such property to the project and failing so to do shall hold such property in trust.
  - (i) Mortgagor shall at all times, if required by the laws of the jurisdiction, maintain in full force and effect a license to operate the project from the state and/or other licensing authority. Mortgagor shall lease any portion of the project only on terms approved by HUD.
  - (j) The Mortgagor shall not collect from tenants or occupants or prospective tenants or occupants of the project any admission fee, founder's fee, life-care fee, or similar payment pursuant to any agreement, oral or written, whereby the Mortgagor agrees to furnish accommodations or services in the project to persons making such payments.
  - (k) No officer, director, trustee, member, stockholder nor authorized representative of the Mortgagor shall have any financial interest in any contractual arrangement entered into by the Mortgagor in connection with rendition of services, the provision of goods or supplies, management of the project, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever.
- (12) (a) Mortgagor will limit public occupancy of the project to elderly, and handicapped persons and families as defined in Section 202 of the Housing Act of 1959 and applicable HUD Regulations. The criteria governing eligibility of tenants for admission to Section 8 units and the conditions of continued occupancy shall be in accordance with the Housing Assistance Payments Contract.
- (b) Except as provided in (d) below Mortgagor will make its dwelling accommodations and services available to eligible occupants at charges established in accordance with a schedule to be approved in writing by HUD. Such accommodations shall not be rented for a period less than thirty days nor more than three years. Commercial facilities, if any, shall be rented only in accordance with a schedule of charges fixed by the Mortgagor and approved in writing by HUD. Subleasing of dwelling accommodations or commercial facilities shall be permitted only upon the terms and conditions approved by HUD in writing.
  - (c) Upon prior written approval by the Secretary, Mortgagor may charge to and receive from any tenant such amounts as from time to time may be mutually agreed upon between the tenant and the Mortgagor for any facilities and/or services which may be furnished by the Mortgagor or others to such tenant upon his request, in addition to the facilities and services included in the approved rental schedule.
  - (d) The Secretary will at any time entertain a written request for a rent increase properly supported by substantiating evidence and within a reasonable time shall:
    - (i) Approve a rental schedule that is necessary to compensate for any net increase occurring since the last approved rental schedule, in taxes (other than income taxes) and operating and maintenance cost over which Mortgagor has no effective control, or
    - (ii) Deny the increase stating the reasons therefor.
  - (e) The criteria governing eligibility of tenants for admission to Section 8 units and the conditions of continued occupancy shall be in accordance with the Housing Assistance Payments Contract.
  - (f) The maximum rent that may be charged for occupancy of a Section 8 unit shall be in accordance with the provisions of the Housing Assistance Payments Contract and adjustments in such rents shall be made in accordance with the terms of the Housing Assistance Payments Contract.
  - (g) Nothing contained in this Agreement shall be construed to relieve the Mortgagor of any obligations under the Housing Assistance Payments Contract.

- (13) Mortgagor will comply with the provisions of any Federal, State or local law prohibiting discrimination in housing on the grounds of race, color, creed or national origin, including Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. 2000d-1), Title VIII of the Civil Rights Act of 1968 (P.L. 90-284, 42 U.S.C. 3601) and Executive Order 11063 (27 P.R. 11527), and all requirements imposed by or pursuant to the regulations of the Department of Housing and Urban Development (24 CFR) issued pursuant to Title VI, Title VIII, or Executive Order 11063.
- (14) No litigation seeking the recovery of a sum in excess of \$5,000 nor any action for specific performance or other equitable relief shall be instituted nor shall any claim for a sum in excess of \$5,000 be settled or compromised by the Mortgagor unless prior written consent thereto has been obtained from HUD. Such consent may be subject to such terms and conditions as HUD may prescribe.
- (15) Upon a violation of any of the above provisions of this Agreement by Mortgagor, HUD may give written notice, thereof, to Mortgagor, by registered or certified mail, addressed to the address stated in this Agreement, or such other address as may subsequently, upon appropriate written notice thereof to HUD, be designated by the Mortgagor as its legal business address. If such violation is not corrected to the satisfaction of HUD within 30 days after the date such notice is mailed or within such further time as HUD determines it is necessary to correct the violation, without further notice HUD may declare a Default under this Agreement effective on the date of such declaration of default and upon such Default HUD may:
- (1) Take possession of the project, bring any action necessary to enforce any rights of the mortgagor growing out of the project operation, and operate the project in accordance with the terms of this Agreement until such time as HUD in its discretion determines that the mortgagor is again in a position to operate the project in accordance with the terms of this Agreement and in compliance with the requirements of the Note and Mortgage.
  - (2) Collect all rents and charges in connection with the operation of the project and use such collections to pay the mortgagor's obligations under this Agreement and under the Note and Mortgage, and the necessary expenses of preserving the property and operating the project.
  - (3) Declare the whole of said indebtedness immediately due and payable and then proceed with the foreclosure of the mortgage.
  - (4) Apply to any court, State or Federal, for specific performance of this Agreement, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and operate the property in accordance with the terms of the Agreement, or for such other relief as may be appropriate, since the injury to HUD arising from a default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain.
- (16) (a) Mortgagor has executed an Agreement to enter into a Housing Assistance Payments Contract. The terms of the Housing Assistance Payments Contract, when executed, shall be incorporated by reference into this Regulatory Agreement;
- (b) A violation of the Housing Assistance Payments Contract may be construed to constitute a default hereunder in the sole discretion of HUD;
- (c) In the event said Housing Assistance Payments Contract expires or terminates before the expiration or termination of this Agreement, the provisions of this paragraph and any other reference to said contract, to Section 8 and to Section 8 units contained herein shall be self-cancelling shall no longer be effective as of the date of the expiration or termination of the Housing Assistance Payments Contract.
- (17) As used in this Agreement the term:
- (a) "Mortgage" includes "Deed of Trust", "Chattel Mortgage" and any other security for the Note identified herein;
  - (b) "Mortgagee" refers to the holder of the mortgage identified herein, its successors and assigns;
  - (c) "Mortgaged Property" includes property, real, personal, or mixed, covered by the mortgage or mortgages securing the note held by HUD;
  - (d) "Project" includes the mortgaged property and all its other assets or whatsoever situate, used in or owned by the business conducted on said mortgaged property;
  - (e) "Distribution" means any withdrawal or taking of cash or other assets of the project other than for mortgage payments or for payment of reasonable expenses incident to its construction, operation and maintenance;
  - (f) "Default" means a default declared by HUD when a violation of this Agreement is not corrected to its satisfaction within the time allowed by this Agreement or such further time as may be allowed by HUD after written notice;

- (g) "Residual Receipts" means any cash remaining after:
    - (1) The payment of:
      - (i) All sums due or currently required to be paid under the terms of any mortgage or note held by the Secretary of Housing and Urban Development;
      - (ii) All amounts required to be deposited in the reserve fund for replacements;
      - (iii) All obligations of the project other than the mortgage held by HUD unless funds for payment are set aside or deferment of payment has been approved by HUD; and
    - (2) The segregation of:
      - (i) An amount equal to the aggregate of all special funds required to be maintained by the project;
      - (ii) All tenant security deposits held.
  - (h) "Section 8 Units" refers to units assisted under Section 8 of the United States Housing Act of 1937 pursuant to a Housing Assistance Payments Contract.
  - (i) "Housing Assistance Payments Contract" refers to a written contract between the Mortgagor and HUD, or the Mortgagor and a Public Housing Agency, or the Mortgagor and a Housing Finance Agency for the purpose of providing housing assistance payments to the Mortgagor on behalf of eligible families under Section 8 of the United States Housing Act of 1937.
- (18) HUD shall not be liable for any of its actions hereunder except for flagrant misfeasance.
- (19) This instrument shall bind, and the benefits shall inure to, the respective parties hereto, their legal representatives, executors, administrators, successors in office or interest, and assigns, and all owners of the mortgaged property, so long as the loan is outstanding.
- (20) The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.
- (21) Mortgagor warrants that it has not, and will not, execute any other agreement with provisions contradictory of, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict therewith.

Secretary of Housing and Urban Development

By: *James D. Lewis*

(SE. 1.)

ATTN:

(Secretary)  
S. T. Lewis

Name of Mortgagor Chestnut Village  
Apartments, Inc.

By: *James D. Lewis, Jr.*  
(President)  
JAMES FEARS

THE STATE OF TEXAS X  
COUNTY OF HARRIS X

BEFORE ME, THE undersigned authority on this day personally appeared JAMES M. WILSON of the Department of Housing and Urban Development, known to me to be the person and office whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Department of Housing and Urban Development.



OFFICIAL SEAL  
A.T. UNDERWOOD, JR.  
NOTARY PUBLIC  
STATE OF TEXAS  
My Comm. Expires Sept. 5, 1988

A.T. Underwood, Jr.

Notary Public--State of Texas  
My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS X  
COUNTY OF HARRIS X

BEFORE ME, the undersigned authority on this day personally appeared JAMES FEARS ~~G. T. LEWIS~~, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.



OFFICIAL SEAL  
A.T. UNDERWOOD, JR.  
NOTARY PUBLIC  
STATE OF TEXAS  
My Comm. Expires Sept. 5, 1988

A.T. Underwood, Jr.

Notary Public--State of Texas  
My Commission Expires: \_\_\_\_\_

Exhibit "A"

BEING all that certain tract or parcel of land lying and situated in the City of Lufkin, Angelina County, Texas out of the J. L. QUINALTY SURVEY, ABSTRACT NO. 40 and being a part or portion of that certain 6.524 acre tract described in a deed from Josephine DiStefano to Chestnut Park Apartments, Inc. dated March 25, 1981 and recorded in Volume 515, page 772 of the Deed Records of Angelina County, Texas to which reference is hereby made for all purposes and the said part or portion being described by metes and bounds as follows, to wit

BEGINNING N 70 degrees 05' <sup>34"</sup> E 294.41 feet from the West corner of the aforesaid referred to 6.524 acre tract, a 1/2" iron pin set for corner on the Northwest boundary line of same and on the Northeast side of a rock ditch;

THENCE N 70 degrees 05' 39" E, with the Northwest boundary line of the said 6.524 acre tract, at 235.53 feet an ell corner of same, an iron bolt found for corner;

THENCE N 3 degrees 23' 04" E, with the West boundray line of the said 6.524 acre tract, at 83.95 feet the Northwest corner of same, an iron bolt found for corner on the curving South R.O.W. line of Atkinson Drive;

THENCE Southeasterly with the North boundary line of the said 6.524 acre tract and the said curving South R.O.W. line of Atkinson Drive on a 4.8298 degree curve to the left (having a chord bearing and distance of S 83 degrees 06' 07" E, 107.12 feet), at 107.15 feet the Northeast corner of the said 6.524 acre tract, a 1/2" iron pipe found for corner;

THENCE Two (2) lines with the Northeast boundary line of the said 6.524 acre tract as follows:

- (1) S 20 degrees 22' 14" E, at 140.77 feet, a 1/2" iron pipe found for corner;
- (2) S 18 degrees 05' 00" E, at 243.77 feet the East corner of the said 6.524 acre tract, a 1/2" iron pipe found for corner;

THENCE S 70 degrees 05' 39" W, with the Southeast boundary line of the said 6.524 acre tract, at 84.48 feet, a 1/2" iron pin set for corner on the Northeast side of the said rock ditch;

THENCE THREE (3) lines with the North side of the said rock ditch as follows:

- (1) N 41 degrees 46' 50" W, at 21.69 feet, a point for corner;
- (2) N 49 degrees 00' 00" W, at 23.83 feet, a point for corner;
- (3) N 59 degrees 35' 38" W, at 87.67 feet, a 1/2" iron pin set for corner;

THENCE S 30 degrees 24' 22" W, at 59.02 feet, an "X" in concrete sidewalk for corner;

THENCE N 39 degrees 35' 38" W, at 39.11 feet, a 1/2" iron pin set for corner;



THENCE N 20 degrees 57' 13" W, with the Northeast face of the existing community building, at 56.1 feet, a 1/2" iron pin set for corner;

THENCE N 59 degrees 35' 38" W, at 21.72 feet, a 1/2" iron pin set for corner;

THENCE N 30 degrees 24' 22" E, at 24.16 feet, a 1/2" iron pin set for corner;

THENCE Two (2) lines with the North side of the said rock ditch as follows:

(1) N 59 degrees 35' 38" W, at 110.50 feet, a point for corner;

(2) N 56 degrees 18' 55" W, at 101.61 feet the point and place of beginning and containing 2.069 acres of land, more or less.

STATE OF TEXAS }  
COUNTY OF ANGELINA }

I hereby certify that this instrument was FILED IN the Public Records of the County and at the time stamped hereon by me, the undersigned, in the Official Public Records of Angelina County, Texas on



MAY 17 1984  
COUNTY CLERK  
ANGELINA COUNTY, TEXAS

FILED  
AT 3:55 O'CLOCK P.M.

MAY 10 1984

PAULINE GRISHAM, Clerk, County Court  
Angelina County, Texas

By *[Signature]* Deputy

## **EXHIBIT B**

To be attached:

- (i) Certificate of Occupancy.
- (ii) Owner's Certification of Completion.
- (iii) Commitment for Title Insurance.
- (iv) Volume 137, Page 288.
- (v) Volume 556, Page 27.
- (vi) Volume 243, Page 660.
- (vii) Volume 288, Page 714.

# Certificate of Occupancy

## Department of Building Inspection

*This Certificate issued pursuant to the requirements of Section 109 of the Southern Standard Building Code certifying that at the time of issuance this structure was in compliance with the various ordinances of the City regulating building construction or use. For the following:*

Use Classification Residential Bldg. Permit No. #156  
Group R Type Construction 6 Fire District No  
Owner of Building Chestnut Park Apts. Address 120 Pine Wood Park Dr.  
Building Address 800 North Chestnut Locality Lufkin, Texas  
*John H. Stubblefield* By: M. Brevard  
Building Official Date: March 26, 1982

POST IN A CONSPICUOUS PLACE

Bai

**OWNER'S CERTIFICATION OF COMPLETION**

114-EH059-L8-NP-WAH

PROJECT NUMBER

ANGELINA CITIZENS CHAMBER OF COMMERCE

OWNER

I, JAMES FEARS, SR., Owner of the subject project, having entered into an Agreement to Enter Into Housing Assistance Payments Contract (Agreement) dated DECEMBER 18, 1986 do herewith certify that:

- (1) The project has been completed in accordance with the requirements of the Agreement;
- (2) The project is in good and tenantable condition;
- (3) There are no defects or deficiencies in the project except for punchlist items or incomplete work awaiting seasonal opportunity (all such items are listed in attachment 1/);
- (4) There has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in the Final Proposal for the subject project, other than changes approved in writing by HUD in accordance with the Agreement; and
- (5) I have complied with the provisions of the Agreement relating to the payment of not less than prevailing wage rates and that to the best of my knowledge and belief there are no claims of underpayment in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to my knowledge or to the knowledge of HUD or the PHA (if applicable), I shall place a sufficient amount in escrow, as determined by HUD, to assure such payments.

This Certification is supported by the warranty in paragraph 1.2 of the Housing Assistance Payments Contract.

Signed James D. Fears Sr.  
 PRESIDENT  
 ANGELINA CITIZENS CHAMBER OF COMMERCE  
 (SPONSOR)

**WARNING:** Title 18 U.S.C. 1001, provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any matter in the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years or both.

1/ Identify attachment.

Bevin

 <b>First American Title</b>	<b>Commitment for Title Insurance</b>
	ISSUED BY <b>First American Title Insurance Company</b>
<b>Commitment</b>	

THE FOLLOWING COMMITMENT FOR TITLE INSURANCE IS NOT VALID UNLESS YOUR NAME AND THE POLICY AMOUNT ARE SHOWN IN SCHEDULE A AND OUR AUTHORIZED REPRESENTATIVE HAS COUNTERSIGNED BELOW.

We, FIRST AMERICAN TITLE INSURANCE COMPANY, will issue our title insurance policy or policies (the Policy) to You (the proposed insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule B and Schedule C. Our Policy will be in the form approved by the Texas Department of Insurance at the date of issuance, and will insure your interest in the land described in Schedule A. The estimated premium for our Policy and applicable endorsements is shown on Schedule D. There may be additional charges such as recording fees, and expedited delivery expenses.

This Commitment ends ninety (90) days from the effective date, unless the Policy is issued sooner, or failure to issue the Policy is our fault. Our liability and obligations to you are under the express terms of this Commitment and end when this Commitment expires.

**First American Title Insurance Company**



*Dennis J. Gilmore*

Dennis J. Gilmore  
President

*Timothy Kemp*

Timothy Kemp  
Secretary

**TEXAS REGIONAL TITLE, LLC**

3195 Dowlen Road, Suite 108  
Beaumont, Texas 77706  
(409) 861-7300 Fax (409) 861-7373

By *Macey Hallett*

Authorized Countersignature

## TEXAS TITLE INSURANCE INFORMATION

Title insurance insures you against loss resulting from certain risks to your title.

The Commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The Commitment is a legal document. You should review it carefully to completely understand it before your closing date.

El seguro de título le asegura en relación a pérdidas resultantes de ciertos riesgos que pueden afectar el título de su propiedad.

El Compromiso para Seguro de Título es la promesa de la compañía aseguradora de títulos de emitir la póliza de seguro de título. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y enterderlo completamente antes de la fecha para finalizar su transacción.

Your Commitment for Title Insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the Title Insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy. The Policy is not an abstract or title nor does a Company have an obligation to determine the ownership of any mineral interest.

- **MINERALS AND MINERAL RIGHTS** may not be covered by the Policy. The Company may be unwilling to insure title unless there is an exclusion or an exception as to Minerals and Mineral Rights in the Policy. Optional endorsements insuring certain risks involving minerals, and the use of improvements (excluding lawns, shrubbery and trees) and permanent buildings may be available for purchase. If the title insurer issues the title policy with an exclusion or exception to the minerals and mineral rights, neither this Policy, nor the optional endorsements, ensure that the purchaser has title to the mineral rights related to the surface estate.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied or the Company will refuse to cover them. You may want to discuss any matters shown in Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your Policy is issued, the coverage will be limited by the Policy's Exceptions, Exclusions and Conditions, defined below.

- **EXCEPTIONS** are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Requirements section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.

- **EXCLUSIONS** are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.

- **CONDITIONS** are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

You can get a copy of the policy form approved by the State Board of Insurance by calling the Title Insurance Company at 1-888-632-1642 or by calling the title insurance agent that issued the Commitment. The State Board of Insurance may revise the policy form from time to time.

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling 1-800-252-3439.

Before the Policy is issued, you may request changes in the policy. Some of the changes to consider are:

- Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner Policy, you must

FIRST AMERICAN TITLE INSURANCE COMPANY

**SCHEDULE A**

Effective Date: February 17, 2012 at 08:00 AM

GF Number: 14593-MM

Commitment Number: 1ST REVISION, issued February 29, 2012 at 08:00-AM

1. The policy or policies to be issued are:

- (a) OWNER'S POLICY OF TITLE INSURANCE (Form T-1)  
(Not applicable for improved one-to-four family residential real estate)  
Policy Amount: \$ 1,274,638.00  
PROPOSED INSURED:  
Lufkin ITPP Housing I, LP, a Texas limited partnership
- (b) TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE  
-- ONE-TO-FOUR FAMILY RESIDENCES (Form T-1R)  
Policy Amount:  
PROPOSED INSURED:
- (c) LOAN POLICY OF TITLE INSURANCE (Form T-2)  
Policy Amount:  
PROPOSED INSURED:  
(To be determined)  
Proposed Borrower:  
Lufkin ITPP Housing I, LP, a Texas limited partnership
- (d) TEXAS SHORT FORM RESIDENTIAL LOAN POLICY OF TITLE INSURANCE (Form T-2R)  
Policy Amount:  
PROPOSED INSURED:  
Proposed Borrower:
- (e) LOAN TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)  
Binder Amount:  
PROPOSED INSURED:  
Proposed Borrower:
- (f) OTHER  
Policy Amount:  
PROPOSED INSURED:

2. The interest in the land covered by this Commitment is:

Fee Simple

3. Record title to the land on the Effective Date appears to be vested in:

Tract I: Inez Tims Village Apartments, Inc.

Tract II: Inez Tims Apartments, Inc.

4. Legal description of land:

Tract I:

All that certain tract or parcel of land lying and situated in Angelina County, Texas, within the J. L. QUINALTY SURVEY, ABSTRACT NO. 40, being all of that certain 2.069 acre tract which was conveyed from Chestnut Park Apartments, Inc., to Chestnut Village Apartments, Inc., by deed dated May 10, 1984 and recorded in Volume 559, on Page 876 of the Deed Records of Angelina County, Texas, to which reference is hereby made for any and all purposes, being described by metes and bounds as follows, to wit:

BEGINNING in the West boundary line of the J. S. Moore Revised Addition, the official plat of which was found of record in Cabinet A, on Slide 21-A of the Map and Plat Records of Angelina County, Texas, at the Northwest corner of Lot 8 of Block 4 of said J. S. Moore Revised Addition, having been conveyed, Tract No. 9, from Jolyn Harline Hemphill, et al, to Texas BHM, Ltd., by deed dated May 10, 2002 and recorded in Volume 1903, on Page 201 of the Deed Records of Angelina County, Texas, being also the Northeast corner of the above referred to 2.069 acre tract, located on the South right of way line of Atkinson Drive, a 1/2" iron pipe found for corner from which a utility pole bears S 86° 31' E 8.26 feet;

## SCHEDULE A

(Continued)

GF Number: 14593-MM

THENCE S 23° 08' 42" E with the East boundary line of the above referred to 2.069 acre tract, common with the West boundary line of J. S. Moore Revised Addition, 140.80 feet to a 1/2" iron pipe set for angle corner therein;

THENCE S 20° 49' 11" E continuing with last named boundary, then common with the West boundary line of Vargas' Locke Street Subdivision, the official plat of which was found of record in Cabinet E, on Slide 120-A of the Map and Plat Records of Angelina County, Texas, 243.93 feet to the Southeast corner of the above referred to 2.069 acre tract, same being the Northeast corner of that certain 1 acre tract which was conveyed from Mary Simmons to Lavern Caldwell by deed dated July 23, 1985 and recorded in Volume 620, on Page 820 of the Deed Records of Angelina County, Texas, a 1/2" iron pipe found for corner from which a 1/2" iron pipe found bears N 21° 14' 31" W 22.09 feet;

THENCE S 67° 20' 17" W with the South boundary line of the above referred to 2.069 acre tract, common with the North boundary line of said Caldwell 1 acre tract, 84.44 feet to the Southwest corner of said 2.069 acre tract, same being the Southeast corner of the residual portion of that certain 6.524 acre tract which was conveyed from Josephine Distefano to Chestnut Park Apartments, Inc., by deed dated March 25, 1981 and recorded in Volume 515, on Page 772 of the Deed Records of Angelina County, Texas, a 1/2" iron rod found for corner from which a fence corner bears S 63° 47' W 12.98 feet, a sewer manhole bears N 31° 30' W 21.11 feet, and a sewer manhole bears N 43° 11' W 20.91 feet;

THENCE following the meandering common boundary line between the above referred to 2.069 acre tract and the Chestnut Park Apartments, Inc., 6.524 acre residue, ten lines as follows:

- 1) N 44° 34' 52" W 21.82 feet to a nail set for corner;
- 2) N 51° 48' 02" W 23.84 feet to a nail set for corner;
- 3) N 62° 11' 10" W 87.66 feet to a (bent) 1/2" iron rod found for corner;
- 4) S 27° 36' 21" W 59.04 feet to an X carved in concrete for corner;
- 5) N 61° 50' 09" W 38.82 feet to a 1/2" iron pipe set for corner;
- 6) N 23° 47' 54" W 56.70 feet to a 1/2" iron pipe set for corner from which a 1/2" iron rod found bears S 32° 04' 17" W 0.69 feet;
- 7) N 62° 23' 39" W 21.73 feet to a 1/2" iron pipe set for corner from which a 1/2" iron rod found bears S 36° 23' 39" W 0.70 feet;
- 8) N 27° 36' 21" E 24.17 feet to a 1/2" iron rod found for corner;
- 9) N 62° 54' 06" W 110.01 feet to a nail set for corner;
- 10) N 59° 06' 56" W 101.65 feet to a nail found for corner, in concrete, from which a 3/4" iron pipe found bears S 66° 29' 54" W 20.22 feet, this being the Northwest corner of the above referred to 2.069 acre tract, the Northeast corner of the said residual portion of said 6.524 acre tract, located in the South boundary line of Block 2 of the Atkinson Drive Addition, the official plat of which was found of record in Cabinet A, on Slide 30-A of the Map and Plat Records of Angelina County, Texas, which is also the South boundary line of Lots 8, 9, and 10 of Block 2 of the Atkinson Drive Addition which were conveyed from Gulf States Mobile Home Realty Corporation, dba Granite Consulting Services, to Cofradia Properties, Ltd., by deed dated March 11, 2008 and recorded as Document No. 00241139 in the Deed Records of Angelina County, Texas;

THENCE N 67° 19' 46" E with one North boundary line of the above referred to 2.069 acre tract, common with the South boundary line of said Block 2 of the Atkinson Drive Addition which is also the South boundary line of Cofradia Properties, Ltd., 235.74 feet to the Southeast corner of said Cofradia Properties, Ltd., same being an ell, or re-entrant corner of said 2.069 acre tract, a 1/2" iron pipe found for corner from which a fence corner bears S 51° 20' E 0.54 feet and a utility pole bears S 26° 44' E 0.96 feet;



**SCHEDULE A**  
(Continued)

GF Number: 14593-MM

THENCE N 00° 27' 24" E with one West boundary line of the above referred to 2.069 acre tract, common with Cofradia Properties, Ltd., and with the common boundary between Lots 7 and 8 of said Atkinson Drive Addition, 84.22 feet to the Northwest corner of said 2.069 acre tract, located on the South right of way line of Atkinson Drive, a 1/2" iron pipe found for corner from which a utility pole bears N 26° 01' E 0.76 feet and a fire hydrant bears N 79° 13' E 5.41 feet;

THENCE with the South right of way line of Atkinson Drive which is also one North boundary line of the above referred to 2.069 acre tract, in an Easterly direction, with a curve to the left which has a Central Angle of 05° 10' 58", a Radius of 1185.92 feet, a Long Chord which bears S 85° 45' 47" E 107.24 feet, distance along the Arc of 107.27 feet to the place of beginning containing 2.065 acres of land, more or less.

Tract II:

All that certain tract or parcel of land lying and situated in Angelina County, Texas, within the J. L. QUINALTY SURVEY, ABSTRACT NO. 40, being out of and a part of that certain 6.524 acre tract which was conveyed from Josephine Distefano to Chestnut Park Apartments, Inc., by deed dated March 25, 1981 and recorded in Volume 515, on Page 772 of the Deed Records of Angelina County, Texas, to which reference is hereby made for any and all purposes, being described by metes and bounds as follows, to wit:

BEGINNING in the North boundary line of that certain 1 acre tract which was conveyed from Mary Simmons to Lavern Caldwell by deed dated July 23, 1985 and recorded in Volume 620, on Page 820 of the Deed Records of Angelina County, Texas, at the Southwest corner of all of that certain 2.069 acre tract which was conveyed (out of the above referred to 6.524 acre tract) from Chestnut Park Apartments, Inc., to Chestnut Village Apartments, Inc., by deed dated May 10, 1984 and recorded in Volume 559, on Page 876 of the Deed Records of Angelina County, Texas, a 1/2" iron rod found for corner from which a 1/2" iron pipe found, Southeast corner of said 2.069 acre tract and Northeast corner of said 1 acre tract, bears N 67° 20' 17" E 84.44 feet, a fence corner bears S 63° 47' W 12.98 feet, a sewer manhole bears N 31° 30' W 21.11 feet, and a sewer manhole bears N 43° 11' W 20.91 feet;

THENCE S 67° 20' 17" W with one South boundary line of the above referred to 6.524 acre tract, common with the North boundary line of said Caldwell 1 acre tract, 253.70 feet to a 1/2" iron pipe set for corner from which a fence corner bears S 71° 53' E 5.34 feet and a fence corner bears N 70° 37' E 7.25 feet. being Caldwell's Northwest corner and an ell, or re-entrant corner of said 6.524 acre tract;

THENCE S 22° 40' 49" E with one East boundary line of the above referred to 6.524 acre tract, common with, in part, the Caldwell's West boundary line, then with the West boundary line of that certain 1.45 acre tract, the West half of which was conveyed from Mary Lee Simmons to Roy C. Maiden, et ux, by deed dated May 29, 1951 and recorded in Volume 160, on Page 495 of the Deed Records of Angelina County, Texas, then with the West boundary line of Tract No. One and Tract No. Two, both of which were conveyed, without acreage recitation, from Mary Lee Simmons to Laverne Caldwell by deed dated January 10, 1986 and recorded in Volume 621, on Page 766 of the Deed Records of Angelina County, Texas, then with the West boundary line of that certain 1.42 acre tract which was conveyed from Augustus Roberts, et al, to Martha Ree Davis, et al, by deed dated October 22, 1951 and recorded in Volume 166, on Page 130 of the Deed Records of Angelina County, Texas, 300.05 feet to a 1/2" iron pipe found for Northeast corner of the Effie Baines Subdivision, the official plat of which was found of record in Cabinet E, on Slide 33-A of the Map and Plat Records of Angelina County, Texas, located on the East side of Lining Street, from which a 1/2" iron rod found bears S 17° 36' 23" W 77.19 feet and a 1/2" iron rod found, in concrete, bears S 66° 15' 11" W 50.92 feet;

THENCE S 66° 16' 31" W with the North boundary line of said Effie Baines Subdivision and the North boundary line of the dedicated portion of Lining Street, this being the apparent South boundary line of that certain 10 acre tract which was conveyed from J. D. Cook to E. M. Rhodes by deed dated August 8, 1887 and recorded in Volume P, on Page 121 of the Deed Records of Angelina County, Texas, being also the apparent North boundary line of the Milam Addition, the official (and illegible) plat of which was found of record in Volume 12, on Page 469 of the Deed Records of Angelina County, Texas, 14.76 feet to an intersection with a small and shallow drain (in culvert), set a nail for corner in pavement of Lining Street, from which a 1/2" iron rod found bears S 66° 16' 31" W 287.42 feet;

**SCHEDULE A**  
(Continued)

GF Number: 14593-MM

THENCE following the meanders (upstream) of the existing threadline of said small and shallow drain (sometimes called a gully - presently filled in with sediment and ill-defined), which gully defines the North boundary line of that certain 1 acre tract which was conveyed from H. Rhodes, et ux, to W. L. Chestnutt by deed dated August 26, 1890 and recorded in Volume 140, on Page 238 of the Deed Records of Angelina County, Texas, in part with the North boundary line of Parcel 6 which was conveyed as 0.65 acre from Lois P. Barrett, et al, to Elliott W. Cavanaugh by deed dated September 12, 1989 and recorded in Volume 774, on Page 795 of the Deed Records of Angelina County, Texas, then with the North boundary line of Parcel 5 which was conveyed as 0.35 acre from Lois P. Barrett, et al, to Elliott W. Cavanaugh by deed dated September 12, 1989 and recorded in Volume 774, on Page 795 of the Deed Records of Angelina County, Texas, thirty-three lines as follows:

- 1) N 64° 41' 01" W 21.56 feet to end of culvert,
- 2) N 84° 05' 30" W 26.08 feet;
- 3) N 84° 05' 30" W 26.08 feet;
- 3) N 39° 07' 16" W 8.68 feet;
- 4) N 81° 55' 05" W 13.95 feet;
- 5) N 68° 49' 37" W 20.19 feet;
- 6) N 72° 47' 08" W 34.15 feet;
- 7) S 80° 03' 28" W 11.05 feet;
- 8) S 49° 08' 05" W 7.57 feet;
- 9) N 46° 40' 02" W 9.35 feet;
- 10) N 43° 22' 33" W 21.84 feet;
- 11) N 36° 52' 45" W 17.62 feet;
- 12) N 68° 30' 57" W 20.57 feet;
- 13) N 53° 11' 18" W 7.77 feet;
- 14) N 78° 45' 30" W 17.92 feet;
- 15) N 71° 29' 26" W 20.74 feet;
- 16) S 00° 15' 38" W 6.56 feet;
- 17) N 85° 33' 20" W 15.35 feet;
- 18) N 02° 05' 51" E 10.92 feet;
- 19) N 55° 52' 30" W 15.96 feet;
- 20) N 67° 45' 22" W 21.29 feet;
- 21) S 46° 32' 03" W 7.56 feet;
- 22) S 81° 17' 06" W 14.81 feet;

## SCHEDULE A

(Continued)

GF Number: 14593-MM

- 23) N 55° 45' 26" W 13.12 feet;
- 24) N 44° 52' 38" W 12.01 feet;
- 25) S 82° 46' 19" W 10.66 feet;
- 26) N 50° 49' 08" W 10.23 feet;
- 27) N 14° 40' 16" W 12.53 feet;
- 28) N 32° 54' 15" W 6.77 feet;
- 29) S 85° 12' 04" W 5.46 feet;
- 30) S 80° 22' 17" W 5.90 feet;
- 31) N 68° 42' 34" W 3.12 feet;
- 32) N 82° 11' 19" W 14.09 feet;
- 33) S 74° 32' 38" W 14.68 feet to a 1/2" iron pipe set for corner on the East side of Chestnut Street, from which a sewer manhole bears N 23° 39' 32" W 56.29 feet, a fence end bears N 20° 58' E 29.98 feet, a 1/2" iron rod found bears S 24° 56' 36" E 283.50 feet, a 1/2" iron rod found bears S 24° 44' 31" E 341.48 feet, a 1/2" iron rod found bears S 08° 12' 57" E 201.92 feet, a 1/2" iron pipe found bears S 11° 52' 06" E 262.36 feet, and a 1/2" iron pipe set for reference corner bears N 22° 46' 29" W 39.01 feet;

THENCE N 22° 46' 29" W along the East side of Chestnut Street and with the West boundary line of the above referred to 6.524 acre tract, 377.96 feet to its Northwest corner, being also the Southwest corner of Block 2 of the Atkinson Drive Addition, the official plat of which was found of record in Cabinet A, on Slide 30-A of the Map and Plat Records of Angelina County, Texas and the Southwest corner of Lot 6, Block 2 of the Atkinson Drive Addition which was conveyed from Jennie Caton, et vir, to Joan Futch Carezza, et al, by deed dated October 31, 1996 and recorded in Volume 1080, on Page 24 of the Deed Records of Angelina County, Texas, a 1/2" iron pipe set for corner from which a TxDOT disk found bears N 21° 32' 56" W 194.63 feet, a 1/2" iron rod found bears N 63° 19' 59" E 4.96 feet, a 1" iron pipe found bears N 63° 00' 03" E 5.10 feet, a fence corner bears N 54° 13" E 4.81 feet, and a utility pole bears S 36° 46" E 8.33 feet;

THENCE N 67° 19' 46" E with the North boundary line of the above referred to 6.524 acre tract, common with the South boundary line of said Block 2 of the Atkinson Drive Addition, same being Carezza's South boundary line, then with the South boundary line of Lots 8, 9, and 10 of Block 2 of the Atkinson Drive Addition which were conveyed from Gulf States Mobile Home Realty Corporation, dba Granite Consulting Services, to Cofradia Properties, Ltd., by deed dated March 11, 2008 and recorded as Document No. 00241139 in the Deed Records of Angelina County, Texas, 294.41 feet to the Northwest corner of the above mentioned 2.069 acre tract, a nail found for corner, in concrete, from which a 3/4" iron pipe found bears S 66° 29' 54" W 20.22 feet and a 1/2" iron pipe found bears N 67° 19' 46" E 235.74 feet;

THENCE following the meandering common boundary line between the above referred to 2.069 acre tract and the Chestnut Park Apartments, Inc., 6.524 acre residue, ten lines as follows:

- 1) S 59° 06' 56" E 101.65 feet to a nail set for corner;
- 2) S 62° 54' 06" E 110.01 feet to a 1/2" iron rod found for corner;
- 3) S 27° 36' 21" W 24.17 feet to a 1/2" iron pipe set for corner from which a (bent) 1/2" iron rod found bears S 36° 23' 39" W 0.70 feet;
- 4) S 62° 23' 39" E 21.73 feet to a 1/2" iron pipe set for corner from which a 1/2" iron rod found bears S 32° 04' 17" W 0.69 feet;

**SCHEDULE A**  
(Continued)

GF Number: 14593-MM

- 5) S 23° 47' 54" E 56.70 feet to a 1/2" iron pipe set for corner;
- 6) S 61° 50' 09" E 38.82 feet to an X carved in concrete for corner;
- 7) N 27° 36' 21" E 59.04 feet to a (bent) 1/2" iron rod found for corner;
- 8) S 62° 11' 10" E 87.66 feet to a nail set for corner;
- 9) S 51° 48' 02" E 23.84 feet to a nail set for corner;
- 10) S 44° 34' 52" E 21.82 feet to the place of beginning containing 4.639 acres of land, more or less.

