

REAL ESTATE ANALYSIS

BOARD ACTION REQUEST

August 30, 2006

Action Item

Draft Real Estate Analysis Rules and Guidelines (Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, and Reserve for Replacement Rules and Guidelines).

Required Action

Board approval for publication of the Draft 2007 Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, and Reserve for Replacement Rules and Guidelines and authorization for the distribution and public hearings on the draft rules concurrent with the Department's uniform hearing schedule. These rules are codified in 10TAC §1.31- 1.37.

Background

The Department conducted workshops and held hearings on a major overhaul of the underwriting rules four years ago and removed them from the QAP. The purpose of the removal from the QAP was to facilitate the application of these rules with all of the Department's multifamily programs. The draft rules being presented today include changes resulting from two main sources of input: public input at roundtable meetings and staff input.

As in the previous year, clarification and restructuring for easier referencing were the main objectives for 2007. Changes made to the underlying rules include: language to define Restricted Market Rent and explain use in the underwriting analysis; language indicating criteria for adjustments to the long term proforma; added criteria to indicate a development is infeasible and not recommended for allocation; and inclusive capture rate conclusions by unit type.

§1.32 Underwriting

Deletion of Text in §1.32 (b) Report Contents

Reason for Change: The deletion will allow more flexibility in revamping the underwriting report based on Board recommendations for the 2007 application cycles.

Proposed §1.32 (d)(1)(A)(ii) Restricted Market Rent

Reason for Change: Comment has been received indicating affordable developments cannot achieve the maximum program rents in some market areas even when the market rents are higher. To account for this phenomenon, the underwriting analysis will also consider restricting projected rent collected per unit at the Restricted Market Rent conclusion of the submitted Market Analysis.

Proposed §1.32 (d)(2)(I) Reserves

Reason for Change: The minimum replacement reserve per unit for new construction developments was increased from \$200 to \$250 for consistency with National Council of State Housing Agencies' Underwriting Recommended Practices.

Proposed §1.32 (d)(4)(D) Acceptable Debt Coverage Ratio Range

Reason for Change: The minimum debt coverage ratio was increased from 1.10 to 1.15 for consistency with National Council of State Housing Agencies' Underwriting Recommended Practices.

Proposed §1.32 (d)(5) Long Term Proforma

Reason for Change: Language was added to allow adjustments over the long term proforma on an annual basis, including: income for operating subsidies, management fees for contracted rates, property taxes for documented assessment methods utilized by the CAD, and reserve for replacement for a lender's proposed schedule as long as the Department's minimum underwriting requirements are met.

Proposed §1.32 (c)(7) Developer Fee

Reason for Change: Clarification was added to support the consistent practice of allocating developer fees between acquisition basis and rehabilitation/new construction basis for tax credit purposes.

Proposed §1.32 (d)(5) Long Term Proforma

Reason for Change: The length of the long term proforma is changed from 30 years to 20 years to more closely reflect common practices in the industry.

Proposed §1.32 (i) Feasibility Conclusion

Reason for Change: Existing language regarding criteria for determination that a development is infeasible and therefore, funding or an allocation cannot be recommended was moved from other subsections to be centralized in one subsection. Also, an additional criterion to determine a development is infeasible was added.

(1) **Inclusive Capture Rate:** The capture rate percentage for developments characterized as rural, elderly or special needs was decreased from 100% to 50% due to flexible demand criteria in §1.33 that allows quantifiable secondary market demand for these developments. Also, capture rate limits based on a unit type by number of bedrooms and rent restriction category were added to account for improper unit mix based on demand factors.

(2) **Restricted Market Rent:** By considering the Restricted Market Rent conclusion presented by the Market Analyst the development's projected income may be understated. In addition, Restricted Market Rents that are less than program maximums and market rents may indicate the market is oversaturated at the proposed affordability level. A mechanism to avoid development of units at the wrong affordability level for a market area is proposed.

(3) **Initial Feasibility:** The ratio of total expense to income that results in a 30-year proforma indicating negative cashflow and unacceptable debt coverage was determined.

§1.33 Market Analysis

Roundtable discussions revealed market analysts would prefer guidelines for senior developments that are distinct from the general Market Analysis Rules and Guidelines. A working group was formed to address this issue, but no recommendations are made for the 2007 Market Analysis Rules and Guidelines.

Proposed §1.33 (d)(9)(E) and (10)(D) and (10)(E) Demand and Capture Rate by Unit type (Number of Bedrooms and Rent Restriction Category)

Reason for Change: The REA Rules currently require a best possible unit mix conclusion based on occupancy and demand (§1.33 (d)(11)(A)). Required demand and capture rate calculations provide documentation that the unit mix is well-reasoned and supported. Demand and capture rate calculations by unit type offer specific guidance on unit mix conclusions. The Houston MSA market study commissioned by the Department demonstrates that demand may exist for one unit type, two-bedroom units at 40% of AMI, for example, while there is no demand for three-bedroom units at 60% of AMI.

Proposed §1.33 (d)(9)(E)(ii) and (iii) Timing of Demand from Turnover and Population Growth

Reason for Change: Based on public comment, adjusting the timing of the projected population growth and turnover demand places the calculated demand closer in time to the lease-up phase of the development.

§1.34 Appraisal

Although it appears as if there are significant changes proposed to the appraisal rule, all of the changes are due to one of the following: editing for clarification; to mirror the format of the market analysis rule; or to avoid restating what is in the Uniform Standards of Professional Appraisal Practice (USPAP). The rule now contains only the unique TDHCA requirements.

§1.35 Environmental Site Assessment

Separate requirements for vacant sites versus improved sites were identified.

Recommendation

Approve the publication of the Draft 2007 Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, and Reserve for Replacement Rules and Guidelines and authorize the distribution and public hearing on the draft rules concurrent with the Department's uniform hearing schedule.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

2006-2007 DRAFT Real Estate Analysis Rules and Guidelines

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§1.31 General Provisions

(a) **Purpose.** The Rules in this subchapter apply to the underwriting, market analysis, appraisal, environmental site assessment, property condition assessment, and reserve for replacement standards employed by the Texas Department of Housing and Community Affairs (the "Department" or "TDHCA"). This chapter provides rules for the underwriting review of an affordable housing development's financial feasibility and economic viability that ensures the most efficient allocation of resources while promoting and preserving the public interest in ensuring the long-term health of the Department's portfolio. In addition, this chapter guides the underwriting staff in making recommendations to the Executive Award and Review Advisory Committee ("the Committee"), Executive Director, and TDHCA Governing Board ("the Board") to help ensure procedural consistency in the award-determination of Development feasibility process[§§2306.0661(f) and 2306.6710(d), Texas Government Code]. Due to the unique characteristics of each development the interpretation of the rules and guidelines described in this subchapter is subject to the discretion of the Department and final determination by the Board.

~~(b) **Alternative Dispute Resolution Policy.** In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at §1.17 of this title.~~

~~(b)(c) **Definitions.** Many of the terms used in this subchapter are defined in the Department's Housing Tax Credit Program Qualified Allocation Plan and Rules, known as the "QAP", as proposed. Those terms that are not defined in the QAP or which may have another meaning when used in subchapter B of this title, shall have the meanings set forth in this subsection unless the context clearly indicates otherwise.~~

~~(1) **Affordable Housing--**Housing that has been funded through one or more of the Department's programs or other local, state or federal programs or has at least one unit that is restricted in the rent that can be charged either by a Land Use Restriction Agreement or other form of Deed Restriction.~~

~~(2) **Bank Trustee--**A bank authorized to do business in this state, with the power to act as trustee.~~

(3) **Cash Flow**--The funds available from operations after all expenses and debt service required to be paid has been considered.

(4) **Credit Underwriting Analysis Report**--Sometimes referred to as the "Report." A decision making tool used by the Department and Board containing a synopsis and reconciliation of the application information submitted by the Applicant. ~~described more fully in §1.32 of this subchapter.~~

(5) **Comparable Unit**--A Unit, when compared to the subject Unit, similar in overall condition, unit amenities, utility structure, and common amenities, and

(A) for purposes of calculating the inclusive capture rate targets the same population and is likely to draw from the same demand pool;

(B) for purposes of estimating the Restricted Market Rent subsidized Unit rent targets the same population and is similar in net rentable square footage and number of bedrooms; or

(C) for purposes of estimating the subject Unit market rent does not have any income or rent restrictions and is similar in net rentable square footage and number of bedrooms.

(6) **Contract Rent**--Maximum Rent Limits based upon current and executed rental assistance contract(s), typically with a federal, state or local governmental agency.

(7) **DCR**--Debt Coverage Ratio. Sometimes referred to as the "Debt Coverage" or "Debt Service Coverage." A measure of the number of times loan principal and interest are covered by Net Operating Income.

(8) **Development**--Sometimes referred to as the "Subject Development." Multi-unit residential housing that meets the affordability requirements for and requests or has received funds from one or more of the Department's sources of funds.

(9) **EGI**--Effective Gross Income. The sum total of all sources of anticipated or actual income for a rental Development less vacancy and collection loss, leasing concessions, and rental income from employee-occupied units that is not anticipated to be charged or collected.

(10) **ESA**--Environmental Site Assessment. An environmental report that conforms with the Standard Practice for Environmental Site Assessments: Phase I Assessment Process (ASTM Standard Designation: E 1527) and conducted in accordance with the Department's Environmental Site Assessment Rules and Guidelines in §1.35 of this subchapter as it relates to a specific Development.

(11) **First Lien Lender**--A lender whose lien has first priority.

(12) **Gross Program Rent**--Sometimes called the "Program Rents." Maximum Rent Limits based upon the tables promulgated by the Department's division responsible for compliance by program and by county or Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA").

(13) **Market Analysis**--Sometimes referred to as "Market Study." An evaluation of the economic conditions of supply, demand and rental rates or pricing conducted in accordance with the Department's Market Analysis Rules and Guidelines in §1.33 of this subchapter as it relates to a specific Development.

(14) **Market Rent**--The unrestricted rent concluded by the Market Analyst for a particular unit type and size after adjustments are made to rents charged by owners of Comparable Units.

(15) **NOI**--Net Operating Income. The income remaining after all operating expenses, including replacement reserves and taxes have been paid.

(16) **Primary Market**--Sometimes referred to as "Primary Market Area" or "Submarket" or "PMA". The area defined by the Qualified Market Analyst as described in §1.33(d)(98) from which a proposed or existing Development is most likely to draw the majority of its prospective tenants or homebuyers.

(17) **PCA**--Property Condition Assessment. Sometimes referred to as "Physical Needs Assessment," "Project Capital Needs Assessments," "Property Condition Report," or "Property Work Write-Up." An evaluation of the physical condition of the existing property and evaluation of the cost of rehabilitation conducted in accordance with the Department's Property Condition Assessment Rules and Guidelines in §1.36 of this subchapter as it relates to a specific Development.

(18) **Rent Over-Burdened Households**--Non-elderly households paying more than 35% of gross income towards total housing expenses (unit rent plus utilities) and elderly households paying more than 40% of gross income towards total housing expenses.

(19) **Reserve Account**--An individual account:

(A) Created to fund any necessary repairs for a multifamily rental housing development; and

(B) Maintained by a First Lien Lender or Bank Trustee.

(20) Restricted Market Rent--The restricted rent concluded by the Market Analyst for a particular unit type and size after adjustments are made to rents charged by owners of Comparable Units with the same rent and income restrictions.

~~(21)~~ **Secondary Market**--Sometimes referred to as "Secondary Market Area". The area defined by the Qualified Market Analyst as described in §1.33(d)(~~87~~).

~~(22)~~(~~24~~) **Supportive Housing**--Sometimes referred to as "Transitional Housing." Rental housing intended solely for occupancy by individuals or households transitioning from homelessness or abusive situations to permanent housing and typically consisting primarily of efficiency units.

~~(23)~~(~~22~~) **Sustaining Occupancy**--The occupancy level at which rental income plus secondary income is equal to all operating expenses and mandatory debt service requirements for a Development.

~~(24)~~(~~23~~) **TDHCA Operating Expense Database**--Sometimes referred to as "TDHCA Database." A consolidation of recent actual operating expense information collected through the Department's Annual Owner Financial Certification process and published on the Department's web site.

~~(25)~~(~~24~~) **Underwriter**--The author(s), as evidenced by signature, of the Credit Underwriting Analysis Report.

~~(26)~~(~~25~~) **Unstabilized Development**-- A Development with Comparable Units that has been approved for funding by the TDHCA Board or is currently under construction or has not maintained a 90% occupancy level for at least 12 consecutive months following construction completion.

~~(27)~~(~~26~~) **Utility Allowance**--The estimate of tenant-paid utilities, based either on the most current HUD Form 52667, "Section 8, Existing Housing Allowance for Tenant-Furnished Utilities and Other Services," provided by the local entity responsible for administering the HUD Section 8 program with most direct jurisdiction over the majority of the buildings existing or a documented estimate from the utility provider proposed in the Application. Documentation from the local utility provider to support an alternative calculation can be used to justify alternative Utility Allowance conclusions but must be specific to the Subject Development and consistent with the building plans provided.

~~(28)~~(~~27~~) **Work Out Development**--A financially distressed Development seeking a change in the terms of Department funding or program restrictions based upon market changes.

(c) Appeals. Certain programs contain express appeal options. Where not indicated, 10 Tex. Admin. Code §§1.7 and 1.8 include general appeal procedures. In addition, the Department encourages the use of Alternative Dispute Resolution methods as outlined in 10 TAC §1.17.

§1.32 Underwriting Rules and Guidelines

(a) **General Provisions.** The Department Governing Board has authorized the development of these rules under its authority under §2306.148, Texas Government Code. The rules provide a mechanism to produce consistent information in the form of an Underwriting Report to provide interested parties information the Board relies upon in balancing the desire to assist as many Texans as possible by providing no more financing than necessary and have independent verification that Developments are economically feasible., through the division responsible for underwriting, produces or causes to be produced a Credit Underwriting Analysis Report (the "Report") for every Development recommended for funding through the Department. The primary function of the Report is to provide the Committee, Executive Director, the Board, Applicants, and the public a comprehensive analytical report and recommendations necessary to make well informed decisions in the allocation or award of the State's limited resources. The Report generated in no way guarantees or purports to warrant the actual performance, feasibility, or viability of the Development by the Department.

(b) Report Contents. The Report provides an organized and consistent synopsis and reconciliation of the application information submitted by the Applicant.

~~(b) Report Contents. The Report provides an organized and consistent synopsis and reconciliation of the application information submitted by the Applicant. At a minimum, the Report includes:~~

- ~~(1) Identification of the Applicant and any Principals of the Applicant;~~
- ~~(2) Identification of the funding type and amount requested by the Applicant;~~
- ~~(3) The Underwriter's funding recommendations and any conditions of such recommendations;~~
- ~~(4) Review and analysis of the Applicant's operating proforma;~~
- ~~(5) Analysis of the Development's debt service capacity;~~
- ~~(6) Review and analysis of the Applicant's development budget;~~
- ~~(7) Evaluation of the commitment for additional sources of financing for the Development;~~

- ~~(8) Identification of related interests among the members of the Development Team, Third Party service providers and/or the seller of the property;~~
- ~~(9) Analysis of the Applicant's and Principals' financial statements and creditworthiness;~~
- ~~(10) Review of the proposed Development plan and evaluation of the proposed improvements;~~
- ~~(11) Review of the Applicant's evidence of site control and any potential title issues that may affect site control;~~
- ~~(12) Identification of the site which includes review of the independent site inspection report;~~
- ~~(13) Review of the Phase I Environmental Site Assessment in conformance with the Department's Environmental Site Assessment Rules and Guidelines in §1.35 of this subchapter or soils and hazardous material reports as required;~~
- ~~(14) Review of market data and Market Study information and any valuation information available for the property in conformance with the Department's Market Analysis Rules and Guidelines in §1.33 of this subchapter;~~
- ~~(15) Review of the appraisal, if required, for conformance with the Department's Appraisal Rules and Guidelines in §1.34 of this subchapter; and,~~
- ~~(16) Review of the Property Condition Assessment, if required, for conformance with the Department's Property Condition Assessment Rules and Guidelines in §1.36 of this subchapter.~~

~~(bc)(c)~~ **Recommendations in the Report.** The conclusion of the Report includes a recommended award of funds or allocation of Tax Credits based on the lesser amount calculated by the program limit method (if applicable), gap/DCR method, or the amount requested by the Applicant as further described in paragraphs (1) through (3) of this subsection, and states any feasibility conditions to be placed on the award.

(1) **Program Limit Method.** For Developments requesting Housing Tax Credits, this method is based upon calculation of Eligible Basis after applying all cost verification measures and program limits as described in this section. The Applicable Percentage used is as defined in the QAP. For Developments requesting funding through a Department program other than Housing Tax Credits, this method is based upon calculation of the funding limit based on current program rules at the time of underwriting.

(2) **Gap/DCR Method.** This method evaluates the amount of funds needed to fill the gap created by total development cost less total non-Department-sourced funds or Tax Credits. In making this determination, the Underwriter resizes any anticipated deferred developer fee down to zero before reducing the amount of Department funds or Tax Credits. In the case of Housing Tax Credits, the syndication proceeds needed to fill the gap in permanent funds are divided by the syndication rate to determine the amount of Tax Credits. In making this determination, the Department adjusts the permanent loan amount and/or any Department-sourced loans, as necessary, such that it conforms to the DCR standards described in this section.

(3) **The Amount Requested.** The amount of funds that is requested by the Applicant as reflected in the application documentation.

~~(ed)(d)~~ **Operating Feasibility.** The operating financial feasibility of Developments funded by the Department is tested by adding total income sources and subtracting vacancy and collection losses and operating expenses to determine Net Operating Income. This Net Operating Income is divided by the annual debt service to determine the Debt Coverage Ratio. The Underwriter characterizes a Development as infeasible from an operational standpoint when the Debt Coverage Ratio does not meet the minimum standard set forth in paragraph (4)(D) of this subsection. The Underwriter may choose to make adjustments to the financing structure, such as lowering the debt and increasing the deferred developer fee that could result in a re-characterization of the Development as feasible based upon specific conditions set forth in the Report.

(1) **Income.** In determining the Year 1 proforma, the The Underwriter evaluates the reasonableness of the Applicant's income estimate by determining the appropriate rental rate per unit based on contract, program and market factors. Miscellaneous income and vacancy and collection loss limits as set forth in subparagraphs (B) and (C) of this paragraph, respectively, are applied unless well-documented support is provided.

(A) **Rental Income.** The Program Rent less Utility Allowances or Market Rent or Restricted Market Rent or Contract Rent is utilized by the Underwriter in calculating the rental income for comparison to the Applicant's estimate in the application. Where multiple programs are funding the same units, Contract Rents are used, if applicable. If Contract Rents do not apply, the lowest Program Rents less Utility Allowance ("net Program Rent") or Market Rents or Restricted Market Rent, as determined by the Market Analysis that are lower than the net Program Rents, are utilized.

(i) **Market Rents.** The Underwriter reviews the Attribute Adjustment Matrix attribute adjustment matrix of Comparable Units by unit size provided by the Market Analyst and determines if the adjustments and

conclusions made are reasoned and well documented. The Underwriter uses the Market Analyst's conclusion of adjusted Market Rent by unit, as long as the proposed Market Rent is reasonably justified and does not exceed the highest existing unadjusted market comparable rent. Random checks of the validity of the Market Rents may include direct contact with the comparable properties. The Market Analyst's attribute adjustment matrix~~Attribute Adjustment Matrix~~ should include, at a minimum, adjustments for location, size, amenities, and concessions as more fully described in §1.33 of this subchapter.

(ii) Restricted Market Rent. The Underwriter reviews the attribute adjustment matrix of Comparable Units by unit size and income and rent restrictions provided by the Market Analyst and determines if the adjustments and conclusions made are reasoned and well documented. The Underwriter uses the Market Analyst's conclusion of adjusted Restricted Market Rent by unit, as long as the proposed Restricted Market Rent is reasonably justified and does not exceed the highest existing unadjusted market comparable restricted rent. Random checks of the validity of the Restricted Market Rents may include direct contact with the comparable properties. The Market Analyst's Attribute Adjustment Matrix should include, at a minimum, adjustments for location, size, amenities, and concessions as more fully described in §1.33 of this subchapter.

(iii) Program Rents less Utility Allowance. The Underwriter reviews the Applicant's proposed rent schedule and determines if it is consistent with the representations made in the remainder of the application. The Underwriter uses the Program Rents as promulgated by the Department's division responsible for compliance for the year that is most current at the time the underwriting begins. When underwriting for a simultaneously funded competitive round, all of the applications are underwritten with the rents promulgated for the same year. Program Rents are reduced by the Utility Allowance. The Utility Allowance figures used are determined based upon what is identified in the application by the Applicant as being a utility cost paid by the tenant and upon other consistent documentation provided in the application.

(I) Units must be individually metered for all utility costs to be paid by the tenant.

(II) Gas utilities are verified on the building plans and elsewhere in the application when applicable.

(III) Trash allowances paid by the tenant are rare and only considered when the building plans allow for individual exterior receptacles.

(IV) Refrigerator and range allowances are not considered part of the tenant-paid utilities unless the tenant is expected to provide their own appliances, and no eligible appliance costs are included in the development cost breakdown.

~~(iv)~~(iii) Contract Rents. The Underwriter reviews submitted rental assistance contracts to determine the Contract Rents currently applicable to the Development. Documentation supporting the likelihood of continued rental assistance is also reviewed. The underwriting analysis will take into consideration the Applicant's intent to request a Contract Rent increase. At the discretion of the Underwriter, the Applicant proposed rents may be used in the underwriting analysis with the recommendations of the Report conditioned upon receipt of final approval of such increase.

(B) Miscellaneous Income. All ancillary fees and miscellaneous secondary income, including but not limited to late fees, storage fees, laundry income, interest on deposits, carport rent, washer and dryer rent, telecommunications fees, and other miscellaneous income, are anticipated to be included in a \$5 to \$15 per unit per month range. Exceptions may be made at the discretion of the Underwriter for garage income, pass-through utility payments, pass-through water, sewer and trash payments, cable fees, congregate care/assisted living/elderly facilities, and child care facilities.

(i) Exceptions must be justified by operating history of existing comparable properties.

(ii) The Applicant must show that the tenant will not be required to pay the additional fee or charge as a condition of renting an apartment unit and must show that the tenant has a reasonable alternative.

(iii) The Applicant's operating expense schedule should reflect an offsetting cost associated with income derived from pass-through utility payments, pass-through water, sewer and trash payments, and cable fees.

(iv) Collection rates of exceptional fee items will generally be heavily discounted.

(v) If the total secondary income is over the maximum per unit per month limit, any cost associated with the construction, acquisition, or development of the hard assets needed to produce an additional fee may also need to be reduced from Eligible Basis for Tax Credit Developments as they may, in that case, be considered to be a commercial cost rather than an incidental to the housing cost of the Development.

(C) Vacancy and Collection Loss. The Underwriter uses a vacancy rate of 7.5% (5% vacancy plus 2.5% for collection loss) unless the Market Analysis reflects a higher or lower established vacancy rate for the area.

Elderly and 100% project-based rental subsidy Developments and other well documented cases may be underwritten at a combined 5% at the discretion of the Underwriter if the historical performance reflected in the Market Analysis is consistently higher than a 95% occupancy rate.

(D) **Effective Gross Income.** The Underwriter independently calculates EGI. If the EGI figure provided by the Applicant is within 5% of the EGI figure calculated by the Underwriter, the Applicant's figure is characterized as reasonable in the Report; however, for purposes of calculating DCR the Underwriter will maintain and use its independent calculation unless the Applicant's proforma meets the requirements of paragraph (3) of this subsection.

(2) **Expenses.** In determining the Year 1 proforma, theThe Underwriter evaluates the reasonableness of the Applicant's expense estimate by line item comparisons based upon the specifics of each transaction, including the type of Development, the size of the units, and the Applicant's expectations as reflected in their proforma. Historical stabilized certified or audited financial statements of the Development or Third Party quotes specific to the Development will reflect the strongest data points to predict future performance. The Department's database of property in the same location or region as the proposed Development also provides heavily relied upon data points. Data from the Institute of Real Estate Management's (IREM) most recent Conventional Apartments-Income/Expense Analysis book for the proposed Development's property type and specific location or region may be referenced. In some cases local or project-specific data such as Public Housing Authority ("PHA") Utility Allowances and property tax rates are also given significant weight in determining the appropriate line item expense estimate. Finally, well documented information provided in the Market Analysis, the application, and other sources may be considered.

(A) **General and Administrative Expense.** General and Administrative Expense includes all accounting fees, legal fees, advertising and marketing expenses, office operation, supplies, and equipment expenses. The underwriting tolerance level for this line item is 20%.

(B) **Management Fee.** Management Fee is paid to the property management company to oversee the effective operation of the property and is most often based upon a percentage of Effective Gross Income as documented in the management agreement contract. Typically, 5% of the Effective Gross Income is used, though higher percentages for rural transactions that are consistent with the TDHCA Database can be concluded. Percentages as low as 3% may be utilized if documented by a fully executed~~executed~~ Third Party management contract agreement with an acceptable management company. The Underwriter will require documentation for any percentage difference from the 5% of the Effective Gross Income standard.

(C) **Payroll and Payroll Expense.** Payroll and Payroll Expense includes all direct staff payroll, insurance benefits, and payroll taxes including payroll expenses for repairs and maintenance typical of a conventional development. It does not, however, include direct security payroll or additional supportive services payroll. The underwriting tolerance level for this line item is 10%.

(D) **Repairs and Maintenance Expense.** Repairs and Maintenance Expense includes all repairs and maintenance contracts and supplies. It should not include extraordinary capitalized expenses that would result from major renovations. Direct payroll for repairs and maintenance activities are included in payroll expense. The underwriting tolerance level for this line item is 20%.

(E) **Utilities Expense (Gas & Electric).** Utilities Expense includes all gas and electric energy expenses paid by the owner. It includes any pass-through energy expense that is reflected in the EGI. The underwriting tolerance level for this line item is 30%.

(F) **Water, Sewer and Trash Expense.** Water, Sewer and Trash Expense includes all water, sewer and trash expenses paid by the owner. It would also include any pass-through water, sewer and trash expense that is reflected in the EGI. The underwriting tolerance level for this line item is 30%.

(G) **Insurance Expense.** Insurance Expense includes any insurance for the buildings, contents, and liability but not health or workman's compensation insurance. The underwriting tolerance level for this line item is 30%.

(H) **Property Tax.** Property Tax includes all real and personal property taxes but not payroll taxes. The underwriting tolerance level for this line item is 10%.

(i) The per unit assessed value will be calculated based on the capitalization rate published on the county taxing authority's website. If the county taxing authority does not publish a capitalization rate on the internet, a capitalization rate of 10% will be used or comparable assessed values may be used in evaluating this line item expense.