**NOTE: THE COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.**

## SCHEDULE B

### EXCEPTIONS FROM COVERAGE

GF Number: 14593-MM

In addition to the Exclusions and Conditions and Stipulations, your Policy will not cover loss, costs, attorney's fees, and expenses resulting from:

1. The following restrictive covenants of record itemized below (We must either insert specific recording data or delete this exception):

Restrictions as set forth in documents recorded in Volume 137, Page 288 and Volume 556, Page 27, of the Deed Records of Angelina County, Texas, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any of any spouse of any insured. (Applies to the Owner Policy only.)
4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
  - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
  - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
  - c. to filled-in lands, or artificial islands, or
  - d. to statutory water rights, including riparian rights, or
  - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.(Applies to the Owner Policy only.)
5. Standby fees, taxes and assessments by any taxing authority for the year 2012, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year. (If Texas Short form Residential Mortgagee Policy (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year 2012 and subsequent years.")
6. The terms and conditions of the documents creating your interest in the land.
7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Mortgagee Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)
8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgagee. (Applies to Mortgagee Policy (T-2R) only.)
9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R). (Applies to Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R) only.) Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Mortgagee Policy (T-2R).
10. The following matters and all terms of the documents creating or offering evidence of the matters (We

**SCHEDULE B**  
(Continued)

GF Number: 14593-MM

must insert matters or delete this exception.):

- a. Rights of Parties in Possession.
- b. Right of Way/Easement to the City of Lufkin from Johnnie L. Jones, Chairman of the Board of Chestnut Park Apartments, Inc., dated June 16, 1992, recorded in Volume 879, Page 41, Real Property Records, Angelina County, Texas.
- c. Memorandum of Lease dated August 17, 2000 by and between Inez Tims Apartments, Inc. and Coinmach Corporation, recorded in Volume 1300, Page 94, Official Public Records, Angelina County, Texas.
- d. Any and all liens arising by reason of unpaid bills or claims for work performed or materials furnished in connection with improvements placed, or to be placed, upon the subject land. However, Company does insure the insured against loss, if any, sustained by the insured under this Policy if such liens have been filed with the County Clerk of Jefferson County, Texas prior to the date hereof.
- e. Pending disbursement of the full proceeds of the loan secured by the lien instrument set forth under Schedule "A" hereof, this policy insures only to the extent of the amount actually disbursed, but increases as each disbursement is made in good faith and without knowledge of any defects in, or objections to, the title up to the face amount of the policy. Nothing contained in this paragraph shall be construed as limiting any exception under Schedule "B", or any printed provision of this policy. (Proposed Loan Policy only)
- f. Liability hereunder at the date hereof is limited to \$1,274,638.00. Liability shall increase as contemplated improvements are made, so that any loss payable hereunder shall be limited to said sum plus the amount actually expended by the Insured in improvements at the time the loss occurs. Any expenditures made for improvements, subsequent to the date of this policy will be deemed made as of the date of this policy. In no event shall the liability of the Company hereunder exceed the face amount of this policy. Nothing contained in this paragraph shall be construed as limiting any exception or any printed provision of this policy. (Proposed Owner's Title Policy only)
- g. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.

NOTE: There will be additional research conducted on the minerals for the purpose of removing this general exception.

## SCHEDULE C

GF Number: 14593-MM

Your Policy will not cover loss, costs, attorney's fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.
2. Satisfactory evidence must be provided that:
  - no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,
  - all standby fees, taxes, assessments and charges against the property have been paid,
  - all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, sub-contractors, laborers and suppliers have been fully paid, and that no mechanic's, laborer's or materialmen's liens have attached to the property,
  - there is legal right of access to and from the land,
  - (on a Mortgagee Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.
3. You must pay the seller or borrower the agreed amount for your property or interest.
4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.
5. Requirement is made that the proposed owner execute a satisfactory Waiver of Inspection and upon execution of said waiver, that an exception to "Rights of Parties in Possession" be placed in Schedule B of the proposed Owner's Policy; in the alternative, should the proposed owner decline to execute said waiver, then requirement is made that an on-ground inspection be made of the subject property and that pursuant to such inspection, should possession by parties other than the proposed owner be apparent, then exception be made in Schedule B of the proposed Owner's Policy to the rights of any and all such parties.
6. For informational purposes, if the undersigned is furnished with a satisfactory current survey of the subject property and said survey reveals no encroachments, overlaps, and/or similar items, then Item No. 2 of Schedule B of the proposed Loan Policy may be amended to read: "Shortages in Area"; upon payment of the additional premium as promulgated by the Texas Department of Insurance, the same amendment may be made to Item No. 2 of Schedule B of the proposed Owner's Policy.
7. Upon being furnished satisfactory evidence that taxes, standby fees and assessments by any taxing authority for the year 2011 and prior years have been paid or will be paid at the proposed closing, and upon payment of the additional premium as promulgated by the Texas Department of Insurance, Item No. 3 of Schedule B of the proposed Loan Policy (See Item 5 of Schedule B of this Commitment) may be amended by adding the following sentence after the standard tax exception: "Company insures that standby fees, taxes and assessments by any taxing authority for the year 2012 are not yet due and payable".
8. Upon being furnished satisfactory evidence that the subject property is not subject to "rollback" taxes or assessments by any taxing authority, and upon payment of the additional premium as promulgated by The Texas Department of Insurance, Item No. 3 of Schedule B of the proposed Loan Policy (See Item 5 of Schedule B of this Commitment) may be amended by deleting the words "and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership."

**SCHEDULE C**  
(Continued)

GF Number: 14593-MM

9. Deed of Trust dated March 25, 1981 from Chestnut Park Apartments, Inc. to James M. Wilson, Trustee, securing the payment of one note of even date therewith in the principal sum of \$1,348,300.00, payable to USA, acting by and through the Secretary of Housing and Urban Development, filed for record with the County Clerk of Angelina County, Texas, on March 25, 1981, recorded in Volume 243, Page 660 of the Deed of Trust Records of Angelina County, Texas.

Regulatory Agreement dated March 25, 1981, by and between Chestnut Park Apartments, Inc. and the Secretary of Housing and Urban Development, recorded in Volume 243, Page 666 of the Deed of Trust Records of Angelina County, Texas.

Financing Statement filed March 27, 1981, from Chestnut Park Apartments, Inc. to the USA, acting by and through the Secretary of Housing and Urban Development, and recorded in Volume 243, Page 748 of the Deed of Trust Records of Angelina County, Texas. (As to Tract Two only)

10. Deed of Trust dated May 10, 1984 from Chestnut Village Apartments, Inc. to James M. Wilson; Trustee, securing the payment of one note of even date therewith in the principal sum of \$593,800.00, payable to USA, acting by and through the Secretary of Housing and Urban Development, filed for record with the County Clerk of Angelina County, Texas, on May 10, 1984, recorded in Volume 286, Page 714 of the Deed of Trust Records of Angelina County, Texas.

Said lien having been modified by Agreement dated October 2, 1985, and recorded in Volume 604, Page 623 of the Real Property Records of Angelina County, Texas.

Regulatory Agreement dated May 10, 1984, by and between Chestnut Village Apartments, Inc. and the Secretary of Housing and Urban Development, recorded in Volume 559, Page 880 of the Deed Records of Angelina County, Texas.

Financing Statement filed May 10, 1984, from Chestnut Village Apartments, Inc. to the USA, acting by and through the Secretary of Housing and Urban Development, and recorded in Volume 286, Page 721 of the Deed of Trust Records of Angelina County, Texas. (As to Tract One only)

11. For Informational Purposes: Civil Suit filed June 14, 2010, by Robert Haddix, Jr., Individually and on Behalf Of All Similarly Situated (petitioner) vs. Inez Tims Village Apartments, Inc., et al, (Defendants), recorded under Case No. CV-43231 of the 159th Judicial District Court, Angelina County, Texas. Case still pending and no final judgment shows to be rendered as of the effective date of this commitment.
12. We must be provided with, and reserve the right to amend this commitment upon our review of:
- a. satisfactory verification from the Secretary of State and The Comptroller of Public Accounts that Inez Tims Village Apartments, Inc., Inez Tims Apartments, Inc. and Lufkin ITPP Housing I, LP are existing entities in good standing; and
  - b. acceptable Resolutions and Consents authorizing the appropriate officers/members/managers/partners to execute the necessary closing instruments.
13. Texas Regional Title, LLC, will follow all of the Rules and Regulations of the Texas Department of Insurance in disbursing any funds provided by the Insured shown on Schedule A of this Commitment. Good funds, as defined in Procedural Rule P-27, shall be in possession of the title company prior to any disbursements.





*First American Title*

**Commitment for Title Insurance (T-7)**

ISSUED BY

**First American Title Insurance Company**

**SCHEDULE D**

The following disclosures are made pursuant to Procedural Rule P-21 promulgated by the Texas Department of Insurance:

**UNDERWRITER:** First American Title Insurance Company, a California Corporation.

Shareholder owning or controlling, directly or indirectly, ten percent or more of the share of the Underwriter: First American Title Insurance Company is a wholly owned subsidiary of First American Financial Corporation, a public Company formed in Delaware.

Directors: Dennis J. Gilmore, Mark J. Harmsworth, Parker S. Kennedy, Jeffrey S. Robinson and Timothy V. Kemp

Officers: President: Dennis J. Gilmore; Executive Vice President, Chief Financial Officer: Mark J. Harmswoth; Vice President, Secretary: Timothy V. Kemp; and Executive Vice President, Business Director: John M. Hollenbeck.

**AGENT:** Texas Regional Title, LLC, a Texas limited liability company

Shareholder, owner, partner, or other person having, owning or controlling one percent (1%) or more of the Title Insurance Agent: Ken Nelson Whitlow, Molly Laird Mallet, Ajeshkumar Harivadanbhai Patel, Himanshu Maganbhai Patel, Mahendra Gemalsinh Sangdod and Sureshchandra Mulgibhai Patel

Shareholder, owner, partner or other person having, owning or controlling ten percent (10%) or more of an entity that has, owns or controls one percent (1%) or more of the Title Insurance Agent:

If the Title Insurance Agent is a corporation, the following is a list of the members of the Board of Directors:

If the Title Insurance Agent is a corporation or a limited liability company, the following is a list of its officers: President: Ken N. Whitlow; Executive Vice President: Molly L. Mallet; Vice Presidents: Vicki L. Robison and Juliana Stringer

You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm or corporation receiving a portion of the premium from the settlement of this transaction will be disclosed on the closing or settlement statement.

You are further advised that the estimated title premium \* is:

Owner's Policy	\$	6,855.00
Loan Policy	\$	0.00
Endorsement Charges	\$	50.00
Other	\$	
Total	\$	6,905.00

Of this total amount \$ \_\_\_\_\_ or 15% (complete only one) will be paid to the policy issuing Title Insurance Company; \$ \_\_\_\_\_ or 85% (complete only one) will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium will be paid to other parties as follows:

Amount	To Whom	For Services
\$35% of 85% _____	Security & Guaranty Abstract Co. _____	Title Examination _____
\$ _____	_____	_____
\$ _____	_____	_____

"\*The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance."

## DELETION OF ARBITRATION PROVISION

(Not applicable to the Texas Residential Owner Policy)

Arbitration is a common form of alternative dispute resolution. It can be a quicker and cheaper means to settle a dispute with your Title Insurance Company. However, if you agree to arbitrate, you give up your right to take the Title Company to court and your rights to discovery of evidence may be limited in the arbitration process. In addition, you cannot usually appeal an arbitrator's award.

**Your policy contains an arbitration provision (shown below). It allows you or the Company to require arbitration if the amount of insurance is \$2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing this form and returning it to the Company at or before the closing of your real estate transaction or by writing to the Company. The arbitration provision in the Policy is as follows:**

"Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction."

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.

- Allow the Company to add an exception to "rights of parties in possession." If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The Company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.

### CONDITIONS AND STIPULATIONS

1. If you have actual knowledge of any matter which may affect the title or mortgage covered by this Commitment, that is not shown in Schedule B, you must notify us in writing. If you do not notify us in writing, our liability to you is ended or reduced to the extent that your failure to notify us affects our liability. If you do notify us, or we learn of such matter, we may amend Schedule B, but we will not be relieved of liability already incurred.
2. Our liability is only to you, and others who are included in the definition of Insured in the Policy to be issued. Our liability is only for actual loss incurred in your reliance on this Commitment to comply with its requirements or to acquire the interest in the land. Our liability is limited to the amount shown in Schedule A of this Commitment and will be subject to the following terms of the Policy: Insuring Provisions, Conditions, Stipulations and Exclusions.



Figure: 28 TAC § 1.601(a)(3)

**1 IMPORTANT NOTICE**

To obtain information or make a complaint:

**2 INTENTIONALLY OMITTED**

3 You may call First American Title Insurance Company's toll-free telephone number for information or to make a complaint at:

**1-888-632-1642**

4 You may also write to First American Title Insurance Company at:

**1 First American Way  
Santa Ana, California 92707**

5 You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

**1-800-252-3439**

6 You may write the Texas Department of Insurance:

P.O. Box 149104  
Austin, TX 78714-9104  
Fax: (512) 475-1771  
Web: <http://www.tdi.state.tx.us>  
E-mail: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)

**7 PREMIUM OR CLAIM DISPUTES:**

Should you have a dispute concerning your premium or about a claim you should contact the company in #3 above first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

**8 ATTACH THIS NOTICE TO YOUR POLICY:**

This notice is for information only and does not become a part or condition of the attached document.

**AVISO IMPORTANTE**

Para obtener informacion o para someter una queja:

**INTENCIONALMENTE OMITIDO**

Usted puede llamar al numero de telefono gratis de United General Title Insurance Company's para informacion o para someter una queja al:

**1-800-999-3470**

Usted tambien puede escribir a United General Title Insurance Company:

P.O. Box 1680  
Denver, CO 80201

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

**1-800-252-3439**

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104  
Austin, TX 78714-9104  
Fax: (512) 475-1771  
Web: <http://www.tdi.state.tx.us>  
E-mail: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)

**DISPUTAS SOBRE PRIMAS O RECLAMOS:**

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el la compania arriba primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

**UNA ESTE AVISO A SU POLIZA:**

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.



***First American Title***

BCIV

No. **81594**

B.E. Atkinson

To

Joe Di Stefano, et ux

Warranty Deed

Dated: Aug. 24, 1948

Filed: Sept. 15, 1948

Recorded: Vol. 137, page 288 Deed

Records, Angelina County, Texas.

288

NUMBER 31602- - - - - #

B. E. ATKINSON- - - - - #

WARRANTY DEED- - - - - #

JOE DI STEFANO, ET UX- - - - - #

THE STATE OF TEXAS,

COUNTY OF ANGELINA,

KNOW ALL MEN BY THESE PRESENTS:

That I, B. E. ATKINSON of the County of Angelina, State of Texas for and in consideration of the sum of TWELVE HUNDRED FIFTY and NO/100 (\$1250.00) DOLLARS, to me cash in hand paid by JOE DI STEFANO and wife, EASTER DI STEFANO, the receipt of all which is hereby acknowledged and confessed, have Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey unto the said JOE DI STEFANO and wife, EASTER DI STEFANO, of the County of Angelina, State of Texas, all that certain piece, parcel or lot of land lying and being situate in Angelina County, Texas, and being described as follows, to-wit:

Being Lot No. Seven (7) in Block No. Two (2) of the Atkinson Drive Addition to the City of Lufkin, Texas, according to the official map or plat of said Addition of record in Volume 2, page 59 of the Map and Plat Records of Angelina County, Texas, to which reference is hereby made for all purposes.

It is understood and agreed that the Grantee, his heirs, or assigns will not construct any building of any kind or nature upon the above described property, except a tile or brick building. The Word Grantee means also Grantees.

It is further agreed and understood that no part or any of the above described property can be used for any road or street or passage way, without the written consent of the Grantor, or his heirs or assigns, consenting to the same.

It is understood by the Grantees and that the same shall be binding upon their heirs and assigns, that if they or their heirs or assigns violate or attempt to violate the above agreements, that it shall be lawful for the Grantor, his heirs or assigns to prosecute any proceedings at law or in equity to prevent a violation of same.

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging unto the said JOE DI STEFANO and wife EASTER DI STEFANO, their heirs and assigns forever; and I do hereby bind myself, my heirs, executors and administrators, to Warrant and Forever Defend all and singular the said premises unto the said JOE DI STEFANO and wife EASTER DI STEFANO, their heirs and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

Witness my hand at Lufkin, Texas this 24th day of August, A. D. 1948.

\$1.65 Revenue Cancelled.

B. E. Atkinson

THE STATE OF TEXAS,  
COUNTY OF ANGELINA.

BEFORE ME, the undersigned authority, in and for Angelina County, Texas, on this day personally appeared B. E. Atkinson known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 24th day of August, A. D. 1948.

Curtis W. Fenley, Notary Public,  
Angelina County, Texas.

(SEAL)

Filed Sept. 15, 1948 at 9:00

at 10:40 o'clock A. M.

52866

CONTRACT

STATE OF TEXAS  
COUNTY OF ANGELINA

X  
KNOW ALL MEN BY THESE PRESENT:  
X

WHEREAS, on August 24, 1948, B. E. ATKINSON conveyed a lot to JOE DI STEFANO and wife, EASTER DI STEFANO, which said Deed is duly recorded in Volume 137, page 288, of the Deed Records of Angelina County, Texas, and said lot is now owned by Chestnut Park Apartments, Inc. and is described as follows, to wit:

BEING Lot No. SEVEN (7) in Block No. TWO (2) of the Atkinson Drive Addition to the City of Lufkin, Texas, according to the official map or plat of said Addition of record in Volume 2, page 59 of the Map and Plat Records of Angelina County, Texas, to which reference is hereby made for all purposes.

And whereas, in the said conveyance of the above described lot, there was a restriction in said conveyance which is as follows:

"It is further agreed and understood that no part or any of the above described property can be used for any road or street or passageway, without the written consent of the Grantor, or his heirs or assigns, consenting to the same."

And whereas, for mutual consideration, covenants, understanding, and agreements herein set forth, the parties agree to the following, whereas, the said Grantor in said Deed, B. E. ATKINSON, joined with his wife, MABEL ATKINSON, desires to release the said restriction pertaining to road or street or passageway whereby the said restriction will be null and void allowing the present owner, CHESTNUT PARK APARTMENTS, INC. to build a road, street, roadway, or passageway over and across said lot herein above described and we the said B. E. ATKINSON and wife, MABEL ATKINSON, do by these present RESCIND, RELEASE and DISCHARGE and hereby RESCINDS, RELEASES and DISCHARGES to CHESTNUT PARK APARTMENTS, INC., its successors and assigns the restrictions set out in the above described deed on the above described lot pertaining to road or roadway.

FURTHER and in consideration of the said B. E. ATKINSON and wife, MABEL ATKINSON releasing the restriction pertaining to road or roadway the said present owners, CHESTNUT PARK APARTMENTS, INC., agree and it is understood that it will not construct any building, commercial or residential, upon the above described lot without the written consent of the said B. E. ATKINSON and wife, MABEL ATKINSON, their heirs, executors, administrators, and assigns.

EXECUTED this 15<sup>th</sup> day of December, A.D., 1983.

CHESTNUT PARK APARTMENTS, INC.

BY: C. Allen  
C. A. ALLEN, President

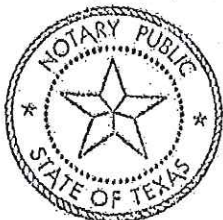
B. E. Atkinson  
B. E. ATKINSON

Mabel Atkinson  
MABEL ATKINSON

THE STATE OF TEXAS X  
COUNTY OF ANGELINA X

BEFORE ME, the undersigned authority, on this day personally appeared C. A. ALLEN, President of CHESTNUT PARK APARTMENTS, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15<sup>th</sup> day of December, A.D., 1983.



Kathryn Devaney  
KATHRYN DEVANEY  
Notary Public in and for the  
State of Texas  
My Commission Expires: 5-5-84

THE STATE OF TEXAS X  
COUNTY OF ANGELINA X

BEFORE ME, the undersigned authority, on this day personally appeared B. E. ATKINSON and wife, MABEL ATKINSON, known to me to be the persons whose names are subscribed to the foregoing instrument and severally acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15<sup>th</sup> day of December, A.D., 1983.

Patricia A. White

Notary Public in and for the State of Texas

My Commission Expires; 6-11-84



STATE OF TEXAS }  
COUNTY OF ANGELINA }

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED, in the Official Public Records of Real Property of Angelina County, Texas on

FEB 16 1984  
*Pauline Grisham*  
COUNTY CLERK  
ANGELINA COUNTY, TEXAS

FILED  
AT 2:15 O'CLOCK P.M.

FEB 15 1984

PAULINE GRISHAM, Clerk, County Court  
Angelina County, Texas

By *PA* Deputy



B(vi)

# DEED OF TRUST

[VOL 243 PAGE 660

54658

STATE OF TEXAS

SS:

COUNTY OF ANGELINA

THIS INDENTURE, made and entered into by and between **CHESTNUT PARK APARTMENTS, INC.**, a corporation organized and existing under the laws of the State of TEXAS, doing business at **LUFKIN**, in the County of **ANGELINA** in the State of Texas, hereinafter with its successors and assigns called the Grantor, and **JAMES M. WILSON**, Trustee of **CITY OF LUFKIN**, hereinafter with his successors in this trust and any substitute trustee called the Trustee,

WITNESSETH: That the Grantor for and in consideration of the sum of Ten Dollars (\$10) and other valuable consideration in hand paid, the receipt whereof is hereby acknowledged, and the further consideration, uses, purposes, and trusts herein set forth and declared, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, and convey unto the said Trustee, and unto his successors in the trust hereby created and his assigns, forever, all of the following-described real estate together with all the improvements thereon and hereafter placed thereon, situated in the **CITY OF LUFKIN** State of Texas, to wit:

County of **ANGELINA**

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

TO HAVE AND TO HOLD the above-described premises, together with all the rights, hereditaments, and appurtenances in anywise appertaining or belonging thereto, together with all fixtures and articles of personal property now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the lands herein described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including, but not limited to, all machines, engines, boilers, dynamos, elevators, stokers, tanks; all awnings, screens, cabinets, shades, blinds, lawn mowers; and all plumbing, heating, lighting, ventilating, refrigerating, cooking, laundry, and incline/ating equipment; and all fixtures and appurtenances thereto; and such other goods and chattels and personal property as are ever used or furnished in operating a building or the activities conducted therein, similar to the one herein described and referred to; and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner, unto said Trustee, his successors in this trust and his assigns, forever. Together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein. It is hereby agreed that to the extent permitted by law that all of the foregoing property and fixtures are to be deemed and held to be a part of and affixed to the realty.

Replaces FHA-4101-B, which may be used until supply is exhausted

(CORPORATE)

HUD-04101-B (7-00)

THIS CONVEYANCE is made in trust to secure payment of a just indebtedness of the Grantor to UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

In the principal sum of ONE MILLION THREE HUNDRED FORTY EIGHT THOUSAND THREE HUNDRED Dollars (\$ 1,348,300.00 ), evidenced by its Note of even date herewith, bearing interest from date on outstanding balances at NINE AND ONE QUARTER per centum (9.25) per annum, said principal and interest being payable in monthly installments as provided in said Note with a final maturity of MAY 1, 2022 which Note is identified as being secured hereby by a certificate thereon. Said Note and all of its terms are incorporated herein by reference and this conveyance shall secure any and all extensions thereof, however evidenced.

The Grantor covenants as follows:

1. That Grantor will pay the Note at the times and in the manner provided therein;
2. That Grantor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed;
3. That the Regulatory Agreement executed by the Grantor and the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, which is being recorded simultaneously herewith, is incorporated in and made a part of this Deed of Trust. Upon default under the Regulatory Agreement and upon the request of the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, the holder of the Note, at its option, may declare the whole of the indebtedness secured hereby to be due and payable;
4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the holder of the Note for the purpose of discharging the debt hereby secured. Permission is hereby given to Grantor, so long as no default exists hereunder, to collect such rents, profits and income for use in accordance with the provisions of the Regulatory Agreement;
5. That upon default hereunder the holder of the Note shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;
6. That at the option of the Grantor the principal balance secured hereby may be reamortized on terms acceptable to the Secretary of Housing and Urban Development if a partial prepayment results from an award in condemnation in accordance with provisions of Paragraph 8 herein, or from an insurance payment made in accordance with provisions of Paragraph 7 herein, where there is a resulting loss of project income;
7. That the Grantor will keep the improvements now existing or hereafter erected on the deeded property insured against loss by fire and such other hazards, casualties, and contingencies, as may be stipulated by the Secretary of Housing and Urban Development upon the insurance of the Deed of Trust and other hazards as may be required from time to time by the holder of the Note, and all such insurance shall be evidenced by standard Fire and Extended Coverage Insurance Policy or Policies, in amounts not less than necessary to comply with the applicable Coinsurance Clause percentage, but in no event shall the amounts of coverage be less than eighty percent (80%) of the insurable Values or not less than the unpaid balance of the Insured Deed of Trust, whichever is the lesser, and in default thereof the holder of the Note shall have the right to effect insurance. Such policies shall be endorsed with standard Mortgagee clause with loss payable to the holder of the Note and the Secretary of Housing and Urban Development as interest may appear, and shall be deposited with the holder of the Note; That if the premises covered hereby, or any part thereof, shall be damaged by fire or other hazard against which insurance is held as hereinabove provided, the amounts paid by any insurance company in pursuance of the contract of insurance to the extent of the indebtedness then remaining unpaid, shall be paid to the holder of the Note, and, at its option, may be applied to the debt or released for repairing or rebuilding of the premises;
8. That all awards of compensation in connection with condemnation for public use of or a taking of any of that property, shall be paid to the holder of the Note to be applied to the amount due under the Note secured hereby in (1) amounts equal to the next maturity installment or installments of principal and (2) with any balance to be credited to the next payment due under the Note. That all awards of damages in connection with any condemnation for public use of or injury to any residue of that property, shall be paid to the holder of the Note to be applied to a fund held for and on behalf of the Grantor which fund shall, at the option of the holder of the Note, and with the prior approval of the Secretary of Housing and Urban Development, either be applied to the amount due under the Note as specified in the preceding sentence, or be disbursed for the restoration or repair of the damage to the residue. No amount applied to the reduction of the principal amount due in accordance with (1) shall be considered an optional prepayment as the term is used in this Deed of Trust and the Note secured hereby, nor relieve the Grantor from making regular monthly payments commencing on the first day of the first month following the date of receipt of the award. The holder of the Note is hereby authorized in the name of the Grantor to execute and deliver valid acquittances for such awards and to appeal from such awards.
9. That, together with and in addition to the monthly payments of interest or of principal and interest payable under the terms of the Note secured hereby, it will pay to the holder of the said Note, on the first day of each month until the said Note is fully paid, the following sums:
  - (a) A sum equal to the ground rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other property insurance covering the premises covered hereby, plus water rates, taxes and assessments next due on the premises covered hereby (all as estimated by the holder of the Note) less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, water rates, taxes and assessments will become delinquent, such sums to be held by the holder of the Note in trust to pay said ground rents, premiums, water rates, taxes, and special assessments;
  - (b) All payments mentioned in the two preceding subsections of this paragraph and all payments to be made under the Note secured hereby shall be added together and the aggregate amount thereof shall be paid each month in a single payment to be applied by the holder of the Note to the following items in the order set forth:
    - (i) amounts for ground rents, taxes, special assessments, water rates, fire and other property insurance premiums;
    - (ii) interest on the Note secured hereby;
    - (iii) amortization of the principal of said Note;
10. In the event of Grantor's failure to pay any sums provided for in this Deed of Trust, the holder of the Note, at its option, may pay the same. Any excess funds accumulated under (b) of the preceding paragraph remaining after payment of the items therein mentioned, shall be credited to subsequent monthly payments of the same nature required thereunder; but if any such item shall exceed the estimate therefor, or if the Grantor shall fail to pay any other governmental or municipal charge, the Grantor shall forthwith make good the deficiency or pay the charge before the same becomes delinquent or subject to interest or penalties, and in default thereof the holder of the Note may pay the same. All sums paid by the holder of the Note shall be added to the principal of the debt secured hereby and shall bear interest from the date of payment at the rate specified in the Note and shall be due and payable on demand. If the property is sold under foreclosure or is otherwise acquired by the holder of the Note after default, any remaining balance of the accumulations under (b) of the preceding paragraph shall be credited to the principal of the Note as of the date of the commencement of foreclosure proceedings or as of the date the property is otherwise acquired.
11. That Grantor has a good and merchantable title in fee simple to the premises hereby conveyed, free and clear from all encumbrances, with full right and authority to convey the same, and will warrant and defend the title against the claims of all persons whomsoever;
12. That Grantor will pay all ground rents, taxes, assessments, water rates, and other governmental or municipal charges, fines, or impositions, for which provision has not been made by payments under paragraph 9(b) herein, and in default thereof the holder of the Note secured hereby may pay the same, and the Grantor will promptly deliver the official receipts therefor to the said holder;

13. That Grantor will not suffer any lien inferior or superior to the lien hereby created to attach to or be enforced against the premises covered hereby;

14. That Grantor will not commit, permit, or suffer waste, impairment, or deterioration of said property or any part thereof, and in the event of the failure of the Grantor to keep the buildings on said premises and those to be erected on said premises, or improvements thereon, in good repair, the holder of the Note may make such repairs as in its discretion it may deem necessary for the proper preservation thereof, and any sums paid for such repairs shall bear interest from the date of payment at the rate specified in the Note, shall be due and payable on demand and shall be fully secured by this Deed of Trust;

15. That in the event the ownership of the premises covered hereby or any part thereof becomes vested in a person other than the Grantor, the holder of the Note secured hereby may, without notice to the Grantor, deal with such successor or successors in interest with reference to this Deed of Trust and to the debt hereby secured in the same manner as with the Grantor without in any way violating or discharging the Grantor's liability hereunder or upon the debt hereby secured. No sale of the premises covered hereby and no forbearance on the part of the holder of the said Note and no extension of the time for the payment of the debt hereby secured, given by said holder shall operate to release, discharge, modify, change, or affect the original liability of the Grantor either in whole or in part;

16. That Grantor does hereby expressly waive and renounce the benefit of all laws now existing or that may hereafter be enacted providing for any appraisal before sale of any of the premises hereby granted, commonly known as Appraisalment laws, and also the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the debt hereby secured, commonly known as Stay laws;

17. That, as additional and collateral security for the payment of the Note secured hereby and the indebtedness hereinbefore described, Grantor hereby assigns to the holder of said Note all of the profits, revenues, royalties, rights, and benefits accruing under all oil, gas, or mineral leases now on said property, or which may hereafter be placed thereon, and the leased or assigned or subleased is hereby directed on production of this Deed of Trust or certified copy thereof said to pay profits, revenues, royalties, rights, and benefits to the owner of said debt; this provision to become effective however, only upon default in the conditions and terms of this Deed of Trust or the Note hereby secured, or prior to such default, upon notice to the lessee of such oil, gas, or mineral lease, and to terminate and become null and void upon payment of the indebtedness hereby secured;

18. That if, after the date hereof, the statutes of Texas are amended so as to provide (1) that the value of the properties hereby conveyed as subject to ad valorem taxation in Texas against the Owner, shall be subject to deduction of the amount of lien of this Deed of Trust and any part of the value of said lien is subjected to such taxation and assessed against the holder of the Note or the Trustee; or (2) any part of the value of the lien of this Deed of Trust is subjected to ad valorem taxation and assessed against the holder of the Note or the Trustee; then in either of said events Grantor will reimburse the holder of the Note secured hereby within thirty (30) days after demand the amount of any such tax legally assessed and collected by the State of Texas from said holder or Trustee;

19. That so long as this Deed of Trust and the Note secured hereby are insured under the provisions of the National Housing Act or held by the Secretary of Housing and Urban Development, Grantor will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the mortgaged property on the basis of race, color, or creed.

20. That it will not permit or suffer any alteration or addition to the buildings or improvements hereafter constructed in or upon said real property without the consent of the holder of the Note secured hereby;

21. That this Deed of Trust and the Note secured hereby were executed and delivered to secure moneys advanced or to be advanced and to be used in the construction of certain improvements on the lands herein described in accordance with a building loan agreement between the Grantor and UNITED STATES OF AMERICA, SECRETARY OF HOUSING AND URBAN DEVELOPMENT

dated MARCH 12, 1981, which building loan agreement (except such part or parts thereof as may be inconsistent herewith) is incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this Deed of Trust; which said building loan agreement and all covenants, conditions and agreements therein contained the Grantor hereby covenants to perform; and if the construction of the improvements to be made pursuant to said building loan agreement shall not be carried on with reasonable diligence, or shall be discontinued at any time for any reason other than strikes or lockouts, the Trustee, at the written request of the holder of the Note secured hereby, after due notice to the Grantor, or any subsequent owner, is hereby invested with full and complete authority to enter upon the said premises, employ watchmen to protect such improvements from depreciation or injury, and to preserve and protect the personal property therein, and to continue any and all outstanding contracts for the erection and completion of said building or buildings, to make and enter into contracts and obligations wherever necessary, either in its own name as Trustee hereunder or in the name of the Grantor, or other owner, and to pay and discharge all debts, obligations, and liabilities incurred thereby. All such sums so advanced by the Trustee or the holder of the Note secured hereby (exclusive of advances of the principal of the indebtedness secured hereby) shall be added to the principal of the indebtedness secured hereby and shall be secured by this Deed of Trust, and shall be due and payable on demand with interest at the rate specified in the Note secured hereby, but no such advances shall be insured unless same are specifically approved by the Secretary of Housing and Urban Development prior to the making thereof. This covenant shall be terminated upon the completion of the improvements to the satisfaction of the holder of the Note secured hereby and the making of the final advance as provided in said building loan agreement;

22. That the improvements about to be made upon the premises covered hereby and all plans and specifications comply with all municipal ordinances and regulations made or promulgated by lawful authority, that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office having jurisdiction, and that it will comply with such rules, regulations, and ordinances which are now or may hereafter become applicable to the premises covered hereby.

If the Grantor shall well and truly pay, or cause to be paid, the Note hereby secured, and other indebtedness that may be owing, and does keep and perform each and every covenant, condition, agreement and stipulation herein and in the said Note contained, then these presents shall become null and void; otherwise to be and remain in full force and effect. However, in the event of default in making any monthly payment provided for herein or in the Note secured hereby, and if such default is not made good prior to the due date of the next such installment or in the event of a breach of any other covenant, condition, agreement and stipulation of this Deed of Trust, then in any such case, the whole principal sum of said Note shall, at the option of the holder of the Note, be deemed to have become immediately due, and the same with interest thereon and with all other costs and charges, shall thereupon be collectible by foreclosure of this Deed of Trust. Any failure to exercise said option shall not constitute a waiver of the right to execute the same at any other time. In any event of default the Trustee hereunder shall be, and is hereby, authorized and empowered, when requested so to do by the holder of said Note after such default, to sell the premises covered hereby at public auction to the highest bidder for cash between the hours of 10 o'clock a.m. and 4 o'clock p.m. of the first Tuesday in any month, at the door of the County Court House in the county in which said premises, or any part thereof, are situated, after advertising the time, place, and terms of said sale and the premises to be sold by posting or causing to be posted for at least twenty-one (21) consecutive days prior to the date of said sale written or printed notices thereof at the Courthouse door of the County in which the sale is to be made, and if the real estate is in more than one county, one notice shall be posted at the Courthouse door of each county in which the real estate is situated. In addition to the posted notice hereinabove provided for, no foreclosure under the power of sale herein contained shall be held unless the holder, at least 21 days preceding the date of sale and in the manner prescribed by law, shall have served written notice of the proposed sale by certified mail on each debtor who, according to the holder's records, is obligated to pay the indebtedness secured by this Deed of Trust. The Grantor does hereby authorize and empower said Trustee, and each and all of his or its successors in this trust, to sell said premises, together, or in lots or parcels, as such Trustee shall deem expedient, and to execute and deliver to the purchaser or purchasers of said premises good and sufficient deeds of conveyance thereof by fee simple title, with covenants of general warranty, and the title of such purchaser or purchasers, when so made by the Trustee, the Grantor binds itself to warrant and forever defend; and to receive the proceeds of said sale which shall be applied as follows:

FIRST.—To the payment of all necessary actions and expenses incident to the execution of said trust, including a reasonable fee to the Trustee, not exceeding two per centum (2%) of the gross proceeds of the sale of said premises, and not exceeding \$2,600 in any event.

SECOND.—To the payment of said Note, to the amount of the principal sum and accrued interest legally due thereon, all other sums secured hereby, and to the payment of attorney's fees in said Note provided.

THIRD.—The remainder, if any there shall be, after payment of said costs, expenses and attorney's fees, and the principal and interest legally due on said Note, and all other sums secured hereby and other sums agreed to be paid by the Grantor, shall be paid to the Grantor.

The holder of the Note may bid and become the purchaser of the property at any such sale. The deed or deeds which shall be given by said Trustee to the purchaser or purchasers at such sale, shall be prima facie evidence of the truth of all the recitals therein as to default in the payment of said Note, or of interest due thereon, or of the sums thereunder and hereunder due, the request to the said Trustee to sell, the advertisement or posting of such sale, the proceedings at such sale, the facts, if any, authorizing a substitute Trustee to act in the premises, and everything necessary to the validity of such sale;

The Grantor covenants that it will keep and maintain the property subject to this Deed of Trust free from the claim of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises;

The Grantor specifically agrees that after any sale under this Deed of Trust it shall be a mere tenant at sufferance of the purchaser of said property at the Trustee's sale, and that the purchaser shall be entitled to immediate possession thereof, and that if the Grantor fails to vacate the premises immediately, the purchaser, may and he shall have the right to go into any justice court in the precinct or county in which the property is located and file an action in forcible entry and detainer, which action shall lie against the Grantor as tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have hereunder or otherwise;

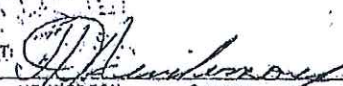
In case of death of the said Trustee, or his refusal, failure, or inability for any reason to make said sale or to perform said trusts, then the holder of the Note shall have the right, and is hereby authorized and empowered to appoint in writing a suitable person, who resides in the State of Texas, to become the Trustee herein, as the substitute for said Trustee, and the substitute shall thereupon succeed to all the estate, rights, powers, and trusts hereinbefore granted to or vested in the said Trustee, and such right to appoint a successor or substitute Trustee shall exist as often and whenever, from any of said causes, any Trustee, original or substitute, cannot or will not act;

That no waiver of any covenant herein or of the Note secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the Note secured hereby;

The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors, and assigns of the parties hereto and to any substitute Trustee. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the Grantor has caused its name to be signed hereto by its officer thereunto duly authorized, and its corporate seal to be hereto affixed this 25th day of MARCH, 19 81.


CHESTNUT PARK APARTMENTS, INC.

ATTEST:   
I. D. HENDERSON, Secretary

By   
C. A. ALLEN, President  
By \_\_\_\_\_, Secretary

THE STATE OF TEXAS }  
COUNTY OF ANGELINA } SS:

BEFORE ME, \_\_\_\_\_, a Notary Public, in and for said County and State, on this day personally appeared C. A. ALLEN, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be the President of CHESTNUT PARK APARTMENTS, INC., a corporation, and acknowledged to me that he executed said instrument for the purposes therein expressed and as the act of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 25th day of MARCH, A.D. 19 81.  
  
A. T. UNDERWOOD, JR., Notary Public  
HARRIS County, Texas  
My Commission Expires 9-5-84

THE STATE OF TEXAS }  
COUNTY OF \_\_\_\_\_ } SS:

BEING all that certain tract or parcel of land lying and situated in the City of Lufkin, Angelina County, Texas out of the J.L. QUINALTY SURVEY, A-40 and being a part or portion of that certain 6-2/5 acre tract described in a deed from W.L. Evans et ux to Joe DeStifano dated May 9, 1928 and recorded in Volume 71, on Page 112 of the Deed Records of Angelina County, Texas and being all of Lot 7 of Block 2 of the Atkinson Drive Addition to the City of Lufkin, Texas of which the plat of said Addition appears of record in Cabinet A, Slide 30A of the Map or Plat Records of Angelina County, Texas and the said Lot 7 of Block 2 being described in a deed from B.E. Atkinson to Joe Distifano et ux dated August 24, 1948 and recorded in Volume 137, on Page 288 of the Deed Records of Angelina County, Texas to which references are hereby made for all purposes and the said tract or parcel being described by metes and bounds as follows, to-wit:

BEGINNING at the NW corner of the aforesaid referred to 6-2/5 acre tract and the SW corner of the said Atkinson Drive Addition, a concrete monument found for corner on the East margin line of Chestnut Street;

THENCE N 70° 05' 39" E, with the North boundary line of the said 6-2/5 acre tract and the South boundary line of the said Atkinson Drive Addition, at 529.94 feet, the SW corner of the said Lot 7 of Block 2, an iron bolt found for corner;

THENCE N 3° 23' 04" E, with the West boundary line of the said Lot 7 of Block 2, at 83.95 feet (called 88 feet), the NW corner of same, an iron bolt found for corner on the curving South R.O.W. line of Atkinson Drive;

THENCE Southeasterly, with the said curving South R.O.W. line of Atkinson Drive on a 4,8298 degree curve to the left (Long Chord brg. & dist. = S 83° 06' 07" E, 107.12 feet), at 107.15 feet intersect the West boundary line of the J.S. Moore Revised Addition to the City of Lufkin, Texas of which the Plat of same appears of record in Cabinet A, Slide 21A of the Map or Plat Records of Angelina County, Texas, a 1/2" iron pipe set for corner;

THENCE Two (2) lines with the West boundary line of the said J.S. Moore Revised Addition as follows:

(1) S 20° 22' 14" E, at 140.77 feet, a 1/2" iron pipe set for an angle corner;

(2) S 18° 05' 00" W, at 243.77 feet intersect the South boundary line of the said 6-2/5 acre tract, a 1/2" iron pipe set for corner;

THENCE S 70° 05' 39" W, with the South boundary line of the said 6-2/5 acre tract, at 338.24 feet an ell corner of same, a 1/2" iron pipe set for corner in an oiled street;

THENCE S 19° 54' 21" E, with the most Southern East boundary line of the said 6-2/5 acre tract, at 300.00 feet the South corner of same, a 1/2" iron pipe set for corner on the East side of the said street;

THENCE N 64° 35' 51" W, with the SW boundary line of the said 6-2/5 acre tract, at 445.52 feet, the SW corner of same, a 1/2" iron pipe set for corner on the said East margin line of Chestnut Street;

THENCE N 20° 00' 00" W, with the West boundary line of the said 6-2/5 acre tract and the said East margin line of Chestnut Street, at 338.89 feet, the point and place of beginning and containing 6,524 acres of land, more or less.

PROJECT NO. 114-EH016-L8-NP-WAH  
(TX 24-T781-006)

RIDER TO DEED OF TRUST FROM  
CHESTNUT PARK APARTMENTS, INC. TO JAMES M. WILSON, TRUSTEE

- 23. That the holder of the Note shall have the right to inspect the mortgaged premises at any reasonable time.
- 24. That so long as this Deed of Trust and the Note secured hereby are outstanding, Grantor will not (a) rent dwelling accomodations in the mortgaged premises in excess of the rates approved by the Secretary of Housing and Urban Development or for periods of less than one month or in excess of three years; (b) rent the premises as an entirety; (c) rent the premises or any part thereof to any person for the purpose of subleasing; (d) rent the premises or permit its use for hotel or transient purposes; or (e) require of any tenant as a condition of occupancy life-lease contracts, fees or other payments over and above those for rents, utilities and collateral services.

EXHIBIT "B"

STATE OF TEXAS }  
COUNTY OF ANGELINA }

I hereby certify that this instrument was FILED IN File Number Sequence on the date and at the time stated herein by me and was duly RECORDED, in the Central Public Records of Real Property of Angelina County, Texas.



MAR 26 1981  
*Pauline Grisham*  
COUNTY CLERK  
ANGELINA COUNTY, TEXAS.

FILED  
AT 4:00 O'CLOCK P.M.

MAR 25 1981

PAULINE GRISHAM, Clerk County Court  
Angelina County, Texas

By PLB Deputy

**DEED OF TRUST**

85823

VOL 288 PAGE 714

STATE OF TEXAS

COUNTY OF ANGELINA

SS:

THIS INDENTURE, made and entered into by and between CHESTNUT VILLAGE APARTMENTS, INC. a corporation organized and existing under the laws of the State of Texas, doing business at 800 N. Chestnut Street, in the County of Angelina in the State of Texas, hereinafter with its successors and assigns called the Grantor, and JAMES M. WILSON, Trustee(s), of Harris County, Texas, hereinafter with his successors in this trust and any substitute trustee called the Trustee.

WITNESSETH: That the Grantor for and in consideration of the sum of Ten Dollars (\$10) and other valuable consideration in hand paid, the receipt whereof is hereby acknowledged, and the further consideration, uses, purposes, and trusts herein set forth and declared, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, and convey unto the said Trustee, and unto his successors in the trust hereby created and his assigns, forever, all of the following-described real estate together with all the improvements thereon and hereafter placed thereon, situated in the County of Angelina, State of Texas, to wit:

See Exhibit "A" attached hereto and incorporated herein as though copied herein verbatim.

TO HAVE AND TO HOLD the above-described premises, together with all the rights, hereditaments, and appurtenances in anywise appertaining or belonging thereto, together with all fixtures and articles of personal property now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the lands herein described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including, but not limited to, all machines, engines, boilers, dynamos, elevators, stokers, tanks; all awnings, screens, cabinets, shades, blinds, lawn mowers; and all plumbing, heating, lighting, ventilating, refrigerating, cooking, laundry, and incinerating equipment; and all fixtures and appurtenances thereto; and such other goods and chattels and personal property as are ever used or furnished in operating a building or the activities conducted therein, similar to the one herein described and referred to; and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner, unto said Trustee, his successors in this trust and his assigns, forever. Together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein. It is hereby agreed that to the extent permitted by law that all of the foregoing property and fixtures are to be deemed and held to be a part of and affixed to the realty.

Replaces Form FHA-4181? and Previous Edition which are Obsolete

HUD-94181B (11-62)  
(24 CFR 213.6)  
(CORPORATE)

B(vii)

THIS CONVEYANCE is made in trust to secure payment of a just indebtedness of the Grantor to United States of

America, acting by and through the Secretary of Housing and Urban Development, and through the Secretary of Housing and Urban Development, 2 Pennsylvania Plaza, East  
in the principal sum of FIVE HUNDRED NINETY THREE THOUSAND EIGHT HUNDRED AND NO/100 Dollars (\$ 593,800.00), evidenced by its Note of even date herewith, bearing interest from date on outstanding balances at nine and one-quarter per centum 9 - 25 per annum, said principal and

*Handwritten:* 9 25  
1967

Interest being payable in monthly installments as provided in said Note with a final maturity of May 1, 2025 which Note is identified as being secured hereby by a certificate thereon. Said Note and all of its terms are incorporated herein by reference and this conveyance shall secure any and all extensions thereof, however evidenced.

The Grantor covenants as follows:

1. That Grantor will pay the Note at the times and in the manner provided therein;
2. That Grantor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed;
3. That the Regulatory Agreement executed by the Grantor and the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, which is being recorded simultaneously herewith, is incorporated in and made a part of this Deed of Trust. Upon default under the Regulatory Agreement and upon the request of the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, the holder of the Note, at its option, may declare the whole of the indebtedness secured hereby to be due and payable;
4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the holder of the Note for the purpose of discharging the debt hereby secured. Permission is hereby given to Grantor, so long as no default exists hereunder, to collect such rents, profits and income for use in accordance with the provisions of the Regulatory Agreement;
5. That upon default hereunder the holder of the Note shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;
6. That at the option of the Grantor the principal balance secured hereby may be reamortized on terms acceptable to the Secretary of Housing and Urban Development if a partial prepayment results from an award in condemnation in accordance with provisions of Paragraph 8 herein, or from an insurance payment made in accordance with provisions of Paragraph 7 herein, where there is a resulting loss of project income;
7. That the Grantor will keep the improvements now existing or hereafter erected on the deeded property insured against loss by fire and such other hazards, casualties, and contingencies, as may be stipulated by the Secretary of Housing and Urban Development upon the insurance of the Deed of Trust and other hazards as may be required from time to time by the holder of the Note, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies, in amounts not less than necessary to comply with the applicable coinsurance clause percentage, but in no event shall the amounts of coverage be less than eighty percent (80%) of the insurable values or not less than the unpaid balance of the insured deed of trust, whichever is the lesser, and in default thereof the holder of the Note shall have the right to effect insurance. Such policies shall be endorsed with standard mortgagee clause with loss payable to the holder of the Note and the Secretary of Housing and Urban Development as interest may appear, and shall be deposited with the holder of the Note;

That if the premises covered hereby, or any part thereof, shall be damaged by fire or other hazard against which insurance is held as hereinabove provided, the amounts paid by any insurance company in pursuance of the contract of insurance to the extent of the indebtedness then remaining unpaid, shall be paid to the holder of the Note, and, at its option, may be applied to the debt or released for repairing or rebuilding of the premises. The insurance carrier providing the insurance shall be chosen by the Grantor subject to the approval of the holder of the Note; provided that subject approval shall not be unreasonably withheld.

8. That all awards of compensation in connection with condemnation for public use of or a taking of any of that property, shall be paid to the holder of the Note to be applied to the amount due under the Note secured hereby in (1) amounts equal to the next maturing installment or installments of principal and (2) with any balance to be credited to the next payment due under the Note. That all awards of damages in connection with any condemnation for public use of or injury to any residue of that property, shall be paid to the holder of the Note to be applied to a fund held for and on behalf of the Grantor which fund shall, at the option of the holder of the Note, and with the prior approval of the Secretary of Housing and Urban Development, either be applied to the amount due under the Note as specified in the preceding sentence, or be disbursed for the restoration or repair of the damage to the residue. No amount applied to the reduction of the principal amount due in accordance with (1) shall be considered an optional prepayment as the term is used in this Deed of Trust and the Note secured hereby, nor relieve the Grantor from making regular monthly payments commencing on the first day of the first month following the date of receipt of the award. The holder of the Note is hereby authorized in the name of the Grantor to execute and deliver valid acquittances for such awards and to appeal from such awards.

9. That, together with and in addition to the monthly payments of interest or of principal and interest payable under the terms of the Note secured hereby, it will pay to the holder of the said Note, on the first day of each month until the said Note is fully paid, the following sums:

- (a) Amount sufficient to provide the holder of the Note with funds to pay the next mortgage insurance premium if this instrument and the Note secured hereby are insured, or a monthly service charge, if they are held by the Secretary of Housing and Urban Development, as follows:
  - (i) If and so long as said Note of even date and this instrument are insured or are reinsured under the provisions of the National Housing Act, an amount sufficient to accumulate in the hands of the holder of the Note one month prior to its due date the annual mortgage insurance premium, in order to provide such holder of the Note with funds to pay such premium to the Secretary of Housing and Urban Development pursuant to the National Housing Act, as amended, and applicable Regulations thereunder; or
  - (ii) If and so long as said Note of even date and this instrument are held by the Secretary of Housing and Urban Development, a monthly service charge in an amount equal to one-twelfth of one-half percent (1/12 of 1/2%) of the average outstanding principal balance due on the Note computed for each successive year beginning with the first day of the month following the date of this instrument, if the Secretary of Housing and Urban Development is the holder of the Note herein, or the first day of the month following assignment, if the Note and this instrument are assigned to the Secretary of Housing and Urban Development, without taking into account late renewals or prepayments;
- (b) A sum equal to the ground rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other property insurance covering the premises covered hereby, plus water rates, taxes and assessments next due on the premises covered hereby (all as estimated by the holder of the Note) less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, water rates, taxes and assessments will become delinquent, such sums to be held by the holder of the Note in trust to pay said ground rents, premiums, water rates, taxes, and special assessments;
- (c) All payments mentioned in the two preceding subsections of this paragraph and all payments to be made under the Note secured hereby shall be added together and the aggregate amount thereof shall be paid each month in a single payment to be applied by the holder of the Note to the following items in the order set forth:
  - (i) premium charges under the contract of insurance with the Secretary of Housing and Urban Development of service charges;
  - (ii) accruals for ground rents, taxes, special assessments, water rates, fire and other property insurance premiums;
  - (iii) interest on the Note secured hereby;
  - (iv) amortization of the principal of said Note;

10. In the event of Grantor's failure to pay any sums provided for in this Deed of Trust, the holder of the Note, at its option, may pay the same. Any excess funds accumulated under (b) of the preceding paragraph remaining after payment of the items therein mentioned, shall be credited to subsequent monthly payments of the same nature required thereunder; but if any such item shall exceed the estimate therefor, or if the Grantor shall fail to pay any other governmental or municipal charge, the Grantor shall forthwith make good the deficiency or pay the charge before the same become delinquent or subject to interest or penalties, and in default thereof the holder of the Note may pay the same. All sums paid by the holder of the Note and any sums which the holder of the Note may be required to advance to pay mortgage insurance premiums shall be added to the principal of the debt secured hereby and shall bear interest from the date of payment at the rate specified in the Note and shall be due and payable on demand, in case of termination of the contract of mortgage insurance by prepayment of the Note in full, or otherwise (except as hereinbefore provided), accumulations under (a) of the preceding paragraph hereof not required to meet payments due under the contract of mortgage insurance, shall be credited to the Grantor. If the property is sold under foreclosure or is otherwise acquired by the holder of the Note after default, any remaining balance of the accumulations under (b) of the preceding paragraph shall be credited to the principal of the Note as of the date of the commencement of foreclosure proceedings or as of the date the property is otherwise acquired; and accumulations under (a) thereof shall be likewise credited unless required to pay sums due the Secretary of Housing and Urban Development under the Contract of Mortgage Insurance;

11. That Grantor has a good and merchantable title in fee simple to the premises hereby conveyed, free and clear from all encumbrances, with full right and authority to convey the same, and will warrant and defend the title against the claims of all persons whomsoever;
12. That Grantor will pay all ground rents, taxes, assessments, water rates, and other governmental or municipal charges, fines, or impositions, for which provision has not been made by payments under paragraph 9(b) hereof, and in default thereof the holder of the Note secured hereby may pay the same; and the Grantor will promptly deliver the official receipts therefor to the said holder;



13. That Grantor will not suffer any lien inferior or superior to the lien hereby created to attach to or be enforced against, the premises covered hereby;

14. That Grantor will not commit, permit, or suffer waste, impairment, or deterioration of said property or any part thereof, and in the event of the failure of the Grantor to keep the buildings on said premises and those to be erected on said premises, or improvements thereon, in good repair, the holder of the Note may make such repairs as in its discretion it may deem necessary for the proper preservation thereof, and any sums paid for such repairs shall bear interest from the date of payment at the rate specified in the Note, shall be due and payable on demand and shall be fully secured by this Deed of Trust;

15. That in the event the ownership of the premises covered hereby or any part thereof becomes vested in a person other than the Grantor, the holder of the Note secured hereby may, without notice to the Grantor, deal with such successor or successors in interest with reference to this Deed of Trust and to the debt hereby secured in the same manner as with the Grantor without in any way violating or discharging the Grantor's liability hereunder or upon the debt hereby secured. No sale of the premises covered hereby and no forbearance on the part of the holder of the said Note and no extension of the time for the payment of the debt hereby secured, given by said holder shall operate to release, discharge, modify, change, or affect the original liability of the Grantor either in whole or in part;

16. That Grantor does hereby expressly waive and renounce the benefit of all laws now existing or that may hereafter be enacted providing for any appraisalment before sale of any of the premises hereby granted, commonly known as Appraisalment laws, and also the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the debt hereby secured, commonly known as Stay laws;

17. That, as additional and collateral security for the payment of the Note secured hereby and the indebtedness hereinbefore described, Grantor hereby assigns to the holder of said Note all of the profits, revenues, royalties, rights, and benefits accruing under all oil, gas, or mineral leases now on said property, or which may hereafter be placed thereon, and the lessee or assignee or sublessee is hereby directed on production of this Deed of Trust or certified copy thereof to pay profits, revenues, royalties, rights, and benefits to the owner of said debt; this provision to become effective however, only upon default in the conditions and terms of this Deed of Trust or the Note hereby secured, or prior to such default, upon notice to the lessee of such oil, gas, or mineral lease, and to terminate and become null and void upon payment of the indebtedness hereby secured;

18. That if, after the date hereof, the statutes of Texas are amended so as to provide (1) that the value of the properties hereby conveyed as subject to ad valorem taxation in Texas against the Owner, shall be subject to deduction of the amount of lien of this Deed of Trust and any part of the value of said lien is subjected to such taxation and assessed against the holder of the Note or the Trustee; or (2) any part of the value of the lien of this Deed of Trust is subjected to ad valorem taxation and assessed against the holder of the Note or the Trustee; then in either of said events Grantor will reimburse the holder of the Note secured hereby within thirty (30) days after demand the amount of any such tax legally assessed and collected by the State of Texas from said holder or Trustee;

19. That so long as this Deed of Trust and the Note secured hereby are insured under the provisions of the National Housing Act or held by the Secretary of Housing and Urban Development, Grantor will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the mortgaged property on the basis of race, color, creed, or national origin.

20. That it will not permit or suffer any alteration or addition to the buildings or improvements hereafter constructed in or upon said real property without the consent of the holder of the Note secured hereby;

21. That this Deed of Trust and the Note secured hereby were executed and delivered to secure moneys advanced or to be advanced and to be used in the construction of certain improvements on the lands herein described in accordance with a building loan agreement between the Grantor and United States of America, Secretary of Housing and Urban Development

dated May 10, 1984 which building loan agreement (except such part or parts thereof as may be inconsistent herewith) is incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this Deed of Trust, which said building loan agreement and all covenants, conditions and agreements therein contained the Grantor hereby covenants to perform; and if the construction of the improvements to be made pursuant to said building loan agreement shall not be carried on with reasonable diligence, or shall be discontinued at any time for any reason other than strikes or lockouts, the Trustee, at the written request of the holder of the Note secured hereby, after due notice to the Grantor, or any subsequent owner, is hereby invested with full and complete authority to enter upon the said premises, employ watchmen to protect such improvements from depreciation or injury, and to preserve and protect the personal property therein, and in continuous any and all outstanding contracts for the erection and completion of said building or buildings, to make and enter into contracts and obligations wherever necessary, either in its own name as Trustee hereunder or in the name of the Grantor, or other owner, and to pay and discharge all debts, obligations, and liabilities incurred thereby. All such sums so advanced by the Trustee or the holder of the Note secured hereby (exclusive of advances of the principal of the indebtedness secured hereby) shall be added to the principal of the indebtedness secured hereby and shall be secured by this Deed of Trust, and shall be due and payable on demand with interest at the rate specified in the Note secured hereby, but no such advances shall be insured unless same are specifically approved by the Secretary of Housing and Urban Development prior to the making thereof. This covenant shall be terminated upon the completion of the improvements to the satisfaction of the holder of the Note secured hereby and the making of the final advance as provided in said building loan agreement;

22. That the improvements about to be made upon the premises covered hereby and all plans and specifications comply with all municipal ordinances and regulations made or promulgated by lawful authority, that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office having jurisdiction, and that it will comply with such rules, regulations, and ordinances which are now or may hereafter become applicable to the premises covered hereby.

If the Grantor shall well and truly pay, or cause to be paid, the Note hereby secured, and other indebtedness that may be owing, and does keep and perform each and every covenant, condition, agreement and stipulation herein and in the said Note contained, then these presents shall become null and void; otherwise to be and remain in full force and effect. However, in the event of default in making any monthly payment provided for herein or in the Note secured hereby, and if such default is not made good prior to the due date of the next such installment or in the event of a breach of any other covenant, condition, agreement and stipulation of this Deed of Trust, then in any such case, the whole principal sum of said Note shall, at the option of the holder of the Note, be deemed to have become immediately due, and the same with interest thereon and with all other costs and charges, shall thereupon be collectible by foreclosure of this Deed of Trust. Any failure to exercise said option shall not constitute a waiver of the right to execute the same at any other time. In any event of default the Trustee hereunder shall be, and is hereby, authorized and empowered, when requested so to do by the holder of said Note after such default, to sell the premises covered hereby at public auction to the highest bidder for cash between the hours of 10 o'clock a.m. and 4 o'clock p.m. of the first Tuesday in any month, at the door of the County Court House in the county in which said premises, or any part thereof, are situated, after advertising the time, place, and terms of said sale and the premises to be sold by posting or causing to be posted for at least twenty-one (21) consecutive days prior to the date of said sale written or printed notices thereof at the Courthouse door of the County in which the sale is to be made, and if the real estate is in more than one county, one notice shall be posted at the Courthouse door of each county in which the real estate is situated. In addition to the posted notice hereinabove provided for, no foreclosure under the power of sale herein contained shall be held unless the holder, at least 21 days preceding the date of sale and in the manner prescribed by law, shall have served written notice of the proposed sale by certified mail on each debtor who, according to the holder's records, is obligated to pay the indebtedness secured by this Deed of Trust. The Grantor does hereby authorize and empower said Trustee, and each and all of his or its successors in this trust, to sell said premises, together, or in lots or parcels, as such Trustee shall deem expedient, and to execute and deliver to the purchaser or purchasers of said premises good and sufficient deeds of conveyance thereof by fee simple title, with covenants of general warranty, and the title of such purchaser or purchasers, when so made by the Trustee, the Grantor binds itself to warrant and forever defend; and to receive the proceeds of said sale which shall be applied as follows:

FIRST.--To the payment of all necessary actions and expenses incident to the execution of said trust, including a reasonable fee to the Trustee, not exceeding two per centum (2%) of the gross proceeds of the sale of said premises, and not exceeding \$2,000 in any event.