(ii) Property tax exemptions or proposed payment in lieu of tax agreement (PILOT) must be documented as being reasonably achievable if they are to be considered by the Underwriter. At the discretion of

the Underwriter, a property tax exemption that meets known federal, state and local laws may be applied based on the tax-exempt status of the Development Owner and its Affiliates.

(I) **Reserves.** Reserves include annual reserve for replacements of future capitalizable expenses as well as any ongoing additional operating reserve requirements. The Underwriter includes minimum reserves of ~~\$250~~~~\$200~~ per unit for new construction and \$300 per unit for all other Developments. The Underwriter may require an amount above \$300 for Developments other than new construction based on information provided in the PCA. Higher levels of reserves also may be used if they are documented in the financing commitment letters.

(J) **Other Expenses.** The Underwriter will include other reasonable and documented expenses, not including depreciation, interest expense, lender or syndicator's asset management fees, or other ongoing partnership fees. Lender or syndicator's asset management fees or other ongoing partnership fees also are not considered in the Department's calculation of debt coverage. The most common other expenses are described in more detail in clauses (i) through (iv) of this subparagraph.

(i) **Supportive Services Expense.** Supportive Services Expense includes the documented cost to the owner of any non-traditional tenant benefit such as payroll for instruction or activities personnel. The Underwriter will not evaluate any selection points for this item. The Underwriter's verification will be limited to assuring any anticipated costs are included. For all transactions supportive services expenses are considered in calculating the Debt Coverage Ratio.

(ii) **Security Expense.** Security Expense includes contract or direct payroll expense for policing the premises of the Development. The Applicant's amount is typically accepted as provided. The Underwriter will require documentation of the need for security expenses that exceed 50% of the anticipated payroll expense estimate discussed in subparagraph (C) of this paragraph.

(iii) **Compliance Fees.** Compliance fees include only compliance fees charged by TDHCA. The Department's charge for a specific program may vary over time; however, the Underwriter uses the current charge per unit per year at the time of underwriting. For all transactions compliance fees are considered in calculating the Debt Coverage Ratio.

(iv) **Cable Television Expense.** Cable Television Expense includes fees charged directly to the owner of the Development to provide cable services to all units. The expense will be considered only if a contract for such services with terms is provided and income derived from cable television fees is included in the projected EGI. Cost of providing cable television in only the community building should be included in General and Administrative Expense as described in subparagraph (A) of this paragraph.

(K) The Department will communicate with and allow for clarification by the Applicant when the overall expense estimate is over 5% greater or less than the Underwriter's estimate. In such a case, the Underwriter will inform the Applicant of the line items that exceed the tolerance levels indicated in this paragraph, but may request additional documentation supporting some, none or all expense line items. If an acceptable rationale for the difference is not provided, the discrepancy is documented in the Report and the justification provided by the Applicant and the countervailing evidence supporting the Underwriter's determination is noted. If the Applicant's total expense estimate is within 5% of the final total expense figure calculated by the Underwriter, the Applicant's figure is characterized as reasonable in the Report; however, for purposes of calculating DCR the Underwriter will maintain and use its independent calculation unless the Applicant's Year 1 proforma meets the requirements of paragraph (3) of this subsection.

(3) **Net Operating Income.** NOI is the difference between the EGI and total operating expenses. If the Year 1 NOI figure provided by the Applicant is within 5% of the Year 1 NOI figure calculated by the Underwriter, the Applicant's figure is characterized as reasonable in the Report; however, for purposes of calculating the Year 1 DCR the Underwriter will maintain and use his independent calculation of NOI unless the Applicant's Year 1 EGI, Year 1 total expenses, and Year 1 NOI are each within 5% of the Underwriter's estimates.

(4) **Debt Coverage Ratio.** Debt Coverage Ratio is calculated by dividing Net Operating Income by the sum of loan principal and interest for all permanent sources of funds. Loan principal and interest, or "Debt Service," is calculated based on the terms indicated in the submitted commitments for financing. Terms generally include the amount of initial principal, the interest rate, amortization period, and repayment period. Unusual financing structures and their effect on Debt Service will also be taken into consideration.

(A) **Interest Rate.** The interest rate used should be the rate documented in the commitment letter.

(i) Commitments indicating a variable rate must provide a detailed breakdown of the component rates comprising the all-in rate. The commitment must also state the lender's underwriting interest rate, or the Applicant must submit a separate statement executed by the lender with an estimate of the interest rate as of the date of the statement.

(ii) The maximum rate allowed for a competitive application cycle is evaluated by the Director of the Department's division responsible for Credit Underwriting Analysis Reports and posted to the Department's web site prior to the close of the application acceptance period. Historically this maximum acceptable rate has been at or below the average rate for 30-year U.S. Treasury Bonds plus 400 basis points.

(B) **Amortization Period.** The Department generally requires an amortization of not less than 30 years and not more than 50 years or an adjustment to the amortization structure is evaluated and recommended. In non-Tax Credit transactions a lesser amortization period may be used if the Department's funds are fully amortized over the same period.

(C) **Repayment Period.** For purposes of projecting the DCR over a 30-year period for Developments with permanent financing structures with balloon payments in less than 30 years, the Underwriter will carry forward Debt Service calculated based on a full amortization and the interest rate stated in the commitment.

(D) **Acceptable Debt Coverage Ratio Range.** The ~~initial~~ acceptable Year 1 DCR range for all priority or foreclosable lien financing plus the Department's proposed financing falls between a minimum of ~~1.15140~~ to a maximum of 1.30. HOPE VI and USDA Rural Development transactions may underwrite to a DCR less than ~~1.15140~~ based upon documentation of acceptance from the lender.

(i) For Developments other than HOPE VI and USDA Rural Development transactions, if the DCR is less than the minimum, the recommendations of the Report are conditioned upon a reduced debt service and the Underwriter will make adjustments to the assumed financing structure in the order presented in subclauses (I) through (III) of this clause.

(I) A reduction of the interest rate or an increase in the amortization period for TDHCA funded loans;

(II) A reclassification of TDHCA funded loans to reflect grants, if permitted by program rules;

(III) A reduction in the permanent loan amount for non-TDHCA funded loans based upon the rates and terms in the permanent loan commitment letter as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph.

(ii) If the DCR is greater than the maximum, the recommendations of the Report are conditioned upon an increase in the debt service and the Underwriter will make adjustments to the assumed financing structure in the order presented in subclauses (I) through (III) of this clause.

(I) A reclassification of TDHCA funded grants to reflect loans, if permitted by program rules;

(II) An increase in the interest rate or a decrease in the amortization period for TDHCA funded loans;

(III) An increase in the permanent loan amount for non-TDHCA funded loans based upon the rates and terms in the permanent loan commitment letter as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph.

(iii) For Housing Tax Credit Developments, a reduction in the recommended Tax Credit allocation may be made based on the gap/DCR method described in subsection (c)(2) of this section.

(iv) Although adjustments in Debt Service may become a condition of the Report, future changes in income, expenses, and financing terms could allow for an acceptable DCR.

(5) **Long Term ~~Proforma Feasibility~~.** The Underwriter will ~~evaluate the long term feasibility of the Development by creating~~ create a ~~20-year-30-year~~ operating proforma.

~~(A) A 3% annual growth factor is utilized for income and a 4% annual growth factor is utilized for expenses.~~

~~(A) (B)~~ The base year projection utilized is the Underwriter's Year 1 EGI, Year 1 operating expenses, and Year 1 NOI unless the Applicant's Year 1 EGI, Year 1 total operating expenses, and Year 1 NOI are each within 5% of the Underwriter's estimates.

~~(B) In general, a 3% annual growth factor is utilized for income and a 4% annual growth factor is utilized for expenses.~~

~~(C) Adjustments may be made to the Long Term Proforma if sufficient support documentation is provided by the Applicant. Support may include~~

~~(i) documentation with terms for Project-based Rental Assistance or Operating Subsidy;~~

~~(ii) a fully executed management contract with clear terms;~~

~~(iii) documentation prepared and signed by the Central Appraisal District (CAD) with jurisdiction over the Development indicating the appraisal methodology consistently employed by the CAD and a ten-year history, beginning with the Application year, of tax rates for each taxing district with jurisdiction over the Development; and~~

(iv) required reserve for replacement schedule prepared and signed by the proposed permanent lender or equity provider. In no instance will the reserve for replacement figure included in the Long Term Proforma be less than the minimum requirements as described in §1.37 of this title.

~~(C) The DCR should remain above a 1.10 and a continued positive Cash Flow should be projected for the initial 30-year period in order for the Development to be characterized as feasible for the long term. DCR will be calculated based on the guidelines stated in subsection (d)(4) of this section.~~

~~(D) Any Development with a 30-year proforma, used in the underwriting analysis, reflecting cumulative Cash Flow over the first fifteen years as insufficient to repay the projected amount of deferred developer fee, amortized in irregular payments at 0% interest, is characterized as infeasible. An infeasible Development will not be recommended for funding unless the Underwriter can determine a plausible alternative feasible financing structure and conditions the recommendation(s) in the Report accordingly.~~

(de)(e) Development Costs. The Development's need for permanent funds and, when applicable, the Development's Eligible Basis is based upon the projected total development costs. The Department's estimate of the total development cost will be based on the Applicant's project cost schedule to the extent that it can be verified to a reasonable degree of certainty with documentation from the Applicant and tools available to the Underwriter. For new construction Developments, the Underwriter's total cost estimate will be used unless the Applicant's total development cost is within 5% of the Underwriter's estimate. In the case of a rehabilitation Development, the Underwriter may use a lower tolerance level due to the reliance upon the PCA. If the Applicant's total development cost is utilized and the Applicant's line item costs are inconsistent with documentation provided in the Application or program rules, the Underwriter may make adjustments to the Applicant's total cost estimate.

(1) **Acquisition Costs.** The proposed acquisition price is verified with the fully executed site control document(s) for the entire proposed site.

(A) **Excess Land Acquisition.** Where more land is being acquired than will be utilized for the site and the remaining acreage is not being utilized as permanent green space, the value ascribed to the proposed Development will be prorated from the total cost reflected in the site control document(s). An appraisal or tax assessment value may be tools that are used in making this determination; however, the Underwriter will not utilize a prorated value greater than the total amount in the site control document(s).

(B) Identity of Interest Acquisitions.

(i) The acquisition will be considered an identity of interest transaction when an Affiliate of, a Related Party to, or any owner at any level of the Development Team

(I) is the current owner in whole or in part of the proposed property, or

(II) was the owner in whole or in part of the proposed property during any period within the 36 months prior to the first day of the Application Acceptance Period.

(ii) In all identity of interest transactions the Applicant is required to provide the additional documentation identified in §50.9(h)(7)(A) of this title to support the transfer price to be used in the underwriting analysis.

(iii) In no instance will the acquisition cost utilized by the Underwriter exceed

(I) the original acquisition cost listed in the submitted settlement statement or, if a settlement statement is not available, the original asset value listed in the most current audited financial statement for the identity of interest owner, or

(II) the "as-is" value conclusion in the submitted appraisal.

(C) **Acquisition of Buildings for Tax Credit Properties.** In order to make a determination of the appropriate building acquisition value, the Applicant will provide and the Underwriter will utilize an appraisal that meets the Department's Appraisal Rules and Guidelines as described in §1.34 of this subchapter. The value of the improvements are the result of the difference between the as-is appraised value less the land value. The Underwriter may alternatively prorate the actual or identity of interest sales price based upon a lower calculated improvement value over the as-is value provided in the appraisal, so long as the resulting land value utilized by the Underwriter is not less than the land value indicated in the appraisal or tax assessment.

(2) **Off-Site Costs.** Off-Site costs are costs of development up to the site itself such as the cost of roads, water, sewer and other utilities to provide the site with access. All off-site costs must be well documented and certified by a Third Party engineer on the required application form.

(3) **Site Work Costs.** Project site work costs exceeding \$7,500 per Unit must be well documented and certified by a Third Party engineer on the required application form. In addition, for Applicants seeking Tax Credits, documentation in keeping with §50.9(i)(6)(G) of this title will be utilized in calculating eligible basis.

(4) **Direct Construction Costs.** Direct construction costs are the costs of materials and labor required for the building or rehabilitation of a Development.

(A) **New Construction.** The Underwriter will use the Marshall and Swift Residential Cost Handbook and historical final cost certifications of all previous housing tax credit allocations to estimate the direct construction cost for a new construction Development. If the Applicant's estimate is more than 5% greater or less than the Underwriter's estimate, the Underwriter will attempt to reconcile this concern and ultimately identify this as a cost concern in the Report.

(i) The "Average Quality" multiple, townhouse, or single family costs, as appropriate, from the Marshall and Swift Residential Cost Handbook, based upon the details provided in the application and particularly site and building plans and elevations will be used to estimate direct construction costs. If the Development contains amenities not included in the Average Quality standard, the Department will take into account the costs of the amenities as designed in the Development.

(ii) If the difference in the Applicant's direct cost estimate and the direct construction cost estimate detailed in clause (i) of this subparagraph is more than 5%, the Underwriter shall also evaluate the direct construction cost of the Development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for:

(I) the county in which the Development is to be located, or

(II) if cost certifications are unavailable under subclause (I) of this clause, the uniform state service region in which the Development is to be located.

(B) **Rehabilitation Costs.** In the case where the Applicant has provided a PCA which is inconsistent with the Applicant's figures as proposed in the development cost schedule, the Underwriter may request a supplement executed by the PCA provider supporting the Applicant's estimate and detailing the difference in costs. If said supplement is not provided or the Underwriter determines that the reasons for the initial difference in costs are not well-documented, the Underwriter utilizes the initial PCA estimations in lieu of the Applicant's estimates.

(5) ~~Hard Cost Contingency.~~ All contingencies identified in the Applicant project cost schedule will be added to ~~Hard Cost Contingency~~ with the total limited to the guidelines detailed in this paragraph. ~~Hard Cost Contingency~~ is limited to a maximum of 5% of direct costs plus site work for new construction Developments and 10% of direct costs plus site work for rehabilitation Developments. For tax credit Developments, the percentage is applied to the sum of the eligible direct construction costs plus eligible site work costs in calculating the eligible contingency cost. The Applicant's figure is used by the Underwriter if the figure is less than 5%.

(6) ~~Contractor Fee Limits.~~ Contractor fees are limited ~~to 6% for general requirements, 2% for contractor overhead, and 6% for contractor profit at a total of 14%.~~ The percentages ~~are is~~ applied to the sum of the direct construction costs plus site work costs. For tax credit Developments, the percentages are applied to the sum of the eligible direct construction costs plus eligible site work costs in calculating the eligible contractor fees. ~~Minor reallocations to make these fees fit within these limits may be made at the discretion of the Underwriter.~~ For Developments also receiving financing from TX-USDA-RHS, the combination of builder's general requirements, builder's overhead, and builder's profit should not exceed the lower of TDHCA or TX-USDA-RHS requirements.

(7) ~~Developer Fee Limits.~~ Developer fee claimed must be proportionate to the work for which it is earned and consistent with §49.9(d)(6) of this title.

(A) For Tax Credit Developments, the development cost associated with developer fees and Development Consultant (also known as Housing Consultant) fees included in Eligible Basis cannot exceed 15% of the project's Total Eligible Basis less developer fees, as defined in the QAP. ~~Developer fee claimed must be proportionate to the work for which it is earned.~~

(B) In the case of a transaction requesting acquisition Tax Credits

(i) the allocation of eligible developer fee in calculating rehabilitation/new construction Tax Credits will not exceed 15% of the rehabilitation/new construction basis less developer fees, and

(ii) In the case of an identity of interest transaction requesting acquisition Tax Credits, no developer fee attributable to an identity of interest acquisition of the Development will be included in Eligible Basis.

(C) For non-Tax Credit Developments, the percentage ~~remains the same~~ can be up to 15% but is based upon total development costs less the sum of the fee itself, land costs, the costs of permanent financing, excessive construction period financing described in subsection (f)(8) of this section, reserves, and any other identity of interest acquisition cost.

(8) **Financing Costs.** Eligible construction period financing is limited to not more than one year's fully drawn construction loan funds at the construction loan interest rate indicated in the commitment. Any excess over this amount is removed to ineligible cost and will not be considered in the determination of developer fee.

(9) **Reserves.** The Department will utilize the terms proposed by the syndicator or lender as described in the commitment letter(s) or the amount described in the Applicant's project cost schedule if it is within the range of two to six months of stabilized operating expenses less management fees plus debt service.

(10) **Other Soft Costs.** For Tax Credit Developments all other soft costs are divided into eligible and ineligible costs. Eligible costs are defined by Internal Revenue Code but generally are costs that can be capitalized in the basis of the Development for tax purposes. Ineligible costs are those that tend to fund future operating activities. The Underwriter will evaluate and accept the allocation of these soft costs in accordance with the Department's prevailing interpretation of the Internal Revenue Code. If the Underwriter questions the eligibility of any soft costs, the Applicant is given an opportunity to clarify and address the concern prior to removal from Eligible Basis.

~~(ef)~~(f) **Developer Capacity.** The Underwriter will evaluate the capacity of the Person(s) accountable for the role of the Developer to determine their ability to secure financing and successfully complete the Development. The Department will review financial statements, and personal credit reports for those individuals anticipated to guarantee the completion of the Development.

(1) **Credit Reports.** The Underwriter will characterize the Development as "high risk" if the Applicant, General Partner, Developer, anticipated Guarantor or Principals thereof have a credit score which reflects a 40% or higher potential default rate.

(2) **Financial Statements of Principals.** The Applicant, Developer, any principals of the Applicant, General Partner, and Developer and any Person who will be required to guarantee the Development will be required to provide a signed and dated financial statement and authorization to release credit information in accordance with the Department's program rules.

(A) **Individuals.** The Underwriter will evaluate and discuss financial statements for individuals in a confidential portion of the Report. The Development may be characterized as "high risk" if the Developer, anticipated Guarantor or Principals thereof is determined to have limited net worth or significant lack of liquidity.

(B) **Partnerships and Corporations.** The Underwriter will evaluate and discuss financial statements for partnerships and corporations in the Report. The Development may be characterized as "high risk" if the Developer, anticipated Guarantor or Principals thereof is determined to have limited net worth or significant lack of liquidity.

(C) If the Development is characterized as a high risk for either lack of previous experience as determined by the TDHCA division responsible for compliance or a higher potential default rate is identified as described in paragraph (1) or (2) of this subsection, the Report must condition any potential award upon the identification and inclusion of additional Development partners who can meet the Department's guidelines.

~~(fg)~~(g) **Other Underwriting Considerations.** The Underwriter will evaluate numerous additional elements as described in subsection (b) of this section and those that require further elaboration are identified in this subsection.

(1) **Floodplains.** The Underwriter evaluates the site plan, floodplain map, survey and other information provided to determine if any of the buildings, drives, or parking areas reside within the 100-year floodplain. If such a determination is made by the Underwriter, the Report will include a condition that:

(A) The Applicant must pursue and receive a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR-F); or

(B) The Applicant must identify the cost of flood insurance for the buildings and for the tenant's contents for buildings within the 100-year floodplain; or

(C) The Development must be designed to comply with the QAP, as proposed.

(2) ~~Inclusive Capture Rate. The Underwriter will not recommend the approval of funds to new Developments requesting funds if the anticipated inclusive capture rate, as defined in §1.33 of this title, exceeds 25% for the Primary Market unless:~~

~~(A) The Developments is classified as a Rural Development according to the QAP, as proposed, in which case an inclusive capture rate of 100% is acceptable; or~~

~~(B) The Development is strictly targeted to the elderly or special needs populations, in which case an inclusive capture rate of 100% is acceptable; or~~

~~(C) The Development is comprised of Affordable Housing which replaces previously existing substandard Affordable Housing within the same Primary Market Area on a Unit for Unit basis, and which gives the displaced tenants of the previously existing Affordable Housing a leasing preference, in which case an inclusive capture rate is not applicable.~~

~~(3)~~The Underwriter will identify in the report any Developments funded or known and anticipated to be eligible for funding within one linear mile of the subject.

~~(3)(4)~~ **Supportive Housing.** The unique development and operating characteristics of Supportive Housing Developments may require special consideration in the following areas:

(A) **Operating Income.** The extremely-low-income tenant population typically targeted by a Supportive Housing Development may include deep-skewing of rents to well below the 50% AMI level or other maximum rent limits established by the Department. The Underwriter should utilize the Applicant's proposed rents in the Report as long as such rents are at or below the maximum rent limit proposed for the units and equal to any project based rental subsidy rent to be utilized for the Development.

(B) **Operating Expenses.** A Supportive Housing Development may have significantly higher expenses for payroll, security, resident support services, or other items than typical Affordable Housing Developments. The Underwriter will rely heavily upon the historical operating expenses of other Supportive Housing Developments provided by the Applicant or otherwise available to the Underwriter.

(C) **DCR and Long Term Feasibility.** Supportive Housing Developments may be exempted from the DCR requirements of subsection (d)(4)(D) of this section if the Development is anticipated to operate without conventional debt. Applicants must provide evidence of sufficient financial resources to offset any projected ~~20-year-30-year~~ cumulative negative cash flows. Such evidence will be evaluated by the Underwriter on a case-by-case basis to satisfy the Department's long term feasibility requirements and may take the form of one or a combination of the following: executed subsidy commitment(s), set-aside of Applicant's financial resources, to be substantiated by an audited financial statement evidencing sufficient resources, and/or proof of annual fundraising success sufficient to fill anticipated operating losses. If either a set aside of financial resources or annual fundraising are used to evidence the long term feasibility of a Supportive Housing Development, a resolution from the Applicant's governing board must be provided confirming their irrevocable commitment to the provision of these funds and activities.

(D) **Development Costs.** For Supportive Housing that is styled as efficiencies, the Underwriter may use "Average Quality" dormitory costs from the Marshall & Swift Valuation Service, with adjustments for amenities and/or quality as evidenced in the application, as a base cost in evaluating the reasonableness of the Applicant's direct construction cost estimate for new construction Developments.

~~(gh)(h)~~ **Work Out Development.** Developments that are underwritten subsequent to Board approval in order to refinance or gain relief from restrictions may be considered infeasible based on the guidelines in this section, but may be characterized as "the best available option" or "acceptable available option" depending on the circumstances and subject to the discretion of the Underwriter as long as the option analyzed and recommended is more likely to achieve a better financial outcome for the property and the Department than the status quo.

~~(hi)(i)~~ **Feasibility Conclusion.** An infeasible Development will not be recommended for funding or allocation unless the Underwriter can determine a plausible alternative feasible financing structure and conditions the recommendations of the report upon receipt of documentation supporting the alternative feasible financing structure accordingly. A development will be characterized as infeasible if paragraph (1) of this subsection applies. The Development will be characterized as infeasible if one or more of paragraphs (2) - (4) of this subsection applies unless paragraph (5) of this subsection also applies.

(1) Inclusive Capture Rate. Defined in §1.33 of this title. The Underwriter will independently verify the inclusive capture rate. The Development

(A) is characterized as Rural, Elderly or Special Needs and the inclusive capture rate is

(i) above 50% for the total proposed units; or

(ii) above 100% for any Unit type by number of Bedrooms proposed and rent restriction category;

(B) is not characterized as Rural, Elderly or Special Needs and the inclusive capture rate is

(i) above 25% for the total proposed units; or

(ii) above 50% for any Unit type by number of Bedrooms proposed and rent restriction category.

(C) Developments meeting the requirements of subparagraph (A) or (B) of this paragraph may avoid being characterized as infeasible if subclause (i) or (ii) of this clause apply.

(i) Replacement Housing. The Development is comprised of Affordable Housing which replaces previously existing substandard Affordable Housing within the Primary Market Area as defined in §1.33 of this

title on a Unit for Unit basis, and gives the displaced tenants of the previously existing substandard Affordable Housing a leasing preference.

(ii) Existing Housing. The Development is comprised of existing Affordable Housing which is at least 80% occupied and gives displaced existing tenants a leasing preference as stated in the submitted relocation plan.

(2) Restricted Market Rent. The Restricted Market Rent is

(A) less than both the net Program Rent and Market Rent for units with income and rents restricted at or below 50% of AMGI; or

(B) more than 10% below the lesser of the net Program Rent or Market Rent for units with income and rents restricted at or below 60% of AMGI, but above 50% of AMGI.

(3) Initial Feasibility. The Year 1 annual total operating expense divided by the Year 1 Effective Gross Income is greater than 65%.

(4) Long Term Feasibility. Any year in the Long Term Proforma, as defined in (d)(5) of this section, reflects

(A) negative Cash Flow; or

(B) a Debt Coverage Ratio below 1.15.

(5) Exceptions. Developments meeting the requirements of one or more of paragraphs (2) - (4) of this subsection may be re-characterized as feasible if one or more of subparagraphs (A) - (D) of this paragraph and subparagraph (E) apply.

(A) The Development LURA reflects rents restricted at or below that affordable to the annualized income level calculated by dividing the Restricted Market Rent by 30%, rounded to the next lowest 10%.

(B) The Development will receive Project-based Section 8 Rental Assistance and a firm commitment with terms including contract rent and number of units is submitted at application.

(C) The Development will receive rental assistance in association with USDA-RD-RHS financing.

(D) The Development will be characterized as public housing as defined by HUD.

(E) The units not receiving Project-based Section 8 Rental Assistance or rental assistance in association with USDA-RD-RHS financing, or not characterized as public housing do not propose rents that are less than the Project-based Section 8, USDA-RD-RHS financing, or public housing units.

\$1.33 Market Analysis Rules and Guidelines

(a) **General Provision.** A Market Analysis prepared for the Department must evaluate the need for decent, safe, and sanitary housing at rental rates or sales prices that eligible tenants can afford. The analysis must determine the feasibility of the subject Property rental rates or sales price and state conclusions as to the impact of the Property with respect to the determined housing needs.

(b) **Self-Contained.** A Market Analysis prepared for the Department must allow the reader to understand the market data presented, the analysis of the data, and the conclusions derived from such data. All data presented should reflect the most current information available and the report must provide a parenthetical (in-text) citation or footnote describing the data source. The analysis must clearly lead the reader to the same or similar conclusions reached by the Market Analyst. All steps leading to a calculated figure must be presented in the body of the report.

(c) **Market Analyst Qualifications.** A Market Analysis submitted to the Department must be prepared and certified by an approved Qualified Market Analyst (§2306.67055). The Department will maintain an approved Market Analyst list based on the guidelines set forth in paragraphs (1) through (3) of this subsection.

(1) If not listed as approved by the Department, Market Analysts must submit subparagraphs (A) through (F) of this paragraph at least thirty days prior to the first day of the Application Acceptance Period for which the Market Analyst must be approved. To maintain status as an approved Qualified Market Analyst, updates to the items described in subparagraphs (A) through (C) of this paragraph must be submitted annually on the first Monday in February for review by the Department.

(A) Documentation of good standing in the State of Texas.

(B) A current organization chart or list reflecting all members of the firm who may author or sign the Market Analysis.

(C) Resumes for all members of the firm or subcontractors who may author or sign the Market Analysis.

(D) General information regarding the firm's experience including references, the number of previous similar assignments and time frames in which previous assignments were completed.