SECOND.--To the payment of said Note, to the amount of the principal sum and accrued interest legally due thereon, all other sums secured hereby, and to the payment of attorney's fees in said Note provided.

THIRD.--The remainder, if any there shall be, after payment of said costs, expenses and attorney's fees, and the principal and interest legally due on said Note, and all other sums secured hereby and other sums agreed to be paid by the Grantor, shall be paid to the Grantor.

The holder of the Note may bid and become the purchaser of the property at any such sale. The deed or deeds which shall be given by said Trustee to the purchaser or purchasers at such sale, shall be prima facie evidence of the truth of all the recitals therein as to default in the payment of said Note, or of interest due thereon, or of the sums thereunder and hereunder due, the request to the said Trustee to sell, the advertisement or posting of such sale, the proceedings at such sale, the facts, if any, authorizing a substitute Trustee to act in the premises, and everything necessary to the validity of such sale;

GRD 304-448

See Exhibit "B" FOR FURTHER PROVISIONS

Not

The Grantor covenants that it will keep and maintain the property subject to this Deed of Trust free from the claim of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. The Grantor specifically agrees that after any sale under this Deed of Trust it shall be a mere tenant at sufferance of the purchaser of said property at the Trustee's sale, and that the purchaser shall be entitled to immediate possession thereof, and that if the Grantor fails to vacate the premises immediately, the purchaser, may and he shall have the right to go into any Justice court in the precinct or county in which the property is located and file an action in forcible entry and detainer, which action shall lie against the Grantor as tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have hereunder or otherwise;

In the case of the death of the said Trustee, or his refusal, failure, or inability for any reason to make said sale or to perform said trusts, then the holder of the Note shall have the right and power to appoint, by instrument of appointment duly executed and acknowledged by the holder of the Note and to be recorded in the office wherein this Deed of Trust is recorded, a substitute Trustee who resides in the State of Texas. The substitute Trustee shall thereupon succeed to all the estate, rights, powers, and trusts hereinbefore granted to or vested in the Trustee upon the refusal, failure, or inability of any Trustee, original or substitute to act; and such power to appoint a successor or substitute Trustee shall exist and may be exercised as often as and whenever deemed necessary by the holder of the Note.

That no waiver of any covenant herein or of the Note secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the Note secured hereby;

The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors, and assigns of the parties herein and to any substitute Trustee. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the Grantor has caused its name to be signed hereto by its officer thereunto duly authorized, and its corporate seal to be hereto affixed this 10th day of May, 1984.

CHESTNUT VILLAGE APARTMENTS, INC.

[SEAL]

By James V. Fears Sr.  
JAMES FEARS President

ATTEST:

By S. T. LEWIS Secretary

S. T. LEWIS Secretary

THE STATE OF TEXAS  
COUNTY OF ANGELINA } ss:

BEFORE ME, a Notary Public, in and for said County and State, on this day personally appeared JAMES FEARS, known to me to be the person whose name is subscribed to the foregoing instrument, and known to me to be the President of CHESTNUT VILLAGE APARTMENTS INC., a corporation, and acknowledged to me that he executed said instrument for the purposes and consideration therein expressed and as the act of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 10th day of May, A.D. 19 84

My commission expires



OFFICIAL SEAL  
AT. UNDERWOOD, JR.  
NOTARY PUBLIC  
STATE OF TEXAS  
My Comm. Expires Sept. 5, 1984

At. Underwood, Jr.  
Notary Public in and for the State of Texas

EXHIBIT "A"

Deed of Trust

Page One of Two

BEING all that certain tract or parcel of land lying and situated in the City of Lufkin, Angelina County, Texas out of the J. L. QUINALTY SURVEY, ABSTRACT NO. 40 and being a part or portion of that certain 6.524 acre tract described in a deed from Josephine DiStefano to Chestnut Park Apartments, Inc. dated March 29, 1981 and recorded in Volume 515, page 772 of the Deed Records of Angelina County, Texas to which reference is hereby made for all purposes and the said part or portion being described by metes and bounds as follows, to wit:

BEGINNING N 70 degrees 05' 39" E 294.41 feet from the West corner of the aforesaid referred to 6.524 acre tract, a  $\frac{1}{2}$ " iron pin set for corner on the Northwest boundary line of same and on the Northeast side of a rock ditch;

THENCE N 70 degrees 05' 39" E, with the Northwest boundary line of the said 6.524 acre tract, at 235.53 feet an ell corner of same, an iron bolt found for corner;

THENCE N 3 degrees 23' 04" E, with the West boundray line of the said 6.524 acre tract, at 83.95 feet the Northwest corner of same, an iron bolt found for corner on the curving South R.O.W. line of Atkinson Drive;

THENCE Southeasterly with the North boundary line of the said 6.524 acre tract and the said curving South R.O.W. line of Atkinson Drive on a 4.8298 degree curve to the left (having a chord bearing and distance of S 83 degrees 06' 07" E, 107.12 feet), at 107.15 feet the Northeast corner of the said 6.524 acre tract, a  $\frac{1}{2}$ " iron pipe found for corner;

THENCE Two (2) lines with the Northeast boundary line of the said 6.524 acre tract as follows:

- (1) S 20 degrees 22' 14" E, at 140.77 feet, a  $\frac{1}{2}$ " iron pipe found for corner;
- (2) S 18 degrees 05' 00" E, at 243.77 feet the East corner of the said 6.524 acre tract, a  $\frac{1}{2}$ " iron pipe found for corner;

THENCE S 70 degrees 05' 39" W, with the Southeast boundary line of the said 6.524 acre tract, at 84.48 feet, a  $\frac{1}{2}$ " iron pin set for corner on the Northeast side of the said rock ditch;

THENCE THREE (3) lines with the North side of the said rock ditch as follows:

- (1) N 41 degrees 46' 50" W, at 21.69 feet, a point for corner;
- (2) N 49 degrees 00' 00" W, at 23.83 feet, a point for corner;
- (3) N 59 degrees 35' 38" W, at 87.67 feet, a  $\frac{1}{2}$ " iron pin set for corner;

EXHIBIT "A"

Deed of Trust

Page Two of Two

THENCE S 30 degrees 24' 22" W, at 59.02 feet, an "X" in concrete sidewalk for corner;

THENCE N 39 degrees 35' 38" W, at 39.11 feet, a  $\frac{1}{2}$ " iron pin set for corner;

THENCE N 20 degrees 57' 13" W, with the Northeast face of the existing community building, at 56.1 feet, a  $\frac{1}{2}$ " iron pin set for corner;

THENCE N 59 degrees 35' 38" W, at 21.72 feet, a  $\frac{1}{2}$ " iron pin set for corner;

THENCE N 30 degrees 24' 22" E, at 24.16 feet, a  $\frac{1}{2}$ " iron pin set for corner;

THENCE Two (2) lines with the North side of the said rock ditch as follows:

(1) N 59 degrees 35' 38" W, at 110.50 feet, a point for corner;

(2) N 56 degrees 18' 55" W, at 101.61 feet the point and place of beginning and containing 2.069 acres of land, more or less.

- 23. To keep said premises in good repair, and not to do, or permit to be done, upon said premises, anything that may impair the value thereof, or of the security intended to be effected by virtue of this instrument; that it will not make any structural alterations to the building without the written consent of the Mortgagee; to pay to the Mortgagee, as hereinafter provided, until said note is fully paid, a sum sufficient to pay all taxes and special assessments that heretofore or hereafter may be lawfully levied, assessed or imposed by any taxing body upon the said land, or upon the Mortgagor or Mortgagee on account of the ownership thereof to the extent that provision has not been made by the Mortgagor for the payment of such taxes and special assessments as hereinafter provided in subparagraph 9(c).
- 24. That the Mortgagee shall have the right to inspect the mortgaged premises at any reasonable time.
- 25. That so long as the Mortgage and Note secured hereby are outstanding, it will not (a) rent dwelling accommodations in the mortgaged premises in excess of the rates approved by the Mortgagee or for periods of less than one month or in excess of three years; (b) rent the premises as an entirety; (c) rent the premises or any part thereof to any person for the purpose of subleasing; (d) rent the premises or permit its use for hotel or transient purposes; (e) require of any tenant as a condition of occupancy life-lease contracts, fees or other payments over and above those for rents, utilities, and collateral services.

STATE OF TEXAS }  
COUNTY OF ANGELINA }

I hereby certify that this instrument was FILED IN file Number Sequence on the date and at the time stamped herein by me, and was duly RECORDED, in the Official Public Records of Real Property of Angelina County, Texas on



MAY 17 1984  
*Pauline Grisham*  
COUNTY CLERK  
ANGELINA COUNTY, TEXAS

FILED  
AT 2:50 O'CLOCK P.M.

MAY 10 1984

PAULINE GRISHAM, Clerk, County Court  
Angelina County, Texas

By *JLB* Deputy

EXHIBIT "B"

*L*

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, a 2012 competitive housing tax credit scoring notice was provided to the applicant of Royal Garden (#12174);

**WHEREAS**, the staff identified four (4) points that the applicant elected but the application does not qualify to receive; and

**WHEREAS**, the applicant appealed the scoring notice and requested that the Board award the four (4) points under §50.9(b)(16);

**RESOLVED**, the applicant's appeal of the scoring notice for Royal Garden (#12174) is hereby denied.

**BACKGROUND**

On May 22, 2012, staff sent a scoring notice to the applicant of Royal Garden, a 2012 competitive housing tax credit application submitted in Rural Region 3. After a complete staff review, it was determined that the application did not qualify to receive four (4) of the points elected by the Applicant. The areas subject to appeal are summarized below.

§50.9(b)(16) Development Location

Four (4) points may be elected by those applicants whose general population development is located in a High Opportunity Area (HOA) as defined in §50.2(15) of the QAP. The location of the development site must meet at least three (3) criteria in the definition in order to qualify. The applicant's development location only meets two of the criteria and therefore does not qualify for the four (4) points.

While the development site does meet the low poverty and high income factors of the HOA definition, the development site is not located in the attendance zone of a "Recognized" or "Exemplary" elementary school according to the Texas Education Agency (TEA). Additionally, the City of Mineral Wells does not have a public transportation system with regular bus stops and service. Therefore, staff determined that the development site is not "within a half-mile of an accessible transit stop for public transportation if such transportation is available within the municipality or county in which the Development is located" (§50.2(15)(C)).

The applicant feels that some consideration should be given because the elementary school (only pre-K – 1<sup>st</sup> grades) that the applicant points to as “Recognized” is advertised as such on their own school website. In fact, this rating is no longer applicable according to TEA. If a Recognized school is not in place the substantive reason for the points is missing. Secondly, the applicant contends that the “on-demand” bus service serving the county should count as meeting the public transportation requirement since it pick-up service can be prescheduled at the site.

Staff’s published frequently asked questions specifically addresses this fact pattern and provided all applicants the following guidance on January 25, 2012.

Q: Many rural areas do not have a bus or other transit system with defined stops and a regular schedule. Would a transit service that can be contacted to schedule pick-up qualify?

A: No. The requirement is for an accessible transit stop. It is implied that the requirement is for a bus or transit system that has regularly scheduled service, routes, and defined stops for public use.

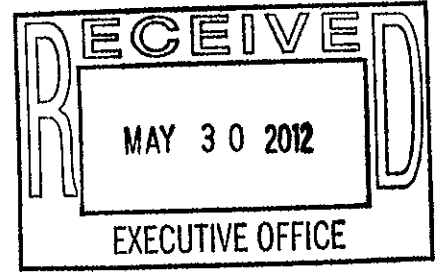
Moreover, on January 5, 2012, Ms. Palmer, who represents the applicant, was provided this same guidance in a series of emails on the same scenario in Big Spring, Texas. This was prior to the submission deadline for pre-applications.

If the applicant’s interpretation were applied, vast areas of the state that were excluded from consideration by many developers would have qualified. In fact, staff identified thirty-eight (38) rural transit services that are similar to the one identified by the applicant and cover the vast majority of the rural counties in the state. For example, the service for Mineral Wells is provided by Public Transit Services which serves three counties and a total of 371 square miles. Another service, WTO TRAX, serves twenty-two (22) West Texas counties. Staff believes that the guidance provided was timely and that the applicant’s interpretation would undermine the High Opportunity Area definition.

Staff recommends denial of the appeal.

Claire G. Palmer  
*Attorney and Counselor at Law*

2224 Clearspring Drive South  
Irving, Texas 75063  
972-948-3166  
Fax: 972-432-8825  
[clairepalmer@sbcglobal.net](mailto:clairepalmer@sbcglobal.net)



May 29, 2012

By Email to [tim.irvine@tdhca.state.tx.us](mailto:tim.irvine@tdhca.state.tx.us)

Mr. Tim Irvine, Executive Director  
Texas Department of Housing and Community Affairs  
221 east 11<sup>th</sup> Street  
Austin, TX 78701-2410

RE: 2012 Housing Tax Credit ("HTC") Application; TDHCA #12174  
Royal Garden, Mineral Wells, TX

Dear Mr. Irvine:

I am writing this letter on behalf of Noorallah Jooma (the "Developer") of that certain project to be known as Royal Gardens, a seniors project to be located in Mineral Wells, Texas (the Project") to **appeal** the scoring notice received on the above mentioned application. This appeal addresses one (1) scoring items that we believe this application is eligible for based on the plain language of the QAP. The deficiency state in the Notice is as follows:

§50.9(b)(16) Development Location. The self-score requested four points for this item. However, the development is not in a high opportunity area as defined by the QAP since the site is not in the attendance zone of an elementary school with an academic rating of "Exemplary" or "Recognized" as of December 19, 2011. The application was awarded one point since the site is located in an Economically Distressed Area. (Requested 4, Awarded 1)

We believe, based on the definition of High Opportunity Area in the 2012 QAP, the Project should have been awarded three (3) points. Section 50.9 (b)(16) states:



The Development is proposed to be located in a High Opportunity Area as defined in §50.2(15) of this chapter (relating to Definitions), ((3 points) for Qualified Elderly Developments or (4 points) for all other Developments).

The definition of High Opportunity Area contained in the 2012 QAP is as follows:

**High Opportunity Area**--A Development that is proposed to be located in an area that includes, at a minimum, subparagraphs (A) and (B) of this paragraph along with either subparagraph (C) or (D) of this paragraph:

- (A) in a census tract which has a median income that is above median for that county (as designated in the Housing Tax Credit Site Demographic Characteristics Report for the current Application Round) as of the first day of the Application Acceptance Period; and
- (B) in a census tract that has a 15% or less poverty rate (as designated in the Housing Tax Credit Site Demographic Characteristics Report for the current Application Round) or, for Regions 11 and 13 with a 35% or less poverty rate;
- (C) within a half-mile of an accessible transit stop for public transportation if such transportation is available in the municipality or county in which the Development is located; or
- (D) in an elementary school attendance zone that has an academic rating, as of the beginning of the Application Acceptance Period, of "Exemplary" or "Recognized," or comparable rating if the rating system changes by the same date as determined by the Texas Education Agency. An elementary attendance zone does not include elementary schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools. However, districts with district-wide enrollment and only one elementary school are acceptable.

This Project meets the requirements of subparagraphs (a) and (b) above as being in a census tract which has an above median income level and in a census tract that has a 15% or less poverty rate. At the time the application was file, Mr. Jooma believed that the elementary school, Lamar Elementary, serving the Property was Recognized based on the Texas Education Agency ("TEA") standards because the school's own website so indicated. (please see *Exhibit 1* attached hereto). When TDHCA staff first questioned this because it is not listed on the TEA website, it was found that Mineral Wells has recently redone its school system and the closest elementary school now only serves grades Pre-kindergarten through first grade. Those grades are not tested by TEA. So, although this school was a Recognized school, when it stood alone as an elementary school, it now must be lumped with the next school that is tested and, thus, becomes Acceptable on the TEA website. While we understand that the High Opportunity Area definition requires use of the TEA ratings, the result in this case seems to be very prejudicial to a school which sees itself as a Recognized school and advertises itself in that way. Attached as *Exhibit 2* is a letter from the Assistant Superintendent of Mineral Wells ISD explaining the rating for the school. We believe that this application met the clear intent of the definition and should have gotten the High Opportunity Area ("HOA") points based on the rating of the school.

Even if the school does not meet the test, we still believe this Application should have been considered to be in a HOA. This is a senior development in a rural area. Granted, as TDHCA staff points out, the rating of a school may have some bearing on the desirability of a neighborhood. However, everyone agrees that a senior development is unlikely to feed any students to the local school system and seniors do not pick a place to live based on the schools. What is important to a senior is the closeness of hospitals, doctors, and groceries and the availability of convenient transit for those who do not drive. Mineral Wells has an excellent public transportation system. The clear language in the QAP says that the points will be awarded if the project is "within a half-mile of an accessible transit stop for transportation if such transportation is available in the municipality or county in which the Development is located". The definition does not say that the public transportation must have "regularly scheduled stops" as staff requires, nor does it state that the transportation company must "build the transit stop" as TDHCA staff has informed us. All that is required is "public transportation" and a "publicly accessible transit stop". It is our intention to build a publicly accessible transit stop on the Project. It will be open to anyone, not just tenants. However, if this is not sufficiently public, the City of Mineral Wells has already agreed to allow the Developer to assist them in putting a transit stop on the adjacent property, which is owned by the City.

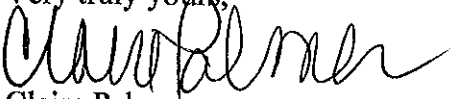
In rural Texas, the only available public transportation is through the Rural Transit System. It is an excellent network of transportation providers, open to the general public, providing on-call and scheduled transportation. For seniors, this system is actually much more desirable than a regularly scheduled bus service that you see in major cities. They are able to call and schedule pick-up to go to doctor, grocery or to visit friends. The Public Transit Services Company, which services Mineral Wells, even included scheduling everyday pick up to take you to work and bring you home. Please see *Exhibit 3* attached hereto which is a brochure of services and a list of all rural Texas public transportation providers.

If HOA is going to become the determining factor because it provides for either 3 or 4 points, TDHCA should recognize the rural transportation system as qualifying for the points. Otherwise rural developments will only get the points if they meet the school criteria. This seems prejudicial to rural developments and particularly senior developments when seniors do not choose location based on schools. Developers work hard to find locations for senior developments that meet the needs of their tenants. That was especially done in this case. The amenities available to seniors at this location are perfect, including the transportation services. The only other affordable senior development in Mineral Wells has closed, so this community is in dire need of an affordable senior community.

I hope that you will use the clear reading of the language in the QAP and your discretion to award this development the three (3) HOA points allowed to senior developments.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

  
Claire Palmer

# Lamar Elementary

[Home](#) [Our School](#) [Staff](#) [Academics](#) [Special Programs](#) [Parents](#) [Students](#) [Calendar](#)

## Announcements

### Lamar's Daily Schedule:

7:30	Doors Open
7:30-7:55	Breakfast Served
7:50	Students to Class
8:05	Tardy
3:10-3:30	Dismissal Procedures
3:30	All Students Dismissed

### ATTENTION:

Only Parents, Guardians or Grandparents can bring food for their child.

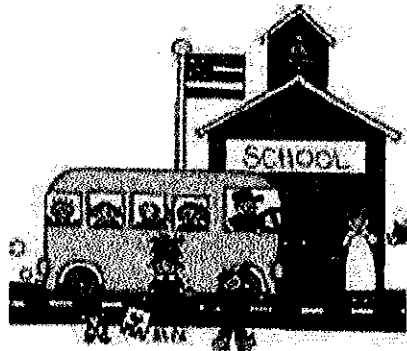


Welcome



Field Day  
May 3rd

*\*Please make sure students wear sunscreen, hats and comfortable clothing. NO FLIP FLOPS*



Welcome to  
A TEA Recognized Campus



Student Library  
Books are Due  
May 4!



Kindergarten Field Trip to  
Public Library  
May 14, 15, 21 & 22



Extreme Science  
May 17th



Principal:  
Parisa Lerma  
940-325-5303  
[plerma@mwisd.net](mailto:plerma@mwisd.net)  
Assistant Principal:  
Les Davis  
940-325-5303

## Site Shortcuts

[Survey Monkey/LamarParent Survey](#)



[CONTACT US: Campus Links & Information](#)

[Parent Portal to Access Your Child's Grades](#)

[Pay for Lunch](#)

[Policy Online](#)

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## Headlines



[Parent Newsletter](#)



Sharing the spirit of books and reading™

Help Students Read More...



[View the Parental Involvement Connection Newsletter!](#)

View the Parental Involvement Connection Newsletter!

View the Parental Involvement Connection Newsletter!



District Extreme  
Science

May 23rd



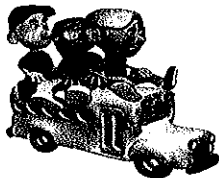
First Grade Visit to  
Houston  
May 24th



Sixth Six Weeks  
Classroom Awards  
PK, Kindergarten, &  
First  
May 31st



First Grade Walk of  
Honor  
May 29, 9:00 am



Early Dismissal/Last Day of  
School

We will dismiss at noon on  
Friday, May 31st

Buses will begin  
regular routes at  
12:00 p.m.

[lwDavis@mwsd.net](mailto:lwDavis@mwsd.net)

Counselor:  
Susan West  
940-325-5303  
[swest@mwsd.net](mailto:swest@mwsd.net)



All visitors and parents must sign in at  
the office to enter the building. You  
will be required to show your driver's  
license. Looking forward to a GREAT  
year!

## Upcoming Events

### Today

8:30 AM - 9:30 AM Lamar Pre-K AM  
End of Year Awards Assembly

1:45 PM - 2:45 PM Lamar Pre-K PM  
End of Year Awards

### Tomorrow

8:30 AM - 9:30 AM Lamar Kindergarten  
End of Year Assembly

9:30 AM - 10:30 AM Lamar 1st End of  
Year Assembly

12:00 PM Early Release (Secondary  
Students)

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**MINERAL WELLS INDEPENDENT SCHOOL DISTRICT**  
**906 S.W. 5th Avenue**  
**Mineral Wells, Texas 76067**  
**940-325-6404**  
**FAX 940-325-6378**

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April 9, 2012

Re: Lamar Elementary Rating Status

To Whom it May Concern:

Lamar Elementary, in Mineral Wells ISD, is a PK through 1<sup>st</sup> grade campus. Since the campus is not required to participate in the state wide assessment program, its campus rating is defined by pairing it with Houston Elementary. Houston Elementary is a 2<sup>nd</sup> and 3<sup>rd</sup> grade campus that is fed by Lamar Elementary.

Houston Elementary has a rating of "Academically Acceptable" for the 2010-2011 school year. This rating remains for two years since the State is transitioning to a newly devised test with different rating standards.

Lamar Elementary has had the following ratings of the last five years:

2009-2010	Recognized
2008-2009	Recognized
2007-2008	Recognized
2006-2007	Academically Acceptable
2005-2006	Exemplary

If you have any further questions, please give my office a call.

Sincerely,

Linda Porter-Bradford  
Assistant Superintendent

**Disruptive Passengers:** Public Transit Services reserves the right to refuse service. Passengers must observe all rules and regulations. Passengers who are deemed disruptive will be refused future service. Passengers who are deemed disruptive while on the bus will be dropped off by the driver as soon as possible, not necessarily at their destination, and will not receive a refund.

**Groceries & Packages:** Groceries and packages are limited to what the passenger can safely hold in their lap during transport. Packages/Bags may not be placed on the floor of the vehicle or left unattended. Packages/Bags must be safely secured during transport. We ask that you limit transport to no more than three to five small bags. Heavy bags will not be lifted by the transit driver. For safety purposes; PTS reserves the right to refuse service to clients with excessive / heavy bags or packages.

**Intoxicated Passengers:** Passengers who are intoxicated will not be permitted to ride.

**Smoking / Dipping:** Tobacco products are strictly prohibited on transit vehicles. Smoking or dipping is NOT permitted in Public Transit Services vehicles.

**Ill or Injured Passengers:** Passengers who are extremely ill, have contagious diseases or are severely injured may not be transported. Public Transit Services drivers are trained in CPR & First Aid but are not trained in emergency medical procedures. PTS provides non-emergency transportation.

**Holidays:** Transportation will not be provided during observed holidays.

**Loading Assistance:** Public Transit Services drivers may not enter a clients home or other buildings or facilities. The drivers are responsible for safely loading, securing and unloading of passengers and shall provide courteous services; as applicable. If you require assistance on or off the bus the driver is required to assist. If you need assistance that is beyond what the drivers are allowed to perform, you must make arrangements for a companion to accompany and assist you.

**Children:** Children must abide by the States child restraint, car seat, booster and seat belt law. Children under school age must be accompanied by an adult. The adult will be responsible for the proper installation of the car seat, securing the child and riding with the child. School age children may be transported to and/or from an authorized independent school district and/or school only. Other services provided to a child under 6 years of age requires adult accompaniment.

**Attendants:** An attendant must travel with you if you are unable to travel independently. An attendant must be approved through the PTS office and may be eligible to ride at no charge.

**Cell Phone Use:** The use of cell phones while traveling on a public transit vehicle is prohibited as this can often become disruptive; and irritating for clients and drivers. Safety is our number one concern so we ask all clients to obey the rules.

**Scheduling Trips:** To schedule a ride please call 940.328.1391 or the toll free number 1.866.521.1391.

Office hours are 7:00 a.m. to 6 p.m. Monday - Friday. To ensure availability; next day service requests must be made prior to 2:00 p.m.

**In Closing:** It is our hope that this brochure will familiarize you with our services. If additional information is needed; please call Public Transit Services at 940-328-1391 or 1-866-521-1391



## Public Transit Services

### SERVICE GUIDE

*"Putting People & Places  
Together"*

### SERVING:

**Palo Pinto  
Parker  
Jack**

**940-328-1391  
1-866-521-1391**

Adopted: January 2012

ride please can public transit services between the hours of 7:00 a.m. to 6:00 p.m. Monday - Friday. 24-hour advance notice required. Passengers calling after 2:00 p.m. may not be able to schedule "next-day" service as the schedule fills up rapidly. An additional fee shall apply to same-day service. Same-day service is only provided if space is available.

When you call to schedule your ride; you will need to tell us the time you need to arrive at your chosen location (appointment time), the addresses of your pickup and delivery locations. If you are a new client some additional information will be required. Additional stops must be scheduled in advance. Remember to allow travel time when scheduling your return to appointment.

If you fail to show up for a scheduled trip the return trip will automatically be cancelled. Please be courteous and schedule only those trips that will be taken. Excessive no-shows or cancellations will subject the passenger to service suspension.

**Hours of Operations:** Monday through Friday 7:00 a.m. to 6:00 p.m. CST. Please schedule all of your rides as far in advance as possible but not less than 24 hours. Public Transit Services requests the passenger to schedule the return trip to ensure availability and on-time performance. (Purpose: PTS feels obligated to provide a return trip. However this is not always possible because the schedule fills up throughout the day) Please be mindful of services and provide advance (24 hr) notice at all times.

**Demand Response:** Demand response is a curb-to-curb service provided from your home to the destination of your choice and is based on availability. A nominal fee is charged for this service. PTS can provide you with rates upon request. Passengers are required to pay for the trip when boarding the vehicle. Passengers may pay by cash or check.

**Flexible Routes:** Flexible Route services is provided for passengers with a stable scheduled. Passengers utilizing the flexible route services are required to pay in-advance at the beginning of each week for transportation. This service is provided on a daily basis, at the same time, to and from the same

Other passengers may be riding in the vehicle in an area of a passenger in need of transportation services (Example: Vehicle may/will deviate from the route. However, considerations will be made to ensure that you arrive on-time to your selected location). The flexible route service (standing appointment) allows the passenger to make one call to the office and make arrangements for the vehicle to pick them up every day. In short, the seat will be reserved for you at the specified date and time selected. This will ensure that your ride will be available when the schedule is full. Passengers utilizing this service must pay for a full week regardless of the number of days traveled. A reduced rate is offered. Service may be schedule by calling the PTS office Monday - Friday.

**Standing Reservations:** Standing reservations, also referred to as a flexible route, are for passengers who ride to and/or from a dedicated destination at a set time every day on at least 3 or more occasions per week. Standing reservations (flexible routes) are dependent upon availability. Contact PTS for additional information regarding reservations.

**Medicaid:** Medicaid transportation is provided under a contract with the Medical Transportation Division. To obtain information regarding the Medicaid program contact PTS.

**No Show/Cancel:** When a passenger fails to cancel a trip prior to our arrival or does not show up for a scheduled trip, it is considered under policy as a "no show". The driver will wait five-minutes after the scheduled pick-up time. If the passenger does not appear; the trip will be recorded as a "no show".

Clients must provide adequate cancellation notice. PTS reserves the right to suspend service to clients who continually no-show or cancel trips.

**Pick-up Locations:** Normally the pick-up location will be the same place you were dropped off unless prior arrangements have been made. Remember drivers will only wait for five minutes after your scheduled pick up time. If you miss the bus, the trip will be recorded as a no-show. Service suspension may be necessary. If you have questions or concerns regarding your ride please do not hesitate to call.

by using seat belts to ensure proper restraint devices when traveling in a motor vehicle. All passengers are required to wear seat belts when riding in a PTS vehicle.

**Wheelchairs:** Wheelchairs must be in good working condition; which includes properly operating caliper locking devices and footrests. For the safety of all passengers, wheelchair passengers must be secured with proper restraints in an upright position. Oxygen tanks and/or other devices must be safely secured - properly attached to the wheelchair.

**Backing Policy:** Public Transit Services has in place; a strict no backing policy for the purpose of safety. In the event the driver finds themselves in a position where there is no other option, the drivers must contact the dispatcher requesting permission to back up. This method allows the driver time to stop and take notice of safety issues before the backup procedure begins.

**Safety:** Safety is a very important issue and must be taken seriously. Drivers are to adhere to State Law and follow safety procedures set forth by Public Transit Services.

**Complaints:** If you have a complaint regarding service or employees please call PTS.

**Fares:** Rates vary depending on the pickup and drop off location. Contact PTS for information regarding fares. Fares MUST be paid upon boarding. You may pay by cash or check.

**Food & Drink:** Consuming food or drink is prohibited on the vehicle at all times. You may transport sealed containers. Opening of an alcohol beverage is strictly prohibited.





Noorallah Jooma <noorjooma@gmail.com>

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## Public Transit Services Mineral Wells, Texas

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**Reta Brooks**

<rbrooks@publictransitservices.org>

Mon, Apr 9, 2012 at 3:57 PM

To: noorjooma@gmail.com

Per our conversations on April 9, 2012. This is written to confirm that Public Transit Services provides mobility access to the general public; which includes persons with mobility impairment; to the surrounding counties of Palo Pinto, Parker and Jack. Public Transit Services does not provide bus stop services but instead provides curb-to-curb - demand response service. Facilities are located in Palo Pinto County (Mineral Wells, Texas) and Parker County (Weatherford, Texas). A satellite operations is located in Jack County (Jacksboro Texas). Please contact Public Transit Services at 940-328-1391 for your mobility needs.

Public Transit Services - "Putting People & Places Together" since 1988.

Sincerely,

Reta Brooks


Executive Director

Public Transit Services

rbrooks@publictransitservices.org

940-328-1391 x 101

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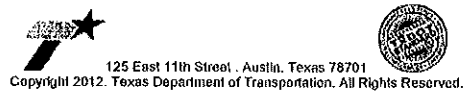
## Rural Transit Systems Contacts

### Public Transportation Providers

Service Area/Provider	Telephone
Alamo Area COG - Alamo Regional Transit - ART <a href="#">More Info</a>	(210) 362-5303
Ark-Tex COG - TRAX <a href="#">More Info</a>	(903) 832-8636
Aspermont Small Business Development Center, Inc. - Double Mountain Coach <a href="#">More Info</a>	(940) 989-3538
Bee Community Action Agency - Bee Rural Public Transportation <a href="#">More Info</a>	(361) 358-5530
Brazos Transit District <a href="#">More Info</a>	(979) 778-4495
Capital Area Rural Transportation System <a href="#">More Info</a>	(512) 481-1011
Central Texas Rural Transit <a href="#">More Info</a>	(325) 625-4491
City of Del Rio <a href="#">More Info</a>	(830) 703-5324
Collin County Committee on Aging - CCART <a href="#">More Info</a>	(972) 562-4275
Colorado Valley Transit <a href="#">More Info</a>	(979) 732-6281
Community Action Council of South Texas - Rainbow Lines <a href="#">More Info</a>	(956) 487-0068
Community Council of Southwest Texas - Southwest Transit <a href="#">More Info</a>	(830) 278-4155
Community Services Inc. <a href="#">More Info</a>	(903) 872-2405
Concho Valley Transit District - Thunderbird Transit <a href="#">More Info</a>	(325) 944-9666
County of El Paso - El Paso County Rural Transit <a href="#">More Info</a>	(915) 834-8242
East Texas COG - East Texas Rural Transit <a href="#">More Info</a>	(903) 984-8641
Fort Bend County Rural Transit District <a href="#">More Info</a>	(281) 633-7433
Golden Crescent Regional Planning Commission - R Transit <a href="#">More Info</a>	(361) 578-1587
Gulf Coast Center <a href="#">More Info</a>	(409) 944-4446
Heart of Texas COG - Heart of Texas Rural Transportation District <a href="#">More Info</a>	(254) 292-1895
Hill Country Transit District - The HOP <a href="#">More Info</a>	(325) 372-4677
Kaufman Area Rural Transportation - KART <a href="#">More Info</a>	(972) 563-1422
Kleburg County Human Services - Paisano Express <a href="#">More Info</a>	(361) 595-8572
Valley Metro <a href="#">More Info</a>	(958) 682-3481
Panhandle Community Services, Inc. - Panhandle Transit District <a href="#">More Info</a>	(806) 372-2531
Public Transit Services <a href="#">More Info</a>	(940) 328-1391
Rolling Plains Management Corporation - SHARP Lines Rural Public Transportation <a href="#">More Info</a>	(940) 684-1571
Rural Economic Assistance League, Inc. - REAL Transit <a href="#">More Info</a>	(361) 668-3158
Senior Center Resources and Public Transit, Inc. - The Connection Public Transit System	(903) 454-1444

<a href="#">More Info</a>	
South East Texas Regional Planning Commission - South East Texas Transit <a href="#">More Info</a>	(409) 899-8444
South Plains Community Action Association, SPARTAN <a href="#">More Info</a>	(806) 894-3800
Services Program for Aging Needs/SPAN, INC <a href="#">More Info</a>	(940) 382-2224
Texoma Area Paratransit System - TAPS <a href="#">More Info</a>	(903) 893-4601
The Transit System, Inc. <a href="#">More Info</a>	(254) 897-2964
Webb County Community Action Agency - El Aguilá Rural Transportation <a href="#">More Info</a>	(956) 722-6100
West Texas Opportunities, Inc. - WTO, I TRAX <a href="#">More Info</a>	(806) 872-8354
City of Cleburne -CLETRANS <a href="#">More Info</a>	(817) 645-0924
South Padre IslandThe Wave <a href="#">More Info</a>	(956) 761-3864

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, a 2012 competitive housing tax credit scoring notice was provided to the applicant of 1701 Canton – EVERgreen Residences (#12182);

**WHEREAS**, the staff identified twenty-five (25) points that the applicant elected but the application does not qualify to receive; and

**WHEREAS**, the applicant appealed the scoring notice and requested that the Board award the twenty-five (25) points under §§50.9(b)(8), (14), (18) and (20);

**RESOLVED**, the applicant's appeal of the scoring notice for 1701 Canton – EVERgreen Residences (#12182) is hereby denied.

**BACKGROUND**

On May 22, 2012, staff sent a scoring notice to the applicant of 1701 Canton – EVERgreen Residences, a 2012 competitive housing tax credit application submitted in Urban Region 3. After a complete staff review, it was determined that the application did not qualify to receive twenty-five (25) of the points elected by the applicant. The areas subject to appeal are summarized below.

**§50.9(b)(8) The Cost of the Development by Square Foot**

Twelve (12) points may be elected by those applicant's that submit an application with a cost per square foot that does not exceed certain thresholds reflected in the QAP. The costs included in the calculation are all hard construction costs (including offsite costs), contractor fees, and contingency. Staff applies the test based on the originally submitted application unless there is an easily identifiable discrepancy, in which case staff may issue an administrative deficiency. Generally, such a discrepancy would involve a situation such as unit square footages in the rent schedule not matching the architectural plans or other issues where an applicant points to the correct information already contained in the application and clearly verifiable. Changes to the development cost schedule that cannot be clearly supported by information already contained within the application are not accepted because the staff does not have the ability to verify that the reason for the change is valid. In the subject case, the application was determined to not meet the threshold of \$95 per square foot as originally submitted (\$101/SF). The applicant believes that this original submission does not provide the correct information and that they should be

allowed to correct that information by introducing new information not apparent in the original submission.

The applicant's rationale set forth in its appeal is very complex, but it essentially documents that there are offsite costs that should not be considered part of the calculation because they are costs not being incurred by the applicant or a related party to the applicant (full explanation attached). Staff fully considered the applicant's explanation and agrees that the issue is complex. However, the applicant's explanation requires other changes to the application, specifically with regard to the City's commitment of funds. The City of Dallas is providing funds for the offsite improvements but the commitment indicates the direct recipient as the applicant. Additionally, the applicant appears to have applied to receive these funds directly from the City. The applicant also points to other issues that required clarification, but such errors in the initial submission are difficult to verify because they were not raised in a manner that would trigger an administrative deficiency, and absent such clarity the awarding of the twelve (12) points under this item is not supported.

#### §50.9(b)(14) Pre-Application Incentive Points

Six (6) points may be elected by those applicants that submitted a pre-application in accordance with the QAP provided that certain components of the pre-application remain consistent with the full application. Because the score verified by staff was more than 9 points different from the applicant's self score at pre-application, the points were not awarded by staff. Staff proposes that the pre-application points in this case remain a function of the decisions on the other items under appeal today. If the point discrepancy after Board consideration of the other issues is point points or less, then the pre-application points should also be awarded, because the discrepancy between the pre-application score and the full application score would be within the tolerance allowed by the QAP.

#### §50.9(b)(18) Length of Affordability Period

Up to four (4) points may be elected by an applicant that commits to an extended affordability period in excess of a total affordability period of thirty (30) years. However, Rehabilitation Developments (this does not include reconstruction) cannot qualify for these points. The purpose of the item was to ensure that any development proposing rehabilitation of any portion of an existing residential development do not get the points. However, developments technically categorized as New Construction or Reconstruction can include rehabilitation involving an existing residential development. For example, in a development with ten buildings, reconstruction of just one building or the addition of just one unit can result in the development not being categorized as Rehabilitation. In order to address this issue, staff provided guidance in the frequently asked questions on January 25, 2012, as follows:

Q: If I am proposing to rehabilitate a 10 building development but reconstructing 1 building, do I qualify for these points?

A: No. Every building in the Development must be reconstructed to be eligible for these points.

The subject application was identified as New Construction, which is correct under the rules. Practically speaking, the development includes reconstruction of some existing units, the demolition of some non-residential buildings and construction of new additional units, and the rehabilitation of an existing community building. In accordance with the guidance provided to all applicants, staff did not award the points because at least one building is being rehabilitated and this building is part of an existing residential development.

The applicant contends that the guidance is inconsistent with the plain language of the QAP and should be awarded. Staff's position is that the guidance was available to all applicants well in advance of the application deadline and that interpretation of the rule in the manner the applicant suggests opens the door to a host of potential options that were never contemplated or intended.

#### §50.9(b)(20) Repositioning of Existing Developments

Three (3) points may be elected by those applicants proposing the substantial rehabilitation or reconstruction of an existing non-affordable development constructed between 1980 and 1990. The purpose is to encourage the conversion of the market rate housing to affordable housing. One requirement is that the development "contain residential buildings originally constructed between 1980 – 1990" (§50.9(b)(20)(B)). The points were not awarded because the only residential building on the site was originally constructed prior to 1980.

The applicant indicates that because the building (which was originally constructed in 1947) was not originally used as a residential building but was converted to a residential building during the 1980s, that the application should qualify for the points. Staff disagrees. The building is currently residential and it was originally constructed prior to 1980. The fact the building wasn't originally used as a residential building is not relevant just as the rehabilitation of residential buildings during the 1980s would not result in a more conventional apartment community qualifying.

Staff recommends denial of the appeal on each issue.



May 29, 2012

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

RE: *1701 Canton – EVERgreen Residences*  
*TDHCA #12182*

Dear Mr. Irvine:

This is a formal appeal of the scoring notice received on the above mentioned application. This appeal addresses three scoring items that we believe this application is eligible for based on the plain language of the QAP. We believe that staff has struggled with this particular application—which involves a new construction component, a reconstruction component, and a renovation of a community service center that serves the general public—because the facts here are so unique that staff could not have anticipated this scenario during the drafting of the QAP. In that sense, this application has brought to light certain grey areas that have led to these major point deductions. It is important to note here that all of these points were taken in good faith because the applicant believed that the unique facts of this proposed development satisfied both the language and intent of each of these point categories.

This letter will explain these grey areas based on the individual point categories.

*1. Development Cost per Square Foot (12 points)*

This is a very complex transaction due to the multiple ways that the City of Dallas is contributing to this development, both in terms of 1) donating the underlying land and constructing infrastructure work for this development, which the City will finance with its commitment of \$2,603,720 in HOME funding, and 2) in terms of providing a \$2,000,000 CDBG award that will serve as permanent forgivable debt for this development. To further complicate matters, the site is an urban in-fill site that must be totally redeveloped both in terms of demolishing old industrial and residential buildings on site as well as providing new infrastructure off-site.

At application, we clearly represented in the site control section of the application how the land transaction was structured with the City of Dallas. Specifically, the City owns one of the three contiguous tracts and will assume the land contracts for the other two tracts. Thereafter, the City will then demolish certain buildings on the site, construct certain off-site improvements, and then lease back the land to the non-profit owner for \$1 a year.

Although in hindsight, we should have reflected the land acquisition price as \$0 and the off-site costs as \$0 because those costs will be incurred by the City and not the developer (see attached letter from the City of Dallas which we submitted in response to the initial deficiency), we

reflected both acquisition and off-site costs on the development cost schedule. When we did this, we were following the guidance of the QAP which states in Section 50.8(7)(B) “If off-site costs . . . are embedded in the site acquisition contract . . . , then the supplemental form ‘Off-Site Cost Breakdown’ must be provided.” The 2012 Multifamily Application Procedures Manual on page 46 states further “The total Offsite Costs entered in this [Off-Site Cost Breakdown] exhibit [exhibit] must match the amount reflected in the Development Cost Schedule.” Therefore, by strictly following the guidance in the QAP and the Procedures Manual, we were required to reflect the acquisition costs and the off-site costs in the Development Cost Schedule even though those costs will not be incurred by the development.

Instead, these costs will be incurred by the City, who will conduct the infrastructure work in part with its own staff and in part with its own subcontractors. The City will fund this work with the \$2,603,720 grant that the City has awarded for this project, subject to the award of tax credits. Thus, in the application, in our earnest efforts to be transparent about all the moving parts of this application, and based on guidance in the QAP, we incorrectly reflected the land acquisition and the off-site costs as uses that were offset by the City grant of \$2,603,720. This representation was directly inconsistent with how we reflected the land transaction elsewhere in the application.

When this inconsistency came to our attention on deficiency (because our cost per square foot was over the \$95 per square foot maximum), TDHCA staff requested that we “revise any appropriate exhibit.” We corrected the inconsistency by submitting a Development Cost Schedule with \$0 for the land acquisition and \$0 for off-sites that reflected the land transaction as represented in the site control section of the original application. We also submitted a letter from the City of Dallas stating that they will be responsible for the cost and the construction of the off-site work should this application receive an award of tax credits.

We believe that we cured the deficiency through the administrative deficiency process set forth in Section 50.7(2)(A). The deficiency process as provided for by the QAP is meant to allow an Applicant an “opportunity to provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application.” Here, there was a non-material inconsistency between how the land transaction was represented in the Site Control section with how it was represented on the Development Cost Schedule due to misleading guidance in the QAP and the Procedures Manual about how to reflect off-site costs when embedded in the site acquisition cost. This inconsistency was non-material because it did not rise to the level of a “Material Deficiency” which is defined in the “Definitions and Amenities for Housing Program Activities, 2012-2013” as “any individual Applicant deficiency . . . which if addressed, would require, in the Departments reasonable judgment, a substantial reassessment or re-evaluation of the Applicant.” Here, the inconsistency was corrected by deleting two numbers from the Development Cost Schedule that should have never been included and that had no impact on the tax credit request or the amount of eligible basis. The applicant did not provide new information nor did it change how the land transaction was structured. Therefore, the deficiency request and response should not have resulted in a substantial reassessment or re-evaluation of the application. Moreover, the fact that staff did issue a deficiency on this item and invited us to submit revised exhibits strongly suggests that it is curable as a non-material deficiency.

The QAP states that “the calculations will be based on the cost listed in the Development Cost Schedule and *the NRA shown in the Rent Schedule of the Application.*” Here, if staff used the Development Cost Schedule that we submitted in response to the deficiency, which is permitted



by the deficiency process, and the NRA shown in the Rent Schedule of the Application, the application meets the \$95 limit. It is our position that the qualifier “of the Application” ONLY applies to the “NRA shown in Rent Schedule of the Application” and not the Development Cost Schedule. Here, the applicant did not change its construction numbers slightly or its square footage slightly in response to a deficiency notice in order to get under the cost per square foot threshold. Instead, in response to an administrative deficiency, the applicant amended the Development Cost Schedule to be consistent with the other parts of our application, namely the Site Control Section.

It should be noted that a 2011 applicant, The Villas at Tuscany, #11074, lost these same points last year and on deficiency, attempted to cure by increasing its NRA. Staff did not award the points based on this language that the calculation is based on the NRA shown in the Rent Schedule of the Application; however, the Board disagreed, granting the applicant’s appeal and ultimately awarding these points. Also, based on our research of the current application pool, at least one other application, specifically 1400 Bellevue, #12098, exceeded the development cost per square foot limit, in that case, because retail and commercial costs (non-eligible basis items) were included on the development cost schedule. Despite that there is nothing in the QAP that allows for the exclusion of these non-eligible basis items from Hard Costs, staff excluded these costs for the purposes of the calculation and awarded the 12 points to this application.

Therefore, to deduct 12 points from this application because of an inconsistency in the application that was corrected on deficiency is an unjust result, especially given that the deficiency process specifically allows such inconsistencies to be corrected. The guidance in the QAP and in the Procedures Manual is misleading in terms of how to reflect off-site costs when they are embedded in the site acquisition costs and the QAP only states that, for purposes of the cost per square foot calculation, the NRA on the Rent Schedule must be fixed based on the number in the application. Here, the applicant submitted a revised Development Cost schedule on deficiency, which should cure the inconsistency, even for purposes of this scoring item.

*2. Repositioning (3 points).*

To be eligible for these points, the development must a) propose Rehabilitation (including reconstruction); b) contain residential buildings originally constructed between 1980 and 1990; c) the Development has no income or rent restrictions recorded in property records.

It is our understanding that staff did not award these points because staff does not think that development contains residential buildings originally constructed between 1980 and 1990. We respectfully disagree. The St. Paul building is a “residential building originally constructed” in the 1980s. In 1987, the building was placed in service as a residential building for the first time. While the building itself existed prior to the 1980s, it was never a residential building prior to 1987. In 1987, the commercial building was gutted down to the shell and completely rebuilt as residential with all new windows, new floors, new walls, plus the addition of kitchens and bathrooms. Today, it looks like a residential building that was built in the 1980s because it is a residential building that was built in the 1980s.

On deficiency, we submitted certificates of occupancy showing a different use prior to the 1980s and then a new certificate of occupancy for a residential use in 1987. There is no intent statement in this point category that says that these points are only eligible for buildings that were first put on the ground in the 1980s. Indeed, we believed that the intent was to reposition unattractive and possibly poorly constructed housing stock that placed in service as residential in the 1980s, which is exactly what this development is. The language of the QAP does not say “buildings originally constructed between 1980-1990.” Rather it says “*residential* (emphasis added) building originally constructed between 1980-1990” which is the situation here.

### 3. *Length of Affordability (4 points)*

We strongly believe that we are eligible for these points because we are proposing combination of new construction, reconstruction of an existing residential building, and renovation of an existing non-residential Community Service Center. The QAP states that “Rehabilitation (excluding Reconstruction) Developments are not eligible for these points.” Here, we are not proposing any rehabilitation of an existing residential building. While we are proposing renovation of an existing non-residential building (a Community Service Center that is currently operated by Family Gateway to serve both its existing residents of its existing supportive housing development and members of the general public), this does not constitute “Rehabilitation.” “Rehabilitation” is defined in the “Definitions and Amenities for Housing Program Activities” as “The improvement or modification of an Existing Residential Development.” Here because the Community Service Center contains no units, it does not qualify as an Existing Residential Development. Thus, the fact that it will be renovated has no impact on whether this development is eligible for this point item.

It is our understanding that staff is looking to the Q&A as support for its position that this development is not eligible for these points. In the Q&A, the question asked was “If I am proposing to rehabilitate a 10 building development but reconstructing 1 building, do I qualify for these points?” The Q&A states that “Every building in the Development must be reconstructed to be eligible for these points.”

In addition to the fact that our proposed development is proposing new construction plus reconstruction, and therefore does not present the same facts as the question included in the Q&A (which is rehabilitation plus reconstruction), it is our position that the staff guidance in the Q&A does not reflect what the QAP says, which is not that every building needs to be reconstructed, but that no building can be rehabilitated. Here, this development clearly does not include rehabilitation of an existing residential development which is the only QAP exception to eligibility for these points. Therefore, it is eligible for these points.

It should also be noted that, at one point, staff suggested that the Community Service Center building to be renovated was adjacent to the building to be reconstructed, and therefore, staff was going to treat those two buildings as one building for purposes of this point item. We disagree with this treatment. These two buildings have separate roofs, and have different uses (one contains residential units and one contains the large Community Service Center that is viewed in the community as a standalone facility that is open to the public). While we were unable to find the original construction records to confirm whether these two buildings were built at the same time or at different times, we were able to find a plat showing that these two buildings are on separate legal parcels which suggests that they are considered two separate buildings from a legal standpoint.

We understand that this application was a technically challenging one for your staff to review, and we appreciate the extra time staff took to understand all of the nuances occurring here. I hope this letter better explains why we took these points both at pre-application and at application, and that it sheds light on some of the grey areas in the QAP. We understand that the QAP is a living document that is often tweaked as certain development-specific fact patterns challenge the language and the intent behind various sections. We understand that staff has discretion to come to different conclusions on these point categories based on their understanding of the rules and regulations, but we simply disagree with these conclusions based on our understanding of the rules and regulations.

We respectfully request a favorable ruling on each of the three issues on appeal, as these are highly technical issues that will be difficult to explain to the Board in a public forum in a very short time frame. These issues do not raise policy issues and therefore, we believe that they are more appropriately handled at your level. That being said, should you decide that you cannot rule in our favor at this juncture, we will plan to appeal at the June 14, 2012 board meeting.

We thank you for your consideration and concern for this unique project. Should you require further information, please contact me directly.

Sincerely,

FAMILY GATEWAY, INC.

FIRST PRESBYTERIAN  
CHURCH OF DALLAS,  
TEXAS



Robert Alberts, Executive Director



Rev. Dr. Bruce Buchanan

cc: Jill Herz, Family Gateway, Inc.  
Linda McMahon, Family Gateway, Inc.  
Claire Palmer, Attorney at Law  
Graham Greene, underMain Corporation  
Grady "Buddy" Jordan, Jr., Ashwood Companies, Inc.  
Victoria Sugrue, Stoneleaf Homes of Distinction, LLC  
Mike Sugrue, Stoneleaf Homes of Distinction, LLC  
Diana McIver, Diana McIver & Associates, Inc.



City of Dallas

April 12, 2012

Jean Latsha  
Competitive Tax Credit Program Manager  
Texas Dept. of Housing & Community Affairs  
P.O. Box 13941  
Austin, TX 78711-3941

Graham Greene, President  
GREENarc Corporation, GP  
1925 San Jacinto St., Suite 300  
Dallas, TX 75201

Re: Clarification of Site Acquisition and Off-Site/Site Work Costs- 1701 Canton - EVERgreen Residences- File #12182

Dear Ms. Latsha:

This letter confirms that the City of Dallas ("City") intends to a) acquire and improve properties known as 1701 Canton and 702 S Ervay by constructing off-site and on-site improvements at the City's expense up to the amount of \$2,603,720 which represents land acquisition and demolition costs of \$1,942,700 of the existing buildings and off-site improvement including providing utility connections; and b) subsequently lease those properties to EVERgreen Residential, Ltd. for a minimum of forty-five years. This commitment is limited to \$2,603,720 which is a portion of the \$4,603,720 detailed in the enclosed city resolution and letter mailed on April 5, 2012. The City will perform the off-site and site improvements prior to leasing the underlying fee simple estate to the development owners.

Prior to the issuance of a commitment from the City, the above stated funding, acquisition, demolition, and site improvements will be reviewed and considered by the City Council by August 1, 2012 and is contingent upon the success of the applicant to secure other project approvals, including but not limited to Low Income Housing Tax Credits.

It is our understanding that this letter is due in your office by April 16, 2012 in order for the application for 1701 Canton - EVERgreen Residences to be considered for the 9% LIHTC allocation. If you need additional information, please contact Bernadette Mitchell, Assistant Director, at (214) 670-3619.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry Killingsworth', written over a horizontal line.

Jerry Killingsworth, Director  
Housing/Community Services Department

c: Cameron Dorsey, Multifamily Housing Director, TDHCA  
Bernadette M. Mitchell, Assistant Director, Housing/Community Services Department  
Etoria Anderson, Coordinator IV, Housing/Community Services Department

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, an application for The Hamilton (12192) was submitted under the 2012 Competitive Housing Tax Credit Program; and

**WHEREAS**, staff determined that the proposed New Construction Development is within one (1) linear mile of an existing transaction that received an allocation of tax credits for New Construction within the last three (3) years; and

**WHEREAS**, staff terminated the application in accordance with §50.8(2)(B) of the Qualified Allocation Plan (QAP) as a result of the violation of the concentration provision of the QAP and state statute; and

**WHEREAS**, the termination was upheld by the Executive Director upon appeal by the applicant; therefore

It is hereby,

**RESOLVED**, the applicant's appeal of staff's decision to terminate The Hamilton (12192) is hereby denied.

**BACKGROUND**

The Hamilton submitted an application for \$2,000,000 in Housing Tax Credits for the New Construction of 177 units targeting the general population. The application is the third highest scoring in Urban Region 6 and was prioritized for a complete staff review.

Upon initial review staff determined that the proposed development is located within one (1) linear mile of Zion Gardens (10035), a New Construction transaction targeting the general population which received an allocation in 2010. Subsequently, the application for The Hamilton was terminated and the review suspended.

Pursuant to §50.8(2)(B)(iv) of the QAP, there are some exceptions to the rule that would not deem the application ineligible, including if "the Development is using federal HOPE VI funds received through the United States Department of Housing and Urban Development; locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§12701 et seq.); or funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. §§5301 et seq.)."

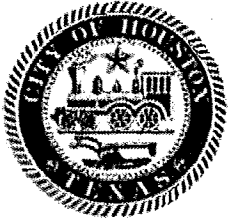
The applicant, in their appeal, claims that because he has applied for funding from the City of Houston that he falls under this exception. The original application did include a letter from the City of Houston indicating that the Applicant had submitted an “Affordable Rental Housing Application for HOME Investment Partnership Program funds” in the amount of \$2 million. However, the receipt of local HOME funds does not qualify as one of the exceptions to the rule. In addition, because the letter only indicates receipt of an application, there is no guarantee that the funds will ultimately be used for the Development.

The applicant now claims that the funds for which he applied to the City of Houston could possibly come from another source (not HOME), namely Tax Increment Reinvestment Zone funds and/or Community Development Block Grant – Disaster Recovery funds. The applicant submitted a new letter from the City of Houston dated May 22 confirming this as a possibility. The applicant further claims that because the QAP allows for substitution of sources under §50.9(b)(5) related to the scoring item Commitment of Funding by a Unit of General Local Government, that the same type of substitution should be allowed in order to qualify for an exception to the 1 Mile/3 Year rule.

Staff asserts that the application does not qualify for an exception to the rule based on the fact that the applicant does not have any of the eligible funding sources in place, nor even a commitment for such funding. In the absence of such a commitment in the application the only action available to maintain eligibility would have been submission of a resolution from the City by April 2, 2012, which was not received.

Additionally, there is no indication in the QAP that the applicant need only apply for the funding, and in this specific case, there is still no confirmation that the funding would be from an eligible source, should it be awarded. Lastly, the ability to substitute funds referenced by the applicant is only applicable to funds used to achieve points under a specific scoring criterion and has no relevance to the concentration policy.

Staff recommends denial of the appeal.



**CITY OF HOUSTON**  
Housing and Community Development Department

**Annise D. Parker**

Mayor

Neal Rackleff  
Interim Director  
601 Sawyer Street, Suite 400  
Houston, Texas 77007

T. (713) 868-8300  
F. (713) 868-8414  
[www.houstonhousing.org](http://www.houstonhousing.org)

February 29, 2012

Ms. Lily Kavthekar  
The Hamilton Apartments, L.P.  
1500 N Post Oak Road, Suite 190  
Houston, Texas 77057

Re: TDHCA Application #12192  
The Hamilton Apartments

Dear Ms. Kavthekar:

This letter acknowledges that the City of Houston Housing and Community Development Department has received the Affordable Rental Housing Application for HOME Investment Partnership Program funds, which will become available after March 1, 2012, in the amount of \$2 million, on behalf of The Hamilton Apartments, L.P.

The application is submitted for the construction of The Hamilton Apartments, 148-unit multifamily affordable housing facility at the 1800 block of St. Joseph Parkway, Houston, Texas, 77003.

Sincerely,

  
Juanita Thomas  
Commercial Division

# COATS | ROSE

*A Professional Corporation*

BARRY J. PALMER

bpalmer@coatsrose.com  
Direct Dial  
(713) 653-7395  
Direct Fax  
(713) 890-3944

June 6, 2012

By Email to TDHCA Board Members c/o tim.irvine@tdhca.state.tx.us

TDHCA Board Members  
Texas Department of Housing  
and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

RE: The Hamilton Apartments, Houston, Harris County, Texas (TDHCA # 12192);  
**Appeal of Termination of Application.**

Dear TDHCA Board Members:

The developer for The Hamilton Apartments (“**Project**”) is appealing the termination of the 2012 Competitive Housing Tax Credit Application (the “**Application**”). The Application was terminated pursuant to the “One Mile Three Year Rule” (the “**Rule**”), as set out in §50.8(2)(B) of the 2012-2013 Qualified Allocation Plan (the “**QAP**”). By letter dated May 22, 2012, a copy of which should be in your Board Book, the basis of this appeal was laid out, and we refer you to that discussion. By letter dated May 31, 2012, but delivered by email on June 5, 2012, the Executive Director declined to grant the appeal on the following basis:

We’ve reviewed the relevant information and rules and find that the application continues to violate this concentration provision of the QAP. To date, CDBG funding from the City of Houston has not been committed to the subject development. In the absence of a commitment of CDBG funds from the City of Houston or documentation meeting another qualifying criterion, a resolution would have been required by April 2, 2012 in order to meet the requirements in §50.8(2)(B). No documentation was received that meets the requirements for eligibility under this paragraph. Reference to other provisions of the QAP, such as the ability to substitute funds under §50.9(b)(5), are not relevant to a determination with regard to the one mile three year rule. Your request for reinstatement of The Hamilton (12192) is hereby denied.

The TDHCA Staff is attempting to impose upon this Application additional requirements which are not stated in the QAP. Section 50.8 (copy of relevant portions is attached as Exhibit A) states that “the purpose of this section is to **identify** the mandatory requirements that must be submitted at the time of the original Application submission unless specifically indicated otherwise.”

3 East Greenway Plaza, Suite 2000 Houston, Texas 77046-0307  
Phone: 713-651-0111 Fax: 713-651-0220  
Web: [www.coatsrose.com](http://www.coatsrose.com)



Section 50.8(2) states that if certain governing body resolutions are being relied upon, they be submitted to the TDHCA by the Resolutions Delivery Date (April 2, 2012). The Rule is stated in §50.8(2)(iv)(2)(B). Included under §50.8(2)(B)(iv)(IV) is a governing body resolution that specifically allows the construction of a new Development and is one of the means of providing an exemption to the Rule. However, it is crucial to note that there are other exemptions to the Rule, including the one provided in §50.8(2)(iv)(I) which clearly exempts applications that use certain federal and local governmental sources of funding. The explicit language of the QAP does not state any requirement for how the existence of such financing is to be evidenced - only that the development is "using" such financing. **In specific, there is no requirement that a commitment for such funding be provided in the initial application – only that such funding be identified.**

The Application for the Project **identified** the City of Houston financing in the Financing Narrative and the Summary Sources and Uses of Funds and also included a letter from the City of Houston dated February 29, 2012, acknowledging that application had been made through the Affordable Rental Housing Program for \$2,000,000 in funding. The letter is sufficient to provide evidence of the proposed commitment of development funding by a Unit of General Local Government or Governmental Instrumentality under §50.9(b)(5) of the QAP. The requirement set out in §50.9(b)(5) is appropriate since the proposed City of Houston financing will also qualify as a Commitment of Development Funding by a Unit of General Local Government, providing 18 points to the Application. In fact, the City of Houston financing requested is seven and a half times the amount needed to win those 18 points, so the Project is substantially leveraging the Housing Tax Credits requested.

The Hamilton Apartments is a worthy project and is one of only two applications serving General populations that currently score high enough to be funded in Region 6/Urban. Strong evidence of support by the City of Houston will be provided when the commitment for funding is produced with the acceptance of the Commitment Notice, as required by §50.9(b)(5)(A)(ix) of the QAP. The exemption from the Rule was identified in the Application by the inclusion of the City of Houston letter and by other references in the initial Application, just as required by the QAP. Accordingly, we request that no additional requirements be imposed upon the Application that are not supported by the language of the QAP, and that this appeal from termination be granted.

Sincerely,



Barry J. Palmer

cc: Tim Irvine  
Cameron Dorsey  
Jean Latsha  
John Stephen Ford, Jr.

# **EXHIBIT A**

## **Relevant Portions of §50.8 of the 2012-2013 Qualified Allocation Plan**

- (5) **Procedures for Recommendation to the Board.** Consistent with subsection (d) of this section, Staff will make its recommendation to the Committee. The Committee will make Commitment recommendations to the Board. Staff will provide the Board with a written, documented recommendation which will address at a minimum the financial and programmatic viability of each Application and a breakdown of which Selection Criteria were met by the Applicant. The Board will make its decision based on §50.10(a) of this chapter (relating to Board Decisions).
- (6) **Limitation on Allocation.** No more than \$350,000 in credits will be committed from the current State Housing Credit Ceiling. To the extent Applications are received that exceed the maximum limitation; Staff will prepare the award for Board consideration noting for the Board that the award would require a waiver of this limitation.

**§50.8. Threshold Criteria.**

The purpose of this section is to identify the mandatory requirements that must be submitted at the time of the original Application submission unless specifically indicated otherwise. If any of the Threshold Criteria indicated below are not resolved, clarified or corrected to the satisfaction of the Department, through the Administrative Deficiency process, the Application will be terminated.