(E) Certification from an authorized representative of the firm that the services to be provided will conform to the Department's Market Analysis Rules and Guidelines, as described in this section, in effect for the application round in which each Market Analysis is submitted.

(F) A sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines, as described in this section, in effect for the year in which the sample Market Analysis is submitted.

(2) During the underwriting process each Market Analysis will be reviewed and any discrepancies with the rules and guidelines set forth in this section may be identified and require timely correction. Subsequent to the completion of the application round and as time permits, staff or a review appraiser will re-review a sample set of submitted market analyses to ensure that the Department's Market Analysis Rules and Guidelines are met. If it is found that a Market Analyst has not conformed to the Department's Market Analysis Rules and Guidelines, as certified to, the Market Analyst will be notified of the discrepancies in the Market Analysis and will be removed from the approved Qualified Market Analyst list.

(A) In and of itself, removal from the list of approved Market Analysts will not invalidate a Market Analysis commissioned prior to the removal date and at least 90 days prior to the first day of the applicable Application Acceptance Period.

(B) To be reinstated as an approved Qualified Market Analyst, the Market Analyst must amend the previous report to remove all discrepancies or submit a new sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines, as described in this section, in effect for the year in which the updated or new sample Market Analysis is submitted.

(3) The list of approved Qualified Market Analysts is posted on the Department's web site and updated within 72 hours of a change in the status of a Market Analyst.

(d) **Market Analysis Contents.** A Market Analysis for a rental Development prepared for the Department must be organized in a format that follows a logical progression and must include, at minimum, items addressed in paragraphs (1) through ~~(12)(13)~~ of this subsection.

(1) **Title Page.** Include Property address or location, effective date of analysis, date report completed, name and address of person authorizing report, and name and address of Market Analyst.

(2) **Letter of Transmittal.** The date of the letter must be the date the report was completed. Include Property address or location, description of Property, statement as to purpose and scope of analysis, reference to accompanying Market Analysis report with effective date of analysis and summary of conclusions, date of Property inspection, name of persons inspecting subject Property, and signatures of all Market Analysts authorized to work on the assignment. Include a statement that the report preparer has read and understood the requirements of this section.

(3) **Table of Contents.** Number the exhibits included with the report for easy reference.

~~(4) **Summary Form.** Complete and include the most current TDHCA Primary Market Area Analysis Summary form. An electronic version of the form and instructions are available on the Department's website at <http://www.tdhca.state.tx.us/rea/>.~~

~~(4)(5) **Assumptions and Limiting Conditions.** Include a description of all assumptions, both general and specific, made by the Market Analyst concerning the Property.~~

~~(5)(6) **Identification of the Property.** Provide a statement to acquaint the reader with the Development. Such information includes street address, tax assessor's parcel number(s), and Development characteristics.~~

~~(6)(7) **Statement of Ownership.** Disclose the current owners of record and provide a three year history of ownership for the subject Property.~~

~~(7)(8) **Secondary Market Area.** All of the Market Analyst's conclusions specific to the subject Development must be based on only one Secondary Market Area definition. The entire PMA, as described in paragraph ~~(8)(9)~~ of this subsection, must be contained within the Secondary Market boundaries. Secondary Market Demand will be considered for only Qualified Elderly Developments or Developments targeting special needs populations. The Market Analyst must adhere to the methodology described in this paragraph when determining the market area (§2306.67055).~~

(A) The Secondary Market Area will be defined by the Market Analyst with boundaries based on ~~(in descending order of TDHCA preference)~~

(i) major roads,

- (ii) political boundaries, and
- (iii) natural boundaries.
- (iv) A radius is prohibited as a boundary definition.

(B) The Market Analyst's definition of the Secondary Market Area must be supported with a detailed description of the methodology used to determine the boundaries. If applicable, the Market Analyst must place special emphasis on data used to determine an irregular shape for the Secondary Market.

(C) A scaled distance map indicating the Secondary Market Area boundaries that clearly identifies the location of the subject Property must be included.

(8)(9) Primary Market Area. All of the Market Analyst's conclusions specific to the subject Development must be based on only one Primary Market Area definition. The Market Analyst must adhere to the methodology described in this paragraph when determining the market area (§2306.67055).

(A) The Primary Market Area will be defined by the Market Analyst with

- (i) size based on a base year population of no more than
 - (I) 100,000 people for Developments targeting the general population, and
 - (II) 250,000 people for Qualified Elderly Developments or Developments targeting special needs populations,
- (ii) boundaries based on ~~(in descending order of TDHCA preference)~~
 - (I) major roads,
 - (II) political boundaries, and
 - (III) natural boundaries.
 - (IV) A radius is prohibited as a boundary definition.

(B) The Market Analyst's definition of the Primary Market Area must be supported with a detailed description of the methodology used to determine the boundaries. If applicable, the Market Analyst must place special emphasis on data used to determine an irregular shape for the PMA.

(C) A scaled distance map indicating the Primary Market Area boundaries that clearly identifies the location of the subject Property and the location of all Local Amenities must be included.

(9)(10) Market Information.

(A) For each of the defined market areas, identify the number of units for each of the categories in clauses (i) through (vi) of this subparagraph; the data must be clearly labeled as relating to either the PMA or the Secondary Market, if applicable

- (i) total housing,
- (ii) rental developments,
- (iii) Affordable Housing,
- (iv) Comparable Units,
- (v) Unstabilized Comparable Units, and
- (vi) proposed Comparable Units.

(B) **Occupancy.** The occupancy rate indicated in the Market Analysis may be used to support both the overall demand conclusion for the proposed Development and the vacancy rate assumption used in underwriting the Development (§1.32(d)(1)(C)). State the overall physical occupancy rate for the proposed housing tenure (renter or owner) within the defined market areas by

- (i) number of Bedrooms,
- (ii) quality of construction (class),
- (iii) Targeted Population, and
- (iv) Comparable Units.

(C) **Absorption.** State the absorption trends by quality of construction (class) and absorption rates for Comparable Units.

(D) **Turnover.** The turnover rate should be specific to the Targeted Population. The data supporting the turnover rate must originate from documented turnover rates from at least one of the following ~~(in descending order of TDHCA preference)~~

- (i) Comparable Units,
- (ii) the defined PMA,
- (iii) the defined Secondary Market, and
- (iv) a Third Party data collection agency or demographer.

(E) **Demand.** Provide a comprehensive evaluation of the need for the proposed housing for each Unit type by number of Bedrooms proposed and rent restriction category within the defined market areas using the most current census and demographic data available.

(i) **Demographics.**

(I) **Population.** Provide population and household figures, supported by actual demographics, for a five-year period with the year of application as the base year.

(II) **Target.** If applicable, adjust the household projections for the Qualified Elderly or special needs population targeted by the proposed Development. State the target adjustment rate.

(III) **Household Size-Appropriate.** Adjust the household projections or target household projections, as applicable, for the appropriate household size for the proposed Unit type by number of Bedrooms proposed and rent restriction category ~~Development~~ based on 1.5 persons per Bedroom~~bedroom~~ (round up). State the Household Size-Appropriate adjustment rate.

(IV) **Income Eligible.** Adjust the household size appropriate projections for income eligibility based on the income bands for the proposed Unit type by number of Bedrooms proposed and rent restriction category ~~Development~~ with

(-a-) the lower end of each income band calculated based on the lowest gross rent proposed divided by 35% for the general population and 40% for Qualified Elderly households, and

(-b-) the upper end of each income band equal to the applicable gross median income limit for the largest appropriate household size based on 1.5 persons per Bedroom~~bedroom~~ (round up).

(-c-) State the Income Eligible adjustment rate.

(V) **Tenure-Appropriate.** Adjust the income-eligible household projections for tenure (renter or owner). State the Tenure-Appropriate adjustment rate.

(ii) **Demand from Turnover.** Apply the turnover rate as described in subparagraph (D) of this paragraph to the target, income-eligible, size-appropriate and tenure-appropriate households in the PMA projected at ~~twelve months prior to~~ the proposed placed in service date.

(iii) **Demand from Population Growth.** Calculate the target, income-eligible, size-appropriate and tenure-appropriate household growth in the PMA for the twelve month period following prior to the proposed placed in service date.

(iv) **Demand from Other Sources.** The source of additional demand and the methodology used to calculate the additional demand must be clearly stated. Calculation of additional demand must factor in the adjustments described in clause (i) of this subparagraph.

~~(10)(11)~~ **Conclusions.** Include a comprehensive evaluation of the subject Property, separately addressing each housing type and specific population to be served by the Development in terms of items in subparagraphs (A) through (G) of this paragraph. All conclusions must be consistent with the data and analysis presented throughout the Market Analysis.

(A) **Unit Mix.** Provide a best possible unit mix conclusion based on the occupancy rates by Bedroom~~bedroom~~ type within the PMA and target, income-eligible, size-appropriate and tenure-appropriate household demand within the PMA.

(B) **Rents.** Provide a separate market rent and Restricted Market Rent subsidized rent conclusion for each proposed Unit~~unit~~ type by (number of Bedrooms~~bedrooms~~ or net rentable square footage) and rent restriction category. Conclusions of Market Rents~~market rents~~ or Restricted Market Rent subsidized rents below the maximum net Program Rent~~program rent~~ limit must be well documented as the conclusions may impact the feasibility of the Development under §1.32(i).

(i) **Comparable Units.** Identify developments in the PMA with Comparable Units. In Primary Market Areas lacking sufficient rent comparables, it may be necessary for the Market Analyst to collect data from markets with similar characteristics and make quantifiable location adjustments. Provide a data sheet for each development consisting of

(I) Development name,

(II) address,

(III) year of construction and year of rehabilitation, if applicable,

(IV) property condition,

(V) population target,

(VI) unit mix specifying number of Bedrooms~~bedrooms~~, number of baths, net rentable square footage and

(-a-) monthly rent, or

- (-b-) sales price with terms, marketing period and date of sale,
- (VII) description of concessions,
- (VIII) list of unit amenities,
- (IX) utility structure,
- (X) list of common amenities, and
- (XI) for rental developments only
 - (-a-) occupancy, and
 - (-b-) turnover.

(ii) Provide a scaled distance map indicating the Primary Market Area boundaries that clearly identifies the location of the subject Property and the location of the identified developments with Comparable Units.

(iii) **Rent Adjustments.** In support of the Market Rent ~~market rent~~ and Restricted Market Rent ~~subsidized rent~~ conclusions, provide a separate attribute adjustment matrix for each proposed unit type by ~~(number of~~ Bedrooms ~~bedrooms or net rentable square footage)~~ and rental restriction category.

- (I) The Department recommends use of HUD Form 92273.
- (II) A minimum of three developments must be represented on each attribute adjustment

matrix.

- (III) Adjustments for concessions must be included, if applicable.
- (IV) Total adjustments in excess of 15% must be supported with additional narrative.
- (V) Total adjustments in excess of 25% indicate the Units are not comparable for the purposes of determining Market Rent and Restricted Market Rent conclusions ~~suggest a weak comparable.~~

(C) **Effective Gross Income.** Provide rental income, secondary income, and vacancy and collection loss projections for the subject derived independent of the Applicant's estimates.

(D) **Demand.** State the target, income-eligible, size-appropriate and tenure-appropriate household demand by Unit type by number of Bedrooms proposed and rent restriction category (e.g. one-Bedroom units restricted at 50% of AMFI; two-Bedroom units restricted at 60% of AMFI) by summing the demand components discussed in paragraphs (9)(E)(ii) through (iv) of this subsection. State the total target, income-eligible, size-appropriate and tenure-appropriate household demand by summing the demand components discussed in paragraphs ~~(10)(9)~~(9)(E)(ii) through (iv) of this subsection.

(E) **Inclusive Capture Rate.** The Market Analyst must calculate inclusive capture rates for the subject Development's proposed Unit types by number of Bedrooms and rent restriction categories ~~program Units~~, market rate Units, if applicable, and total Units. The Underwriter will adjust the inclusive capture rates to take into account any errors or omissions. To calculate an inclusive capture rate

- (i) total
 - (I) the proposed subject Units,
 - (II) Comparable Units with priority, as defined in §50.9(e)(2) of this title, over the subject that have made application to TDHCA and have not been presented to the TDHCA Board for decision and
 - (III) previously approved, but Unstabilized ~~Comparable Units~~ in previously approved but Unstabilized Developments, and

(ii) divide by the total target, income-eligible, size-appropriate and tenure-appropriate household demand stated in subparagraph (D) of this paragraph.

(iii) Refer to §1.32(i) for feasibility criteria.

(F) **Absorption.** Project an absorption period for the subject Development to achieve Sustaining Occupancy. State the absorption rate.

(G) **Market Impact.** Provide an assessment of the impact the subject Development, as completed, will have on existing program Developments in the Primary Market (§2306.67055).

~~(11)(12)~~ **Photographs.** Provide labeled color photographs of the subject Property, the neighborhood, street scenes, and comparables. An aerial photograph is desirable but not mandatory.

~~(12)(13)~~ **Appendices.** Any Third Party reports including demographics relied upon by the Market Analyst must be provided in appendix form. A list of works cited including personal communications also must be provided, and the Modern Language Association (MLA) format is suggested.

(e) The Department reserves the right to require the Market Analyst to address such other issues as may be relevant to the Department's evaluation of the need for the subject Development and the provisions of the particular program guidelines.

(f) All Applicants shall acknowledge, by virtue of filing an application, that the Department shall not be bound by any such opinion or Market Analysis, and may substitute its own analysis and underwriting conclusions for those submitted by the Market Analyst.

§1.34 Appraisal Rules and Guidelines

(a) **General Provisions.** ~~An Appraisals~~ prepared for the Department must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation.

~~(b) **Self-Contained.** Self-contained reports~~An appraisal prepared for the Department must describe sufficient and adequate data and analyses to support the final opinion of value. The final value(s) must be reasonable, based on the information included. Any Third Party reports relied upon by the appraiser must be verified by the appraiser as to the validity of the data and the conclusions. ~~The report must contain sufficient data, included in the appendix when possible, and analysis to allow the reader to understand the property being appraised, the market data presented, analysis of the data, and the appraiser's value conclusion. The complexity of this requirement will vary in direct proportion with the complexity of the real estate and real estate interest being appraised. The report should lead the reader to the same or similar conclusion(s) reached by the appraiser.~~

~~(c) **Appraiser Qualifications.** The qualifications of each appraiser are determined on a case-by-case basis by the Director of Real Estate Analysis or review appraiser, based upon the quality of the report itself and the experience and educational background of the appraiser. At minimum, a qualified appraiser must be appropriately certified or licensed by the Texas Appraiser Licensing and Certification Board.~~

~~(b) Upon completion of the report, an electronic copy should be transmitted to TDHCA, and an original hard copy must be submitted.~~

~~(c) **Value Estimates.**~~

~~(1) All appraisals shall contain a separate estimate of the "as vacant" market value of the underlying land, based upon current sales comparables.~~

~~(2) Appraisal assignments for new construction are required to provide an "as completed" value of the proposed structures. These reports shall provide an "as restricted with favorable financing" value as well as an "unrestricted market" value.~~

~~(3) Reports on Properties to be rehabilitated shall address the "as restricted with favorable financing" value as well as both an "as is" value and an "as completed" value.~~

~~(4) If required the appraiser must include a separate assessment of personal property, furniture, fixtures, and equipment (FF&E) and/or intangible items. This separate assessment may be required because their economic life may be shorter than the real estate improvements and may require different lending or underwriting considerations. If personal property, FF&E, or intangible items are not part of the transaction or value estimate, a statement to such effect should be included.~~

~~(d) **Date of Appraisal.** The appraisal report must be dated and signed by the appraiser who inspected the property. The date of valuation should not be more than six months prior to the date of application to the Department unless the Department's program rules indicate otherwise.~~

~~(e) **Appraiser Qualifications.** The qualifications of each appraiser are determined and approved on a case-by-case basis by the Director of Real Estate Analysis or review appraiser, based upon the quality of the report itself and the experience and educational background of the appraiser, as set forth in the Statement of Qualifications appended to the appraisal. At minimum, a qualified appraiser must be appropriately certified or licensed for the type of appraisal being performed by the Texas Appraiser Licensing and Certification Board.~~

~~(df) **Appraisal Contents.** An appraisal prepared for the Department must be organized in a format that follows a logical progression progressionand. In addition to the contents described in USPAP Standards Rule 2, the appraisal must include, at minimum, items addressed in paragraphs (1) through (12) (138) of this subsection.~~

~~(1) **Title Page.** Include a statement identifying Include identification as to the type of appraisal submitted (e.g., type of process--complete or limited, type of report--self-contained, summary or restricted), property address and/or location, housing type, the Department addressed as the client, __ or~~

acknowledgment that ~~THDCA the Department~~ is granted full authority to rely on the findings of the report, ~~and, effective date of value estimate(s), date of report,~~ name and address of person authorizing report, ~~and name and address of appraiser(s).~~

(2) **Letter of Transmittal.** ~~Include date of letter, property address and/or location, description of property type, extraordinary/special assumptions or limiting conditions that were approved by person authorizing the assignment, statement as to function of the report, statement of property interest being appraised, statement as to appraisal process (complete or limited), statement as to reporting option (self-contained, summary or restricted),~~ reference to accompanying appraisal report, reference to all person(s) that provided significant assistance in the preparation of the report, date of report, effective date of appraisal, date of property inspection, name of person(s) inspecting the property, tax assessor's parcel number(s) of the site, identification of type(s) of value(s) estimated (e.g., market value, leased fee value, as-financed value, etc.), estimate of marketing period, and signatures of all appraisers authorized to work on the assignment including the appraiser who inspected the property. Include a statement indicating the report preparer has read and understood the requirements of this section.

(3) **Table of Contents.** Number the exhibits included with the report for easy reference.

~~(4) Assumptions and Limiting Conditions. Include a summary of all assumptions, both general and specific, made by the appraiser(s) concerning the property being appraised. Statements may be similar to those recommended by the Appraisal Institute.~~

~~(5) Certificate of Value. This section may be combined with the letter of transmittal and/or final value estimate. Include statements similar to those contained in Standard Rule 2-3 of USPAP.~~

~~(46) Disclosure of Competency. Include appraiser's qualifications, detailing education and experience, as discussed in subsection (e) of this section.~~

~~(7) Identification of the Property. Provide a statement to acquaint the reader with the property. Real estate being appraised must be fully identified and described by street address, tax assessor's parcel number(s), and Development characteristics. Include a full, complete, legible, and concise legal description.~~

(58) **Statement of Ownership of the Subject Property.** Discuss all prior sales of the subject property which occurred within the past three years. Any pending agreements of sale, options to buy, or listing of the subject property must be disclosed in the appraisal report.

~~(69) Purpose and Function of the Appraisal. Provide a brief comment stating the purpose of the appraisal and a statement citing the function of the report.~~

(A) **Property Rights Appraised.** Include a statement as to the property rights (e.g., fee simple interest, leased fee interest, leasehold, etc.) being considered. The appropriate interest must be defined in terms of current appraisal terminology with the source cited.

~~(B) Definition of Value Premise. One or more types of value (e.g., "as is," "as if," "prospective market value") may be required. Definitions corresponding to the appropriate value must be included with the source cited.~~

~~(10) Scope of the Appraisal. Address and summarize the methods and sources used in the valuation process. Describes the process of collecting, confirming, and reporting the data used in the assignment.~~

~~(11) Regional Area Data. Provide a general description of the geographic location and demographic data and analysis of the regional area. A map of the regional area with the subject identified is requested, but not required.~~

~~(12) Neighborhood Data. Provide a specific description of the subject's geographical location and specific demographic data and an analysis of the neighborhood. A summary of the neighborhood trends, future Development, and economic viability of the specific area should be addressed. A map with the neighborhood boundaries and the subject identified must be included.~~

(473) **Site/Improvement Description.** Discuss the site characteristics including subparagraphs (A) through (E) of this paragraph.

(A) **Physical Site Characteristics.** Describe dimensions, size (square footage, acreage, etc.), shape, topography, corner influence, frontage, access, ingress-egress, etc. associated with the site. Include a plat map and/or survey.

(B) **Floodplain.** Discuss floodplain (including flood map panel number) and include a floodplain map with the subject clearly identified.

(C) **Zoning.** Report the current zoning and description of the zoning restrictions and/or deed restrictions, where applicable, and type of Development permitted. Any probability of change in zoning should

be discussed. A statement as to whether or not the improvements conform to the current zoning should be included. A statement addressing whether or not the improvements could be rebuilt if damaged or destroyed, should be included. If current zoning is not consistent with the hHighest and bBest uUse, and zoning changes are reasonable to expect, time and expense associated with the proposed zoning change should be considered and documented. A zoning map should be included.

(D) **Description of Improvements.** Provide a thorough description and analysis of the improvements including size (net rentable area, gross building area, etc.), number of stories, number of buildings, type/quality of construction, condition, actual age, effective age, exterior and interior amenities, items of deferred maintenance, etc. All applicable forms of depreciation should be addressed along with the remaining economic life.

~~(E) Fair Housing. It is recognized appraisers are not an expert in such matters and the impact of such deficiencies may not be quantified; however, the report should disclose any potential violations of the Fair Housing Act of 1988, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 and/or report any accommodations (e.g., wheelchair ramps, handicap parking spaces, etc.) which have been performed to the property or may need to be performed.~~

~~(F) Environmental Hazards. It is recognized appraisers are not an experts in such matters and the impact of such deficiencies may not be quantified; however, however, the report should disclose any potential environmental hazards (e.g., discolored vegetation, oil residue, asbestos-containing materials, lead-based paint etc.) noted during the inspection.~~

(184) **Highest and Best Use.** Market Analysis and feasibility study is required as part of the highest and best use. The highest and best use analysis should consider paragraph (743)(A) through (EF) of this subsection as well as a supply and demand analysis.

(A) The appraisal must inform the reader of any positive or negative market trends which could influence the value of the appraised property. Detailed data must be included to support the appraiser's estimate of stabilized income, absorption, and occupancy.

(B) The highest and best use section must contain a separate analysis "as if vacant" and "as improved" (or "as proposed to be improved/renovated"). All four elements ~~in appropriate order as outlined in the Appraisal of Real Estate~~ (legally permissible, physically possible, feasible, and maximally productive) must be sequentially considered.

~~(15)9) Appraisal Process. The Cost Approach, Sales Comparison Approach and Income Approach are three recognized appraisal approaches to valuing most properties. It is mandatory that all three approaches, Cost Approach, Sales Comparison Approach and Income Approach, are considered in valuing the property, unless specifically instructed by the Department to ignore one or more of the approaches; or unless reasonable appraisers would agree that use of an approach is not applicable. If an approach is not applicable to a particular property, an adequate explanation must be provided. A land value estimate must be provided if the cost approach is not applicable. then omission of such approach must be fully and adequately explained.~~

(A) **Cost Approach.** This approach should give a clear and concise estimate of the cost to construct the subject improvements. The ~~type of cost (reproduction or replacement)~~ and source(s) of the cost data should be reported.

(i) Cost comparables are desirable; however, alternative cost information may be obtained from Marshall & Swift Valuation Service or similar publications. The section, class, page, etc. should be referenced. All soft costs and entrepreneurial profit must be addressed and documented.

(ii) All applicable forms of depreciation must be discussed and analyzed. Such discussion must be consistent with the description of the improvements ~~analysis~~.

(iii) The land value estimate should include a sufficient number of sales which are current, comparable, and similar to the subject in terms of highest and best use. Comparable sales information should include address, legal description, tax assessor's parcel number(s), sales price, date of sale, grantor, grantee, three year sales history, and adequate description of property transferred. The final value estimate should fall within the adjusted and unadjusted value ranges. Consideration and appropriate cash equivalent adjustments to the comparable sales price for subclauses (I) through (VII) of this clause should be made when applicable.

- (I) Property rights conveyed.
- (II) Financing terms.
- (III) Conditions of sale.
- (IV) Location.
- (V) Highest and best use.

(VI) Physical characteristics (e.g., topography, size, shape, etc.).

(VII) Other characteristics (e.g., existing/proposed entitlements, special assessments, etc.).

(B) **Sales Comparison Approach.** This section should contain an adequate number of sales to provide the reader with a description of the ~~the~~ current market conditions concerning this property type. Sales data should be recent and specific for the property type being appraised. The sales must be confirmed with buyer, seller, or an individual knowledgeable of the transaction.

(i) ~~Minimum content of the~~ Sales information should include address, legal description, tax assessor's parcel number(s), sales price, financing considerations, and adjustment for cash equivalency, date of sale, recordation of the instrument, parties to the transaction, three year sale history, complete description of the property and property rights conveyed, and discussion of marketing time. A scaled distance map clearly identifying the subject and the comparable sales must be included.

(ii) ~~Several methods may be utilized in the Sale Comparison Approach.~~ The method(s) used in the Sales Comparison Approach must be reflective of actual market activity and market participants.

(I) **Sale Price/Unit of Comparison.** The analysis of the sale comparables must identify, relate, and evaluate the individual adjustments applicable for property rights, terms of sale, conditions of sale, market conditions, and physical features. Sufficient narrative analysis must be included to permit the reader to understand the direction and magnitude of the individual adjustments, as well as a unit of comparison value indicator for each comparable. ~~The appraiser(s) reasoning and thought process must be explained.~~

~~(II) Potential Gross Income/Effective Gross Income Analysis. If used in the report, this method of analysis must clearly indicate the income statistics for the comparables. Consistency in the method for which such economically statistical data was derived should be applied throughout the analysis. At least one other method should accompany this method of analysis.~~

(III) **Net Operating Income/Unit of Comparison.** ~~If used in the report, t~~ The net operating income statistics for the comparables must be calculated in the same manner ~~and disclosed as such~~. It should be disclosed if reserves for replacement have been included in this method of analysis. At least one other method should accompany this method of analysis.

(C) **Income Approach.** This section ~~is to~~ must contain an analysis of both the actual historical and projected income and expense aspects of the subject property.

(i) **Market Rent Estimate/Comparable Rental Analysis.** This section of the report should include an adequate number of actual market transactions to inform the reader of current market conditions concerning rental units. The comparables must indicate current research for this specific property type. The rental comparables must be confirmed with the landlord, tenant or agent and individual data sheets must be included. The ~~minimum content of the~~ individual data sheets should include property address, lease terms, description of the property (e.g., unit type, unit size, unit mix, interior amenities, exterior amenities, etc.), physical characteristics of the property, and location of the comparables. Analysis of the Market Rents should be sufficiently detailed to permit the reader to understand the appraiser's logic and rationale. Adjustment for lease rights, condition of the lease, location, physical characteristics of the property, etc. must be considered.

(ii) **Comparison of Market Rent to Contract Rent.** Actual income for the subject along with the owner's current budget projections must be reported, summarized, and analyzed. If such data is unavailable, a statement to this effect is required and appropriate assumptions and limiting conditions should be made. The contract rents should be compared to the market-derived rents. A determination should be made as to whether the contract rents are below, equal to, or in excess of market rates. If there is a difference, its impact on value must be qualified.