- (1) **Submission of the Application.** Includes the entire Uniform Application and any other supplemental forms which may be required by the Department and in the format prescribed by the Department. (§2306.1111)
- (2) **Governing Body Resolutions.** The following resolutions, if applicable to the proposed Development, must be submitted by the Resolutions Delivery Date as indicated in §50.3 of this chapter (relating to Program Calendar) and may not be more than one year old from the beginning of the Application Acceptance Period or for Tax-Exempt Bond Developments from the date Parts 1 - 4 are submitted to the Department.
  - (A) **Twice the State Average.** If the Development is located in a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board) the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development. Such approval must reference this rule and authorize an allocation of Housing Tax Credits for the Development; (§2306.6703(a)(4))
  - (B) **One Mile Three Year Rule.** If the Applicant proposes to construct a Development proposing New Construction or Adaptive Reuse (excluding New Construction of non-residential buildings) that is located one linear mile (measured by a straight line on a map) or less from a Development that: (§2306.6703(a)(3))
    - (i) serves the same type of household as the new Development, regardless of whether the Development serves families, elderly individuals, or another type of household; and
    - (ii) has received an allocation of Housing Tax Credits or private activity bonds for any New Construction at any time during the three-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments the three-year period preceding the date Parts 1 - 4 are submitted); and
    - (iii) has not been withdrawn or terminated from the Housing Tax Credit Program;
    - (iv) an Application is not ineligible under this paragraph if:

- (I) the Development is using federal HOPE VI funds received through the United States Department of Housing and Urban Development; locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§12701 et seq.); or funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. §§5301 et seq.); or
  - (II) the Development is located in a county with a population of less than one million; or
  - (III) the Development is located outside of a metropolitan statistical area; or
  - (IV) the Governing Body, of the Unit of General Local Government where the Development is to be located has by vote specifically allowed the construction of a new Development located within one linear mile or less from a Development described under clause (i) of this subparagraph.
- (v) In determining when an existing Development received an allocation as it relates to the application of the three-year period, the Development will be considered from the date the Board took action on approving the allocation of tax credits. In dealing with ties between two or more Developments as it relates to this rule, refer to §50.6(f) of this chapter (relating to Allocation and Award Process).
- (C) **Developments in Certain Census Tracts.** Staff will not recommend and the Board will not allocate Housing Tax Credits for a Competitive Housing Tax Credit or Tax-Exempt Bond Development located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tract as established by the U.S. Census Bureau for the most recent Decennial Census unless:
- (i) the Development is in a Place whose population is less than 100,000;
  - (ii) the Applicant proposes only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings); or
  - (iii) submits to the Department an approval of the Development referencing this rule in the form of a resolution from the Governing Body of the appropriate municipality or county containing the Development. These ineligible census tracts are outlined in the Housing Tax Credit Site Demographic Characteristics Report for the current Application Round.
- (3) **Rehabilitation Costs.** Developments involving Rehabilitation must establish a scope of work that will substantially improve the interiors of all Units and exterior deferred maintenance, at a minimum, and will involve at least \$25,000 per Unit in direct construction cost, also referred to as building costs in §1.32(e)(4) of this title (relating to Underwriting Rules and Guidelines), and site work. If financed with TRDO-USDA the minimum is \$19,000 and for Tax-Exempt Bond Developments, less than twenty-five (25) years old, the minimum is \$15,000 per Unit.
- (4) **Experience Requirement.** The purpose of the experience requirement is for someone in the Development to demonstrate they have experience in development. Evidence must be provided in the Application that meets the criteria as stated in subparagraph (A) of this paragraph. An Applicant may submit their experience documentation prior to the Application deadline and the Department will attempt to review and respond within thirty (30) days of submission regarding approval of the experience requirement. Experience of multiple parties may not be aggregated.
- (A) A Principal of the Developer, Development Owner, General Partner or General Contractor must establish that they have experience in the development of 150 units or more. Acceptable documentation to meet this requirement shall include:
- (i) an experience certificate issued by the Department in the past three (3) years; or
  - (ii) any of the items in subclauses (I) - (IX) of this clause:

# COATS | ROSE

*A Professional Corporation*

BARRY J. PALMER

bpalmer@coatsrose.com  
Direct Dial  
(713) 653-7395  
Direct Fax  
(713) 890-3944

May 22, 2012

By Email to [tim.irvine@tdhca.state.tx.us](mailto:tim.irvine@tdhca.state.tx.us)  
Timothy K. Irvine, Executive Director  
Texas Department of Housing  
and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

RE: The Hamilton Apartments, Houston, Harris County, Texas (TDHCA # 12192);  
**Appeal of Termination of Application.**

Dear Mr. Irvine:

This letter appeals the termination of the 2012 Competitive Housing Tax Credit Application (the "Application") filed in connection with The Hamilton Apartments (the "Project") as advised by letter dated May 15, 2012 from Cameron F. Dorsey, Director of Multifamily Finance. The Application was terminated pursuant to the "One Mile Three Year Rule" (the "Rule"), as set out in §50.8(2)(B) of the 2012-2013 Qualified Allocation Plan (the "QAP"). For ease of reference, we have attached that QAP provision as Exhibit "A."

### **The Rule.**

The Rule provides that if an Application is for a New Construction or Adaptive Reuse project that will be located within one (1) linear mile of a development that serves the same type of household and received an allocation of Housing Tax Credits within the three-year period preceding the date the application round begins, then the Application is not eligible unless an exemption applies.

### **Source of Financing Exceptions to the Rule.**

Although Mr. Dorsey concluded that only a resolution of the Houston City Council could trigger an exemption from ineligibility under the Rule, we wish to point out that subsection (iv) of the Rule actually contains four (4) potential exemptions, of which the City resolution is only one. In particular, the first exemption is based upon various sources of financing for the project, including HOPE VI, Tax Increment Financing; Cranston-Gonzalez funding (i.e., HOME and

3 East Greenway Plaza, Suite 2000 Houston, Texas 77046-0307  
Phone: 713-651-0111 Fax: 713-651-0220  
Web: [www.coatsrose.com](http://www.coatsrose.com)

CHDO financing); or Housing and Community Development Act of 1974 funding (i.e., CDBG financing) (See highlighted portion of Exhibit “A”).

**Application to City of Houston for Financing.**

While there is no HOPE VI financing or CHDO financing available for the Project, the original Application did include evidence that \$2,000,000 in 2012 Affordable Rental Housing Financing was applied for from the City of Houston. The format of the City’s acknowledgement of receipt of an application for funding was in a format appropriate to be treated as a Commitment of Development Funding by a Unit of General Local Government (“UGLG”), in compliance with §50.9(b)(5)(A)(viii) of the QAP. The letter dated February 29, 2012 from Juanita Thomas of the City acknowledged receipt of an application for funds under the HOME Investment Partnership Program. In actuality, however, the Affordable Rental Housing Application that was filed with the City was nonspecific as to the desired funding source. The City reserves the right to determine the most appropriate funding source, given the circumstances of the development.

**Funding Sources May Be Substituted Under §50.9(b)(5)(iii).**

Section 50.9(b)(5)(A)(iii) of the QAP permits UGLG Funding Sources to be substituted in response to an Administrative Deficiency Notice or after the Application has been submitted to the Department; however, §50.9(b)(5)(A)(ix) provides that the evidence of commitment of funds must be approved by the Governing Body of the UGLG or its designee or agent by the time the TDHCA’s Commitment Notice is accepted. It is the intention of the Applicant to provide evidence of City of Houston funding from a source that exempts the Project under the Rule. In furtherance of that intent, enclosed as Exhibit “B” is a letter from the City of Houston Department of Housing and Community Development indicating that the most likely funding sources are Tax Increment Reinvestment Zone funds and Community Development Block Grant funds. The Applicant contemplates providing a commitment for such City financing at or before the acceptance of the TDHCA’s Commitment Notice.

**City of Houston Loan Provides Exemption from Rule.**

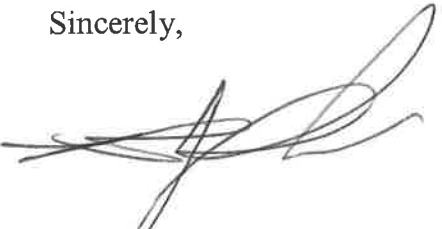
Under §50.8, threshold criteria must be submitted at the time of the original Application submission, unless specifically indicated otherwise. The financing to be obtained from the City of Houston qualifies as locally approved funds from a tax increment financing district and as funds provided under the Housing and Community Development Act of 1974 – each of which is a funding source that exempts an application from the Rule. Because the City financing is intended to qualify as UGLG support, it is specifically permitted to be substituted into the Application after the Application has been submitted to the Department under §50.9(b)(5)(A)(ix). In so doing, the Project will complete its qualification for an exemption from the Rule under §50.8(2)(B)(iv)(I).

Accordingly, we hereby request that you reinstate the application for The Hamilton Apartments on the grounds that proposed financing by the City of Houston meets the requirements for an exemption from the Rule under §50.8(2)(B)(iv) of the QAP.

Timothy K. Irvine, Executive Director  
May 22, 2012  
Page 3

In the event that you do not reinstate the Application, then please add this appeal to the Agenda to be heard by the TDHCA Board at its next meeting, currently scheduled for June 14, 2012.

Sincerely,



Barry J. Palmer

cc: Cameron Dorsey  
Jean Latsha  
John Stephen Ford, Jr.

# **EXHIBIT A**



# §50.8(2)(B) of the 2012-2013 Qualified Allocation Plan

(B) **One Mile Three Year Rule.** If the Applicant proposes to construct a Development proposing New Construction or Adaptive Reuse (excluding New Construction of non-residential buildings) that is located one linear mile (measured by a straight line on a map) or less from a Development that: (§2306.6703(a)(3))

(i) serves the same type of household as the new Development, regardless of whether the Development serves families, elderly individuals, or another type of household; and

(ii) has received an allocation of Housing Tax Credits or private activity bonds for any New Construction at any time during the three-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments the three-year period preceding the date Parts 1 - 4 are submitted); and

(iii) has not been withdrawn or terminated from the Housing Tax Credit Program;

(iv) an Application is not ineligible under this paragraph if:

(I) the Development is using federal HOPE VI funds received through the United States Department of Housing and Urban Development; locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§12701 et seq.); or funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. §§5301 et seq.); or

(II) the Development is located in a county with a population of less than one million; or

(III) the Development is located outside of a metropolitan statistical area; or

(IV) the Governing Body, of the Unit of General Local Government where the Development is to be located has by vote specifically allowed the construction of a new Development located within one linear mile or less from a Development described under clause (i) of this subparagraph.

(v) In determining when an existing Development received an allocation as it relates to the application of the three-year period, the Development will be considered from the date the Board took action on approving the allocation of tax credits. In dealing with ties between two or more Developments as it relates to this rule, refer to §50.6(f) of this chapter (relating to Allocation and Award Process).

# **EXHIBIT B**



**CITY OF HOUSTON**  
Housing and Community Development Department

**Annise D. Parker**

Mayor

Neal Rackleff  
Interim Director  
601 Sawyer Street, Suite 400  
Houston, Texas 77007

T. (713) 868-8300  
F. (713) 868-8414  
[www.houstonhousing.org](http://www.houstonhousing.org)

May 22, 2012

Ms. Lily Kavthekar  
The Hamilton Apartments, L.P.  
1500 N. Post Oak Road, Suite 190  
Houston, Texas 77057

RE: TDHCA Application #12192  
The Hamilton Apartments

Dear Ms. Kavthekar:

In connection with the 2012 Affordable Rental Housing Application filed with the City of Houston Housing and Community Development Department, please be advised that the City reserves the right to determine what source of funding it has available that is most appropriate for the applicant project. An initial review of the application for The Hamilton Apartments indicates that the project passes the threshold requirements for funding and that, subject to city council approval, likely sources of financing will be a combination of the following funds:

- (i) Tax Increment Reinvestment Zone funds; and
- (ii) Community Development Block Grant –Disaster Recovery funds.

You have applied for \$2,000,000 in funding, and we acknowledge that such funding request is intended to comply with Section 50.9(b) (5) of the 2012 Qualified Allocation Plan for Housing Tax Credit developments. We anticipate that awards of funding will be announced by August 1, 2012. If funding support is granted, the support will be in the form of a loan with a term of not less than three years, an interest rate at least 100 basis points below the current market rate, and origination fees not exceeding 2% of the loan amount.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neal Rackleff".

Neal Rackleff

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, a 2012 competitive housing tax credit scoring notice was provided to the applicant of Cypress Lake Apartments (#12225);

**WHEREAS**, the staff awarded (4) points instead of six (6) points to the application under §50.9(b)(13) Community Input Other than QCP;

**WHEREAS**, the applicant appealed the scoring notice and requested that the Board award an additional two (2) points under §50.9(b)(13);

**RESOLVED**, the applicant's appeal of the scoring notice for Cypress Lake Apartments (#12225) is hereby denied.

**BACKGROUND**

On May 22, 2012, staff sent a scoring notice to the applicant of Cypress Lake Apartments, a 2012 competitive housing tax credit application submitted in Urban Region 1. After a complete staff review, it was determined that the application qualified to receive only four (4) points instead of the maximum six (6) points possible for Community Support Other than QCP.

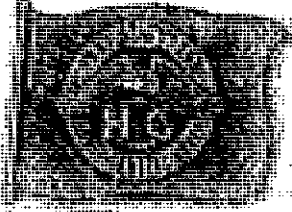
The applicant submitted three letters of support under §50.9(b)(13), one from Redbud Baptist Church, one from Wolfforth Chamber of Commerce, and one from the Harley Owners Group Flatlanders Hog Club. Staff determined that the first two letters qualified for points. However, staff did not award points for the letter from the Harley Owners Club.

Pursuant to the QAP, letters must come "from a community or civic organization that serves the community in which the Development Site is located." In addition, "the community or civic organization must provide some documentation of its existence in the community in which the Development is located including, but not limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development will not be counted." In the course of staff's review of the organization's letter it was not clear that the Harley Owners Club was active in the community. Through the administrative deficiency process, a revised letter was submitted which included a website address. However, after searching the website, staff again could not find reasonable evidence that the organization was active in the community.

The applicant, in his appeal, introduced new information in the form of a third letter from the group that indicates they have held rallies, auctions, and fundraisers for other charitable organizations. However, outside of this last statement, staff could not find reasonable evidence that this qualifies as a community or civic organization. A letter indicating donations were made to a local nonprofit identified the location of the nonprofit in Lubbock rather than Wolfforth. The letter and website both state that the primary purpose of the organization is to promote safe riding skills for its members. While the organization is rather large, it does not appear to be active outside of its own membership.

Staff recommends denial of the appeal.

submitted in  
original application



**HARLEY OWNER'S GROUP  
FLATLANDERS HOG CLUB**

February 23, 2012

Mr. Paul Holden  
16188 Oak Grove Road  
Buda, Texas 78610

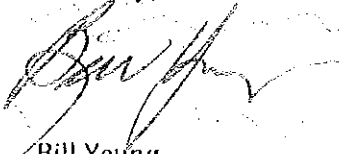
Re: Cypress Lake Apartments  
Wolfforth, Texas  
TDHCA #: 12225

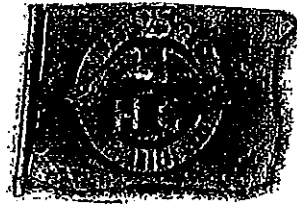
Dear Sir:

The "Flatlanders Hog Club" has recently become aware that the Cypress Lake Apartments, an affordable housing project, is to be built by your company in Wolfforth, Texas and will be located on 90<sup>th</sup> Street, east of the Brownfield Highway.

In our opinion, this type of housing is very needed and important for a continued growth in Wolfforth and the surrounding communities, as well as being quite beneficial for the City of Lubbock. Since the service area of our club encompasses Wolfforth, please be advised that the Flatlanders Hog Club is in support of this proposed community. In my opinion, the City of Wolfforth is a very good location and very accessible to all points around the area.

Sincerely,

  
Bill Young  
Harley Owner's Group  
"Flatlander's Hog Club"



submitted in  
deficiency  
response

**HARLEY OWNER'S GROUP  
FLATLANDERS HOG CLUB**

February 23, 2012

Mr. Paul Holden  
16188 Oak Grove Road  
Buda, Texas 78610

Re: Cypress Lake Apartments  
Wolfforth, Texas  
TDHCA #: 12225

Dear Sir:

The "Flatlanders Hog Club" has recently become aware that the Cypress Lake Apartments, an affordable housing project, is to be built by your company in Wolfforth, Texas and will be located on 90<sup>th</sup> Street, east of the Brownfield Highway.

It is our opinion that this type of housing is important for the continued growth in Wolfforth and the surrounding communities, as well as being quite beneficial for the City of Lubbock. Since the service area of our club encompasses Wolfforth and we are active within that community as well as surrounding areas, please be advised that the Flatlanders Hog Club is in support of this proposed community. It is our opinion, the City of Wolfforth is a very good location and very accessible to all points around the area.

Please visit our website at [www.flatlanders.com](http://www.flatlanders.com). Since Wolfforth is a suburb of Lubbock we work extensively in both cities. If you have any questions, feel free to contact me at (806) 797-3231 to discuss any details.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Young". The signature is stylized and includes a long, sweeping underline that extends to the right.

Bill Young  
Harley Owner's Group  
"Flatlander's Hog Club"

# FLATLANDER

LUBBOCK, TEXAS  
CHARTER NO. 1957  
HARLEY OWNERS GROUP

HOME

EVENTS

OFFICERS

ROAD CAPTAINS

PHOTO ALBUM

MEMBERSHIP

SAFETY

LINKS

RAFFLE TICKETS

SUGGESTIONS

CONTACT US



Local Conditions

71.0°

WINDS: SOUTHEAST AT

5.8 MPH (S KI)

Mostly Cloudy

NOAA Forecast Radar

© Copyright Lubbock Texas

Chapter #1957

Privacy Policy | Contact Us

The Lubbock Chapter Harley-Davidson Owner's Group (HOG) is a non-profit group of motorcycle owner enthusiasts. This web site is not owned, maintained or directly affiliated with Harley-Davidson, Inc., and is intended to be a public service to our community by promoting our local HOG Chapter and its activities.



## Welcome

We are the Lubbock Harley Owner's Group, sponsored by: Wild West Harley-Davidson in Lubbock, Texas.

Our Chapter, #1957, was founded in 2004 and we currently have over 500 members.



We believe that hosting safe, fun rides is one of the best ways for you to enjoy your Harley.

Our Chapter Goals are:

- To promote safe riding skills by sponsoring rides and providing safety information.
- Increase participation and enjoyment for all members.
- Present a positive image wherever we go.
- To promote a sense of camaraderie, belonging and brotherhood for all chapter members.
- To ride and have fun.

So join and ride with us. Meet new people. Learn more about safe riding skills...and have fun!

Interested in joining?

Print and fill out the New Member Application (on Contact page), include the \$20.00 fee, and bring it to a meeting or snail-mail it to:

### ADMIN LOGIN

Remember me

LOGIN

### NOT A MEMBER?

JOIN US



FLATLANDER  
PHOTO ALBUM



JOIN US ON  
**facebook**  
click here



# JMZ Land Company, LLC

May 30, 2012

Director of Housing Tax Credits  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

Re: Appeal of Final Score  
#12225 Cypress Lake Apartments  
Wolfforth, Texas

Dear Sir:

During the TDHCA's application review process, 2-points that were requested by the applicant were denied in the notification of the final score. These 2-points were related to a letter of support from the Harley Owner's Group Flatlander's Hog Club for justification of "Community Input other than QCP". The support letter from this organization that was a part of the application is attached.

In an email dated April 16, 2012 from Ben Sheppard requesting additional information for the Eligibility/Selection/Threshold review, the following comment was made.

*"50.0(b)(13) (2 points per organization) Other Than QCP letter from Redbud Baptist Church is insufficient because it only expresses the support of individuals and does not convey the support of the organization. In addition, no evidence to show that the organization is active in the community was provided, nor do Wolfforth Chamber of Commerce or Harley Owner's Group letters include evidence of these organization's activity in the community".*

These three letters were amended and resubmitted to Mr. Sheppard. The letters from the Redbud Baptist Church and the Wolfforth Chamber of Commerce were accepted; however, the Harley Owner's Group Flatlander's Hog Club letter was rejected because of the following in an email dated May 3, 2012.

*"The deficiency was that the motorcycle club's website did not appear to contain anything that indicated it was a civic organization. The site stated the reason for the club's existence was to serve its members and did not indicate any scheduled or past activities that served the community. I do not think this deficiency can be corrected."*

In reviewing the language within the 2012 QAP, it does not show a requirement that the organization must have published information on its website showing all of its activities within the community that it is serving. The requirement shown in the QAP is as follows:

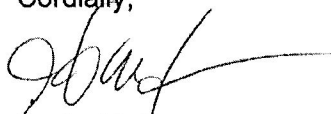
*"The community or civic organization must provide some documentation of its existence in the community in which the Development is located including, but not limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development will not be counted."*

In the revised attached letter from the Harley Owner's Group Flatlander's Hog Club, the letter shows that the organization is active within the community, including the Wolfforth area, and gives a website for Mr. Sheppard to refer. It appears as though this organization has met at least the minimum requirements that are shown in the QAP. By denying this letter of support, Mr. Sheppard has put additional requirements in place that are not called for in the QAP and has unfairly discriminated against this application.

To give more clarity to this issue, I have asked that the Harley Owner's Group Flatlander's Hog Club send a third letter explaining the types of charitable organizations that they support financially within Lubbock County. That letter has been attached.

In summary, by the end of the deficiency process, the Flatlander's Hog Club had provided the required evidence of activity/service within the community in which the Project is located and support of the Project. Although there was a typo in the website address given, Mr. Sheppard did find the organization's website which confirms the existence, membership, and activity of the organization and the fact that the Flatlander's Hog Club is a local chapter of Harley Owner's Group, which is a 501(c)(3) organization. Finally, the third letter from the Flatlander's Hog Club provides further information about the number of members, the kinds of activities held by the organization and the charities that have been supported by fund raisers held by the membership – even though such information is not a requirement of the QAP. Accordingly, I do hereby request that these 2-points be reinstated to this application.

Cordially,



Justin M. Zimmerman  
Member

C: Tim Irvine  
Cameron Dorsey  
Jean Latsha



February 23, 2012

Mr. Paul Holden  
16188 Oak Grove Road  
Buda, Texas 78610

Re: Cypress Lake Apartments  
Wolfforth, Texas  
TDHCA #: 12225

Dear Mr. Holden:

It has come to my attention that there is some discussion of the Flatlander's Hog Club being considered as a community organization. Please be advised that our organization was formed in 2004 with the intent and purpose of promoting safety on the roadways and increasing riding skills for motorcyclists. We now have 500 members throughout Lubbock County, including Wolfforth, and continue to work in our community. Our meetings are conducted for our members as well as open meetings where non-members can attend and gather information about our club.

In addition, our membership is committed to helping charitable organizations within Lubbock County. Within the past 3-years, we have held rallies, auctions, fund raisers, etc., to raise money for the following charities.

- Toys for Tots
- Boys Ranch
- Muscular Dystrophy Association
- Race for the Cure
- Children's Home of Lubbock
- Family Guidance Counsel

Even though these donations and rallies are not shown on our website, they have occurred and quite a lot of money has been donated in this area. Therefore, this amount of community interaction and outreach qualifies us to be considered a "Community Organization".

Please visit our website at [www.flatlandertog.com](http://www.flatlandertog.com).

Sincerely,

  
Bill Young

Harley Owner's Group  
"Flatlander's Hog Club"



MASTER

Texas Boys Ranch

P.O. Box 5665 - Lubbock, Texas 79408

806-747-3187 - FAX, 806-747-3193

October 21, 2011

Dear Flatlanders,

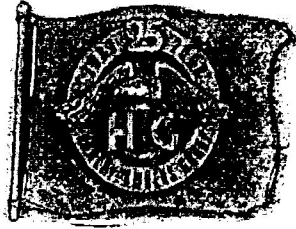
Thank you so much for sponsoring our children at Christmas again. We are so overwhelmed by your generosity and are excited to see the faces of our children when they receive your gifts. We also look forward to seeing everyone in your group again.

I wanted to make you aware that we will most likely have some transition with our children around the holidays. This is a good time for the kids to go to adoptive homes or family placements due to the holidays as well as the school break. I am aware of one family that may be leaving around this time. The judge has not approved the move so I wanted to include them in your list. However, if they are moved in the next month or two I will let you know immediately.

Thank you,

*Lindsey Kennedy*  
Lindsey Kennedy

**Support Letter Submitted with the Application  
On March 1, 2012**



***HARLEY OWNER'S GROUP  
FLATLANDERS HOG CLUB***

February 23, 2012

Mr. Paul Holden  
16188 Oak Grove Road  
Buda, Texas 78610

Re: Cypress Lake Apartments  
Wolfforth, Texas  
TDHCA #: 12225

Dear Sir:

The "Flatlanders Hog Club" has recently become aware that the Cypress Lake Apartments, an affordable housing project, is to be built by your company in Wolfforth, Texas and will be located on 90<sup>th</sup> Street, east of the Brownfield Highway.

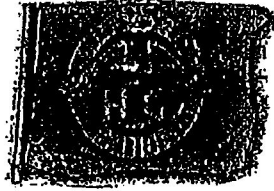
In our opinion, this type of housing is very needed and important for a continued growth in Wolfforth and the surrounding communities, as well as being quite beneficial for the City of Lubbock. Since the service area of our club encompasses Wolfforth, please be advised that the Flatlanders Hog Club is in support of this proposed community. In my opinion, the City of Wolfforth is a very good location and very accessible to all points around the area.

Sincerely,

A handwritten signature in cursive script that reads "Bill Young".

Bill Young  
***Harley Owner's Group  
"Flatlander's Hog Club"***

**Revised Support Letter Submitted with the  
Response to the Agency of the Deficiency Notice**



**HARLEY OWNER'S GROUP  
FLATLANDERS HOG CLUB.**

February 23, 2012

Mr. Paul Holden  
16188 Oak Grove Road  
Buda, Texas 78610

Re: Cypress Lake Apartments  
Wolfforth, Texas  
TDHCA #: 12225

Dear Sir:

The "Flatlanders Hog Club" has recently become aware that the Cypress Lake Apartments, an affordable housing project, is to be built by your company in Wolfforth, Texas and will be located on 90<sup>th</sup> Street, east of the Brownfield Highway.

It is our opinion that this type of housing is important for the continued growth in Wolfforth and the surrounding communities, as well as being quite beneficial for the City of Lubbock. Since the service area of our club encompasses Wolfforth and we are active within that community as well as surrounding areas, please be advised that the Flatlanders Hog Club is in support of this proposed community. It is our opinion, the City of Wolfforth is a very good location and very accessible to all points around the area.

Please visit our website at [www.flatlanders.com](http://www.flatlanders.com). Since Wolfforth is a suburb of Lubbock we work extensively in both cities. If you have any questions, feel free to contact me at (806) 797-3231 to discuss any details.

Sincerely,

Bill Young  
Harley Owner's Group  
"Flatlander's Hog Club"



**Email response from Ben Sheppard regarding the  
reason for rejecting the letter of support**

**Subject:** 12225 Cypress Lake Apts., Wolfforth, TX #12225  
**Date:** Thursday, May 3, 2012 4:04 PM  
**From:** Ben Sheppard <ben.sheppard@tdhca.state.tx.us>  
**To:** Paul Holden <pholden52@gmail.com>

The deficiency was that the motorcycle club's website did not appear to contain anything that indicated it was a civic organization. The site stated the reason for the club's existence was to serve its members and did not indicate any scheduled or past activities that served the community. I do not think this deficiency can be corrected.

Thanks,  
Ben

**Ben Sheppard**

Multifamily Housing Specialist  
Texas Department of Housing and Community Affairs  
221 E. 11th Street | Austin, TX 78701  
Office: 512.475.2122

**About TDHCA**

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

**From:** Paul Holden [mailto:pholden52@gmail.com]  
**Sent:** Thursday, May 03, 2012 3:00 PM  
**To:** Ben Sheppard  
**Subject:** Cypress Lake Apts., Wolfforth, TX #12225

Ben:

I was speaking with Ben Mitchell recently and he shared with me that one of the support letters for Community Support Other than QCP was denied because you could not make a firm determination that it was a community organization. After further discussion, it appears as though Mr. Mitchell submitted the information to you on the final day and you did not have time to receive further information.

12271

Reserve at Western Center

Fort Worth

(Appeal information is forthcoming)

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**

**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, an application for Farm Labor Apartments (12302) was submitted under the 2012 Competitive Housing Tax Credit Program under the At-Risk Set-Aside; and

**WHEREAS**, staff determined that the application did not qualify to be considered an At-Risk Development; and

**WHEREAS**, staff terminated the application in accordance with §50.6(c)(3) of the Qualified Allocation Plan (QAP) as a result of not qualifying to compete under the At-Risk Set-Aside; and

**WHEREAS**, the termination was upheld by the Executive Director upon appeal by the applicant; therefore

It is hereby,

**RESOLVED**, the applicant's appeal of staff's decision to terminate Farm Labor Apartments (12302) is hereby denied.

**BACKGROUND**

Farm Labor Apartments submitted an application for \$560,000 in Housing Tax Credits for the New Construction of 48 units targeting the general population. The application is the third highest scoring in At-Risk Set-Aside and was prioritized for a complete staff review.

The application, as submitted, indicated that the existing development had originally been financed with USDA Section 514/516 funds, which included a subsidized permanent loan as well as rental subsidy. Those financing pieces are nearing expiration. However, the applicant also indicated in the application that he did not intend to renew those financial benefits. Upon review staff issued a deficiency to the applicant in order to clarify how the Development qualifies as At-Risk. In a phone conversation between the applicant and staff (in order to clarify staff's position on the At-Risk Set-Aside qualification), the applicant also asserted that those subsidies were not available to the development because there was no market for the targeted population (farm workers) that is associated with those subsidies. Staff made it clear that this was an insufficient rationale for non-renewal of the subsidy but indicated that the ability to address the issue may be available through the administrative deficiency process and that due process was still available to the applicant. However the submitted revisions were substantial.

Staff determined that the revisions, which included changes to the rent schedule, development cost schedule, operating expenses, 15 year pro forma, financing summary, and summary of sources and uses as well as populations served was substantial and outside the scope of an administrative deficiency. The response was not accepted and therefore the development is not considered At-Risk.

The applicant, in their appeal, indicates that the development should be considered At-Risk as it was submitted in the original application and that the subsidy is unavailable. Regarding the rental assistance portion of the subsidy, the decreasing population of domestic farm laborers in Laredo makes it impossible to fill the units if they continue to be reserved for that particular population as is required by the USDA Section 514/516 Program funds. Regarding the subsidized loan, the current note balance is so small that retaining it would not provide any appreciable financial benefit to the development but only complicate the transaction and further limit the populations that can be served in the development.

The lack of a market for farm workers as a reason that renewal of the subsidy is unavailable is insufficient to meet the rule in staff's determination. The applicant indicated clearly in their deficiency response that the subsidy was technically available for renewal from a regulatory standpoint and that market demand is the true barrier. Although the deficiency response was not accepted due to the reasons previously stated, the response itself proved that the subsidy is not unavailable as the applicant indicates. Moreover, the reason flexibility exists in the rule with regard to renewal "if possible" is to address clear regulatory restrictions outside of an applicant's control, such as zoning restrictions that may require a lower density than when originally constructed.

Staff recommends denial of the appeal.



6517 Mapleridge  
Houston, TX. 77081  
T. 713.432.7727  
F. 713.432.0120

June 6, 2012

Mr. Tim Irvine, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Re: Appeal of Termination of Application No. 12302, Farm Labor Apartments, Laredo, Texas

Dear Mr. Irvine:

In response to the Notice of Termination of Application No. 12302, Farm Labor Apartments, Laredo, Texas (“Application”), we would like to appeal the Department’s termination of the Application. The grounds for this appeal assert the Department has incorrectly terminated this Application based on an incorrect interpretation of §50.6(c)(3)(D) of the Qualified Allocation Plan (“QAP”). The issue in dispute in the Notice of Termination is whether or not the Application as originally submitted qualifies for the At-Risk Set-Aside.

In order to qualify in the At-Risk Set-Aside a proposed application must meet the following requirements pursuant to §50.6(c)(3):

- (A) The development must show that it has subsidy or benefit from one of the specifically listed federally funded programs.
- (B) The stipulation to maintain affordability in the contract granting the subsidy is nearing expiration, or the federally insured mortgage is eligible for prepayment or is nearing the end of its mortgage term.
- (C) The Development includes the demolition of the existing Units which have received the financial benefit and that the redevelopment will include the same site.
- (D) The Development is at risk of losing affordability from the financial benefits available to the Development and it must retain or renew all possible financial benefit if available, and at least maintain affordability.

We believe that the Department will agree with us that the Application as submitted meets all the requirements of items A, B and C listed in the paragraph above. Specifically, the existing development was financed under Sections 514 – 516, Housing Act of 1949 (42 U.S.C. §§1484 - 1486) which meets item A. The Development has a contract granting subsidy that is nearing expiration as required by item B. The Development is an existing apartment project consisting of 48 units located on three scattered sites, and our Application proposes demolishing all the units and rebuilding the units back on the largest tract of land of the three scattered sites as

required under item C above. We also believe that the Department will agree with us that our proposed Application meets parts of item D listed above. Farm Labor is at risk of losing affordability because it has a contract nearing expiration and the proposed Application does maintain affordability, in fact, it increases affordability which meets two of the three required elements of item D above.

The dispute with the Department at issue in this Notice of Termination is whether or not the proposed Application **retains or renews all possible financial benefit if available** which is one of the elements required under item D above to be considered in the At-Risk Set-Aside.

On March 21, 2012, the Department sent out its initial deficiency notice on the Application. One of the items in this deficiency notice requested that we provide an explanation of how the Application is meeting §50.6(c)(3)(D). We responded to the deficiency notice but the Department felt that we were still not complying with the requirements set forth in §50.6(c)(3)(D). We requested a conference call with the Department to understand why it believed we were not complying with §50.6(c)(3)(D). In that conference call it was explained to us that the Department did not believe we were retaining or renewing all possible financial benefit if available because our Application did not retain or renew the rental assistance subsidy associated with the existing development and it did not retain or renew the low interest rate loan associated with the existing development. The Department believed that if these items were retained then we could qualify in the At-Risk Set-Aside. While we disagreed that this was necessary to retain those items to qualify for the At-Risk Set-Aside, we complied with the discussion and revised the necessary portions of the Application to show it retaining and renewing some of the existing rental assistance and all of the low interest rate loan on the existing development.

The Notice of Termination received on May 31, 2012 states the amount of changes that we made to the Application during the deficiency process were more than should be allowed under the Administrative Deficiency process, and thus the Application was being terminated. This essentially brings us full circle back to whether or not the original Application as submitted retains or renews all possible financial benefit if available. In order to understand why we believe that our Application is meeting this requirement, it is important that some additional background information on the Farm Labor Apartments be provided.

The Farm Labor Apartments were developed through a program set up by the USDA for domestic farm labor workers. The sources of the financing which paid for the development were a grant from the USDA, a low interest rate loan from the USDA and a cash contribution from the owner. Also associated with the development was rental assistance contract provided by USDA. It is important to understand that because this development was financed through USDA's Farm Labor housing program, all tenants occupying this development are required to be domestic farm labor. When the development was originally completed all 48 units had rental assistance associated with them. Currently, there are only 38 units remaining that still have rental assistance associated with them. The reason for the loss of rental assisted units on this development is because there are fewer and fewer occupants meeting the domestic farm labor requirement. Migrant farm workers used to be all of the tenants occupying this development,

and over the past decade the number of migrant farm workers living in Laredo has decreased significantly and so has the number of farms of the Laredo area.

We believe that the Application as submitted to TDHCA meets the requirements of retaining or renewing all possible financial benefit if available for the following reasons. First, and most importantly, it is impossible to maintain the existing rental assistance with the declining number of domestic farm labor workers residing in Laredo. Therefore, we did not consider it a possibility to retain or renew the rental assistance when we know that we cannot maintain the existing rental assistance long term due to its occupancy requirement of domestic farm labor. It is not possible to have the financial benefit if there are a declining number of domestic farm workers occupying the development. Second, the remaining balance on the low interest rate loan associated with the development is only \$54,000. We did not consider there to be any financial benefit associated with keeping this loan in place as a subordinate mortgage on the new development. By the time the necessary paperwork is processed at USDA and all the attorneys involved in a tax credit transaction review and approve (which generates attorney fees) all the documentation required to maintain this very small subordinate loan, all financial benefit associated with the lower interest rate is lost. There is more financial benefit to the deal if this loan is paid off. Thus, for the reasons stated in this paragraph we felt we were meeting the requirement of retaining or renewing all possible financial benefit if available because we did not consider it possible or available to maintain a declining number of rental assistance units and there was no financial benefit associated with the low interest rate loan.

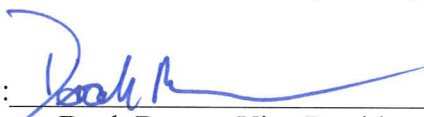
While we acknowledge that the Application is a bit unusual compared to other At-Risk developments proposed in past years in that the proposed development is not retaining or renewing any type of rental assistance or retaining or renewing any type of low interest rate loan, we meet the requirements set forth in the QAP for an At-Risk Application. In fact, we would argue that what we are proposing is exactly why the At-Risk Set-Aside was created. Here we have a development that is continuously losing the subsidy associated with the development which in turn is making the affordability of this development at risk of being lost. One of the main purposes of the At-Risk Set-Aside is to maintain the affordability of existing low income house in the State of Texas, and this is exactly what the development proposed in the Application does.

For the reasons stated herein, we believe the Department should reinstate our Application in the At-Risk Set-Aside. If for any reason you should disagree with us, we respectfully request that you allow us to appeal the termination to the Board. Thank you for your consideration.

Sincerely,

Brownstone Affordable Housing, Ltd.

By: Three B Ventures, Inc., its general partner

By:   
Doak Brown, Vice President



cc: Mr. Cameron Dorsey  
Ms. Laura Llanes  
Mr. Apolonio Flores  
Ms. Leslie Holleman

### PART 3 - FINANCING NARRATIVE

The proposed Farm Labor Apartments involves the demolition of 48 existing USDA housing units on scattered sites and the new construction of a 48-unit development on a single site, funded in part with housing tax credits. The application is At-Risk because it has an existing USDA Rental Assistance Agreement that expires in the 3<sup>rd</sup> Quarter of 2012. The application does not meet the definition of *reconstruction* because we propose to build more units than are being demolished on the current site. The application therefore proposes new construction.

#### Sources of Funds

- An **interim construction loan** from JPMorgan Chase Bank in the amount of **\$4,150,000**. The Lender has issued a term sheet based on current indicative pricing, subject to an award of HTCs and further due diligence. The loan will be secured by a first lien on the real estate and personal property of the development, as well as personal guarantees of the private Developer entity, and its Owner. Terms of the loan are a floating rate of LIBOR + 325 bps, (currently underwritten at 5.00%), a 1.0% origination fee, and a 24-month initial term. The final loan amount will be based on 75% of the MAI Appraised Value, including the value of the tax credits. The loan will provide funding pursuant to a monthly draw schedule based upon AIA standards and interest only will be paid monthly on funded amounts. The construction loan will be repaid with a combination of proceeds from the permanent loan and the Investor's final equity installment. The Lender has issued a letter of interest subject to an award of HTCs and further due diligence.
- A **permanent mortgage** loan from JPMorgan Chase Bank/IMPACT CIL, LLC in the amount of **\$1,230,000**. The Lender has issued a term sheet based on current indicative rates, subject to an award of HTCs and further due diligence. The loan will be secured by a first lien on the real estate and will be non-recourse to the borrower, except as to standard carve-outs for the Borrower, General Partner and Key Principal. Terms of the loan are a fixed rate underwritten at 6.75%, an 18 year term and 30 year amortization period with a maximum loan-to-value of 85% of the stabilized rent-restricted value. Fees include an application fee of \$5,000, commitment fee of 1.5% and conversion fee of \$10,000. Conversion requirements include a 1.20 debt coverage ratio, 90% occupancy for 90 days and payment of customary third-party report. Escrows for taxes and insurance are required, along with replacement reserves of \$250 per unit.
- A **subordinate interim-to-permanent loan** from the Laredo Housing Development Corporation in the amount of **\$96,000**. The loan has a 30-year term, interest at the 5%, and payments made to the extent of net available cash flow. The commitment is subject to receipt of an award of HTCs and due diligence.
- **Equity** installments from the proposed Investor Limited Partner, Hudson Housing Capital in the total amount of **\$4,815,518** or \$0.86 per tax credit dollar. Proceeds from the tax credit syndication will provide funding throughout the construction and placed-in-service period according to a pay-in schedule described in the Syndication Agreement Letter. Hudson requires funded operating and debt service reserves equivalent to six months of operating expenses and debt service, as well as annual replacement reserves of \$250 per unit. The letter of interest is subject to an award of HTCs and further due diligence.
- The displaced residents will receive **relocation vouchers** for a minimum 15 month period during the demolition and reconstruction of the property. Once the property is vacated, the time period will involve 3 months for abatement and demolition and 12 months for new construction. Tenant relocation costs included in the development cost schedule have been calculated using the current Uniform Relocation Act Fixed Residential Moving Cost Schedule published by the Department of Transportation.
- **Developer fees** totaling **\$45,542** representing 7% of the total fee will be deferred and repaid within two years from net available cash flow.

**PART 3 - FINANCING NARRATIVE**  
*Revised March 28, 2012*

submitted in deficiency  
 response - not accepted  
 by staff

The proposed Farm Labor Apartments involves the demolition of 48 existing USDA housing units on scattered sites and the new construction of a 48-unit development on a single site, funded in part with housing tax credits. The application is At-Risk because it has an existing USDA Rental Assistance Agreement that expires in the 3<sup>rd</sup> Quarter of 2012. The application does not meet the definition of *reconstruction* because we propose to build more units than are being demolished on the current site. The application therefore proposes new construction.

**\*\*In response to a deficiency notice dated March 21, 2012, based on guidance from TDHCA Staff regarding required qualifications for the At-Risk Set-Aside, the financing schedules have been revised to include a portion of the existing USDA Rental Assistance plus retainage of the existing USDA 514 loan. Changes to the financial exhibits are summarized below\*\***

Rent Schedule and Utility Allowances

The rent schedule has been revised to include USDA Rental Assistance on the four units at 30% AMI. Rent collected for USDA-assisted units is a combination of "Net Tenant Contribution" plus "Rental Assistance" to equal an "Approved Rent – Occupancy Charge" as shown on the enclosed "Notice of Approved Rent" from Rural Development effective July 1, 2011. The Net Tenant Contribution is comprised of a Gross Tenant Contribution based on a 30% percent of the tenants household income less a utility allowance as shown on the enclosed Project Worksheet.

Annual Operating Expenses and 15-Year Proforma

The annual operating expenses have been revised to include the following: (1) a change in the management fee based on 5% of the new effective gross income; and (2) inclusion of the annual debt service on the existing USDA loan.

Development Cost Schedule and Sources/Uses of Funds

The outstanding balance of the existing USDA loan has been included as an "Other" acquisition cost in the Development Cost Schedule and is offset by a corresponding "source" of funds, subordinate to the primary conventional financing from JPMorgan Chase. Required payments of principal and interest on the existing USDA loan for an 18 month period to include the relocation, construction and lease-up periods have been included as an Escrow on the Development Cost Schedule. The Deferred Developer Fees are revised to reflect a deferral of \$54,732 necessary to balance the sources and uses of funds.

Sources of Funds

- An **interim construction loan** from JPMorgan Chase Bank in the amount of **\$4,150,000**. The Lender has issued a term sheet based on current indicative pricing, subject to an award of HTCs and further due diligence. The loan will be secured by a first lien on the real estate and personal property of the development, as well as personal guarantees of the private Developer entity, and its Owner. Terms of the loan are a floating rate of LIBOR + 325 bps, (currently underwritten at 5.00%), a 1.0% origination fee, and a 24-month initial term. The final loan amount will be based on 75% of the MAI Appraised Value, including the value of the tax credits. The loan will provide funding pursuant to a monthly draw schedule based upon AIA standards and interest only will be paid monthly on funded amounts. The construction loan will be repaid with a combination of proceeds from the permanent loan and the Investor's final equity installment. The Lender has issued a letter of interest subject to an award of HTCs and further due diligence.
- A **permanent mortgage** loan from JPMorgan Chase Bank/IMPACT CIL, LLC in the amount of **\$1,230,000**. The Lender has issued a term sheet based on current indicative rates, subject to an award of HTCs and further due diligence. The loan will be secured by a first lien on the real estate and will be non-recourse to the borrower, except as to standard carve-outs for the Borrower, General Partner and Key Principal. Terms

of the loan are a fixed rate underwritten at 6.75%, an 18 year term and 30 year amortization period with a maximum loan-to-value of 85% of the stabilized rent-restricted value. Fees include an application fee of \$5,000, commitment fee of 1.5% and conversion fee of \$10,000. Conversion requirements include a 1.20 debt coverage ratio, 90% occupancy for 90 days and payment of customary third-party report. Escrows for taxes and insurance are required, along with replacement reserves of \$250 per unit.

- A **subordinate interim-to-permanent loan** from the Laredo Housing Development Corporation in the amount of **\$96,000**. The loan has a 30-year term, interest at the 5%, and payments made to the extent of net available cash flow. The commitment is subject to receipt of an award of HTCs and due diligence.
- The **existing USDA 514 loan** will be retained as subordinate financing. The current outstanding balance is \$54,047 with interest at 1% and monthly payments of \$505.64.
- **Equity** installments from the proposed Investor Limited Partner, Hudson Housing Capital in the total amount of **\$4,815,518** or \$0.86 per tax credit dollar. Proceeds from the tax credit syndication will provide funding throughout the construction and placed-in-service period according to a pay-in schedule described in the Syndication Agreement Letter. Hudson requires funded operating and debt service reserves equivalent to six months of operating expenses and debt service, as well as annual replacement reserves of \$250 per unit. The letter of interest is subject to an award of HTCs and further due diligence.
- The displaced residents will receive **relocation vouchers** for a minimum 15 month period during the demolition and reconstruction of the property. Once the property is vacated, the time period will involve 3 months for abatement and demolition and 12 months for new construction. Tenant relocation costs included in the development cost schedule have been calculated using the current Uniform Relocation Act Fixed Residential Moving Cost Schedule published by the Department of Transportation.
- **Developer fees** totaling **\$54,732** representing 7.95% of the total fee will be deferred and repaid from net available cash flow.

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**June 14, 2012**

Timely Filed Appeals under any of the Department's Program or Underwriting Rules

**RECOMMENDED ACTION**

**WHEREAS**, a 2012 competitive housing tax credit scoring notice was provided to the applicant of Villas at Henderson (#12362);

**WHEREAS**, the staff identified eighteen (18) points that the applicant elected but staff does not believe the application qualifies to receive; and

**WHEREAS**, the applicant appealed the scoring notice and requested that the Board award the eighteen (18) points under §§50.9(b)(8) and (14);

**RESOLVED**, the applicant's appeal of the scoring notice for Villas at Henderson (#12362) is hereby denied.

**BACKGROUND**

On June 1, 2012, staff sent a scoring notice to the applicant of Villas at Henderson, a 2012 competitive housing tax credit application submitted under the At-Risk Set-Aside. After a complete staff review, it was determined that the application did not qualify to receive eighteen (18) of the points elected by the Applicant. The areas subject to appeal are summarized below.

§50.9(b)(8) Cost of Development by Square Foot

Twelve (12) points may be elected by those applicants whose costs (Hard Costs plus profit, overhead, and general requirements) do not exceed \$85 per square foot of Net Rentable Area (NRA). This threshold is for multifamily developments located outside 1<sup>st</sup> Tier Counties. The applicant and staff agree that the total costs are \$10,258,514 and that the NRA is 109,020 square feet. However, the applicant asserts that staff should apply a higher threshold (than the \$85) for this development since it includes some single family units. The Qualified Allocation Plan ("QAP") does not provide for this.

Staff consistently applies this threshold to any developments proposing multifamily construction, and a higher threshold of \$95 per square foot is applied to developments that propose 100% single family design. If all units aren't single family design then the lower \$85 threshold must be met for points to be received. The calculation for multifamily developments is simple. In this case, the applicant's cost per foot of \$94.09 is greater than the maximum of \$85.

The applicant indicates that we should “back in” to the maximum cost per foot by applying a proration approach. Under such a calculation, the \$95 threshold would apply for the single family units and the lower \$85 threshold for the other units, thereby calculating a maximum allowable cost for each and then determining if the applicant exceeds that total cost figure. However, there is no provision in the QAP for such a proration and staff believes the provision simply cannot be read to apply in this manner. If an entire development is not “single family design” then it cannot use the higher cost threshold.

#### §50.9(b)(14) Pre-Application Incentive Points

Six (6) points may be elected by those applicants that submitted a pre-application in accordance with the QAP provided that certain components of the pre-application remain consistent with the full application. Because the score verified by staff was more than 9 points different from the applicant’s self score at pre-application, the points were not awarded by staff. Staff proposes that the pre-application points in this case remain a function of the decision on the other item under appeal today. If the point discrepancy after Board consideration of the other issues is nine points or less, then the pre-application points would be awarded.

Staff recommends denial of the appeal.

Rusk Pines LP  
8455 Lyndon Lane  
Austin, Texas 78729  
512-249-6240  
[duval3@austin.rr.com](mailto:duval3@austin.rr.com)

June 4, 2012

Mr. Tim Irvine, Executive Director  
Texas Department of  
Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

Re: Villas at Henderson  
TDHCA #12362

Dear Mr. Irvine:

We hereby appeal the denial of points for this application for scoring items 50.9(b)(8) and 50.9(b)(14) and request that the points be awarded to this application for those items.

Attached in support of our request are the following:

1. The scoring notice for the application.
2. Our notice of intent to appeal to the Board if our appeal is denied by your office.
3. The Development Narrative included in the application.
4. The Building/Unit Type Configuration Exhibit included in the application.
5. The Development Cost Schedule included in the application.
6. The Unit and Building Plans included in the application.
7. The pertinent pages of the 2012 QAP relating to 50.9(b)(8).

We hereby request that this application be awarded 12 points under 50.9(b)(8) and offer the following as evidence supporting our request:

1. 50.9(b)(8) states that 12 points will be awarded if costs do not exceed \$95 per square foot for single family design and \$85 per square foot for other buildings.
2. Our development narrative clearly states that we have 70 buildings of single-family design and five buildings (10 units) designed as duplexes.
3. Our Building/Unit Type Configuration Exhibit clearly shows that the single family buildings have a total of 99,220 square feet of Net Rentable Area (NRA) and that the duplex buildings have a total of 9,800 square feet of NRA.
4. Our Unit and Building Plans clearly indicate that the 3 and 4 bedroom buildings are of single family design.
5. Based upon these facts, the calculation of the maximum amount of Total Direct Hard Costs that should have been allowed for our development to qualify for points under 50.9(b)(8) is as follows:  $\$95 \times 99,220 \text{ sf} = \$9,425,900$  plus  $\$85 \times 9,800 \text{ sf} = \$833,000$  for a total allowable cost of \$10,258,900.

6. Per the Development Cost Schedule in our application, our Total Direct Hard Costs are \$10,258,514.
7. Since our costs are less than the maximum calculated using the allowed cost per square foot, we should be awarded 12 points for 50.9(b)(8).

Assuming we are awarded the 12 points under 50.9(b)(8), we hereby request that our application be awarded 6 points under 50.9(b)(14) since our application would now be awarded 179 points, which is less than 9 points different from the 178 points requested at Pre-Application.

In summary, we respectfully request that TDHCA award a final score of 219 to our application.

Thank you for your consideration in this matter. If you have any questions or require any further information, please feel free to contact us.

Sincerely,



Jay Collins

President of a General  
Partner of the Applicant



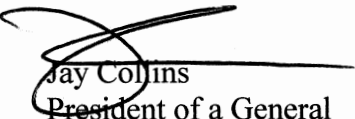
6. Per the Development Cost Schedule in our application, our Total Direct Hard Costs are \$10,258,514.
7. Since our costs are less than the maximum calculated using the allowed cost per square foot, we should be awarded 12 points for 50.9(b)(8).

Assuming we are awarded the 12 points under 50.9(b)(8), we hereby request that our application be awarded 6 points under 50.9(b)(14) since our application would now be awarded 179 points, which is less than 9 points different from the 178 points requested at Pre-Application.

In summary, we respectfully request that TDHCA award a final score of 219 to our application.

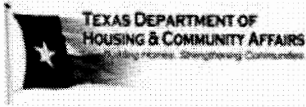
Thank you for your consideration in this matter. If you have any questions or require any further information, please feel free to contact us.

Sincerely,



Jay Collins  
President of a General  
Partner of the Applicant





**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2012 Application Round**  
**Scoring Notice - Competitive Housing Tax Credit Application**

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**Page 2 of Final Scoring Notice: 12362, Villas at Henderson**

**Explanation for Difference between Points Requested and Points Awarded by the Department  
(explanation does not include points for §§50.9(b)(2), (6) and (13)):**

§50.9(b)(8) Cost of Development by Square Foot. The application exceeds the \$85 per square foot threshold for Developments outside a First Tier County. (Requested 12, Awarded 0)

§50.9(b)(14) Pre-Application Incentive Points. Applicant requested 178 points at pre-application. At full application, the Department awarded 167 points (including pre-application incentive points), which is more than 9 points less than the points awarded at Pre-Application. (Requested 6, Awarded 0)

A formal appeals policy exists for the Competitive HTC Program. If you wish to appeal this scoring notice (including Set-Aside eligibility), you must file your appeal with the Department no later than 5:00 p.m. (CST), Friday, June 8, 2012. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring and Set-Asides are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the form requests that the appeal automatically be added to the Board agenda.

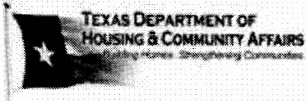
Please note that your application is currently under review and receipt of this scoring notice does not constitute acceptance or determination of the applications viability.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Jean Latsha by facsimile at (512) 475-0764 or by email at [jean.latsha@tdhca.state.tx.us](mailto:jean.latsha@tdhca.state.tx.us).

Sincerely,

*Cameron Dorsey*

Cameron Dorsey  
Director of Multifamily Finance



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2012 Application Round**  
**Scoring Notice - Competitive Housing Tax Credit Application**

**Appeal Election Form: 12362, Villas at Henderson**

I am in receipt of my 2012 scoring notice and am filing a formal appeal to the Executive Director on or before Friday, June 8, 2012.

**If my appeal is denied by the Executive Director,:**

I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.

I do not wish to appeal to the Board of Directors.

**Note: If you do not wish to appeal this notice, you do not need to submit this form.**

Signed \_\_\_\_\_

Title \_\_\_\_\_ PRESIDENT OF GP

Date \_\_\_\_\_ 6/4/12

**Please fax or email to the attention of Jean Latsha:**  
**Fax: (512) 475-0764 or (512) 475-1895**  
**Email: <mailto:jean.latsha@tdhca.state.tx.us>**

## **THE VILLAS AT HENDERSON**

### **DEVELOPMENT NARRATIVE**

The Villas at Henderson is an 80-unit affordable housing development that is proposed to be constructed on a 19-acre site on W. Fordall St. in Henderson, Texas. The development is designed to serve a General population and will consist of both single-family homes and duplexes. There will be a total of 70 single-family homes consisting of 3 and 4-bedrooms and 5 duplexes that will consist of ten 2-bedroom units. The site will contain a total of 76 buildings of which 75 will be residential and 1 will be non-residential (70 single family homes, 5 duplexes, and the clubhouse)



## DEVELOPMENT COST SCHEDULE

*This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All applications must complete the total development cost column and the Tax Payer Identification column. Only HTC applications must complete the eligible basis columns and the Requested Credit calculation below:*

**DEVELOPMENT NAME:**

**Villas at Henderson**

**City: Henderson**

**ACQUISITION**

Site acquisition cost  
Existing building acquisition cost  
Closing costs & acq. legal fees  
Other (specify) - see footnote 2  
Other (specify) - see footnote 2

TOTAL DEVELOPMENT SUMMARY			Expected Payee Taxpayer Identification Number (TIN) <sup>1</sup> (and % of cost if item involves multiple payees)
Total Cost	Eligible Basis (If Applicable)		
	Acquisition	New/Rehab.	
337,600			
<b>\$337,600</b>	<b>\$0</b>	<b>\$0</b>	

**Subtotal Acquisition Cost**

**OFF-SITES<sup>3</sup>**

Off-site concrete  
Storm drains & devices  
Water & fire hydrants  
Off-site utilities  
Sewer lateral(s)  
Off-site paving  
Off-site electrical  
Other (specify) - see footnote 2  
Other (specify) - see footnote 2

<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

**Subtotal Off-Sites Cost**

**SITE WORK<sup>4</sup>**

Demolition  
Rough grading  
Fine grading  
On-site concrete  
On-site electrical  
On-site paving  
On-site utilities  
Decorative masonry  
Bumper stops, striping & signs  
Landscaping  
Pool and decking  
Athletic court(s), playground(s)  
Fencing  
Retaining Wall  
Other (specify) - see footnote 2

234,910		234,910	20-3965583
200,000		200,000	20-3965583
477,000		477,000	20-3965583
646,165		646,165	20-3965583
191,922		191,922	20-3965583
<b>\$1,749,997</b>	<b>\$0</b>	<b>\$1,749,997</b>	

**Subtotal Site Work Cost**

**DIRECT CONSTRUCTION COSTS\*:**

Concrete  
Masonry  
Metals  
Woods and Plastics  
Thermal and Moisture Protection  
Roof Covering  
Doors and Windows  
Finishes  
Specialties  
Equipment

1,245,121		1,245,121	20-3965583
443,548		443,548	20-3965583
64,070		64,070	20-3965583
1,487,480		1,487,480	20-3965583
110,045		110,045	20-3965583
279,604		279,604	20-3965583
215,598		215,598	20-3965583
638,934		638,934	20-3965583
116,782		116,782	20-3965583
211,106		211,106	20-3965583

TOTAL DEVELOPMENT SUMMARY			Expected Payee Taxpayer Identification Number (TIN) <sup>1</sup> (and % of cost if item involves multiple payees)
Total Cost	Eligible Basis (If Applicable)		
	Acquisition	New/Rehab.	

**DEVELOPMENT NAME:**

**Villas at Henderson**

**City: Henderson**

**DIRECT CONSTRUCTION COSTS (Continued):**

Furnishings			
Special Construction	288,530		288,530
Conveying Systems (Elevators)			20-3965583
Mechanical (HVAC; Plumbing)	843,302		843,302
Electrical	464,883		464,883
			20-3965583
<b>Individually itemize costs below:</b>			
Detached Community Facilities/Building	261,600		261,600
Carports and/or Garages	200,000		200,000
Lead-Based Paint Abatement			
Asbestos Abatement			
Other (specify) - see footnote 2			
Other (specify) - see footnote 2			
<b>Subtotal Direct Const. Costs</b>	<b>\$6,870,603</b>	<b>\$0</b>	<b>\$6,870,603</b>
<b>TOTAL DIRECT CONST. &amp; SITE WORK</b>	<b>\$8,620,600</b>	<b>\$0</b>	<b>\$8,620,600</b>

**OTHER CONSTRUCTION COSTS**

General requirements (<6%)	6.00%	517,236		517,236	20-3965583
Field supervision (within GR limit)					
Contractor overhead (<2%)	2.00%	172,412		172,412	20-3965583
G & A Field (within overhead limit)					
Contractor profit (<6%)	6.00%	517,236		517,236	20-3965583
Contingency (<5%)	5.00%	431,030		431,030	20-3965583
<b>Subtotal Ancillary Hard Costs</b>		<b>\$1,637,914</b>	<b>\$0</b>	<b>\$1,637,914</b>	
<b>TOTAL DIRECT HARD COSTS</b>		<b>\$10,258,514</b>	<b>\$0</b>	<b>\$10,258,514</b>	

**INDIRECT CONSTRUCTION COSTS<sup>4</sup>**

Architectural - Design fees		120,000		120,000	03-0519517
Architectural - Supervision fees		24,000		24,000	03-0519517
Engineering fees		128,000		128,000	TBD
Real estate attorney/other legal fees		85,000		85,000	20-8139099
Accounting fees		26,000		26,000	94-3108253
Impact Fees					
Building permits & related costs		212,000		132,000	City of Henderson
Appraisal		7,500		7,500	94-3108253
Market analysis		7,500		7,500	74-2885874
Environmental assessment		6,500		6,500	74-2924830
Soils report					
Survey		64,000		64,000	TBD
Marketing		72,000			
Partnership Hazard & liability insurance		76,000		76,000	TBD
Real property taxes		40,000		40,000	Rusk County Tax Assessor
Personal property taxes					
Tenant relocation expenses					
F F & E		95,000		95,000	TBD
Other (specify) - see footnote 2					
<b>Subtotal Indirect Const. Cost</b>		<b>\$963,500</b>	<b>\$0</b>	<b>\$811,500</b>	

**DEVELOPER FEES<sup>4</sup>**

Housing consultant fees <sup>5</sup>					
General & administrative		464,861		464,861	90-0159129
Profit or fee		1,278,369		1,278,369	90-0159129
<b>Subtotal Developer's Fees</b>	15.00%	<b>\$1,743,230</b>	<b>\$0</b>	<b>\$1,743,230</b>	



TOTAL DEVELOPMENT SUMMARY			Expected Payee Taxpayer Identification Number (TIN) <sup>1</sup> (and % of cost if item involves multiple payees)
Total Cost	Eligible Basis (If Applicable)		
	Acquisition	New/Rehab.	

**DEVELOPMENT NAME:**

**Villas at Henderson**

**City: Henderson**

**FINANCING:**

**CONSTRUCTION LOAN(S)<sup>4</sup>**

Interest	413,250		330,600	41-0558220
Loan origination fees	114,000		114,000	41-0558220
Title & recording fees	71,920		71,920	41-0558220
Closing costs & legal fees	25,000		25,000	41-0558220
Inspection fees	10,000		10,000	TBD
Credit Report				
Discount Points				
Other (specify) - see footnote 2				
Other (specify) - see footnote 2				

**PERMANENT LOAN(S)**

Loan origination fees	58,100			TBD
Title & recording fees				
Closing costs & legal				
Bond premium				
Credit report				
Discount points				
Credit enhancement fees				
Prepaid MIP				
Other (specify) - see footnote 2				
Other (specify) - see footnote 2				

**BRIDGE LOAN(S)**

Interest				
Loan origination fees				
Title & recording fees				
Closing costs & legal fees				
Other (specify) - see footnote 2				
Other (specify) - see footnote 2				

**OTHER FINANCING COSTS<sup>4</sup>**

Tax credit fees	52,400			74-2610452
Tax and/or bond counsel				
Payment bonds				
Performance bonds				
Credit enhancement fees				
Mortgage insurance premiums				
Cost of underwriting & issuance				
Syndication organizational cost				
Tax opinion				
Contractor Guarantee Fee				
Developer Guarantee Fee				
Other (specify) - see footnote 2				
Other (specify) - see footnote 2				
<b>Subtotal Financing Cost</b>	<b>\$744,670</b>	<b>\$0</b>	<b>\$551,520</b>	

**RESERVES**

Rent-up	120,000			81-0622082
Operating	283,100			81-0622082
Replacement				
Escrows				
<b>Subtotal Reserves</b>	<b>\$403,100</b>	<b>\$0</b>	<b>\$0</b>	

**TOTAL HOUSING DEVELOPMENT COSTS<sup>6</sup>**

	<b>\$14,450,614</b>	<b>\$0</b>	<b>\$13,364,764</b>	
<b>- Commercial Space Costs<sup>7</sup></b>				
<b>TOTAL RESIDENTIAL DEVELOPMENT COSTS</b>	<b>\$14,450,614</b>			

TOTAL DEVELOPMENT SUMMARY			Expected Payee Taxpayer Identification Number (TIN) <sup>1</sup> (and % of cost if item involves multiple payees)
Total Cost	Eligible Basis (If Applicable)		
	Acquisition	New/Rehab.	

DEVELOPMENT NAME:

Villas at Henderson

City: Henderson

The following calculations are for HTC Applications only.

**Deduct From Basis:**

- Fed. grant proceeds used to finance costs in eligible basis
- Non-qualified non-recourse financing
- Non-qualified portion of higher quality units (42.(d)(5))
- Historic Credits (residential portion only)

**Total Eligible Basis**

\*\*High Cost Area Adjustment (100% or 130%)

**Total Adjusted Basis**

Applicable Fraction

**Total Qualified Basis**

Applicable Percentage<sup>8</sup>

**Calculated Credits**

**Credits Supported by Eligible Basis**

	\$0	\$13,364,764
		130%
	\$0	\$17,374,193
		100%
\$17,374,193	\$0	\$17,374,193
		9.00%
\$1,563,677	\$0	\$1,563,677
\$1,563,677		

Name of contact for Cost Estimate:

Jay Collins - Charter Contractors LP

Phone Number for Contact:

512-249-6240

**Footnotes:**

<sup>1</sup>The taxpayer identification number (TIN) of the Person(s) or Entity(s) to whom payment for the cost associated with each line item **must be provided** to fulfill the requirements of HB2577, Sec. 2306.184. If multiple payees are involved, indicate the estimated percentage of the total fee that the payee will receive next to their TIN. If the payee has not been determined at this time, enter "Undetermined." All known payees must be described in the *Project Development Team Members* form.

<sup>2</sup>An itemized description of all "Other" costs must be included at the end of this exhibit.

<sup>3</sup>All Off-Site costs must be justified by a third party engineering in accordance with the Department's format provided in the Offsite Cost Breakdown form.

<sup>4</sup>(HTC Only) Site work expenses, indirect construction costs, developer fees, construction loan financing and other financing costs may or may not be included in the eligible basis. Site work costs that exceed \$9,000 per unit must be justified by a third party engineer in accordance with the Department's format provided in the Site Work Cost Breakdown form.