(iii) **Vacancy/Collection Loss.** Historical occupancy data and current occupancy level for the subject should be reported and compared to occupancy data from the rental comparables and overall occupancy data for the subject's Primary Market.

(iv) **Expense Analysis.** Actual expenses for the subject, along with the owner's projected budget, must be reported, summarized, and analyzed. If such data is unavailable, a statement to this effect is required and appropriate assumptions and limiting conditions should be made. Historical expenses should be compared to comparables expenses of similar property types or published survey data (e.g., IREM, BOMA, etc.). Any expense differences should be reconciled. Historical-Include historical data regarding the subject's assessment and tax rates ~~should be included and~~ a statement as to whether or not any delinquent taxes exist ~~should be included~~.

(v) **Capitalization.** ~~Several capitalization methods may be utilized in the Income Approach.~~ The appraiser should present the capitalization method(s) reflective of the subject market and explain the omission of any method not considered in the report.

(I) **Direct Capitalization.** The primary method of deriving an overall rate (OAR) is through market extraction. If a band of investment or mortgage equity technique is utilized, the assumptions must be fully disclosed and discussed.

(II) **Yield Capitalization (Discounted Cash Flow Analysis).** This method of analysis should include a detailed and supportive discussion of the projected holding/investment period, income and income growth projections, occupancy projections, expense and expense growth projections, reversionary value and support for the discount rate.

(10) Value Estimates. Reconciliation of the final value estimate is required.

(A) All appraisals shall contain a separate estimate of the "as vacant" market value of the underlying land, based upon current sales comparables. The appraiser should consider the fee simple or leased fee interest as appropriate.

(B) Appraisal assignments for new construction are required to provide an "as completed" value of the proposed structures. These reports shall provide an "as restricted with favorable financing" value as well as an "unrestricted market" value.

(C) Reports on Properties to be rehabilitated shall address the "as restricted with favorable financing" value as well as both an "as is" value and an "as completed" value. The appraiser should consider the fee simple or leased fee interest as appropriate.

(D) If required the appraiser must include a separate assessment of personal property, furniture, fixtures, and equipment (FF&E) and/or intangible items. If personal property, FF&E, or intangible items are not part of the transaction or value estimate, a statement to such effect should be included.

~~(116) **Reconciliation and Final Value Estimate.** This section of the report should summarize the approaches and values that were utilized in the appraisal. An explanation should be included for any approach which was not included. Such explanations should lead the reader to the same or similar conclusion of value. Although the values for each approach may not "agree", the differences in values should be analyzed and discussed. Other values or interests appraised should be clearly labeled and segregated. Such values may include FF&E, leasehold interest, excess land, etc. In addition, rent restrictions, subsidies and incentives should be explained in the appraisal report and their impact, if any, needs to be reported in conformity with the Comment section of USPAP Standards Rule 1-2(e), which states, "Separation of such items is required when they are significant to the overall value." In the appraisal of subsidized housing, value conclusions that include the intangibles arising from the programs will also have to be analyzed under a scenario without the intangibles in order to measure their influence on value.~~

~~(117) **Marketing Period/Time.** Given property characteristics and current market conditions, the appraiser(s) should employ a reasonable marketing period. The report should detail existing market conditions and assumptions considered relevant.~~

~~(128) **Photographs.** Provide good quality color photographs of the subject property (front, rear, and side elevations, on-site amenities, interior of typical units if available). Photographs should be properly labeled. Photographs of the neighborhood, street scenes, and comparables should be included. An aerial photograph is desirable but not mandatory.~~

~~(eg) **Additional Appraisal Concerns.** The appraiser(s) must recognize and be aware of the particular TDHCA Department program rules and guidelines and the appraisal must include analysis of any impact and their relationship to the subject's value. Due to the various programs offered by the Department, various conditions may be placed on the subject which would impact value. Furthermore, each program may require that the appraiser apply a different set of specific definitions for the conclusions of value to be provided. Consequently, as a result of such criteria, the appraiser(s) should be aware of such conditions and definitions and clearly identify them in the report.~~

§1.35 Environmental Site Assessment Rules and Guidelines

(a) **General Provisions.** The Environmental Site Assessments (ESA) prepared for the Department should be conducted and reported in conformity with the standards of the American Society for Testing and Materials. The

initial report should conform with the Standard Practice for Environmental Site Assessments: Phase I Assessment Process (ASTM Standard Designation: E-1527-05). Any subsequent reports should also conform to ASTM standards and such other recognized industry standards as a reasonable person would deem relevant in view of the Property's anticipated use for human habitation. The environmental assessment shall be conducted by a Third Party environmental professional at the expense of the Applicant, and addressed to TDHCA as a User of the report (as defined by ASTM standards). Copies of reports provided to TDHCA which were commissioned by other financial institutions should address TDHCA as a co-recipient of the report, or letters from both the provider and the recipient of the report should be submitted extending reliance on the report to TDHCA. The ESA report should also include a statement that the person or company preparing the ESA report will not materially benefit from the Development in any other way than receiving a fee for performing the Environmental Site Assessment, and that the fee is in no way contingent upon the outcome of the assessment-. The ESA report must contain a statement indicating the report preparer has read and understood the requirements of this section.

(b) In addition to ASTM requirements, the report must

(1) State if a noise study is recommended for a property in accordance with current HUD guidelines and identify its proximity to industrial zones, major highways, active rail lines, civil and military airfields, or other potential sources of excessive noise;

(2) Provide a copy of a current survey, if available, or other drawing of the site reflecting the boundaries and adjacent streets, all improvements on the site, and any items of concern described in the body of the environmental site assessment or identified during the physical inspection;

(3) Provide a copy of the current FEMA Flood Insurance Rate Map showing the panel number and encompassing the site with the site boundaries precisely identified and superimposed on the map.

~~(4) Provide a narrative determination of the flood risk for the proposed Development described in the narrative of the report includes a discussion of the impact of the 100-year floodplain on the proposed Development based upon a review of the current site plan;~~

~~(4)(5) If the subject site includes any improvements or debris from pre-existing improvements, state~~ State if testing for asbestos containing materials (ACMs) would be required pursuant to local, state, and federal laws, or recommended due to any other consideration;

~~(5)(6) If the subject site includes any improvements or debris from pre-existing improvements, state~~ State if testing for Lead Based Paint would be required pursuant to local, state, and federal laws, or recommended due to any other consideration;

~~(6)(7)~~ State if testing for lead in the drinking water would be required pursuant to local, state, and federal laws, or recommended due to any other consideration such as the age of pipes and solder in existing improvements; and

~~(7)(8)~~ Assess the potential for the presence of Radon on the property, and recommend specific testing if necessary.

(c) If the report recommends further studies or establishes that environmental hazards currently exist on the Property, or are originating off-site but would nonetheless affect the Property, the Development Owner must act on such a recommendation or provide a plan for either the abatement or elimination of the hazard. Evidence of action or a plan for the abatement or elimination of the hazard must be presented upon Application submittal.

~~(d) For Developments which have had a Phase II Environmental Assessment performed and hazards identified, the Development Owner is required to maintain a copy of said assessment on site available for review by all persons which either occupy the Development or are applying for tenancy.~~

~~(d)(e)~~ For Developments in programs that allow a waiver of the Phase I ESA such as a TX-USDA-RHS funded Development, the Development Owners are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

~~(e)(f)~~ Those Developments which have or are to receive first lien financing from HUD may submit HUD's environmental assessment report, provided that it conforms with the requirements of this subsection.

§1.36 Property Condition Assessment Guidelines

(a) **General Provisions.** The objective of the Property Condition Assessment (the PCA) is to provide cost estimates for repairs, replacements, or new construction which are: immediately necessary; proposed by the developer; and expected to be required throughout the term of the regulatory period and not less than 30 years. The PCA prepared for the Department should be conducted and reported in conformity with the American Society for Testing and Materials "Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process (ASTM Standard Designation: E 2018)" except as provided for in subsections (b) and (c) of this section. The PCA must include discussion and analysis of the following:

(1) **Useful Life Estimates.** For each system and component of the property the PCA should assess the condition of the system or component, and estimate its remaining useful life, citing the basis or the source from which such estimate is derived.

(2) **Code Compliance.** The PCA should review and document any known violations of any applicable federal, state, or local codes. In developing the cost estimates specified herein, it is the responsibility of the Housing Sponsor or Applicant to ensure that the PCA adequately considers any and all applicable federal, state, and local laws and regulations which may govern any work performed to the subject property.

(3) **Program Rules.** The PCA should assess the extent to which any systems or components must be modified, repaired, or replaced in order to comply with any specific requirements of the housing program under which the Development is proposed to be financed, particular consideration being given to accessibility requirements, the Department's Housing Quality Standards, and any scoring criteria for which the Applicant may claim points.

(4) **Cost Estimates for Repair and Replacement.** It is the responsibility of the Housing Sponsor or Applicant to ensure that the PCA provider is apprised of all development activities associated with the proposed transaction and consistency of the total immediately necessary and proposed repair and replacement cost estimates with the development cost schedule submitted as an exhibit of the Application.

(A) **Immediately Necessary Repairs and Replacement.** Systems or components which are expected to have a remaining useful life of less than one year, which are found to be in violation of any applicable codes, which must be modified, repaired or replaced in order to satisfy program rules, or which are otherwise in a state of deferred maintenance or pose health and safety hazards should be considered immediately necessary repair and replacement. The PCA must provide a separate estimate of the costs associated with the repair, replacement, or maintenance of each system or component which is identified as being an immediate need, citing the basis or the source from which such cost estimate is derived.

(B) **Proposed Repair, Replacement, or New Construction.** If the development plan calls for additional repair, replacement, or new construction above and beyond the immediate repair and replacement described in subparagraph (A) of this paragraph, such items must be identified and the nature or source of obsolescence or improvement to the operations of the Property discussed. The PCA must provide a separate estimate of the costs associated with the repair, replacement, or new construction which is identified as being above and beyond the immediate need, citing the basis or the source from which such cost estimate is derived.

(C) **Expected Repair and Replacement Over Time.** The term during which the PCA should estimate the cost of expected repair and replacement over time must equal the longest term of any land use or regulatory restrictions which are, or will be, associated with the provision of housing on the property. The PCA must estimate the periodic costs which are expected to arise for repairing or replacing each system or component or the property, based on the estimated remaining useful life of such system or component as described in paragraph (1) of this subsection adjusted for completion of repair and replacement immediately necessary and proposed as described in subparagraphs (A) and (B) of this paragraph. The PCA must include a separate table of the estimated long term costs which identifies in each line the individual component of the property being examined, and in each column the year during the term in which the costs are estimated to be incurred and no less than 30 years. The estimated costs for future years should be given in both present dollar values and anticipated future dollar values assuming a reasonable inflation factor of not less than 2.5% per annum.

(b) If a copy of such standards or a sample report have been provided for the Department's review, if such standards are widely used, and if all other criteria and requirements described in this section are satisfied, the Department will also accept copies of reports commissioned or required by the primary lender for a proposed transaction, which have been prepared in accordance with:

- (1) Fannie Mae's criteria for Physical Needs Assessments,
- (2) Federal Housing Administration's criteria for Project Capital Needs Assessments,

- (3) Freddie Mac's guidelines for Engineering and Property Condition Reports,
- (4) TX-USDA-RHS guidelines for Capital Needs Assessment, or
- (5) Standard and Poor's Property Condition Assessment Criteria: Guidelines for Conducting Property Condition Assessments, Multifamily Buildings.

(c) The Department may consider for acceptance reports prepared according to other standards which are not specifically named above in subsection (b) of this section, if a copy of such standards or a sample report have been provided for the Department's review, if such standards are widely used, and if all other criteria and requirements described in this section are satisfied.

(d) The PCA shall be conducted by a Third Party at the expense of the Applicant, and addressed to TDHCA as the client. Copies of reports provided to TDHCA which were commissioned by other financial institutions should address TDHCA as a co-recipient of the report, or letters from both the provider and the recipient of the report should be submitted extending reliance on the report to TDHCA. The PCA report should also include a statement that the person or company preparing the PCA report will not materially benefit from the Development in any other way than receiving a fee for performing the PCA. The PCA report must contain a statement indicating the report preparer has read and understood the requirements of this section. The PCA should be signed and dated by the Third Party report provider not more than ~~six~~ three months prior to the date of the application.

§1.37 Reserve for Replacement Rules and Guidelines

(a) **General Provisions.** The Department will require Developments to provide regular maintenance to keep housing sanitary, safe and decent by maintaining a reserve for replacement in accordance with §2306.186. The reserve must be established for each unit in a Development of 25 or more rental units, regardless of the amount of rent charged for the unit. The Department shall, through cooperation of its divisions responsible for asset management and compliance, ensure compliance with this section.

(b) The First Lien Lender shall maintain the reserve account through an escrow agent acceptable to the First Lien Lender to hold reserve funds in accordance with an executed escrow agreement and the rules set forth in this section and §2306.186.

(1) Where there is a First Lien Lender other than the Department or a Bank Trustee as a result of a bond indenture or tax credit syndication, the Department shall

(A) Be a required signatory party in all escrow agreements for the maintenance of reserve funds;

(B) Be given notice of any asset management findings or reports, transfer of money in reserve accounts to fund necessary repairs, and any financial data and other information pursuant to the oversight of the Reserve Account within 30 days of any receipt or determination thereof;

(C) Subordinate its rights and responsibilities under the escrow agreement, including those described in this subsection, to the First Lien Lender or Bank Trustee through a subordination agreement subject to its ability to do so under the law and normal and customary limitations for fraud and other conditions contained in the Department's standard subordination clause agreements as modified from time to time, to include subsection (c) of this section.

(2) The escrow agreement and subordination agreement, if applicable, shall further specify the time and circumstances under which the Department can exercise its rights under the escrow agreement in order to fulfill its obligations under §2306.186 and as described in this section.

(3) Where the Department is the First Lien Lender and there is no Bank Trustee as a result of a bond indenture or tax credit syndication or where there is no First Lien Lender but the allocation of funds by the Department and §2306.186 requires that the Department oversee a Reserve Account, the Owner shall provide at their sole expense for appointment of an escrow agent acceptable to the Department to act as Bank Trustee as necessary under this section. The Department shall retain the right to replace the escrow agent with another Bank Trustee or act as escrow agent at a cost plus fee payable by the Owner due to breach of the escrow agent's responsibilities or otherwise with 30 days prior notice of all parties to the escrow agreement.

(c) If the Department is not the First Lien Lender with respect to the Development, each Owner receiving Department assistance for multifamily rental housing shall submit on an annual basis within the Department's required Owner's Financial Certification packet a signed certification by the First Lien Lender including:

- (1) Reserve for replacement requirements under the first lien loan agreement;

(2) Monitoring standards established by the First Lien Lender to ensure compliance with the established reserve for replacement requirements; and

(3) A statement by the First Lien Lender

(A) That the Development has met all established reserve for replacement requirements; or

(B) Of the plan of action to bring the Development in compliance with all established reserve for replacement requirements, if necessary.

(d) If the Development meets the minimum unit size described in subsection (a) of this section and the establishment of a Reserve Account for repairs has not been required by the First Lien Lender or Bank Trustee, each Owner receiving Department assistance for multifamily rental housing shall set aside the repair reserve amount as described in subsection (e)(1) through (3) of this section through the date described in subsection (f)(2) of this section through the appointment of an escrow agent as further described in subsection (b)(3) of this section.

(e) If the Department is the First Lien Lender with respect to the Development, each Owner receiving Department assistance for multifamily rental housing shall deposit annually into a Reserve Account through the date described in subsection (f)(2) of this section:

(1) For new construction Developments:

(A) Not less than \$150 per unit per year for units one to five years old; and

(B) Not less than \$200 per unit per year for units six or more years old.

(2) For rehabilitation Developments:

(A) An amount per unit per year established by the Department's division responsible for credit underwriting based on the information presented in a Property Condition Assessment in conformance with §1.36 of this subchapter; and

(B) Not less than \$300 per unit per year.

(3) For either new construction or rehabilitation Developments, the Owner of a multifamily rental housing Development shall contract for a third-party Property Condition Assessment meeting the requirements of §1.36 of this subchapter and the Department will reanalyze the annual reserve requirement based on the findings and other support documentation.

(A) A Property Condition Assessment will be conducted:

(i) At appropriate intervals that are consistent with requirements of the First Lien Lender, other than the Department; or

(ii) At least once during each five-year period beginning with the 11th year after the awarding of any financial assistance for the Development by the Department, if the Department is the First Lien Lender or the First Lien Lender does not require a third-party Property Condition Assessment.

(B) Submission by the Owner to the Department will occur within 30 days of completion of the Property Condition Assessment and must include:

(i) The complete Property Condition Assessment;

(ii) First Lien Lender and/or Owner response to the findings of the Property Condition Assessment;

(iii) Documentation of repairs made as a result of the Property Condition Assessment; and

(iv) Documentation of adjustments to the amounts held in the replacement Reserve Account based upon the Property Condition Assessment.

(f) A Land Use Restriction Agreement or restrictive covenant between the Owner and the Department must require:

(1) The Owner to begin making annual deposits to the reserve account on the later of:

(A) The date that occupancy of the Development stabilizes as defined by the First Lien Lender or in the absence of a First Lien Lender other than the Department, the date the property is at least 90% occupied; or

(B) The date that permanent financing for the Development is completely in place as defined by the First Lien Lender or in the absence of a First Lien Lender other than the Department, the date when the permanent loan is executed and funded.

(2) The Owner to continue making deposits until the earliest of the following dates:

(A) The date on which the Owner suffers a total casualty loss with respect to the Development;

(B) The date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored;

(C) The date on which the Development is demolished;

(D) The date on which the Development ceases to be used as a multifamily rental property; or

(E) The later of

(i) The end of the affordability period specified by the Land Use Restriction Agreement or restrictive covenant; or

(ii) The end of the repayment period of the first lien loan.

(g) The duties of the Owner of a multifamily rental housing Development under this section cease on the date of a change in ownership of the Development; however, the subsequent Owner of the Development is subject to the requirements of this section.

(h) If the Department is the First Lien Lender with respect to the Development or the First Lien Lender does not require establishment of a Reserve Account, the Owner receiving Department assistance for multifamily rental housing shall submit on an annual basis within the Department's required Owner's Financial Certification packet:

(1) Financial statements, audited if available, with clear identification of the replacement Reserve Account balance and all capital improvements to the Development within the fiscal year;

(2) Identification of costs other than capital improvements funded by the replacement Reserve Account; and

(3) Signed statement of cause for:

(A) Use of replacement Reserve Account for expenses other than necessary repairs, including property taxes or insurance;

(B) Deposits to the replacement Reserve Account below the Department's or First Lien Lender's mandatory levels as defined in subsections (c), (d) and (e) of this section; and

(C) Failure to make a required deposit.

(i) If a request for extension or waiver is not approved by the Department, Department action, including a penalty of up to \$200 per dwelling unit in the Development and/or characterization of the Development as Materially Non-Compliant, as defined in §60.1 of this title, may be taken when:

(1) A Reserve Account, as described in this section, has not been established for the Development;

(2) The Department is not a party to the escrow agreement for the Reserve Account;

(3) Money in the Reserve Account

(A) Is used for expenses other than necessary repairs, including property taxes or insurance; or

(B) Falls below mandatory deposit levels;

(4) Owner fails to make a required deposit;

(5) Owner fails to contract for the third party Property Condition Assessment as required under subsection (e)(3) of this section; or

(6) Owner fails to make necessary repairs, as defined in subsection (k) of this section.

(j) On a case by case basis, the Department may determine that the money in the Reserve Account may:

(1) Be used for expenses other than necessary repairs, including property taxes or insurance, if:

(A) Development income before payment of return to Owner or deferred developer fee is insufficient to meet operating expense and debt service requirements; and

(B) The funds withdrawn from the Reserve Account are replaced as cashflow after payment of expenses, but before payment of return to Owner or developer fee is available.

(2) Fall below mandatory deposit levels without resulting in Department action, if:

(A) Development income after payment of operating expenses, but before payment of return to Owner or deferred developer fee is insufficient to fund the mandatory deposit levels; and

(B) Subsequent deposits to the Reserve Account exceed mandatory deposit levels as cashflow after payment of operating expenses, but before payment of return to Owner or deferred developer fee is available until the Reserve Account has been replenished to the mandatory deposit level less capital expenses to date.

(k) The Department or its agent may make repairs to the Development if the Owner fails to complete necessary repairs indicated in the submitted Property Condition Assessment or identified by physical inspection. Repairs may be deemed necessary if the Development is notified of the Owner's failure to comply with federal, state and/or local health, safety, or building code.

(1) Payment for necessary repairs must be made directly by the Owner or through a replacement Reserve Account established for the Development under this section.

(2) The Department or its agent will produce a Request for Bids to hire a contractor to complete and oversee necessary repairs.

(l) This section does not apply to a Development for which the Owner is required to maintain a Reserve Account under any other provision of federal or state law.

**LEGAL SERVICES DIVISION
BOARD ACTION REQUEST**

August 30, 2006

Action Items

Approval of modification of draft rules for publication and public comment for Title 10 Texas Administrative Code §1.7 regarding staff appeals.

Required Action

Approve, reject or approve with modifications the suggested revisions to the rules governing the staff appeals process under Title 10 Texas Administrative Code §1.7

Background

Current rules regarding the appeal of staff decisions are limited to applicants meeting certain criteria. The change in this rule reflects a greater opportunity to appeal staff decisions to the Executive Director and ultimately the Board on most of the Department's programs and lays out the timelines and allowable issues for appeal.

Key changes include defining a new term, the "Appealing Party," to include the Administrator (of a contract), an Affiliated Party (on decisions impacting their right to conduct business if a corollary rule regarding debarment proceeds), Applicant, or Person (allowed to challenge their Commitment, a Loan Agreement , or change to a LURA). The modifications expand the grounds to appeal to include most transactions currently administered by the Department. The changes do not expand the grounds under which an Applicant may appeal.

The modifications clarify deadlines on notice and when an appeal may considered. The modifications also address when the Appealing Party may provide new information to the Executive Director and alterations to deadlines for having done so. It further clarifies that to be an Appealing Party, you must be directly related to the item being appealed.

Recommendation

Approve, reject or approve with modifications the suggested revisions to the rules governing the staff appeals process for Title 10 Texas Administrative Code §1.7

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 1. ADMINISTRATION
SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES
RULE 1.7. STAFF APPEALS PROCESS

1.7. Staff Appeals Process

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

(1) Administrator--the Person responsible for performing under a Contract with the Department.

(2) Affiliated Party--A person in a relationship with the Administrator on a Contract with the Department. Does not apply to an Affiliated Party for Application purposes.

(3) Appeal--An Appealing Party's notice to challenge a decision or decisions made by staff and/or the Executive Director regarding an Application, Commitment, Contract, Loan Agreement or LURA as governed by this Section 1.7.

(4) ~~(1)~~ Appeal file--The written record of an Appeal appeal that contains the applicant's Appeal; the responses, if any, of Department staff, and the executive director, and the final decision.

(5) Appealing Party--The Administrator, Affiliated Party, Applicant, or Person who files, intends to file, or has filed on their behalf, an Appeal before the Department.

(6) ~~(2)~~ Applicant--A person who has submitted to the Department an Application application for Department funds or other assistance.

(7) ~~(3)~~ Application--The written request for Department funds or other assistance in the format required by the Department including any exhibits or other supporting material.

(8) ~~(4)~~ Board--The Governing Board of the Texas Department of Housing and Community Affairs.

(9) Commitment--A fully executed document that commits the Department to funding or other activity related to a program administered by the Department.

(10) Contract--The executed written agreement between the Department and an Administrator performing an activity related to a program that outlines performance requirements and responsibilities assigned by the document.

(11) ~~(5)~~ Department--The Texas Department of Housing and Community Affairs.

(12) Executive Director--As defined under Texas Government Code §§2306.036 and/or 2306.038

(13) Loan Agreement--An agreement between the Department and a Person regarding the terms and conditions of a loan provided to the Person from the Department.

(14) LURA--A Land Use Restriction Agreement that has been executed by the Department and a Person related to a specific property or properties and filed with the responsible recording authority.

(15) (6) Person—Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character.

(b) Grounds to Appeal Staff Decision. This appeal process is available to an Appealing Party under the following grounds:

(1) any Applicant, including for tax exempt bonds and low income housing tax credits under 26 U.S.C. §42, except for low income housing tax credits which are subject to the State housing credit ceiling and which have a separate appeals process. An Applicant for funding—including tax exempt bonds and low income housing tax credits under 26 U.S.C. §42, (except for low income housing tax credits which are subject to the State housing credit ceiling and which have a separate appeals process) or other assistance from the Department may only appeal the disposition of the Application by Department staff based on one or more of the following grounds:

(A) (1) Misplacement of an Application where all or a portion of the Application is lost, misfiled, or otherwise misplaced by Department staff resulting in unequal consideration of the Applicant's proposal.

(B) (2) Mathematical error where in rating an Application, the score on any selection criteria is incorrectly computed by the Department due to human or computer error.

(C) (3) Procedural error, where the Application was not processed by Department staff in accordance with the Application and selection rules in effect for the current application cycle.

(2) An Administrator may appeal the denial of a Contract amendment that was requested in writing regarding:

(A) Extension of a Contract;

(B) Request to change any term of a Contract affecting the affordability period, number of persons served, or alteration of income levels served; or

(C) Alteration of funding.

(3) A Person may Appeal the denial of a change to a Commitment.

(4) A Person may Appeal the denial of a change to a Loan Agreement.

(5) A Person may Appeal a denial of a change to a LURA.

(6) An Affiliated Party may appeal a finding of failure to adequately perform under an Administrator's Contract, resulting in a "Debarment" or a similar action.

(c) Appeal of Staff Decision to the Executive Director~~executive director~~. An Appealing Party Applicant must file a written Appeal with the Department for the Executive Director not later than the seventh day after the date the Department publishes notice on its website of the results of the Application evaluation process or, in the case of private activity mortgage revenue bond programs, after written notice has been provided to the Appealing Party Applicant. For purposes of this section, posting on the Department's website is considered adequate notice when identified in the application process as a public notification mechanism, whichever is earlier. The written appeal notice must include specific information relating to the disposition of the Application or written request for change to the Contract, Commitment, Loan Agreement, and/or LURA. each Application, including the reasons for disqualification or summaries detailing the points awarded. The Appealing Party Applicant must specifically identify the Applicant's grounds for the Appeal based on the disposition of underlying document. its Application Upon receipt of an Appeal, staff shall prepare an Appeal file for the Executive Director's~~executive director's~~ review. The Executive Director~~executive director~~ shall respond in writing to the Appeal not later than the fourteenth day after the date of receipt of the Appeal. The Executive Director~~executive director~~ may take one of the following actions.

(1) Concur with the Appeal and make the appropriate adjustments to the staff's decision; or

(2) Disagree with the Appeal and provide the basis for rejecting the Appeal to the Applicant.