<sup>5</sup>(HTC Only) Only fees paid to a consultant for duties which are not ordinarily the responsibility of the developer, as defined in the Developer's Service Agreement, can be included in eligible basis. Otherwise, consulting fees are included in the calculation of maximum developer fees.

<sup>6</sup>(HTC Only) Provide **all** costs & eligible basis associated with the project.

<sup>7</sup>(HTC Only) Costs associated with construction of facilities that generate revenue through commercial uses or from fees charged to tenants (covered parking, individual storage units, etc.) must not be included in eligible basis and must be removed from "Total Housing Development Costs" to determine "Total Residential Development Costs".

<sup>8</sup>(HTC Only) Use the appropriate *Applicable Percentages* defined in the *OAP*.

# VILLAS AT HENDERSON

HENDERSON, TEXAS

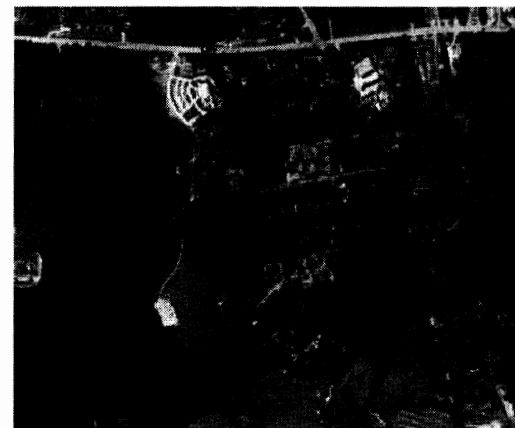
80 UNITS



## SHEET INDEX

A0.0	COVER SHEET
A1.0	SITE PLAN
A2.0	B1 UNIT PLAN
A3.0	BUILDING 'A' - PLAN
A3.1	BUILDING 'A' - FRONT ELEVATION
A4.0	'B' - PLAN
A4.1	'B' - FRONT ELEVATION
A4.2	'C' - PLAN
A4.3	'C' - FRONT ELEVATION
A5.0	CLUBHOUSE PLAN
A5.1	CLUBHOUSE ELEVATION

## VICINITY MAP



VILLAS AT HENDERSON  
HENDERSON, TEXAS

A0.0  
COVER

**UNIT TABULATION**

UNIT TYPE	#UNITS	UNIT S.F.	TOTAL S.F.
B1 - TWO BEDROOM, ONE BATH	10	980 S.F.	9,800 S.F.
C1 - THREE BEDROOM, TWO BATH	12	1,260 S.F.	15,120 S.F.
D1 - FOUR BEDROOM, TWO BATH	58	1,450 S.F.	84,100 S.F.
<b>TOTAL</b>	<b>80</b>		<b>109,020 S.F.</b>

**BUILDING TABULATION**

TYPE	#BLDGs	UNIT/BLDG.	UNIT TYPES	BLDG. S.F.	TOTAL S.F.
A	5	2	B1-2	1,960 S.F.	9,800 S.F.
B	12	1	C1-1	1,260 S.F.	15,120 S.F.
C	58	1	D1-1	1,450 S.F.	84,100 S.F.
<b>TOTAL</b>	<b>75</b>				<b>109,020 S.F.</b>

**SITE AMENITIES**

- PERIMETER FENCING
- CONTROLLED ACCESS GATE
- 3,285 S.F. CLUBHOUSE

**PARKING TABULATION**

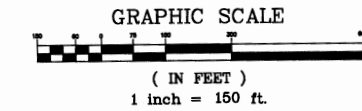
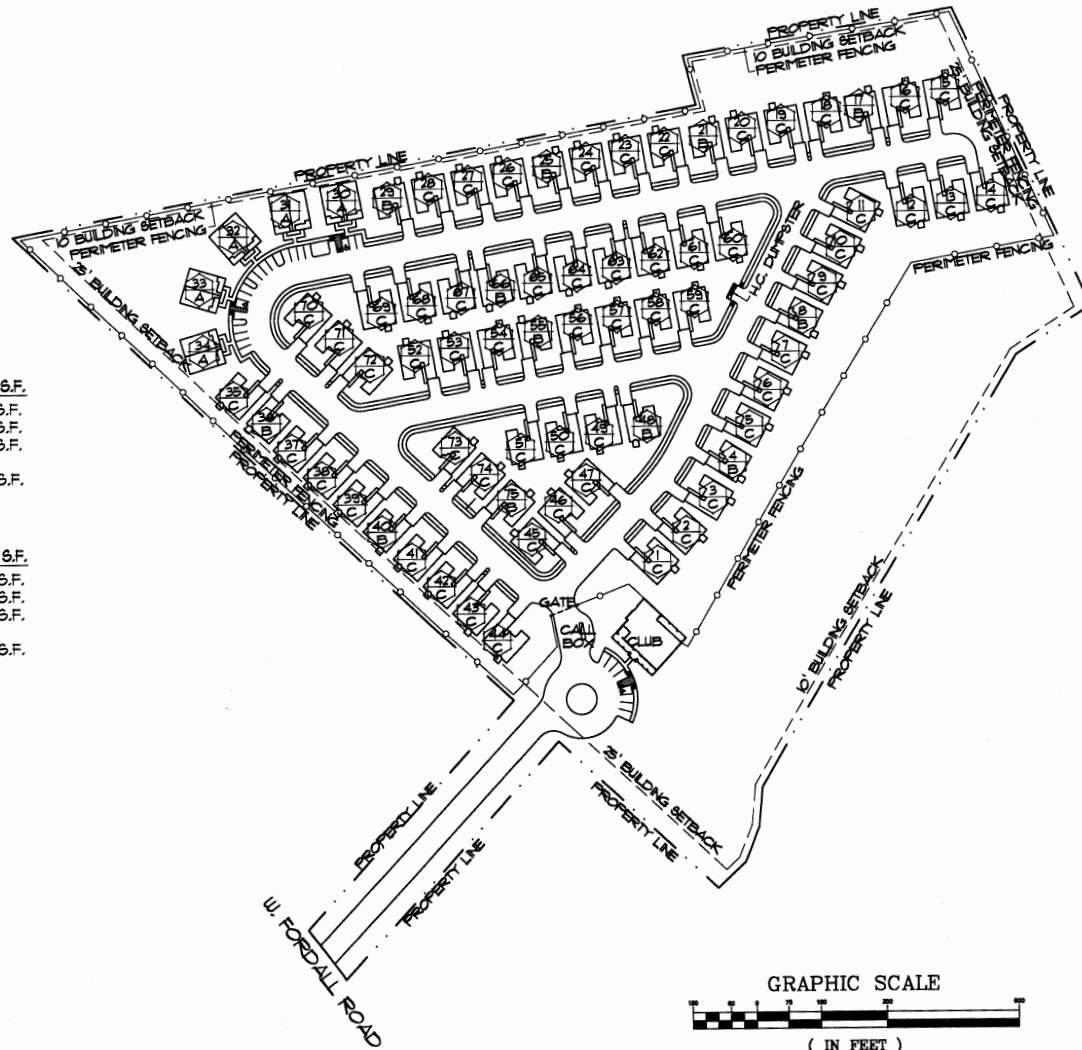
GARAGES	70
UNCOVERED	90
CLUBHOUSE	8
<b>TOTAL SPACES</b>	<b>168</b>

**BUILDING KEY**

- BUILDING NUMBER
- BUILDING TYPE

**SITE ACREAGE**

19.042 ACRES



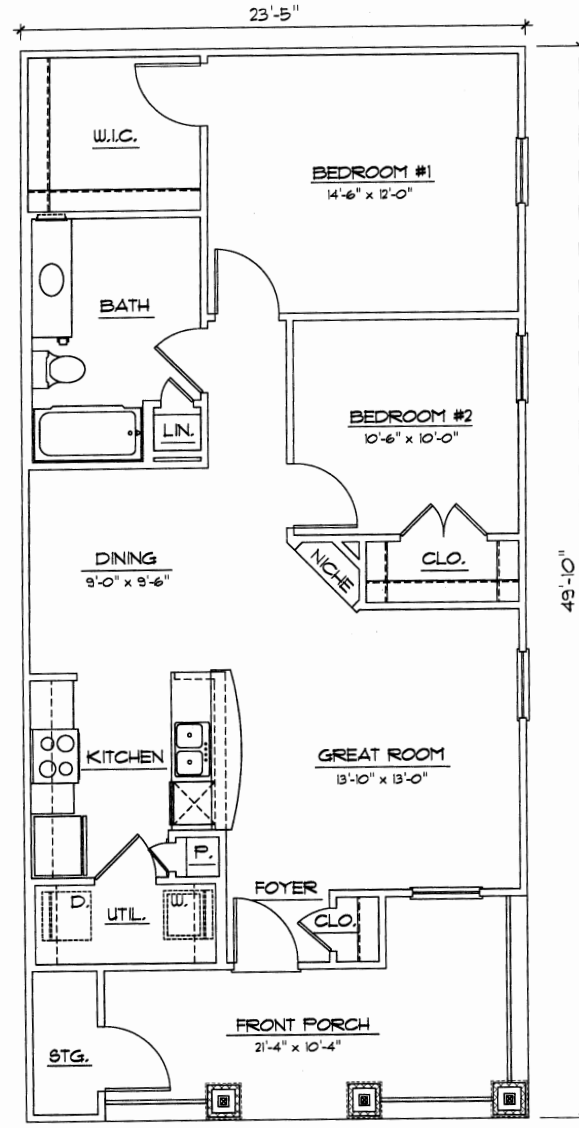
**SITE PLAN** **Cross ARCHITECTS**




**VILLAS AT HENDERSON  
HENDERSON, TEXAS**

**A1.0  
SITE PLAN**

VILLAS AT HENDERSON  
HENDERSON, TEXAS



- UNIT AMENITIES:**
- COVERED ENTRIES
  - MICROWAVE OVENS
  - REFRIGERATOR W/ ICEMAKER
  - COVERED PARKING (GARAGES)
  - R-15 WALLS/ R-30 CEILINGS
  - 14 SEER HVAC

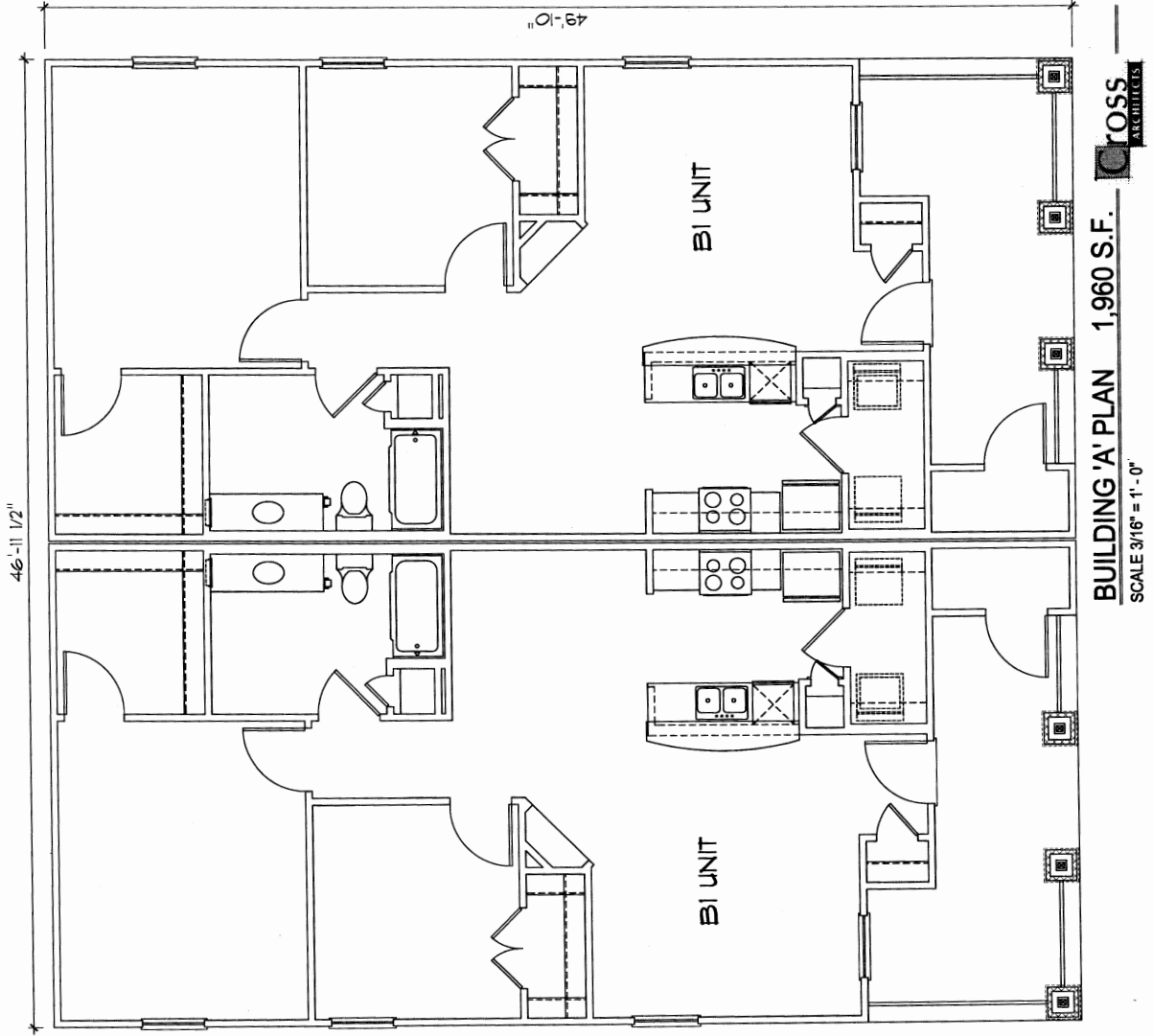
**B1 UNIT - TWO BEDROOM, ONE BATH 980 S.F.** 

SCALE 3/16" = 1' - 0"

**A2.0**  
B1 UNIT  
PLAN

VILLAS AT HENDERSON  
HENDERSON, TEXAS

A3.0  
BLDG. 'A'  
PLAN



VILLAS AT HENDERSON  
 HENDERSON, TEXAS

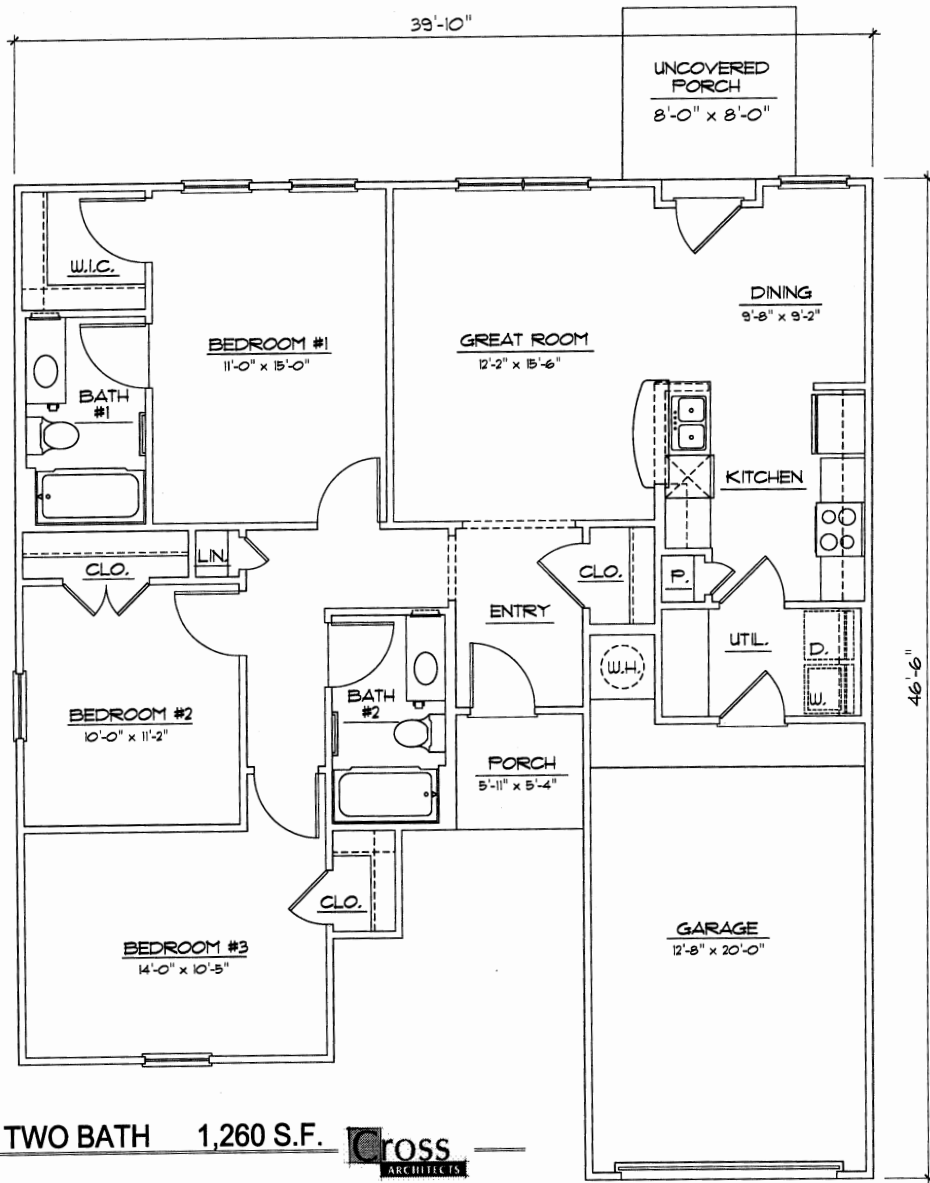


EXTERIOR MATERIALS:  
 100% MASONRY  
 -25% SIMULATED STONE  
 -15% FIBER CEMENT SIDING

BUILDING 'A' - FRONT ELEVATION  
 SCALE 3/16" = 1' - 0"



A3.1  
 BLDG. 'A'  
 ELEVATION



**HOUSE AMENITIES:**

- COVERED ENTRIES
- MICROWAVE OVENS
- REFRIGERATOR W/ ICEMAKER
- COVERED PARKING (GARAGES)
- R-15 WALLS/ R-30 CEILINGS
- 14 SEER HVAC

**'B' - THREE BEDROOM, TWO BATH 1,260 S.F.**

SCALE 3/16" = 1' - 0"

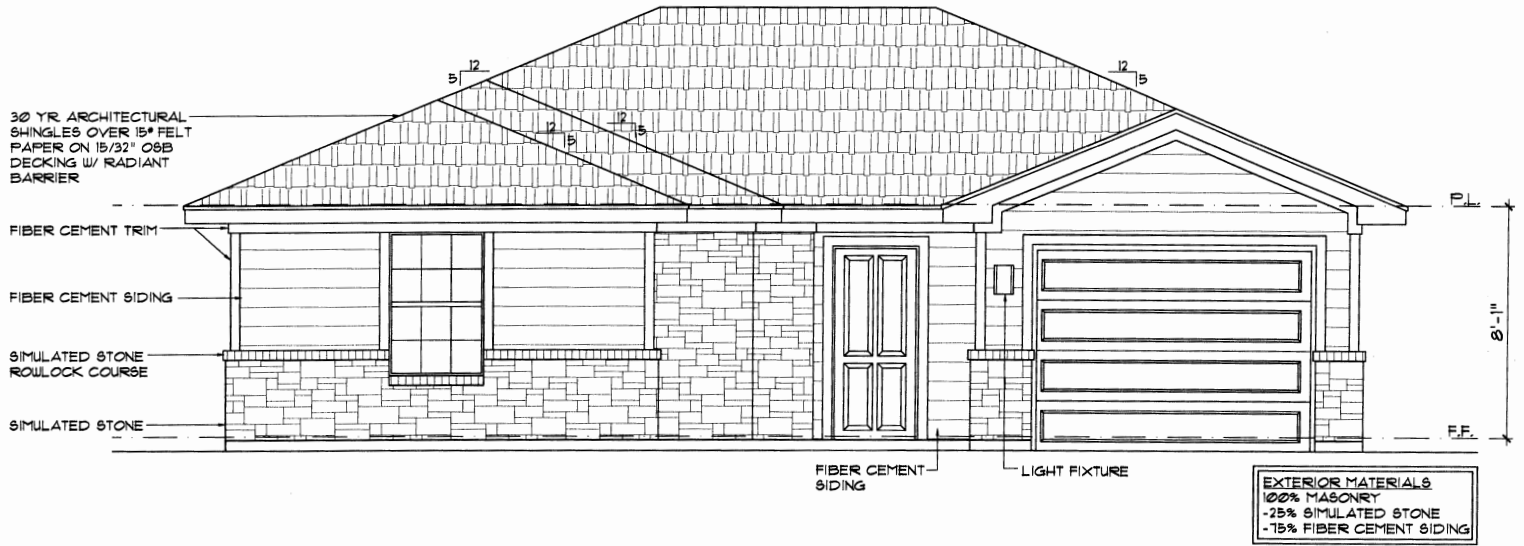


VILLAS AT HENDERSON  
HENDERSON, TEXAS

**A4.0**

'B' PLAN



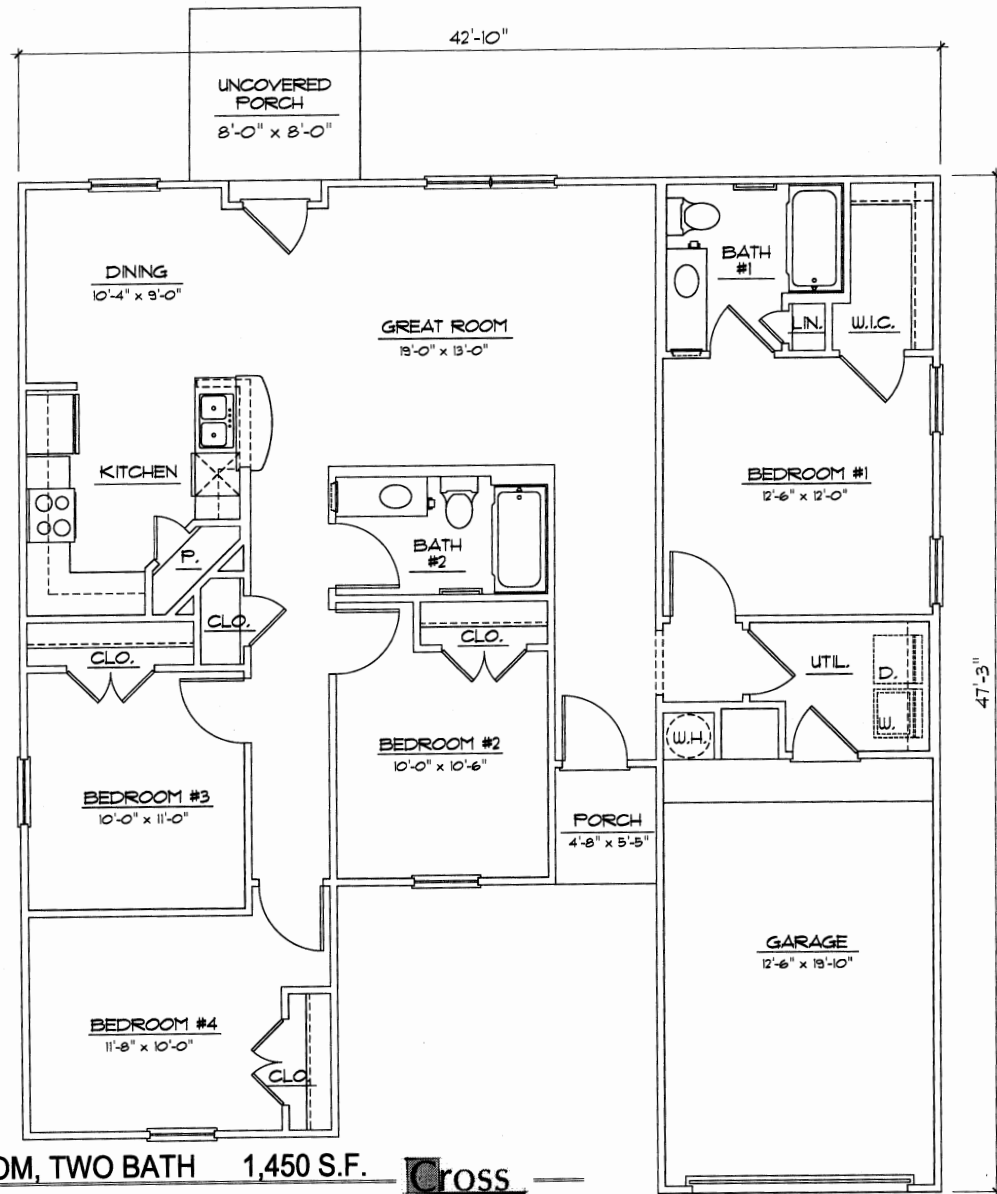


VILLAS AT HENDERSON  
HENDERSON, TEXAS

'B' - FRONT ELEVATION  
SCALE 1/4" = 1' - 0"



A4.1  
'B'  
ELEVATION



- HOUSE AMENITIES:
- COVERED ENTRIES
  - MICROWAVE OVENS
  - REFRIGERATOR W/ ICEMAKER
  - COVERED PARKING (GARAGES)
  - R-15 WALLS/ R-30 CEILINGS
  - 14 SEER HVAC

'C' - FOUR BEDROOM, TWO BATH 1,450 S.F.

SCALE 3/16" = 1' - 0"

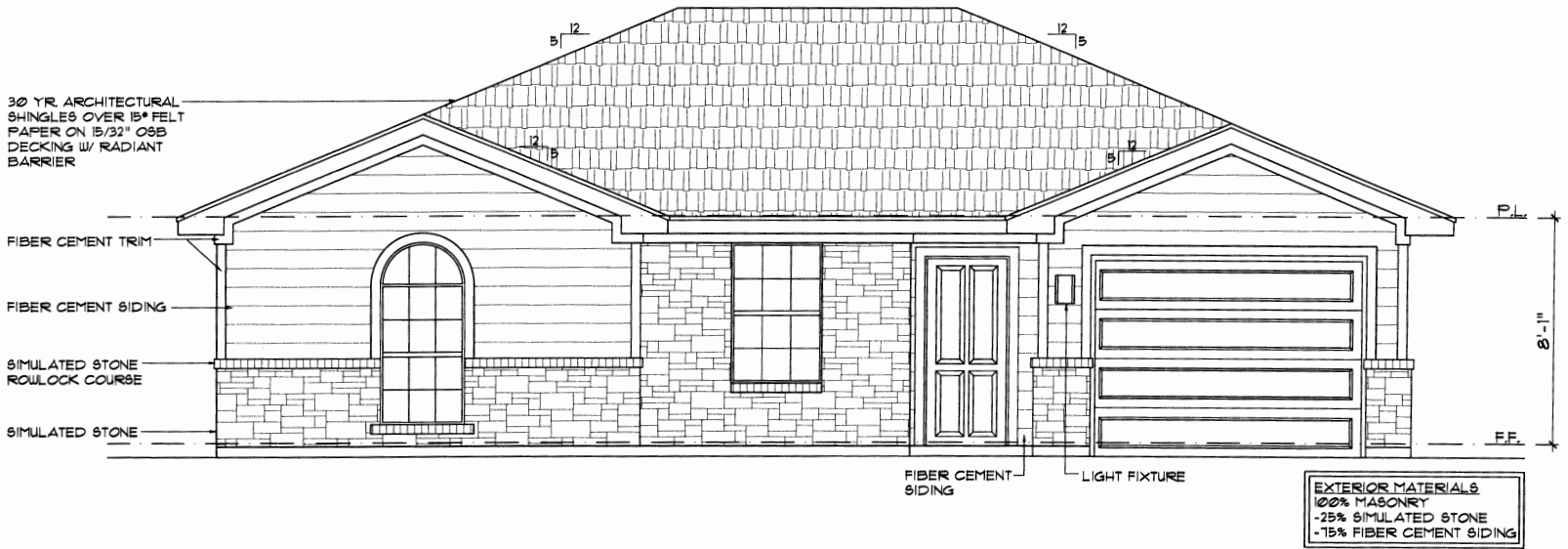


VILLAS AT HENDERSON  
HENDERSON, TEXAS

A4.2

'C' PLAN

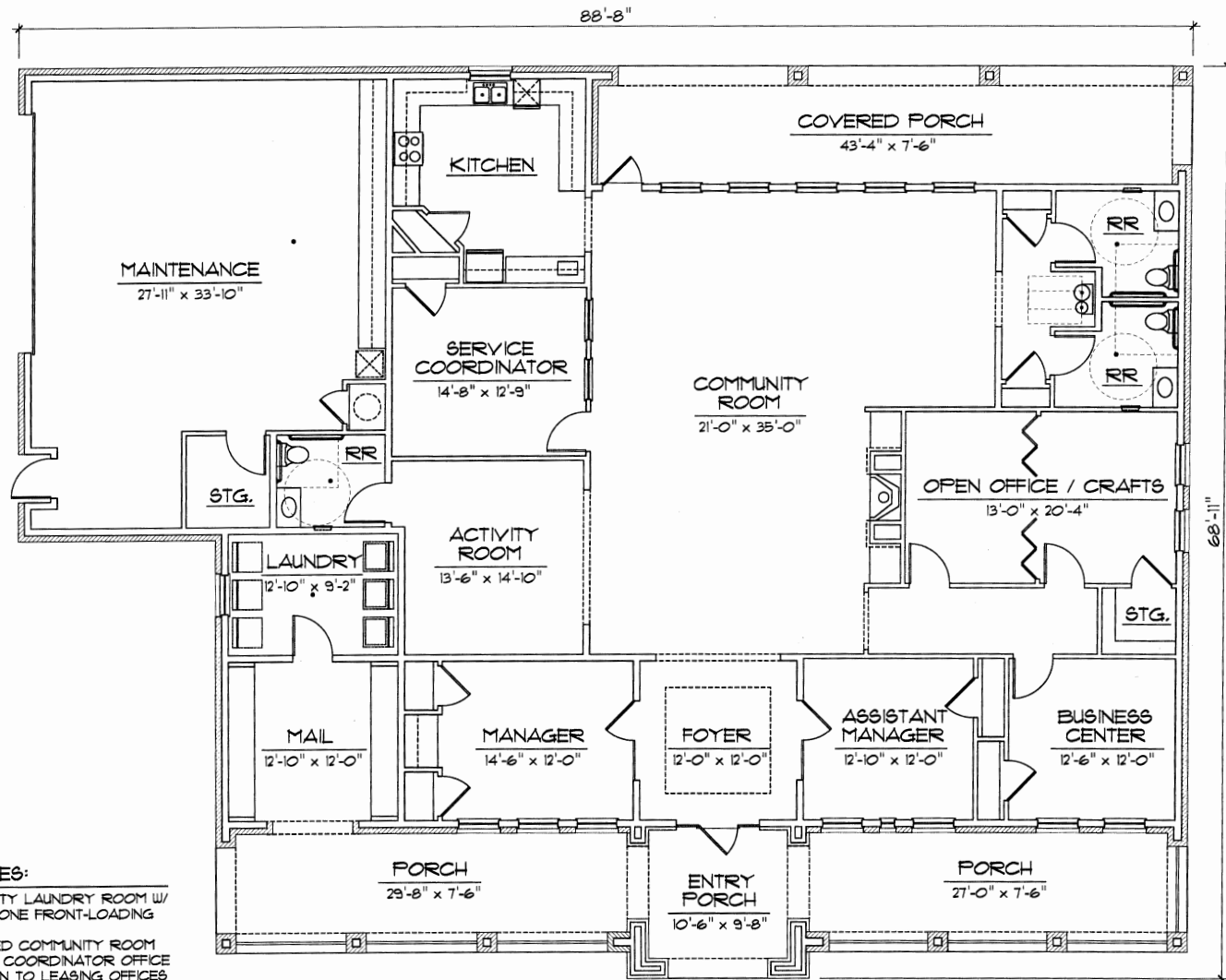
VILLAS AT HENDERSON  
 HENDERSON, TEXAS



'C' - FRONT ELEVATION  
 SCALE 1/4" = 1' - 0"



A4.3  
 'C'  
 ELEVATION



**AMENITIES:**

- COMMUNITY LAUNDRY ROOM W/ AT LEAST ONE FRONT-LOADING WASHER
- FURNISHED COMMUNITY ROOM
- SERVICE COORDINATOR OFFICE IN ADDITION TO LEASING OFFICES

**CLUBHOUSE PLAN 3,285 S.F.**

SCALE 1/8" = 1' - 0"



**VILLAS AT HENDERSON  
HENDERSON, TEXAS**

**A5.0  
CLUB PLAN**

VILLAS AT HENDERSON  
HENDERSON, TEXAS



CLUBHOUSE ELEVATION

SCALE 1/8" = 1' - 0"



A5.1  
CLUB  
ELEVATION