(d) Appeal of Executive Director's Decision to the Board. If the Appealing Party Applicant is not satisfied with the Executive Director's~~executive director's~~ response to the Appeal, they the Applicant may appeal in writing directly to the Board within seven days after the date of the Executive Director's~~executive director's~~ response. In order to be placed on the next Board agenda, the appeal must be received at least fourteen days prior the next scheduled Board meeting. Appeals requested under this Section 1.7 received after the fourteenth calendar day prior to the Board meeting will be scheduled at the next subsequent Board meeting.

The Executive Director~~executive director~~ shall prepare an Appeal file for the board's review based on the information provided. If the Appealing Party receives additional information after the Executive Director has denied the Appeal, but prior to the posting of the Appeal for Board consideration, the new information must be provided to the Executive Director for further consideration or the The Board will~~may~~ not consider any information submitted by the Applicant after the written Appeal~~appeal~~. New information will cause the deadlines in this subsection to begin again.

The Board will review the Appeal de novo and may consider any information properly considered by the Department in making its prior decision(s).

(e) Public Comment. The Board will hear public comment on the Appeal under its usual procedures. While public comment will be heard, persons making public comment are not parties to the Appeal and no rights accrue to them under this section or any other Appeal process. Nothing in this section provides a right to Appeal any decision made on an Application, Commitment, Contract, Loan Commitment, or LURA if the Appealing Party does not have direct grounds to appeal. An Affiliated Party is allowed to appeal only those decisions that directly impact the Affiliated Party, not the underlying agreements.

(f) Possible actions regarding Applications. In instances in which the Appeal is sustained by the Board could have resulted in an award to the Applicant, the Application shall be approved by the Board contingent on the availability of funds. If no funds are available in the current year's funding cycle, then the Applicant shall be awarded funds from the next year's available funding or from the pool of deobligated funds. In the case of private activity mortgage revenue bond programs, the Applicant shall be encouraged to reapply in the next year's program funding cycle. If the Appeal is denied, the Department shall notify the Applicant of the decision, ~~including the basis for denial.~~

(g) Possible actions regarding all other Appeals. On any appeal not governed under subsection (f), the Board shall direct staff to provide the adequate remedy allowable under current laws and rules. If the Appeal is denied, the Department shall notify the Applicant of the decision.

~~(g)~~(h) Decisions are Final ~~Final Decision~~. Appeals not submitted in accordance with this section will not be considered, unless the Department or Board, in the exercise of its discretion, determines there is good cause to consider the appeal. The decision of the Board is final.

(i) Limited Scope. The appeals process provided in this rule is of general application. Any statutory or specific rule with a different appeal process will be governed by the more specific statute or rule.

LEGAL SERVICES DIVISION

BOARD ACTION REQUEST

August 30, 2006

Action Items

Approval of modification of draft rules for publication and public comment for Title 10 Texas Administrative Code §1.8 regarding Board appeals.

Required Action

Approve, reject or approve with modifications the suggested revisions to the rules governing the board appeals process under Title 10 Texas Administrative Code §1.8

Background

Current rules regarding the appeal of staff decisions are limited to applicants meeting certain criteria. The change in this rule reflects the expanded right to be heard and is altered to be consistent with Title 10 Texas Administrative Code §1.7.

Key changes include adopting the definitions found Title 10 Texas Administrative Code §1.7

The modifications clarify deadlines on notice and what may be considered on appeal. The modifications also provide additional actions if an appeal is granted to reflect the modifications for more grounds for appeal.

Recommendation

Approve, reject or approve with modifications the suggested revisions to the rules governing the staff appeals process for Title 10 Texas Administrative Code §1.8.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 1. ADMINISTRATION
SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES
RULE 1.8. BOARD APPEALS PROCESS

1.8. Board Appeals Process

(a) Definitions. ~~For purposes of this section, the~~ The following words and terms, when used in this subchapter, shall have the same following meanings, as found in Section 1.7 of this title, unless the context clearly indicates otherwise.

- ~~(1) Appeal file—The written record of an appeal that contains the applicant's appeal; the responses, if any, of Department staff, and the executive director, and the final decision.~~
- ~~(2) Applicant—A person who has submitted to the Department an application for Department funds or other assistance.~~
- ~~(3) Application—The written request for Department funds or other assistance in the format required by the Department including any exhibits or other supporting material.~~
- ~~(4) Board—The Governing Board of the Texas Department of Housing and Community Affairs.~~
- ~~(5) Department—The Texas Department of Housing and Community Affairs.~~
- ~~(6) Person—Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character~~

(b) Grounds. Any action taken by the Board ~~An Applicant for funding or other assistance from the Department may only appeal the disposition of the Application by the Board based on an action taken by the Board which was allegedly not made in accordance with the applicable rules~~ may be appealed. This Appeal process is available to any Appealing Party Applicant, including ~~for tax exempt bonds and low income housing tax credits under 26 U.S.C. §42, except for low income housing tax credits which are subject to the State housing credit ceiling and which have a separate appeals process.~~

(c) Appeal to the Board. An Applicant must file a written Appeal with the Department not later than the seventh day after the date of the Board meeting at which the award decision to be ~~award decision~~ appealed was made. The Applicant must specify the alleged error and provide a detailed explanation of the alleged error, including any supporting documentation. The specific rule allegedly violated must be cited, as well as an explanation of the manner in which the alleged error adversely affects the Appealing Party Applicant's ability to receive funds or other assistance. Upon receipt of the appeal, the Executive Director ~~executive director~~ shall prepare a file for the Board to consider at the next regularly scheduled meeting of the Board. The Board may not consider any information submitted by the Applicant within fourteen days of the Board meeting on which the appeal is heard ~~after the written Appeal.~~ The Board will review the Appeal de novo and may consider any information properly considered by the Board in making its prior ~~decision on the Application.~~

(d) Public Comment. The Board will hear public comment on the Appeal under its usual procedures. While public comment will be heard, persons making public comment are not parties to the Appeal and no rights accrue to them under this section or Appeal process. If a

representative of a neighborhood group or other interested party completed a witness affirmation form including their telephone number and spoke in support of or opposition to an Application at the Board meeting at which the Board made the decision appealed from, Department staff will telephone the representative not later than the seventh day before the date of the Board meeting at which the Board will consider the Appeal and advise the representative of the date, time, and place of the Board meeting and that an Appeal will be considered by the Board. This notice requirement is satisfied if the Department makes three attempts to reach one group representative by telephone and is unsuccessful.

(e) Possible Actions. In instances in which the Appeal if sustained by the Board would have resulted in an award to the Appealing Party, Applicant, the Application shall be approved by the Board contingent on the availability of similar fund mechanisms-funds. If no funds are available in the current year's funding cycle, then the Applicant shall be awarded funds from the next year's available funding or from the pool of deobligated funds. ~~In the case of private activity mortgage revenue bond programs, the Applicant shall be encouraged to reapply in the next year's funding cycle.~~ If the Appeal is denied, the Department shall notify the Applicant of the decision, including the basis for denial.

(f) Final Decision. Appeals not submitted in accordance with this section will not be considered by the Board, unless the Board, in the exercise of its discretion, determines there is good cause to consider the appeal. The decisions of the Board are final.

LEGAL SERVICES DIVISION

BOARD ACTION REQUEST

August 30, 2006

Action Items

Approval of modification of draft rules for publication and public comment for Title 10 Texas Administrative Code §1.13 regarding payment of non-current fees owed.

Required Action

Approve, reject or approve with modifications the suggested revisions to the rules governing the payment of non-current fees under Title 10 Texas Administrative Code §1.13.

Background

This new rule will replace an unrelated rule if the prior rule is repealed by the Board. Former 1.13 has been included within 10 Texas Administrative Code Chapter 60. If the Board does not authorize the repeal of the prior §1.13, the rule number would change. The purpose of this rule is to put into place a policy to limit the actions taken by the Department when outstanding, non-current fees are due the Department. This rule would not impact ongoing compliance issues or any non-voluntary procedure by the Department.

The rule is designed to increase the collection of fees that are past due and lower delinquency rates.

Recommendation

Staff recommends the Board approve the Draft rule regarding payment of non-current fees under §1.13 for publication to receive public comment and conduct the consolidated public hearings with the other applicable rules and allow staff to make changes to these rules, where applicable, to be consistent with other rules being approved at this Board meeting.

TITLE 10 COMMUNITY DEVELOPMENT
PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
SUBCHAPTER A GENERAL POLICIES AND PROCEDURES

RULE §1.13 ACTION BY DEPARTMENT IF OUTSTANDING BALANCES EXIST

(a) Purpose. The purpose of this section is to provide guidance to persons requesting action by the Department on Applications, Amendments, Awards, Appeals, Contracts, Commitment, Executed Form Documents, Loan Documents, or LURAs when outstanding balances are owed to the Department by any Administrator, Applicant, Person or Related Party on any relationship between the requestor and the Department, regardless if it is the subject of the request.

(b) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Action—Request for the Department to perform a function required or allowed under Texas Government Code §2306.001 et seq.

(2) Administrator—the Person responsible for performing under a Contract with the Department.

(3) Affiliated Party—A person in a relationship with the Administrator on a Contract with the Department. Does not apply to an Affiliated Party for Application purposes.

(4) Appeal—Action filed on behalf of an Administrator, Affiliated Party, Applicant, to request reconsideration or challenge a prior decision made by the staff, Executive Director or Board.

(5) Applicant—A person who has submitted to the Department an Application for Department funds or other assistance.

(6) Application—The written request for Department funds or other assistance in the format required by the Department including any exhibits or other supporting material.

(7) Award—Any grant, commitment, or loan provided by the Department.

(8) Board—The Governing Board of the Texas Department of Housing and Community Affairs.

(9) Commitment—A fully executed document that commits the Department to funding or other activity related to a program administered by the Department.

(10) Contract—The executed written agreement between the Department and an Administrator performing an activity related to a program that outlines performance requirements and responsibilities assigned by the document.

(11) Department—The Texas Department of Housing and Community Affairs.

(12) Executed Form Documents—documents that are signed by the Department at the Request of any Administrator, Applicant, Person or Related Party, i.e, IRS Form 8609.

(13) Executive Director—The administrative head of the Department as defined under Texas Government Code §§2306.036 and/or 2306.038.

(14) Loan Documents—An agreement between the Department and a Person regarding the terms and conditions of a loan provided to the Person from the Department.

(15)LURA—A Land Use Restriction Agreement that has been executed by the Department and a Person related to a specific property or properties and filed with the responsible recording authority.

(16) Person—Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character.

(17) Request—action initiated by voluntarily seeking Department Action regardless of whether it is part of a statutory requirement (application cycle, etc.) or an action to alter a previous Action taken by the Department. Ongoing requirements such as compliance with reporting functions are not considered to be a voluntary function.

(c) The Department will not take Action on any Request involving Applications, Amendments, Awards, Appeals, Contracts, Commitments, Executed Form Documents, Loan Documents, or LURAs unless all funds owed to the Department are current by any Administrator, Applicant, Person or Related Party involved in any relationship between the requestor and the Department. The non-current account need not be directly related to the Request.

(d) Once the Department notifies an Administrator, Applicant, Person or Related Party that they are subject to this section, if no corrective action has been taken by the Administrator, Applicant, Person or Related Party, the Executive Director, may, after seven (7) days, deny the requested action for failure to comply with this section.

(e) When time of submission is a factor in the Action requested, the Action requested will not be considered submitted until this parameters of this section are met.

(f) An appeal of any decision under this section may be appealed in accordance with §1.7 of this Subchapter.

**LEGAL SERVICES DIVISION
BOARD ACTION REQUEST**

August 30, 2006

Action Items

Approval of modification of draft rules for publication and public comment for Title 10 Texas Administrative Code §1.17 regarding Alternative Dispute Resolution.

Required Action

Approve, reject or approve with modifications the suggested revisions to the rules governing the the ADR process under Title 10 Texas Administrative Code §1.17.

Background

The revisions to the ADR policy encourage the earlier use of ADR. In addition, the changes alter the suggested purposes of ADR. Other revisions clarify the role of the Dispute Resolution Coordinator as the primary contact within the Department as well as the decision maker in the initial referral rather than other Department staff. The changes encourage the use of the State Office of Administrative Hearings as an alternative for a mediator. The most significant change is that if used during an appeal process before the Board hears the matter, the Executive Director will abide by an agreed upon solution, although the Board could still act upon the decision.

Recommendation

Staff recommends the Board approve the Draft rule regarding ADR under §1.17 for publication to receive public comment and conduct the consolidated public hearings with the other applicable rules and allow staff to make changes to these rules, where applicable, to be consistent with other rules being approved at this Board meeting.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 1. ADMINISTRATION
SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES
RULE 1.17. ALTERNATIVE DISPUTE RESOLUTION AND NEGOTIATED RULEMAKING

(a) Policy. In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the appropriate use of Alternative Dispute Resolution ("ADR") procedures to assist in the fair and expeditious resolution of internal and external disputes involving the Department and the use of negotiated rulemaking procedures for the adoption of Department rules. While ADR may be requested at any appropriate time, the Department encourages the use of ADR, where possible, to develop a full understanding of issues for use by the Department in resolving issues prior to posted Board action or statutory deadlines. -This rule is intended to be consistent with the Governmental Dispute Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2008, respectively, Texas Government Code). The Department's ADR procedures must conform, to the extent possible, to model guidelines issued by the State Office of Administrative Hearings for the use of ADR by state agencies. (§2306.082(b), Texas Government Code).

(b) Definitions. For purposes of this rule, terms used herein shall have the following meaning:

(1) "Alternative Dispute Resolution" or "ADR"--a procedure or combination of procedures that uses an impartial third party to assist individuals in voluntarily resolving disputes, including procedures described in Sections 154.023-154.027, Civil Practice and Remedies Code. (§2009.003(1), Governmental Dispute Resolution Act). The Governmental Dispute Resolution Act does not grant the Department authority to engage in binding arbitration. (§2009.005(c)).

(2) "Mediation"--a dispute resolution procedure in which an impartial person, the mediator, facilitates communication between the parties to promote resolution of the dispute. The mediator may not impose his or her own judgment on the issues for that of the parties. (§154.023(a) and (b), Civil Practice and Remedies Code).

(3) "Impartial third party"--A person who meets the qualifications and conditions of §2009.053, Governmental Dispute Resolution Act.

(c) Dispute Resolution Coordinator—~~A trained person designated by the Executive Director shall designate a trained person to:~~

(1) Coordinate the implementation of the Department's policy on ADR and negotiated rulemaking;

(2) Serve as a resource for any training needed to implement procedures for ADR or negotiated rulemaking; and

(3) Collect data concerning the effectiveness of ADR and negotiated rulemaking, as implemented by the Department.

(d) Informal Communications; Ex Parte Policy; Appeals; Education.

(1) The Department encourages informal communications between Department staff and applicants for Department programs, and other interested persons, to exchange information and informally resolve disputes. When applications are pending consideration by the Department, applicants should review the Department's ex parte communications policy to ensure their compliance with the policy.

(2) The Department has promulgated rules in accordance with §2306.0321 and §2306.6715, Texas Government Code, concerning administrative appeals processes. ADR procedures supplement and do not limit any available procedure for the resolution of disputes. (§2009.052(a), Governmental Dispute Resolution Act). Pursuing an ADR procedure does not suspend or delay application, appeal, or other deadlines. For example, if a tax credit applicant desires to appeal a Department decision using the procedures promulgated under §2306.6715 and also desires to pursue an ADR procedure, the applicant may independently pursue the two procedures. Each procedure will proceed independently of the other.

(3) Consistent with this ADR and Negotiated Rulemaking policy, the Department shall endeavor to educate its staff and persons who are subject to the Department's jurisdiction concerning the availability of ADR and negotiated rulemaking procedures to resolve disputes and to adopt rules.

(e) ADR Procedure.

(1) Assessment of the Dispute. In determining whether an ADR procedure is appropriate, the parties to the dispute, including the Department, should consider the following factors:

(A) direct discussions and negotiations between the parties have been unsuccessful and/or the parties believe there is a misunderstanding involving the facts or interpretations that or could be improved with the assistance of an ~~Impartial Third Party~~ Impartial Third Party;

(B) the use of ADR potentially could would use less resources and take less time than other available procedure there is a reasonable likelihood that the use of ADR will result in an agreement to resolve the dispute;

(C) there is a reasonable likelihood that the use of ADR will result in an agreement to resolve the dispute there are potential remedies or solutions that are only available through ADR; and or

(D) the need for a final decision with precedential value is less important than other considerations. The parties may also consider additional factors found in the State Office of Administrative Hearings' ADR Model Guidelines for assessing whether a dispute is appropriate for mediation.

(2) Proposing the Use of ADR. Any applicant for Department programs or other interested person may propose the use of an ADR procedure to attempt to resolve a dispute with the Department by submitting a written ADR proposal to the Department's Dispute Resolution Coordinator at the address or fax number listed on the Department's website (fax: (512) 475-3978), with copies sent to any other parties to the dispute.

(3) ADR Proposal. If at any time an applicant for Department programs or other interested person would like to engage in an ADR procedure with the Department, the person may submit by letter a written ADR proposal to the Department's Dispute Resolution Coordinator stating the nature of the dispute, the parties involved, any pertinent or impending deadlines, whether all parties agree to refer the dispute to ADR, proposed times and locations, the preferred type of ADR procedure, and, if known, one or more potential impartial third parties. ~~For example, an ADR proposal may propose that a dispute be mediated using a trained, impartial third party state employee from a state pool of ADR-trained employees at no cost to the parties or other qualified mediator agreeable~~

~~to all parties at the shared cost of the parties; that the mediation take place in person at the Department or other mutually agreeable place or by telephone; and that it be scheduled for three hours on an agreed date within seven days. If an applicant or other interested person is uncertain whether to propose the possible use of ADR or is uncertain about any particular aspect of a possible proposal, they should contact the Department's Dispute Resolution Coordinator to discuss the matter.~~

(4) Action on ADR Proposal. ~~The Dispute Resolution Coordinator shall provide the Department a copy of will review the ADR proposal for review, discuss it with the interested parties, as appropriate, and assess whether ADR would assist in fairly and expeditiously resolving the dispute. If the parties, including the Department, cannot agree on whether an ADR procedure should be used or on the particulars of the ADR procedure, the Dispute Resolution Coordinator ~~Department~~ will notify affected parties of that outcome. The Dispute Resolution Coordinator ~~Department~~ will promptly notify all affected parties within five (5) days of receiving an ADR proposal, or as soon as reasonably possible if a pertinent or impending deadline is indicated in the ADR proposal. If the Dispute Resolution Coordinator ~~Department~~ determines not to refer the dispute to ADR, the Dispute Resolution Coordinator ~~Department~~ shall state the reasons in writing. If the Dispute Resolution Coordinator ~~Department~~ determines to refer the dispute to ADR, ~~it~~ they will include the date for the selected ADR process in its notice. In referring the case to ADR, ~~the Department will carefully consider the selections in the ADR proposal and follow them as much as is appropriate.~~~~

(5) Department Proposal. Independent of any proposal from interested parties outside the Department, the Department may propose using ADR procedures to interested parties to try and resolve a dispute.

(f) Selection of Impartial Third Parties. An ~~Impartial Third Party~~ Impartial Third Party must possess the qualifications required under §154.052, Civil Practice and Remedies Code (a minimum of 40 classroom hours of training in dispute resolution techniques), is subject to the standards and duties prescribed by §154.053, Civil Practice and Remedies Code, and has the qualified immunity prescribed by §154.055, Civil Practice and Remedies Code, for volunteer third parties not receiving compensation in excess of expenses, if applicable. (§2009.053(d) Governmental Dispute Resolution Act). The

selection of an ~~Impartial Third Party~~ Impartial Third Party is subject to the approval of the parties to the dispute. If the parties do not suggest potential third parties, the Dispute Resolution Coordinator ~~Department~~ will provide a list of potential third parties from which to choose or elect to use personnel of the State Office of Administrative Hearings. If all parties agree to use an impartial third party who charges for ADR services, then the costs for the impartial third party shall be apportioned equally among all parties, unless otherwise agreed by the parties.

(g) Good faith; Voluntary Agreement; Public Information. All parties participating in an ADR procedure are expected to do so in a good faith effort to reach agreement. All parties participating must have the authority to enter into reach an agreement to resolve make a final recommendation to resolve the dispute. The Executive Director will abide by an agreed upon solution to the dispute and either approve that agreement or offer that recommendation to the Board, if Board authorization is needed. The decision to reach agreement is voluntary. If the parties reach a resolution and execute a written agreement, the agreement is enforceable in the same manner as any other written agreement of the same nature with the State. A written agreement to which the Department is a signatory resulting from an ADR procedure must be approved by the appropriate authority and is subject to the Public Information Act, Chapter 552, Texas Government Code.

(h) Confidentiality of Records and Communications. The confidentiality of the communications, records, conduct, and demeanor of an impartial third party and parties in an ADR procedure are governed by §2009.054 of the Governmental Dispute Resolution Act.

(i) Negotiated Rulemaking.

(1) The Negotiated Rulemaking Act, Chapter 2008 of the Texas Government Code, prescribes procedures for negotiated rulemaking including appointment of a convener; publishing notice of proposed negotiated rulemaking and requesting comments on the proposal; appointing a negotiated rulemaking committee; appointing an impartial third party facilitator; and proposing the resulting draft rule for public comment.

(2) Any person or organization that would like for the Department to use negotiated rulemaking for the adoption of a Department rule may submit a proposal to the Department's Dispute Resolution Coordinator. The proposal should identify the rule

proposed for negotiated rulemaking; potential participants for the negotiated rulemaking committee, possible third party facilitators, and a timeline for the process. The Department will promptly respond to the proposal. The Department may also on its own propose to use negotiated rulemaking. In determining whether a proposed negotiated rulemaking is appropriate in a particular situation, the Department and interested parties may consider any relevant factors, including:

- (A) The number of identifiable interests that would be significantly affected by the proposed rule;
- (B) The probability that those interests would be adequately represented in a negotiated rulemaking;
- (C) The probable willingness and authority of the representatives of affected interests to negotiate in good faith;
- (D) The probability that a negotiated rulemaking committee would reach a unanimous or a suitable general consensus on the proposed rule;
- (E) The probability that negotiated rulemaking will not unreasonably delay notice and eventual adoption of the proposed rule;
- (F) The adequacy of agency and citizen resources to participate in negotiated rulemaking;
- (G) The probability that the negotiated rulemaking committee will provide a balanced representation among all interested and affected parties. (§2008.052(d) Negotiated Rulemaking Act). If the Department decides to proceed with a negotiated rulemaking, it shall follow the process outlined in Chapter 2008 of the Texas Government Code.

(3) The Department may also use less formal procedures such as working groups, information exchanges, or policy dialogues (see State Office of Administrative Hearings, ADR Model Guidelines) facilitated by a Department employee or a third party to seek the input or consensus, as appropriate, of interested persons and organizations when drafting proposed rules for public comment.

(j) Shared Third Parties. The Department may participate in intergovernmental efforts to share qualified government employees to act as impartial third parties and may agree to reimburse the furnishing entity in kind or monetarily for the full or partial cost of providing the qualified, impartial third party. (§2009.053(b), Governmental Dispute Resolution Act).

(k) Board Waiver. The Governing Board of the Department may waive, in its discretion and to the extent of its authority, any one or more of these rules if the Board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for other good cause, as determined by the Board.

BOARD ACTION SUMMARY

MULTIFAMILY FINANCE PRODUCTION DIVISION

August 30, 2006

Action Items

1. Proposed Draft 2007 Qualified Allocation Plan and Rules to be published for public comment.
2. Proposed repeal of the 2005 Qualified Allocation Plan and Rules.

Required Action

Approve, or approve with amendments, the 2007 Draft Qualified Allocation Plan and Rules, to be published for public comment. Approve the proposed repeal of the 2005 Qualified Allocation Plan and Rules.

Background

Attached behind this Board Action Item is the 2007 Draft Qualified Allocation Plan and Rules (“Draft QAP”) which reflects staff’s recommendations for revisions to the 2006 QAP for the Board’s consideration. The document is shown as a “blackline” of the 2006 QAP – additions are shown as underlined text and deletions are shown as marked through text.

The 2007 Draft QAP being recommended by staff further ensures compliance with all statutory requirements, incorporates some initial public input, and includes recommendations for revisions of necessary policy and administrative changes to further enhance the Housing Tax Credit Program’s operation.

Summary of Significant Recommendations from Staff

This section outlines some of the most significant recommendations being made by staff. Other revisions, details of revisions, formatting adjustments, and streamlining are not summarized, but are reflected in the attached Draft QAP. Citation references are to the numbered sections of the 2007 Draft QAP.

1. **§49.3 – Definitions (Pages 2-11 of 68).** Definitions are being added or substantially revised for the following terms to bring greater clarity to the meanings and concepts utilized or to create definitions for terms now added in other sections of the QAP: Area, Community Revitalization Plan, Competitive Housing Tax Credits, Development Site, Existing Residential Development, New Construction, Reconstruction, Rehabilitation, and Unit.
2. **§49.3(13) – Definition for At-Risk (Pages 3-4 of 68).** This definition was modified to specify that a Development must be at-risk of losing all affordability from any of the financial benefits available on the Development to meet the definition of At-Risk.
3. **§49.3(52) – Definition for Ineligible Building Types (Pages 6-7 of 68).** In 2006, this definition allowed 5% of the Units in a Development to be comprised of 4 Bedrooms. It has been revised to

be consistent with the 1, 2, and 3 Bedroom restrictions which allow an increase above this percentage to reach the next highest number divisible by four.

4. **§49.6(g) – Limitations of Development in Certain Census Tracts. (Page 16 of 68).** This new section is proposed to limit over-saturation of affordable units by restricting new construction of Developments located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tract as determined by the U.S. Census Bureau for the most recent Decennial Census unless the governing body of the appropriate municipality or county containing the development specifically allows the award of tax credits in the form of a resolution. Based on the current data available, of the 1,010 census tracts in the state, only 55 census tracts would fall in this category. These 55 tracts are highlighted in the attached “§49.6(g) Census Tracts 2007 HTC Site Demographic Characteristics Report,” (the “report”). Please note this report is presented only for informational purposes. The report reflects data accurate as of the date of this posting. The report and updated data will be posted to the Department’s website monthly. Applicants will be evaluated pursuant to this section utilizing the report and corresponding data in effect as of March 1, 2007 for competitive HTC applications or for tax-exempt bond applications, at the time Volume 1 is submitted.
5. **§49.6(h)(2) – Limitations on Developments Proposing to Qualify for a 30% Increase in Eligible Basis (Page 16 of 68).** This new section is proposed to limit over-saturation of affordable units in Qualified Census Tracts (QCTs). Pursuant to §42(d)(5)(C) of the Internal Revenue Code, developments located in QCTs are allowed to receive a 30% increase in Eligible Basis (“30% increase”). This new section prohibits the 30% increase for developments proposing new construction in QCTs which have more than 40% Housing Tax Credit Units per total households in the census tract as determined by the U.S. Census Bureau for the most recent Decennial Census. Based on current data available, of the 310 QCTs in the state, only 18 will be ineligible for the 30% boost pursuant to this section. These 18 tracts are highlighted in the attached “§49.6(h) QCTs 2007 HTC Site Demographic Characteristics Report,” (the “report”). Please note this report is presented only for informational purposes. The report reflects data accurate as of the date of this posting. The report and updated data will be posted to the Department’s website monthly. Applicants will be evaluated pursuant to this section utilizing the report and corresponding data in effect as of March 1, 2007 for competitive HTC applications or for tax-exempt bond applications, at the time the Volume 1 is submitted.
6. **§49.9(d)(4) – Administrative Deficiencies (Page 22 of 68).** Staff proposes to reduce the number of days an applicant has to respond to an administrative deficiency notice from five to three without a loss of points and from seven to five without a termination. This change is necessary to process applications in a more timely manner. Additional incentives are proposed which would encourage early deficiency submission.
7. **§49.9(d)(5)(C) – Distribution of Credits in Oversubscribed Regions. (Page 22 of 68).** This section provides clarification of how the Department will distribute housing tax credits among the Rural Regional Allocation and Urban/Exurban Regional Allocation within each Uniform State Service Region and among the set-asides when demand for the credits exceeds availability.
8. **§49.9(h)(4)(A) – Threshold: Minimum Number of Common Amenities for Rehabilitation and Single Room Occupancy (Pages 26-27 of 68).** In 2006, this section allowed developments proposing rehabilitation and single room occupancy to double the amount of points for unit

amenities selected. Staff proposes to instead award one and one half (1.5) times the amount of points in order to continue to incentivize rehabilitation while ensuring that tenants of rehabilitation developments enjoy ample amenities.

9. **§49.9(i)(2) – Selection: Quantifiable Community Participation (QCP) (Pages 39-41 of 68).** General revisions were made to this section to lessen the requirements for a neighborhood organization to submit a QCP letter by allowing certifications in lieu of certain documentation previously required and allow an additional alternative to being on record with the state.
10. **§49.9(i)(4)(B) – Selection: Unit Amenities for Rehabilitation and Single Room Occupancy (Pages 42-43 of 68).** In 2006, this section allowed developments proposing rehabilitation and single room occupancy to double the amount of points for unit amenities selected. Staff proposes to instead award one and one half (1.5) times the amount of points in order to continue to incentivize rehabilitation while ensuring that tenants of rehabilitation developments enjoy ample amenities.
11. **§49.9(i)(5) – Selection: The Commitment of Development Funding by Local Political Subdivisions (Page 42-43 of 68).** Revisions were made to require a total contribution based on the percentage of total development costs rather than a dollar amount. Additionally, staff is proposing that HOME funds no longer qualify for points under this section.
12. **§49.9(i)(10) – Selection: Rehabilitation or Reconstruction (Page 45 of 68).** This new scoring criteria has been added which awards seven (7) points to applications proposing to build solely rehabilitation or reconstruction.
13. **§49.9(i)(15) – Selection: Exurban Developments (Development characteristics) (Page 46 of 68).** In 2006, this section of the QAP awarded points to developments that proposed reconstruction or rehabilitation that will be financed, in part, by HOPE VI financing or HUD capital grant financing. The proposed draft adds §49.9(i)(10), which proposes points for reconstruction and rehabilitation. Therefore, staff proposes to delete the portion of this section that references reconstruction or rehabilitation because it is no longer necessary. Seven points will continue to be awarded to exurban developments.

Recommendation

Staff recommends that the Board repeal the 2005 Qualified Allocation Plan and Rules and approve the Draft 2007 Qualified Allocation Plan and Rules for publication to receive public comment.

Scoring Breakdown in Descending Order of Points for the Draft 2007 QAP

QAP Para.#	Topic	Total Points	Notes	Legislative Citation - Compare to QAP
1	Financial Feasibility	28	NA	2306.6710(b)(1)(A)
2	QCP from Neighborhood Organizations	24 Max	Range of +24 to 0	2306.6710(b)(1)(B); 2306.6725(a)(2)
3	Income Levels of the Tenants	22	NA	2306.6710(b)(1)(C) and (e); 2306.111(g)(3)(B) and (E); 42(m)(1)(B)(ii)(I)
4	Size and Quality of the Units	20	NA	2306.6710(b)(1)(D); 42(m)(1)(C)(iii)
5	Commit. of Funds by LPS	18	NA	2306.6710(b)(1)(E)
6	State Elected Official Support/Opposition	14 Max	Range of +14 to -14	2306.6710(b)(1)(F) and (g); 2306.6725(a)(2)
7	Rent Levels of the Units	12	NA	2306.6710(b)(1)(G)
8	Cost Per Square Foot	10	NA	2306.6710(b)(1)(H); 42(m)(1)(C)(iii)
9	Services Provided to Tenants	8	NA	2306.6710(b)(1)(I); Rider 7; 2306.254; 2306.6725(a)(1)
10	Rehabilitation and Reconstruction	7	NA	NA
11	Housing Needs	7	NA	42(m)(1)(C)(ii)
12	Existing Housing with Revitalization	7	NA	42(m)(1)(C)(iii)
15	Exurban Developments	7	NA	2306.6725(a)(4); 42(m)(1)(C)(i)
13	Pre-Application	6	NA	2306.6704
14	Development Location	4	NA	2306.6725(a)(4) and (b)(2); 2306.127; Rider 6 42(m)(1)(C)(i) and (vii)
16	Special Housing Needs Populations	4	NA	42(m)(1)(C)(v)
17	Length of Affordability	4	NA	2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1) and (c); 2306.6710(e)(2); 42(m)(1)(B)(ii)(II)
18	Site Characteristics	4	Up to 4 points for positive amenities. Up to -5 points for negative features	NA
19	Development Size	3	NA	NA
21	Sponsor Characteristics	2	NA	42(m)(1)(C)(iv)
20	Location in QCT with Revitalization	1	NA	42(m)(1)(B)(ii)(III)
22	Right of First Refusal	1	NA	2306.6725(b) 42(m)(1)(C)(viii)
23	Leveraging of Private, State and Federal Funds	1	NA	2306.6725(a)(3)
24	Third Party Commitment Outside of QCT	1	NA	2306.6710(e)(1)
25	Penalties	NA	Range	2306.6710(b)(2)

Maximum Number of Points Possible: 215

§49.6(g) Census Tract 2007 HTC Site Demographic Characteristics Report

Number of Units by Census Tract

Area Type: 1=Urban, 2=Exurban, 3=Rural

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Houston	Harris	48201331000	248	12400.0%	1	No
Fort Worth	Tarrant	48439103100	404	152.5%	1	Yes
San Antonio	Bexar	48029152000	240	125.7%	1	Yes
Dallas	Dallas	48113010000	450	125.0%	1	Yes
Dallas	Dallas	48113016605	1202	110.8%	1	Yes
Fort Worth	Tarrant	48439106600	648	79.6%	1	No
Laredo	Webb	48479000400	165	73.7%	1	Yes
Houston	Harris	48201240200	582	73.6%	1	No
Houston	Harris	48201331400	681	72.7%	1	Yes
Grand Prairie	Dallas	48113016100	605	68.5%	2	Yes
Dallas	Dallas	48113006301	1076	67.5%	1	No
San Antonio	Bexar	48029151900	530	61.3%	1	Yes
Brownsville	Cameron	48061012610	184	59.9%	1	No
Denton	Denton	48121021200	1438	54.0%	2	Yes
Houston	Harris	48201422200	1190	53.2%	1	Yes
Port Arthur	Jefferson	48245007001	1242	52.8%	1	Yes
Houston	Harris	48201222700	677	52.2%	1	Yes
San Antonio	Bexar	48029161200	280	51.4%	1	No
Austin	Travis	48453002201	250	48.3%	1	No
Austin	Travis	48453002312	528	47.1%	1	Yes
Austin	Travis	48453002110	441	46.3%	1	No
Arlington	Tarrant	48439111543	541	45.0%	1	No
Dallas	Dallas	48113012302	814	44.4%	1	Yes
Tyler	Smith	48423000700	479	43.5%	1	Yes
South Houston	Harris	48201321500	307	43.1%	2	Yes
Houston	Harris	48201550100	650	41.7%	1	Yes
DeSoto	Dallas	48113016605	438	40.4%	2	Yes
Dallas	Dallas	48113012208	349	39.6%	1	Yes
Houston	Harris	48201331200	413	39.1%	1	Yes
Dallas	Dallas	48113003901	264	38.2%	1	Yes
Irving	Dallas	48113014802	169	38.1%	2	No
San Antonio	Bexar	48029121404	624	38.0%	1	Yes
Houston	Harris	48201410100	255	37.6%	1	Yes
Houston	Harris	48201221400	603	37.4%	1	Yes
Austin	Travis	48453002413	325	37.3%	1	Yes
Abilene	Taylor	48441010200	220	36.7%	1	Yes
Brownwood	Brown	48049950600	332	36.0%	3	Yes
Houston	Harris	48201230600	338	36.0%	1	Yes
Dallas	Dallas	48113001600	476	35.9%	1	Yes
McKinney	Collin	48085030900	641	35.8%	2	Yes
Conroe	Montgomery	48339693400	506	35.8%	2	Yes
Houston	Harris	48201232500	244	34.0%	1	No
San Antonio	Bexar	48029170800	176	34.0%	1	Yes
Lancaster	Dallas	48113016703	422	33.8%	2	No
Houston	Harris	48201222600	496	33.6%	1	Yes
Houston	Harris	48201222200	326	32.7%	1	No
Houston	Harris	48201550800	238	32.6%	1	No
Corpus Christi	Nueces	48355005000	163	32.5%	1	Yes

§49.6(g) Census Tract 2007 HTC Site Demographic Characteristics Report

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Dallas	Dallas	48113008604	256	32.3%	1	Yes
Dallas	Dallas	48113007809	386	31.9%	1	No
Austin	Travis	48453002202	390	31.7%	1	Yes
Dallas	Dallas	48113003500	275	31.6%	1	Yes
Temple	Bell	48027020900	181	31.4%	1	Yes
Cleburne	Johnson	48251130800	366	30.4%	2	Yes
Georgetown	Williamson	48491021402	343	30.1%	2	Yes
Waxahachie	Ellis	48139060500	250	30.1%	2	No
Fort Worth	Tarrant	48439111013	248	29.7%	1	No
San Antonio	Bexar	48029130800	408	29.7%	1	Yes
Odessa	Ector	48135001800	248	29.6%	1	Yes
San Antonio	Bexar	48029110600	350	29.4%	1	Yes
Fort Worth	Tarrant	48439103300	168	29.3%	1	Yes
Dallas	Dallas	48113007818	824	29.1%	1	Yes
Amarillo	Potter	48375011100	218	29.0%	1	No
Beaumont	Jefferson	48245000103	315	29.0%	1	Yes
Dallas	Dallas	48113011401	385	28.9%	1	Yes
Dallas	Dallas	48113016902	280	28.9%	1	No
Fort Worth	Tarrant	48439101800	167	28.8%	1	Yes
Houston	Harris	48201530700	428	28.0%	1	Yes
San Angelo	Tom Green	48451000500	160	27.8%	1	Yes
Brownsville	Cameron	48061012608	250	27.7%	1	No
Dallas	Dallas	48113006002	376	27.7%	1	Yes
Dallas	Dallas	48113010901	696	27.6%	1	No
Dallas	Dallas	48113005902	360	27.5%	1	Yes
Houston	Harris	48201552600	580	27.4%	1	No
Brownsville	Cameron	48061013106	332	27.0%	1	Yes
Dallas	Dallas	48113015900	200	27.0%	1	Yes
Houston	Harris	48201313800	406	26.7%	1	Yes
Houston	Harris	48201453300	250	26.7%	1	No
Houston	Harris	48201330800	240	26.6%	1	No
Hitchcock	Galveston	48167723700	214	26.6%	2	No
Dallas	Dallas	48113008701	400	26.2%	1	Yes
Houston	Harris	48201330400	280	26.1%	1	No
Terrell	Kaufman	48257050500	336	26.0%	3	Yes
Houston	Harris	48201231200	454	25.5%	1	Yes
Alvin	Brazoria	48039661100	178	25.5%	2	No
Pasadena	Harris	48201342200	489	25.3%	2	No
Midland	Midland	48329001700	250	25.3%	1	Yes
Austin	Travis	48453002308	502	25.2%	1	Yes
Dallas	Dallas	48113012100	322	25.2%	1	No
Houston	Harris	48201533400	574	25.1%	1	Yes
El Paso	El Paso	48141004105	314	24.3%	1	No
Mesquite	Dallas	48113018130	356	24.3%	2	No
Dallas	Dallas	48113009804	553	24.2%	1	Yes
Austin	Travis	48453002311	655	23.9%	1	Yes
Dallas	Dallas	48113010704	264	23.8%	1	Yes
Arlington	Tarrant	48439121902	702	23.7%	1	Yes
Dallas	Dallas	48113000800	482	23.5%	1	No
Pasadena	Harris	48201323900	264	23.1%	2	Yes

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Austin	Travis	48453002313	376	22.8%	1	No
Houston	Harris	48201533200	358	22.7%	1	Yes
San Marcos	Hays	48209010500	206	22.6%	2	Yes
Abilene	Taylor	48441010300	124	22.6%	1	Yes
San Antonio	Bexar	48029150800	200	22.4%	1	Yes
Austin	Travis	48453001835	360	22.4%	1	No
Longview	Gregg	48183001100	260	22.3%	1	Yes
Arlington	Tarrant	48439111523	520	22.2%	1	No
Edinburg	Hidalgo	48215023700	330	21.8%	1	Yes
Houston	Harris	48201531900	244	21.7%	1	Yes
Dallas	Dallas	48113011601	240	21.6%	1	No
Dallas	Dallas	48113010701	200	21.5%	1	Yes
Galveston	Galveston	48167724600	196	21.4%	2	Yes
Lubbock	Lubbock	48303000900	320	21.4%	1	Yes
Dallas	Dallas	48113009000	476	21.4%	1	Yes
Dallas	Dallas	48113009304	374	21.4%	1	Yes
Houston	Harris	48201350100	260	21.1%	1	No
San Antonio	Bexar	48029131200	230	21.0%	1	Yes
Fort Worth	Tarrant	48439110704	330	20.7%	1	No
Jacinto City	Harris	48201233400	160	20.6%	2	No
Dallas	Dallas	48113007201	588	20.6%	1	Yes
McAllen	Hidalgo	48215020503	324	20.5%	1	No
Dallas	Dallas	48113010802	426	20.4%	1	Yes
San Antonio	Bexar	48029141300	408	20.3%	1	No
Houston	Harris	48201220600	200	20.3%	1	Yes
Fort Worth	Tarrant	48439104605	310	20.3%	1	No
Dallas	Dallas	48113006900	243	20.3%	1	Yes
San Antonio	Bexar	48029180202	444	20.2%	1	No
Dallas	Dallas	48113010200	152	20.2%	1	Yes
Pharr	Hidalgo	48215021303	281	20.0%	1	Yes
Dallas	Dallas	48113010902	436	19.9%	1	Yes
Brownsville	Cameron	48061014001	189	19.8%	1	Yes
Houston	Harris	48201532900	326	19.7%	1	No
Dallas	Dallas	48113011200	250	19.7%	1	No
Fort Worth	Tarrant	48439106300	184	19.6%	1	Yes
Nacogdoches	Nacogdoches	48347951000	329	19.5%	3	Yes
Houston	Harris	48201220700	324	19.3%	1	Yes
Houston	Harris	48201550300	932	19.1%	1	No
Abilene	Taylor	48441011000	98	19.0%	1	Yes
Pasadena	Harris	48201323500	309	19.0%	2	Yes
Houston	Harris	48201240700	252	18.9%	1	No
Ennis	Ellis	48139061700	250	18.8%	3	No
Stafford	Fort Bend	48157671400	250	18.6%	2	No
Sherman	Grayson	48181001700	289	18.4%	2	No
McKinney	Collin	48085030800	525	18.4%	2	No
Houston	Harris	48201313900	260	18.3%	1	No
Houston	Harris	48201520400	158	18.1%	1	No
Austin	Travis	48453001842	248	18.0%	1	No
Fort Worth	Tarrant	48439102100	430	17.9%	1	No
Houston	Harris	48201533900	510	17.8%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Austin	Travis	48453002411	240	17.6%	1	No
Fort Worth	Tarrant	48439101100	36	17.4%	1	Yes
Hillsboro	Hill	48217961000	132	17.4%	3	Yes
Fort Worth	Tarrant	48439113916	240	17.4%	1	No
Carrollton	Denton	48113013718	244	17.4%	2	No
San Antonio	Bexar	48029181602	336	17.3%	1	No
San Antonio	Bexar	48029161000	140	17.3%	1	Yes
San Marcos	Hays	48209010400	274	17.2%	2	No
Fort Worth	Tarrant	48439111005	280	17.1%	1	No
Plano	Collin	48085031803	351	17.0%	2	No
Wichita Falls	Wichita	48485011500	140	17.0%	1	No
Waco	McLennan	48309001200	200	17.0%	1	Yes
Waco	McLennan	48309001500	200	16.9%	1	Yes
Denton	Denton	48121020601	250	16.9%	2	Yes
Pharr	Hidalgo	48215021302	276	16.9%	1	No
Brownsville	Cameron	48061013401	151	16.9%	1	Yes
Gainesville	Cooke	48097990500	212	16.8%	3	Yes
Cleburne	Johnson	48251130900	156	16.8%	2	Yes
Houston	Harris	48201552200	248	16.7%	1	No
Houston	Harris	48201510200	196	16.7%	1	Yes
Houston	Harris	48201521200	355	16.6%	1	Yes
Houston	Harris	48201340100	216	16.5%	1	No
San Antonio	Bexar	48029171600	250	16.2%	1	Yes
San Antonio	Bexar	48029181505	280	16.2%	1	No
Austin	Travis	48453002105	340	16.1%	1	Yes
San Antonio	Bexar	48029171902	250	16.1%	1	No
Houston	Harris	48201455200	248	16.1%	1	No
The Woodlands	Montgomery	48339691300	620	16.1%	2	No
Austin	Travis	48453001908	160	16.0%	1	No
Houston	Harris	48201420200	161	15.9%	1	No
San Antonio	Bexar	48029161501	407	15.9%	1	Yes
Wichita Falls	Wichita	48485011600	210	15.8%	1	No
Austin	Travis	48453002108	196	15.8%	1	No
Lubbock	Lubbock	48303000302	316	15.8%	1	Yes
Terrell	Kaufman	48257050701	187	15.8%	3	No
Dallas	Dallas	48113006800	318	15.8%	1	No
San Antonio	Bexar	48029171700	371	15.8%	1	No
Texas City	Galveston	48167722700	230	15.8%	2	No
Houston	Harris	48201452600	312	15.4%	1	Yes
Corpus Christi	Nueces	48355005405	180	15.4%	1	No
El Paso	El Paso	48413950200	128	15.4%	1	No
DeSoto	Dallas	48113016619	180	15.3%	2	No
McKinney	Collin	48085030602	420	15.3%	2	No
Houston	Harris	48201220500	280	15.2%	1	Yes
Victoria	Victoria	48469000302	116	15.1%	1	No
Corpus Christi	Nueces	48355000700	200	15.1%	1	Yes
Fort Worth	Tarrant	48439110401	252	15.1%	1	No
El Paso	El Paso	48141001700	51	15.1%	1	Yes
Port Arthur	Jefferson	48245006500	200	15.0%	1	No
Fort Worth	Tarrant	48439105005	280	14.9%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Pasadena	Harris	48201322900	182	14.9%	2	No
Beaumont	Jefferson	48245002200	150	14.9%	1	Yes
Keller	Tarrant	48439113911	250	14.9%	2	No
Midland	Midland	48329001400	160	14.8%	1	Yes
Garland	Dallas	48113018131	464	14.8%	2	No
Amarillo	Potter	48375013300	184	14.7%	1	No
Amarillo	Potter	48375011600	261	14.7%	1	No
Brownsville	Cameron	48061012504	223	14.7%	1	No
Houston	Harris	48201240300	216	14.7%	1	No
Houston	Harris	48201333300	276	14.6%	1	No
San Antonio	Bexar	48029151000	152	14.5%	1	No
Palestine	Anderson	48001950500	211	14.5%	3	Yes
Abilene	Taylor	48441010900	388	14.4%	1	No
Plano	Collin	48085031631	240	14.3%	2	No
Amarillo	Potter	48375012600	120	14.3%	1	No
Angleton	Brazoria	48039662100	248	14.3%	3	No
Grand Prairie	Dallas	48439113002	264	14.2%	2	No
College Station	Brazos	48041001700	392	14.2%	1	Yes
Houston	Harris	48201531800	99	14.2%	1	Yes
Fort Worth	Tarrant	48439100501	280	14.2%	1	Yes
Victoria	Victoria	48469001601	303	14.2%	1	No
Austin	Travis	48453001823	290	13.8%	1	No
Houston	Harris	48201553000	452	13.8%	1	No
Houston	Harris	48201350400	250	13.8%	1	No
Houston	Harris	48201231300	168	13.8%	1	Yes
Houston	Harris	48201453900	240	13.6%	1	No
Dallas	Dallas	48113008704	153	13.6%	1	Yes
Houston	Harris	48201532000	488	13.6%	1	Yes
Lufkin	Angelina	48005000500	208	13.4%	3	Yes
Georgetown	Williamson	48491021403	105	13.4%	2	No
Denison	Grayson	48181000501	176	13.3%	2	No
Austin	Travis	48453001847	240	13.3%	1	No
Houston	Harris	48201521500	251	13.2%	1	No
Corpus Christi	Nueces	48355000800	124	13.2%	1	Yes
San Antonio	Bexar	48029161302	140	13.1%	1	No
Houston	Harris	48201230200	248	13.1%	1	Yes
Grand Prairie	Dallas	48113015404	160	13.1%	2	No
Houston	Harris	48201220400	170	13.0%	1	Yes
Houston	Harris	48201310100	150	13.0%	1	Yes
The Woodlands	Montgomery	48339691500	216	13.0%	2	No
El Paso	El Paso	48141003502	186	12.9%	1	Yes
San Marcos	Hays	48209010301	495	12.8%	2	Yes
Dallas	Dallas	48113011500	188	12.8%	1	Yes
Dallas	Dallas	48113007819	264	12.7%	1	Yes
San Antonio	Bexar	48029181806	248	12.7%	1	Yes
Houston	Harris	48201310900	234	12.7%	1	Yes
Arlington	Tarrant	48439113111	350	12.6%	1	No
Dallas	Dallas	48113006100	196	12.6%	1	No
Baytown	Harris	48201254400	128	12.6%	2	No
Humble	Harris	48201250200	192	12.6%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Harlingen	Cameron	48061010602	80	12.6%	1	No
Odessa	Ector	48135002000	120	12.6%	1	No
Rosenberg	Fort Bend	48157675100	252	12.4%	2	No
Eules	Tarrant	48439113514	260	12.4%	2	No
Mansfield	Tarrant	48439111305	280	12.3%	2	No
San Antonio	Bexar	48029110100	196	12.3%	1	Yes
Mission	Hidalgo	48215020100	336	12.3%	1	No
Fort Worth	Tarrant	48439104802	200	12.2%	1	Yes
Port Lavaca	Calhoun	48057990200	181	12.2%	3	No
Weatherford	Parker	48367140100	292	12.2%	3	No
Arlington	Tarrant	48439121610	114	12.2%	1	No
Fredericksburg	Gillespie	48171950500	127	12.1%	3	No
Fort Worth	Tarrant	48439100201	121	12.1%	1	No
Pflugerville	Travis	48453001836	654	12.1%	2	No
Dallas	Dallas	48113002701	178	12.0%	1	Yes
Plano	Collin	48085031632	240	12.0%	2	No
Arlington	Tarrant	48439122800	366	12.0%	1	Yes
Garland	Dallas	48113019026	220	11.9%	2	No
Del Rio	Val Verde	48465950400	150	11.7%	3	Yes
Dallas	Dallas	48113016501	256	11.7%	1	No
Houston	Harris	48201454300	468	11.7%	1	No
Houston	Harris	48201422500	314	11.7%	1	No
Houston	Harris	48201533300	250	11.7%	1	Yes
Houston	Harris	48201221500	220	11.6%	1	Yes
Fort Worth	Tarrant	48439105511	216	11.6%	1	No
Austin	Travis	48453000802	131	11.6%	1	Yes
Fort Worth	Tarrant	48439105205	320	11.6%	1	Yes
Irving	Dallas	48113014405	155	11.6%	2	No
Paris	Lamar	48277000500	203	11.6%	3	Yes
Dallas	Dallas	48113019016	158	11.5%	1	No
White Settlement	Tarrant	48439110704	184	11.5%	2	No
Amarillo	Potter	48375015000	235	11.5%	1	No
Pasadena	Harris	48201323600	303	11.5%	2	No
Dallas	Dallas	48113019209	303	11.5%	1	Yes
Houston	Harris	48201520500	285	11.4%	1	No
San Antonio	Bexar	48029171906	165	11.4%	1	No
Lubbock	Lubbock	48303001200	100	11.4%	1	Yes
Irving	Dallas	48113014110	504	11.4%	2	No
Fort Worth	Tarrant	48439110804	192	11.4%	1	No
Commerce	Hunt	48231960500	161	11.3%	3	Yes
Dallas	Dallas	48113009802	192	11.2%	1	Yes
Waco	McLennan	48309002100	207	11.2%	1	No
Fort Worth	Tarrant	48439114001	186	11.2%	1	No
Orange	Orange	48361020200	200	11.1%	3	Yes
Arlington	Tarrant	48439121702	260	11.1%	1	No
Austin	Travis	48453002421	148	11.1%	1	No
Houston	Harris	48339692400	193	11.0%	1	No
Huntsville	Walker	48471790800	232	11.0%	3	Yes
Fort Worth	Tarrant	48439106102	140	11.0%	1	Yes
San Antonio	Bexar	48029130900	150	11.0%	1	Yes

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Crystal City	Zavala	48507950301	60	11.0%	3	Yes
Grapevine	Tarrant	48439113705	224	10.9%	2	No
Texas City	Galveston	48167721900	242	10.9%	2	No
Mount Vernon	Franklin	48159950200	100	10.9%	3	No
San Antonio	Bexar	48029121403	166	10.8%	1	No
Houston	Harris	48201330300	260	10.8%	1	No
Austin	Travis	48453001813	228	10.8%	1	No
San Antonio	Bexar	48029130400	252	10.7%	1	Yes
Pasadena	Harris	48201323000	240	10.7%	2	Yes
Houston	Harris	48201232700	414	10.7%	1	Yes
Irving	Dallas	48113014310	144	10.6%	2	No
Houston	Harris	48201330100	372	10.6%	1	No
Mercedes	Hidalgo	48215023101	228	10.6%	3	Yes
Dallas	Dallas	48113010101	120	10.6%	1	Yes
Corpus Christi	Nueces	48355003302	306	10.5%	1	No
San Antonio	Bexar	48029110300	105	10.5%	1	Yes
Amarillo	Potter	48375010700	120	10.5%	1	No
Greenville	Hunt	48231960900	178	10.5%	2	Yes
Fort Worth	Tarrant	48439105508	237	10.5%	1	No
Dallas	Dallas	48113010801	212	10.4%	1	Yes
College Station	Brazos	48041001601	199	10.4%	1	No
El Paso	El Paso	48141000101	234	10.4%	1	No
Greenville	Hunt	48231961300	250	10.3%	2	No
Houston	Harris	48201333900	272	10.3%	1	No
Fort Worth	Tarrant	48439106511	180	10.3%	1	No
Baytown	Harris	48201253200	250	10.3%	2	No
Waxahachie	Ellis	48139060400	121	10.2%	2	Yes
Garland	Dallas	48113019013	183	10.1%	2	Yes
Dallas	Dallas	48113011101	144	10.1%	1	No
Houston	Harris	48201551900	240	10.1%	1	No
Austin	Travis	48453002422	200	10.1%	1	No
Austin	Travis	48453002419	173	10.1%	1	No
San Antonio	Bexar	48029170500	160	10.1%	1	Yes
Dallas	Dallas	48113010803	252	10.0%	1	No
Freeport	Brazoria	48039664300	178	10.0%	2	Yes
Watauga	Tarrant	48439113809	166	10.0%	2	No
Round Rock	Williamson	48491020703	255	10.0%	2	No
Belton	Bell	48027021602	54	10.0%	1	Yes
La Porte	Harris	48201343100	141	10.0%	2	No
Houston	Harris	48201251700	200	10.0%	1	No
Houston	Harris	48201540300	212	9.9%	1	No
Seguin	Guadalupe	48187210200	152	9.8%	2	No
Kaufman	Kaufman	48257051100	154	9.8%	3	No
Arlington	Tarrant	48439111532	224	9.8%	1	No
Killeen	Bell	48027022401	128	9.7%	1	No
Dallas	Dallas	48113012301	158	9.7%	1	No
Grand Prairie	Dallas	48439111539	176	9.7%	2	No
Marshall	Harrison	48203020402	167	9.7%	3	Yes
Hondo	Medina	48325990300	187	9.6%	3	No
Georgetown	Williamson	48491020102	224	9.5%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
San Antonio	Bexar	48029181801	248	9.5%	1	No
Houston	Harris	48201422400	368	9.5%	1	No
Longview	Gregg	48183001400	137	9.5%	1	Yes
Hereford	Deaf Smith	48117950500	107	9.4%	3	Yes
Dallas	Dallas	48113011800	229	9.4%	1	Yes
Hurst	Tarrant	48439113408	197	9.4%	2	No
Taylor	Williamson	48491021100	90	9.3%	3	No
Bryan	Brazos	48041001000	232	9.3%	1	No
Lockhart	Caldwell	48055960200	104	9.3%	3	Yes
Dallas	Dallas	48113006200	172	9.3%	1	No
Jefferson	Marion	48315950400	86	9.2%	3	Yes
Houston	Harris	48201320600	200	9.1%	1	Yes
Marble Falls	Burnet	48053960700	200	9.0%	3	No
Dallas	Dallas	48085031703	382	9.0%	1	No
Tyler	Smith	48423002007	176	8.9%	1	No
Frisco	Collin	48085030402	216	8.9%	2	No
Port Arthur	Jefferson	48245007002	120	8.8%	1	No
San Antonio	Bexar	48029160100	143	8.8%	1	Yes
Irving	Dallas	48113014602	132	8.8%	2	Yes
Austin	Travis	48453001805	175	8.8%	1	Yes
Abilene	Taylor	48441011700	80	8.8%	1	Yes
Palestine	Anderson	48001950700	76	8.7%	3	Yes
Wichita Falls	Wichita	48485012200	180	8.7%	1	No
Houston	Harris	48201453600	250	8.7%	1	No
Irving	Dallas	48113015202	103	8.7%	2	No
Spring	Harris	48339691600	304	8.7%	2	No
Plano	Collin	48085031648	194	8.6%	2	No
Wharton	Wharton	48481740500	106	8.6%	3	No
El Paso	El Paso	48141004309	128	8.6%	1	No
Pasadena	Harris	48201323100	93	8.6%	2	Yes
Amarillo	Potter	48375011700	144	8.6%	1	No
Houston	Harris	48201211300	189	8.6%	1	Yes
The Woodlands	Montgomery	48339691600	300	8.6%	2	No
Houston	Harris	48201220800	76	8.5%	1	Yes
Austin	Travis	48453000902	136	8.5%	1	Yes
Baytown	Harris	48201253500	210	8.5%	2	No
Beaumont	Jefferson	48245002100	110	8.5%	1	No
Fredericksburg	Gillespie	48171950400	180	8.5%	3	No
Mission	Hidalgo	48215024106	160	8.4%	1	No
Houston	Harris	48201533600	118	8.4%	1	No
Round Rock	Williamson	48491020705	168	8.4%	2	No
Robstown	Nueces	48355005602	169	8.4%	3	Yes
San Antonio	Bexar	48029151200	186	8.4%	1	No
Corpus Christi	Nueces	48355001902	172	8.4%	1	No
Dallas	Dallas	48113013614	374	8.3%	1	No
Dallas	Dallas	48113006700	161	8.3%	1	Yes
La Porte	Harris	48201343000	180	8.3%	2	No
Ennis	Ellis	48139061600	146	8.3%	3	No
Austin	Travis	48453002107	122	8.3%	1	Yes
Greenville	Hunt	48231960800	100	8.3%	2	Yes

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Odessa	Ector	48135000500	136	8.3%	1	No
Austin	Travis	48453001833	174	8.3%	1	No
Harlingen	Cameron	48061011302	132	8.3%	1	No
San Antonio	Bexar	48029180400	112	8.2%	1	Yes
Houston	Harris	48201530900	136	8.2%	1	No
Alvin	Brazoria	48039661200	126	8.2%	2	No
Texarkana	Bowie	48037011100	156	8.2%	1	No
DeSoto	Dallas	48113016606	198	8.2%	2	No
Ennis	Ellis	48139061500	112	8.2%	3	No
Houston	Harris	48201433000	433	8.2%	1	Yes
Rosenberg	Fort Bend	48157675000	84	8.2%	2	Yes
Houston	Harris	48201550400	416	8.2%	1	No
Kingsland	Llano	48299970500	170	8.1%	3	No
Irving	Dallas	48113014306	142	8.1%	2	No
Houston	Harris	48201332800	114	8.0%	1	Yes
Mathis	San Patricio	48409011300	134	8.0%	3	Yes
Bryan	Brazos	48041000500	119	7.9%	1	No
Seguin	Guadalupe	48187210300	156	7.9%	2	No
Cedar Park	Williamson	48491020308	236	7.9%	2	No
Houston	Harris	48201421100	265	7.9%	1	No
Waco	McLennan	48309001400	205	7.9%	1	Yes
Dallas	Dallas	48113004202	93	7.9%	1	No
Irving	Dallas	48113014701	127	7.8%	2	No
San Antonio	Bexar	48029181503	155	7.8%	1	No
Harlingen	Cameron	48061010800	174	7.8%	1	No
San Antonio	Bexar	48029171400	152	7.8%	1	Yes
Victoria	Victoria	48469001604	150	7.7%	1	No
Roma	Starr	48427950702	68	7.7%	3	Yes
Buda	Hays	48209010902	144	7.7%	2	No
Laredo	Webb	48479001801	251	7.6%	1	No
Edinburg	Hidalgo	48215023800	219	7.6%	1	No
Waco	McLennan	48309003000	144	7.6%	1	No
Edcouch	Hidalgo	48215024500	121	7.6%	3	Yes
Garland	Dallas	48113018111	150	7.6%	2	No
Amarillo	Potter	48375014800	68	7.5%	1	Yes
Tyler	Smith	48423001700	160	7.5%	1	No
Sanger	Denton	48121020201	208	7.5%	3	No
Amarillo	Potter	48375012000	54	7.5%	1	Yes
Tyler	Smith	48423000201	95	7.4%	1	Yes
Fort Worth	Tarrant	48439105510	116	7.4%	1	No
Huntsville	Walker	48471790600	76	7.4%	3	Yes
Temple	Bell	48027020701	61	7.4%	1	Yes
Houston	Harris	48201232800	153	7.4%	1	No
Austin	Travis	48453002304	196	7.4%	1	Yes
Vernon	Wilbarger	48487950500	85	7.4%	3	Yes
Katy	Harris	48201542300	174	7.3%	2	No
Houston	Harris	48201421400	302	7.3%	1	Yes
Lewisville	Denton	48121021712	218	7.3%	2	No
Dallas	Dallas	48467950100	120	7.3%	1	No
El Paso	El Paso	48141000203	152	7.1%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
San Antonio	Bexar	48029180503	90	7.1%	1	No
Alamo	Hidalgo	48215021902	188	7.1%	1	No
Hereford	Deaf Smith	48117950400	131	7.1%	3	No
El Paso	El Paso	48141010315	36	7.0%	1	No
Dallas	Dallas	48113019202	145	7.0%	1	No
Donna	Hidalgo	48215022102	157	6.9%	3	No
Little Elm	Denton	48121020102	202	6.9%	2	No
Hitchcock	Galveston	48167723200	72	6.9%	2	No
Lake Dallas	Denton	48121021403	184	6.9%	3	No
Katy	Harris	48201542800	120	6.8%	2	No
Grand Prairie	Dallas	48113015500	102	6.8%	2	Yes
Hillsboro	Hill	48217960700	52	6.8%	3	No
Fort Worth	Tarrant	48439105506	216	6.8%	1	No
Pearsall	Frio	48163950200	106	6.8%	3	Yes
Houston	Harris	48201252300	250	6.8%	1	No
Texarkana	Bowie	48037010400	112	6.7%	1	Yes
Arlington	Tarrant	48439111524	171	6.7%	1	No
Laguna Vista	Cameron	48061012301	64	6.7%	3	No
Dayton	Liberty	48291700800	202	6.7%	3	No
Houston	Harris	48201541300	144	6.7%	1	No
Lubbock	Lubbock	48303002400	152	6.7%	1	No
Lancaster	Dallas	48113016705	126	6.7%	2	No
Fort Worth	Tarrant	48439106508	246	6.7%	1	No
San Antonio	Bexar	48029131000	120	6.7%	1	No
Pittsburg	Camp	48063950200	116	6.7%	3	Yes
Tomball	Harris	48201555400	236	6.7%	3	No
San Antonio	Bexar	48029181003	160	6.7%	1	No
Hurst	Tarrant	48439113407	108	6.6%	2	No
Jasper	Jasper	48241950200	96	6.6%	3	No
Balch Springs	Dallas	48113017202	128	6.6%	2	No
Dallas	Dallas	48113012000	150	6.6%	1	Yes
Cleveland	Liberty	48291700200	70	6.6%	3	Yes
Houston	Harris	48201230700	66	6.5%	1	Yes
Houston	Harris	48201232900	160	6.5%	1	No
Seagoville	Dallas	48113017003	158	6.5%	2	No
Houston	Harris	48201240500	228	6.5%	1	Yes
Cotulla	La Salle	48283950100	100	6.5%	3	Yes
North Richland Hills	Tarrant	48439113217	108	6.5%	2	No
Killeen	Bell	48027022200	88	6.5%	1	No
Livingston	Polk	48373210500	110	6.5%	3	No
Eules	Tarrant	48439113515	250	6.4%	2	No
Henderson	Rusk	48401950700	76	6.4%	3	No
Temple	Bell	48027021202	103	6.4%	1	No
El Paso	El Paso	48141001201	100	6.3%	1	No
San Marcos	Hays	48209010904	156	6.3%	2	No
Laredo	Webb	48479000300	50	6.3%	1	Yes
Houston	Harris	48201453200	164	6.3%	1	No
Houston	Harris	48201232400	254	6.3%	1	No
Lewisville	Denton	48121021601	194	6.3%	2	No
San Marcos	Hays	48209010600	180	6.2%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
San Antonio	Bexar	48029170700	87	6.2%	1	Yes
Mexia	Limestone	48293970300	47	6.1%	3	No
Azle	Tarrant	48439114204	109	6.1%	2	No
Plainview	Hale	48189950400	90	6.1%	3	No
Beaumont	Jefferson	48245002300	105	6.1%	1	Yes
Fort Worth	Tarrant	48439113914	248	6.1%	1	No
Midland	Midland	48329000305	124	6.1%	1	No
Killeen	Bell	48027022500	172	6.1%	1	No
Palacios	Matagorda	48321730600	122	6.1%	3	No
Jersey Village	Harris	48201552000	160	6.0%	2	No
San Antonio	Bexar	48029181706	150	6.0%	1	No
Webster	Harris	48201341200	216	6.0%	2	No
Leon Valley	Bexar	48029181704	100	6.0%	2	No
Houston	Harris	48201433500	278	6.0%	1	Yes
Austin	Travis	48453001822	142	6.0%	1	No
Austin	Travis	48453001852	204	5.9%	1	No
San Antonio	Bexar	48029180800	85	5.9%	1	Yes
Kingsville	Kleberg	48273020200	120	5.9%	3	Yes
Canyon	Randall	48381021900	76	5.9%	3	No
Houston	Harris	48201522300	154	5.9%	1	No
La Porte	Harris	48201343500	61	5.9%	2	No
El Paso	El Paso	48141000206	88	5.9%	1	No
Katy	Harris	48201542700	84	5.8%	2	No
San Benito	Cameron	48061011400	97	5.8%	1	No
Laredo	Webb	48479001102	120	5.8%	1	No
Cedar Park	Williamson	48491020306	180	5.8%	2	No
Houston	Harris	48201533700	156	5.8%	1	No
El Paso	El Paso	48141003903	95	5.7%	1	Yes
Bay City	Matagorda	48321730400	60	5.7%	3	Yes
Corpus Christi	Nueces	48355001700	152	5.7%	1	Yes
Crockett	Houston	48225950500	100	5.7%	3	No
Marshall	Harrison	48203020401	76	5.7%	3	Yes
Jacksonville	Cherokee	48073950600	124	5.7%	3	No
San Antonio	Bexar	48029140800	100	5.7%	1	No
North Richland Hills	Tarrant	48439113219	194	5.7%	2	No
El Paso	El Paso	48141001112	96	5.7%	1	No
Tyler	Smith	48423001000	114	5.7%	1	No
Corrigan	Polk	48373210400	96	5.6%	3	No
Houston	Harris	48201432300	160	5.6%	1	No
Trinity	Trinity	48455950300	40	5.6%	3	No
Runge	Karnes	48255970400	32	5.6%	3	Yes
Navasota	Grimes	48185180200	128	5.6%	3	No
Pearland	Brazoria	48039660700	246	5.6%	2	No
Dilley	Frio	48163950300	68	5.5%	3	Yes
Carrollton	Denton	48121021605	144	5.5%	2	No
El Paso	El Paso	48141003804	64	5.5%	1	No
San Angelo	Tom Green	48451001400	112	5.5%	1	No
Alice	Jim Wells	48249950600	76	5.5%	3	Yes
Corinth	Denton	48121021402	224	5.5%	2	No
Gainesville	Cooke	48097990600	100	5.5%	3	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Weslaco	Hidalgo	48215022502	80	5.4%	1	No
Mount Pleasant	Titus	48449950700	28	5.4%	3	No
Balch Springs	Dallas	48113017201	96	5.4%	2	No
San Antonio	Bexar	48029161100	108	5.4%	1	No
Longview	Gregg	48183001500	79	5.4%	1	Yes
College Station	Brazos	48041002003	92	5.4%	1	No
Hempstead	Waller	48473680500	147	5.4%	3	No
Eagle Pass	Maverick	48323950500	100	5.4%	3	Yes
Donna	Hidalgo	48215022202	108	5.3%	3	Yes
Cedar Park	Williamson	48453001765	90	5.3%	2	No
Amarillo	Potter	48375014700	117	5.3%	1	No
Llano	Llano	48299970200	76	5.3%	3	No
Houston	Harris	48201210500	81	5.3%	1	Yes
North Richland Hills	Tarrant	48439113806	180	5.3%	2	No
Cedar Park	Williamson	48491020309	132	5.3%	2	No
Uvalde	Uvalde	48463950500	100	5.3%	3	Yes
Baytown	Harris	48201254100	88	5.3%	2	No
Amarillo	Potter	48375013200	38	5.3%	1	No
Edinburg	Hidalgo	48215023600	100	5.2%	1	No
El Paso	El Paso	48141001900	54	5.2%	1	Yes
Dallas	Dallas	48113004500	100	5.2%	1	No
El Paso	El Paso	48141004003	100	5.2%	1	No
Odessa	Ector	48135000700	85	5.2%	1	Yes
Austin	Travis	48453000901	26	5.2%	1	Yes
Bryan	Brazos	48041000900	48	5.2%	1	Yes
Waco	McLennan	48309001900	64	5.2%	1	Yes
El Paso	El Paso	48141004202	104	5.2%	1	No
Queen City	Cass	48067950300	36	5.2%	3	No
Stephenville	Erath	48143950600	76	5.1%	3	No
Katy	Harris	48201454800	120	5.1%	2	No
Houston	Harris	48201551800	86	5.1%	1	No
Garland	Dallas	48113018119	152	5.1%	2	No
Madisonville	Madison	48313980400	84	5.1%	3	No
Clifton	Bosque	48035950500	56	5.1%	3	No
Dallas	Dallas	48113005400	80	5.1%	1	No
Euless	Tarrant	48439113511	60	5.0%	2	No
Quitman	Wood	48499950500	48	5.0%	3	No
El Paso	El Paso	48141001800	25	5.0%	1	Yes
Baytown	Harris	48201253000	62	5.0%	2	No
Anthony	El Paso	48141010203	34	5.0%	1	No
Texarkana	Bowie	48037010100	100	4.9%	1	No
Killeen	Bell	48027022102	129	4.9%	1	No
Floresville	Wilson	48493980600	58	4.9%	3	No
San Antonio	Bexar	48029180702	152	4.9%	1	No
Victoria	Victoria	48469001603	120	4.9%	1	No
Clute	Brazoria	48039663800	75	4.9%	2	No
Houston	Harris	48201510100	27	4.9%	1	Yes
El Paso	El Paso	48141004303	100	4.9%	1	No
Kingsville	Kleberg	48273020400	128	4.9%	3	No
Sonora	Sutton	48435950200	64	4.9%	3	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Dallas	Dallas	48113001504	61	4.9%	1	Yes
Dallas	Dallas	48113003400	30	4.8%	1	Yes
Humble	Harris	48201240300	71	4.8%	2	No
Beaumont	Jefferson	48245001301	100	4.8%	1	No
Austin	Travis	48453002316	100	4.8%	1	Yes
Refugio	Refugio	48391950200	68	4.7%	3	No
Pampa	Gray	48179950400	96	4.7%	3	No
Fairfield	Freestone	48161980200	24	4.7%	3	No
Lubbock	Lubbock	48303001703	144	4.7%	1	Yes
Lampasas	Lampasas	48281950400	64	4.7%	3	No
Houston	Harris	48201432700	173	4.7%	1	Yes
Paris	Lamar	48277000800	68	4.7%	3	Yes
Decatur	Wise	48497150200	89	4.7%	3	No
Spring	Harris	48201553400	168	4.7%	2	No
Houston	Harris	48201421600	93	4.7%	1	Yes
Perryton	Ochiltree	48357950300	47	4.7%	3	No
Houston	Harris	48201240800	154	4.7%	1	No
Plainview	Hale	48189950200	60	4.7%	3	Yes
Port Isabel	Cameron	48061012304	76	4.6%	3	No
Beeville	Bee	48025950300	90	4.6%	3	No
Taylor	Williamson	48491021203	44	4.6%	3	No
El Paso	El Paso	48141004316	81	4.6%	1	No
Nacogdoches	Nacogdoches	48347950700	76	4.6%	3	Yes
Waller	Waller	48473680300	130	4.5%	3	No
Fort Worth	Tarrant	48439105704	126	4.5%	1	No
Sweeny	Brazoria	48039662800	107	4.5%	3	No
Houston	Harris	48201534000	115	4.5%	1	No
Austin	Travis	48453001812	117	4.5%	1	Yes
Wolfe City	Hunt	48231960200	40	4.5%	3	No
Ingleside	San Patricio	48409010300	144	4.5%	1	No
Sebastian	Willacy	48489950600	32	4.5%	3	No
Weslaco	Hidalgo	48215023101	96	4.4%	1	Yes
Sulphur Springs	Hopkins	48223950500	48	4.4%	3	No
Dallas	Dallas	48113004900	60	4.4%	1	Yes
Princeton	Collin	48085031002	104	4.4%	2	No
El Paso	El Paso	48141010321	142	4.4%	1	No
Wylie	Collin	48085031303	90	4.4%	3	No
Big Spring	Howard	48227950400	63	4.3%	3	Yes
Floresville	Wilson	48493980300	70	4.3%	3	No
San Antonio	Bexar	48029121206	113	4.3%	1	No
Dallas	Dallas	48113013005	82	4.3%	1	No
Houston	Harris	48201552000	114	4.3%	1	No
El Campo	Wharton	48481741000	60	4.3%	3	No
Alamo	Hidalgo	48215021901	76	4.3%	1	Yes
Jacksboro	Jack	48237950300	59	4.3%	3	No
Boerne	Kendall	48259970500	71	4.3%	3	No
Hillsboro	Hill	48217961100	48	4.3%	3	No
San Antonio	Bexar	48029181601	50	4.3%	1	No
Houston	Harris	48201334000	147	4.2%	1	No
El Paso	El Paso	48141004004	64	4.2%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Electra	Wichita	48485013700	54	4.2%	3	No
Arlington	Tarrant	48439121703	75	4.2%	1	Yes
Athens	Henderson	48213951200	76	4.2%	3	Yes
Lewisville	Denton	48121021703	192	4.2%	2	No
Dallas	Dallas	48113001400	63	4.1%	1	Yes
Silsbee	Hardin	48199030700	56	4.1%	3	No
Raymondville	Willacy	48489950400	61	4.1%	3	Yes
Carrizo Springs	Dimmit	48127950200	102	4.1%	3	Yes
Forest Hill	Tarrant	48439111202	78	4.1%	2	No
Houston	Harris	48157670100	105	4.1%	1	No
Three Rivers	Live Oak	48297950100	60	4.1%	3	No
Channelview	Harris	48201252300	150	4.1%	2	No
New Braunfels	Comal	48091310300	100	4.1%	2	No
Boerne	Kendall	48259970300	100	4.0%	3	No
Nacogdoches	Nacogdoches	48347950500	124	4.0%	3	No
Rockport	Aransas	48007950400	55	4.0%	3	Yes
Dallas	Dallas	48113002000	76	4.0%	1	Yes
Houston	Harris	48201332000	72	3.9%	1	Yes
Rusk	Cherokee	48073950800	114	3.9%	3	No
Kerrville	Kerr	48265960300	152	3.9%	3	No
Springtown	Parker	48367140403	72	3.9%	3	No
Mount Pleasant	Titus	48449950600	48	3.9%	3	Yes
Brenham	Washington	48477170300	76	3.9%	3	No
Fort Stockton	Pecos	48371950300	47	3.9%	3	Yes
Austin	Travis	48453002417	93	3.9%	1	No
Highlands	Harris	48201253000	48	3.9%	2	No
Wills Point	Van Zandt	48467950500	60	3.9%	3	No
San Juan	Hidalgo	48215021802	86	3.9%	1	No
Cameron	Milam	48331950400	100	3.8%	3	No
Kirbyville	Jasper	48241950600	36	3.8%	3	Yes
Longview	Gregg	48183001200	40	3.8%	1	Yes
San Antonio	Bexar	48029181809	72	3.8%	1	No
Big Spring	Howard	48227950800	76	3.7%	3	No
Childress	Childress	48075950200	80	3.7%	3	No
Brenham	Washington	48477170400	76	3.7%	3	No
Marlin	Falls	48145990300	56	3.7%	3	Yes
Allen	Collin	48085031506	94	3.7%	2	No
Laredo	Webb	48479001706	56	3.7%	1	No
Ozona	Crockett	48105950100	56	3.7%	3	No
Trinity	Trinity	48455950500	36	3.7%	3	No
El Paso	El Paso	48141000404	47	3.7%	1	Yes
Cedar Hill	Dallas	48113016614	132	3.7%	2	No
Lake Jackson	Brazoria	48039663500	80	3.7%	2	No
Lufkin	Angelina	48005000400	75	3.7%	3	No
Dallas	Dallas	48113007814	112	3.6%	1	No
Pecos	Reeves	48371950400	55	3.6%	3	No
San Benito	Cameron	48061011500	65	3.6%	1	No
Palestine	Anderson	48001950800	79	3.6%	3	No
West	McLennan	48309004202	44	3.6%	3	No
Waco	McLennan	48309002302	91	3.6%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Alice	Jim Wells	48249950500	72	3.6%	3	Yes
Breckenridge	Stephens	48429950200	56	3.5%	3	No
El Paso	El Paso	48141010309	76	3.5%	1	No
Calvert	Robertson	48395960200	24	3.5%	3	Yes
Brady	McCulloch	48307950300	76	3.5%	3	No
Prairie View	Waller	48473680300	100	3.5%	3	No
Meadows Place	Fort Bend	48157672000	145	3.4%	2	No
Kilgore	Gregg	48183010600	76	3.4%	3	No
Mineral Wells	Palo Pinto	48363980400	72	3.4%	3	No
Houston	Harris	48201531600	40	3.4%	1	No
Lake Jackson	Brazoria	48039663400	80	3.4%	2	No
Waco	McLennan	48309003707	100	3.4%	1	No
Garrison	Nacogdoches	48347950100	32	3.4%	3	No
Mineral Wells	Palo Pinto	48363980800	40	3.4%	3	Yes
Junction	Kimble	48267950200	30	3.4%	3	No
Lubbock	Lubbock	48303010401	126	3.4%	1	No
Menard	Menard	48327950200	24	3.4%	3	Yes
Fort Worth	Tarrant	48439110203	88	3.4%	1	No
Cleveland	Liberty	48291700300	96	3.4%	3	No
Bryson	Jack	48237950200	16	3.4%	3	No
Hubbard	Hill	48217961300	36	3.4%	3	No
Burnet	Burnet	48053960200	30	3.4%	3	No
San Benito	Cameron	48061011600	60	3.4%	1	No
Terrell	Kaufman	48257050300	45	3.3%	3	No
Carthage	Panola	48365950400	88	3.3%	3	No
Elsa	Hidalgo	48215024401	74	3.3%	3	No
San Antonio	Bexar	48029141200	80	3.3%	1	No
Wallis	Austin	48015760100	24	3.3%	3	No
Kyle	Hays	48209010904	80	3.2%	3	No
Sour Lake	Hardin	48199030200	60	3.2%	3	No
Willis	Montgomery	48339694200	150	3.2%	3	No
San Augustine	San Augustine	48405950200	36	3.2%	3	No
Santa Fe	Galveston	48167723300	48	3.2%	2	No
Gilmer	Upshur	48459950400	54	3.1%	3	No
Johnson City	Blanco	48031950100	48	3.1%	3	No
Orange	Orange	48361021300	68	3.1%	3	No
Rockport	Aransas	48007950100	76	3.1%	3	No
Columbus	Colorado	48089750500	48	3.1%	3	No
Albany	Shackelford	48417950300	40	3.1%	3	No
Corsicana	Navarro	48349970900	76	3.1%	3	No
Graham	Young	48503950600	64	3.1%	3	No
Victoria	Victoria	48469000202	51	3.1%	1	No
Borger	Hutchinson	48233951000	47	3.0%	3	No
Socorro	El Paso	48141010310	64	3.0%	1	No
Center	Shelby	48381020200	32	3.0%	3	No
El Paso	El Paso	48141001600	62	3.0%	1	Yes
Del Rio	Val Verde	48465950201	76	3.0%	3	No
Seven Points	Henderson	48213950700	47	3.0%	3	No
League City	Galveston	48167721200	105	3.0%	2	No
Haltom City	Tarrant	48439110101	74	3.0%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Spring	Harris	48201241100	144	3.0%	2	No
Wichita Falls	Wichita	48485013200	76	3.0%	1	No
Joshua	Johnson	48251130206	56	3.0%	2	No
Brownwood	Brown	48049951100	44	2.9%	3	No
Hereford	Deaf Smith	48117950300	56	2.9%	3	No
Nocona	Montague	48337950300	36	2.9%	3	No
Honey Grove	Fannin	48147950100	32	2.9%	3	No
McGregor	McLennan	48387950600	36	2.9%	1	No
Lewisville	Denton	48121021709	163	2.9%	2	No
La Feria	Cameron	48061011902	36	2.9%	3	No
Marlin	Falls	48145990400	25	2.9%	3	Yes
Venus	Johnson	48251130408	48	2.9%	3	No
Elgin	Bastrop	48453001837	76	2.9%	3	No
Eastland	Eastland	48133950200	68	2.8%	3	No
Austin	Travis	48453002307	70	2.8%	1	Yes
El Paso	El Paso	48141003401	58	2.8%	1	No
Burnet	Burnet	48053960300	54	2.8%	3	No
Zapata	Zapata	48505950300	68	2.8%	3	Yes
Sealy	Austin	48015760300	54	2.8%	3	No
Edgewood	Van Zandt	48467950300	46	2.8%	3	No
Crockett	Houston	48225950400	36	2.8%	3	Yes
Rio Grande City	Starr	48427950500	40	2.8%	3	Yes
Idalou	Lubbock	48303010102	24	2.8%	3	No
Whitewright	Grayson	48181001802	40	2.8%	3	No
Dallas	Dallas	48113007102	60	2.8%	1	No
Colorado City	Mitchell	48335950200	56	2.7%	3	No
San Diego	Duval	48131950100	44	2.7%	3	Yes
Yoakum	Lavaca	48123970100	40	2.7%	3	No
Edna	Jackson	48239950300	48	2.7%	3	No
Socorro	El Paso	48141010402	40	2.7%	1	No
Webster	Harris	48201341000	80	2.7%	2	No
Seagraves	Gaines	48165950100	32	2.7%	3	No
Hempstead	Waller	48473680300	76	2.7%	3	No
Hebbronville	Jim Hogg	48247950200	20	2.7%	3	No
Crosbyton	Crosby	48107950100	24	2.6%	3	No
Aransas Pass	San Patricio	48409010200	76	2.6%	3	No
Van Alstyne	Grayson	48181001803	40	2.6%	3	No
Coldspring	San Jacinto	48407200200	48	2.5%	3	No
Mineola	Wood	48499950800	48	2.5%	3	No
Alto	Cherokee	48073951000	32	2.5%	3	No
El Paso	El Paso	48141000106	44	2.5%	1	No
La Villa	Hidalgo	48215024600	30	2.5%	3	No
San Antonio	Bexar	48029151100	50	2.4%	1	Yes
Brackettville	Kinney	48271950100	32	2.4%	3	No
Bellville	Austin	48015760500	72	2.4%	3	No
Huntsville	Walker	48471790700	50	2.4%	3	Yes
Groesbeck	Limestone	48293970600	44	2.4%	3	No
Elkhart	Anderson	48001951000	54	2.4%	3	No
Bandera	Bandera	48019980100	76	2.4%	3	No
Fort Stockton	Pecos	48371950400	36	2.4%	3	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Levelland	Hockley	48219950200	36	2.4%	3	No
Santa Anna	Coleman	48083950700	24	2.4%	3	No
St. Jo	Montague	48337950100	24	2.3%	3	No
Detroit	Red River	48387950300	16	2.3%	3	No
Gonzales	Gonzales	48177990300	30	2.3%	3	Yes
Harlingen	Cameron	48061010900	16	2.3%	1	Yes
Buna	Jasper	48241950800	23	2.3%	3	No
Snyder	Scurry	48415950600	39	2.3%	3	No
Rusk	Cherokee	48073950900	24	2.3%	3	No
Grand Saline	Van Zandt	48467950200	28	2.3%	3	No
Waskom	Harrison	48203020102	48	2.2%	3	No
Corinth	Denton	48121021401	76	2.2%	2	No
Pampa	Gray	48179950100	32	2.2%	3	No
Caldwell	Burleson	48051970300	32	2.2%	3	No
Groveton	Trinity	48455950200	32	2.2%	3	No
Leonard	Fannin	48147950701	32	2.2%	3	No
Irving	Dallas	48113014304	92	2.2%	2	No
Kerrville	Kerr	48265960500	48	2.2%	3	No
Bonham	Fannin	48147950400	65	2.2%	3	No
Goliad	Goliad	48175960100	32	2.1%	3	No
Presidio	Presidio	48377950100	23	2.1%	3	No
Sabinal	Uvalde	48463950100	24	2.1%	3	No
Bowie	Montague	48337950500	48	2.1%	3	No
Whitney	Hill	48217960600	10	2.1%	3	No
Alpine	Brewster	48043950300	36	2.1%	3	No
Eagle Lake	Colorado	48089750100	36	2.1%	3	No
Eagle Pass	Maverick	48323950202	60	2.1%	3	Yes
Brenham	Washington	48477170200	43	2.1%	3	No
Keene	Johnson	48251131000	36	2.1%	3	No
Presidio	Presidio	48377950200	30	2.1%	3	Yes
Clarksville	Red River	48387950500	48	2.1%	3	No
Farmersville	Collin	48085031100	56	2.0%	3	No
Timpson	Shelby	48419950200	28	2.0%	3	No
Lone Star	Morris	48343950200	48	2.0%	3	No
Houston	Harris	48201521100	15	2.0%	1	Yes
Smithville	Bastrop	48021950700	32	2.0%	3	No
Donna	Hidalgo	48215022101	50	2.0%	3	No
Hidalgo	Hidalgo	48215021301	39	2.0%	3	No
Emory	Rains	48379950100	40	1.9%	3	No
Bastrop	Bastrop	48021950500	70	1.9%	3	No
Stephenville	Erath	48143950500	44	1.9%	3	No
Vidor	Orange	48361021900	47	1.9%	3	No
Austin	Travis	48453002111	26	1.9%	1	Yes
West Columbia	Brazoria	48039662600	24	1.9%	3	No
Pearsall	Frio	48163950100	36	1.8%	3	No
Forney	Kaufman	48257050202	51	1.8%	3	No
Hondo	Medina	48325990500	31	1.8%	3	No
Whitehouse	Smith	48423002200	32	1.8%	3	No
Keene	Johnson	48251130301	56	1.8%	3	No
Chandler	Henderson	48213950100	43	1.8%	3	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Big Lake	Reagan	48383950100	20	1.8%	3	No
Santa Rosa	Cameron	48061010300	53	1.8%	3	No
San Antonio	Bexar	48029120200	49	1.8%	1	No
Brookshire	Waller	48473680200	44	1.8%	3	No
Karnes City	Karnes	48255970200	24	1.7%	3	No
Hallettsville	Lavaca	48285980200	24	1.7%	3	No
Bastrop	Bastrop	48021950400	48	1.7%	3	No
Granbury	Hood	48221160300	50	1.7%	3	No
Dripping Springs	Hays	48209010801	76	1.7%	3	No
Burkburnett	Wichita	48485013501	40	1.7%	3	No
Godley	Johnson	48251130100	20	1.7%	3	No
Somerset	Bexar	48029162002	40	1.7%	3	No
Rhome	Wise	48497150602	24	1.7%	3	No
League City	Galveston	48167720500	80	1.7%	2	No
Grapeland	Houston	48225950100	32	1.7%	3	No
El Paso	El Paso	48141000301	36	1.7%	1	Yes
El Paso	El Paso	48141000108	16	1.7%	1	No
Joaquin	Shelby	48419950100	32	1.6%	3	No
Quinlan	Hunt	48231961500	56	1.6%	3	No
Hooks	Bowie	48037011300	40	1.6%	3	No
Littlefield	Lamb	48279950600	24	1.6%	3	No
Lufkin	Angelina	48005000600	28	1.6%	3	Yes
Athens	Henderson	48213950300	44	1.6%	3	No
Teague	Freestone	48161980600	20	1.6%	3	No
El Paso	El Paso	48141000110	22	1.6%	1	No
San Antonio	Bexar	48029170200	29	1.6%	1	Yes
Dimmitt	Castro	48069950200	24	1.6%	3	No
El Paso	El Paso	48141010314	60	1.6%	1	No
Tomball	Harris	48201555500	48	1.6%	3	No
Alton	Hidalgo	48215024105	30	1.6%	3	No
El Paso	El Paso	48141000800	31	1.6%	1	Yes
Valley View	Cooke	48097990900	24	1.5%	3	No
Royse City	Rockwall	48397040400	32	1.5%	3	No
San Antonio	Bexar	48029150300	24	1.5%	1	Yes
Hughes Springs	Cass	48067950700	32	1.5%	3	No
Hemphill	Sabine	48403950300	32	1.5%	3	No
Rio Hondo	Cameron	48061010100	30	1.5%	3	No
Rio Grande City	Starr	48427950600	24	1.5%	3	Yes
Horizon City	El Paso	48141010320	72	1.5%	3	No
Lytle	Atascosa	48013960201	24	1.5%	3	No
Caldwell	Burleson	48051970200	24	1.5%	3	No
Luling	Caldwell	48055960700	30	1.5%	3	Yes
Mabank	Kaufman	48257051300	42	1.5%	3	No
Lexington	Lee	48287980100	24	1.5%	3	No
Giddings	Lee	48287980400	28	1.5%	3	No
Somerville	Burleson	48051970500	24	1.5%	3	No
Socorro	El Paso	48141010403	52	1.5%	1	Yes
Dalhart	Dallam	48205950200	24	1.5%	3	No
Shepherd	San Jacinto	48407200101	32	1.5%	3	No
Round Rock	Williamson	48491020503	24	1.5%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Athens	Henderson	48213951300	32	1.5%	3	No
Van	Van Zandt	48467950800	28	1.5%	3	No
Denton	Denton	48121021100	24	1.5%	2	Yes
Bridgeport	Wise	48497150500	24	1.5%	3	No
Leander	Williamson	48491020309	36	1.4%	2	No
Post	Garza	48169950100	24	1.4%	3	No
Sinton	San Patricio	48409011000	32	1.4%	3	No
Anthony	El Paso	48141002800	26	1.4%	1	Yes
Azle	Tarrant	48367140405	31	1.4%	2	No
Houston	Harris	48201230400	18	1.4%	1	Yes
Frankston	Anderson	48001950100	24	1.4%	3	No
Comanche	Comanche	48093950300	22	1.4%	3	No
Baird	Callahan	48059030200	24	1.4%	3	No
Devine	Medina	48325990800	32	1.4%	3	No
Mission	Hidalgo	48215020203	35	1.4%	1	No
Eagle Pass	Maverick	48323950300	20	1.3%	3	Yes
Elgin	Bastrop	48021950200	27	1.3%	3	No
Martindale	Caldwell	48055960500	24	1.3%	3	No
Austin	Travis	48453002109	16	1.3%	1	Yes
Hamilton	Hamilton	48193950300	18	1.3%	3	No
Alvarado	Johnson	48251130410	24	1.3%	3	No
Shepherd	San Jacinto	48407200200	24	1.3%	3	No
Rockport	Aransas	48007950300	28	1.3%	3	No
Willis	Montgomery	48339694100	48	1.3%	3	No
Bay City	Matagorda	48321730200	40	1.3%	3	No
Palestine	Anderson	48001950900	42	1.3%	3	No
Gladewater	Gregg	48183010200	34	1.3%	3	No
Rockdale	Milam	48331950700	29	1.3%	3	No
El Campo	Wharton	48481740900	32	1.2%	3	No
Fabens	El Paso	48141010503	24	1.2%	3	Yes
Big Sandy	Upshur	48459950500	24	1.2%	3	No
Tatum	Rusk	48401950100	24	1.2%	3	No
Lake Dallas	Denton	48121021401	40	1.2%	3	No
San Antonio	Bexar	48029180300	18	1.2%	1	No
Andrews	Andrews	48003950200	24	1.2%	3	No
El Paso	El Paso	48141002800	21	1.2%	1	Yes
El Paso	El Paso	48141001107	30	1.1%	1	No
La Casita-Garciasville	Starr	48427950400	28	1.1%	3	Yes
Dublin	Erath	48143950300	24	1.1%	3	No
Blanco	Blanco	48031950200	20	1.1%	3	No
Glen Rose	Somervell	48425990100	20	1.1%	3	No
Center	Shelby	48419950400	26	1.1%	3	No
Troup	Smith	48423002100	36	1.1%	3	No
Grandview	Johnson	48251130500	24	1.1%	3	No
Irving	Dallas	48113014408	17	1.1%	2	No
Slaton	Lubbock	48303010600	24	1.1%	3	No
Castroville	Medina	48325990100	39	1.1%	3	No
Frisco	Collin	48085030401	38	1.1%	2	No
Iowa Park	Wichita	48485013600	24	1.0%	3	No
De Kalb	Bowie	48037011600	24	1.0%	3	No

§49.6(g) Census Tract 2007 HTC Site Demographic Characteristics Report

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Cibolo	Guadalupe	48187210701	24	1.0%	3	No
El Paso	El Paso	48141003601	14	1.0%	1	No
Orange Grove	Jim Wells	48249950100	24	1.0%	3	No
West Columbia	Brazoria	48039662000	24	1.0%	3	No
Pilot Point	Denton	48121020101	40	1.0%	3	No
Aransas Pass	San Patricio	48007950500	24	1.0%	3	No
Amherst	Lamb	48279950300	9	1.0%	3	No
Lamesa	Dawson	48115950400	24	1.0%	3	No
Buffalo	Leon	48289950100	24	1.0%	3	No
Hallsville	Harrison	48203020601	32	0.9%	3	No
Pleasanton	Atascosa	48013960402	24	0.9%	3	No
Normangee	Leon	48289950200	20	0.9%	3	No
Abernathy	Hale	48303010200	24	0.9%	3	No
Brownfield	Terry	48445950400	24	0.9%	3	Yes
Weimar	Colorado	48089750300	16	0.9%	3	No
Caddo Mills	Hunt	48231961400	16	0.9%	3	No
Harlingen	Cameron	48061010700	10	0.9%	1	No
Lorena	McLennan	48309003801	16	0.8%	3	No
Alamo	Hidalgo	48215022002	26	0.8%	1	No
Justin	Denton	48121020301	24	0.8%	3	No
Yantis	Wood	48499950300	24	0.8%	3	No
Cisco	Eastland	48133950300	16	0.8%	3	No
Sulphur Springs	Hopkins	48223950400	24	0.8%	3	No
El Paso	El Paso	48141002100	9	0.8%	1	Yes
Ferris	Ellis	48139060101	16	0.8%	3	No
El Paso	El Paso	48141001105	19	0.8%	1	No
Eldorado	Schleicher	48141010313	32	0.8%	3	No
La Grange	Fayette	48149970300	16	0.7%	3	No
Reno (Lamar)	Lamar	48277000400	24	0.7%	3	No
Evant	Coryell	48099010100	17	0.7%	3	No
Hearne	Robertson	48395960500	16	0.7%	3	Yes
Conroe	Montgomery	48339693100	19	0.7%	2	Yes
Amarillo	Potter	48375013900	7	0.7%	1	Yes
Cedar Park	Williamson	48491020307	24	0.7%	2	No
El Paso	El Paso	48141010209	36	0.7%	1	No
Corsicana	Navarro	48349970300	16	0.6%	3	No
La Joya	Hidalgo	48215024202	24	0.6%	3	No
Amarillo	Potter	48375013000	4	0.6%	1	Yes
Clint	El Paso	48141010403	20	0.6%	3	Yes
Bullard	Smith	48423001904	24	0.6%	3	No
Austin	Travis	48453001503	10	0.6%	1	No
Fort Worth	Tarrant	48439104604	4	0.6%	1	Yes
Waxahachie	Ellis	48139060600	14	0.5%	2	No
Mesquite	Dallas	48113017702	12	0.5%	2	No
El Paso	El Paso	48141010313	19	0.4%	1	No
Schulenburg	Fayette	48149970600	8	0.4%	3	No
Laredo	Webb	48479001400	8	0.4%	1	No
Ganado	Jackson	48239950100	8	0.4%	3	No
Austin	Travis	48453000803	3	0.4%	1	Yes
Laredo	Webb	48479001001	3	0.2%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Amarillo	Potter	48375011900	3	0.2%	1	No
Fort Worth	Tarrant	48439104603	2	0.2%	1	Yes
Amarillo	Potter	48375012200	2	0.2%	1	Yes
McAllen	Hidalgo	48215020901	2	0.1%	1	No
Mission	Hidalgo	48215020401	4	0.1%	1	No
Galveston	Galveston	48167724300	2	0.1%	2	Yes
Mission	Hidalgo	48215020300	4	0.1%	1	No
Port Lavaca	Calhoun	48057990400	2	0.1%	3	No
Fort Worth	Tarrant	48439104602	1	0.1%	1	Yes
New Braunfels	Comal	48187210503	1	0.1%	2	No
Amarillo	Potter	48375015300	1	0.1%	1	Yes
New Braunfels	Comal	48091310900	1	0.0%	2	No
New Braunfels	Comal	48091310402	1	0.0%	2	No

§49.6(h) QCTs 2007 HTC Site Demographic Characteristics Report

Number of Units by Census Tract

Area Type: 1=Urban, 2=Exurban, 3=Rural

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Fort Worth	Tarrant	48439103100	404	152.5%	1	Yes
San Antonio	Bexar	48029152000	240	125.7%	1	Yes
Dallas	Dallas	48113010000	450	125.0%	1	Yes
Dallas	Dallas	48113016605	1202	110.8%	1	Yes
Laredo	Webb	48479000400	165	73.7%	1	Yes
Houston	Harris	48201331400	681	72.7%	1	Yes
Grand Prairie	Dallas	48113016100	605	68.5%	2	Yes
San Antonio	Bexar	48029151900	530	61.3%	1	Yes
Denton	Denton	48121021200	1438	54.0%	2	Yes
Houston	Harris	48201422200	1190	53.2%	1	Yes
Port Arthur	Jefferson	48245007001	1242	52.8%	1	Yes
Houston	Harris	48201222700	677	52.2%	1	Yes
Austin	Travis	48453002312	528	47.1%	1	Yes
Dallas	Dallas	48113012302	814	44.4%	1	Yes
Tyler	Smith	48423000700	479	43.5%	1	Yes
South Houston	Harris	48201321500	307	43.1%	2	Yes
Houston	Harris	48201550100	650	41.7%	1	Yes
DeSoto	Dallas	48113016605	438	40.4%	2	Yes
Dallas	Dallas	48113012208	349	39.6%	1	Yes
Houston	Harris	48201331200	413	39.1%	1	Yes
Dallas	Dallas	48113003901	264	38.2%	1	Yes
San Antonio	Bexar	48029121404	624	38.0%	1	Yes
Houston	Harris	48201410100	255	37.6%	1	Yes
Houston	Harris	48201221400	603	37.4%	1	Yes
Austin	Travis	48453002413	325	37.3%	1	Yes
Abilene	Taylor	48441010200	220	36.7%	1	Yes
Brownwood	Brown	48049950600	332	36.0%	3	Yes
Houston	Harris	48201230600	338	36.0%	1	Yes
Dallas	Dallas	48113001600	476	35.9%	1	Yes
McKinney	Collin	48085030900	641	35.8%	2	Yes
Conroe	Montgomery	48339693400	506	35.8%	2	Yes
San Antonio	Bexar	48029170800	176	34.0%	1	Yes
Houston	Harris	48201222600	496	33.6%	1	Yes
Corpus Christi	Nueces	48355005000	163	32.5%	1	Yes
Dallas	Dallas	48113008604	256	32.3%	1	Yes
Austin	Travis	48453002202	390	31.7%	1	Yes
Dallas	Dallas	48113003500	275	31.6%	1	Yes
Temple	Bell	48027020900	181	31.4%	1	Yes
Cleburne	Johnson	48251130800	366	30.4%	2	Yes
Georgetown	Williamson	48491021402	343	30.1%	2	Yes
San Antonio	Bexar	48029130800	408	29.7%	1	Yes
Odessa	Ector	48135001800	248	29.6%	1	Yes
San Antonio	Bexar	48029110600	350	29.4%	1	Yes
Fort Worth	Tarrant	48439103300	168	29.3%	1	Yes
Dallas	Dallas	48113007818	824	29.1%	1	Yes
Beaumont	Jefferson	48245000103	315	29.0%	1	Yes
Dallas	Dallas	48113011401	385	28.9%	1	Yes
Fort Worth	Tarrant	48439101800	167	28.8%	1	Yes

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Houston	Harris	48201530700	428	28.0%	1	Yes
San Angelo	Tom Green	48451000500	160	27.8%	1	Yes
Dallas	Dallas	48113006002	376	27.7%	1	Yes
Dallas	Dallas	48113005902	360	27.5%	1	Yes
Brownsville	Cameron	48061013106	332	27.0%	1	Yes
Dallas	Dallas	48113015900	200	27.0%	1	Yes
Houston	Harris	48201313800	406	26.7%	1	Yes
Dallas	Dallas	48113008701	400	26.2%	1	Yes
Terrell	Kaufman	48257050500	336	26.0%	3	Yes
Houston	Harris	48201231200	454	25.5%	1	Yes
Midland	Midland	48329001700	250	25.3%	1	Yes
Austin	Travis	48453002308	502	25.2%	1	Yes
Houston	Harris	48201533400	574	25.1%	1	Yes
Dallas	Dallas	48113009804	553	24.2%	1	Yes
Austin	Travis	48453002311	655	23.9%	1	Yes
Dallas	Dallas	48113010704	264	23.8%	1	Yes
Arlington	Tarrant	48439121902	702	23.7%	1	Yes
Pasadena	Harris	48201323900	264	23.1%	2	Yes
Houston	Harris	48201533200	358	22.7%	1	Yes
San Marcos	Hays	48209010500	206	22.6%	2	Yes
Abilene	Taylor	48441010300	124	22.6%	1	Yes
San Antonio	Bexar	48029150800	200	22.4%	1	Yes
Longview	Gregg	48183001100	260	22.3%	1	Yes
Edinburg	Hidalgo	48215023700	330	21.8%	1	Yes
Houston	Harris	48201531900	244	21.7%	1	Yes
Dallas	Dallas	48113010701	200	21.5%	1	Yes
Galveston	Galveston	48167724600	196	21.4%	2	Yes
Lubbock	Lubbock	48303000900	320	21.4%	1	Yes
Dallas	Dallas	48113009000	476	21.4%	1	Yes
Dallas	Dallas	48113009304	374	21.4%	1	Yes
San Antonio	Bexar	48029131200	230	21.0%	1	Yes
Dallas	Dallas	48113007201	588	20.6%	1	Yes
Dallas	Dallas	48113010802	426	20.4%	1	Yes
Houston	Harris	48201220600	200	20.3%	1	Yes
Dallas	Dallas	48113006900	243	20.3%	1	Yes
Dallas	Dallas	48113010200	152	20.2%	1	Yes
Pharr	Hidalgo	48215021303	281	20.0%	1	Yes
Dallas	Dallas	48113010902	436	19.9%	1	Yes
Brownsville	Cameron	48061014001	189	19.8%	1	Yes
Fort Worth	Tarrant	48439106300	184	19.6%	1	Yes
Nacogdoches	Nacogdoches	48347951000	329	19.5%	3	Yes
Houston	Harris	48201220700	324	19.3%	1	Yes
Abilene	Taylor	48441011000	98	19.0%	1	Yes
Pasadena	Harris	48201323500	309	19.0%	2	Yes
Fort Worth	Tarrant	48439101100	36	17.4%	1	Yes
Hillsboro	Hill	48217961000	132	17.4%	3	Yes
San Antonio	Bexar	48029161000	140	17.3%	1	Yes
Waco	McLennan	48309001200	200	17.0%	1	Yes
Waco	McLennan	48309001500	200	16.9%	1	Yes
Denton	Denton	48121020601	250	16.9%	2	Yes

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Brownsville	Cameron	48061013401	151	16.9%	1	Yes
Gainesville	Cooke	48097990500	212	16.8%	3	Yes
Cleburne	Johnson	48251130900	156	16.8%	2	Yes
Houston	Harris	48201510200	196	16.7%	1	Yes
Houston	Harris	48201521200	355	16.6%	1	Yes
San Antonio	Bexar	48029171600	250	16.2%	1	Yes
Austin	Travis	48453002105	340	16.1%	1	Yes
San Antonio	Bexar	48029161501	407	15.9%	1	Yes
Lubbock	Lubbock	48303000302	316	15.8%	1	Yes
Houston	Harris	48201452600	312	15.4%	1	Yes
Houston	Harris	48201220500	280	15.2%	1	Yes
Corpus Christi	Nueces	48355000700	200	15.1%	1	Yes
El Paso	El Paso	48141001700	51	15.1%	1	Yes
Beaumont	Jefferson	48245002200	150	14.9%	1	Yes
Midland	Midland	48329001400	160	14.8%	1	Yes
Palestine	Anderson	48001950500	211	14.5%	3	Yes
College Station	Brazos	48041001700	392	14.2%	1	Yes
Houston	Harris	48201531800	99	14.2%	1	Yes
Fort Worth	Tarrant	48439100501	280	14.2%	1	Yes
Houston	Harris	48201231300	168	13.8%	1	Yes
Dallas	Dallas	48113008704	153	13.6%	1	Yes
Houston	Harris	48201532000	488	13.6%	1	Yes
Lufkin	Angelina	48005000500	208	13.4%	3	Yes
Corpus Christi	Nueces	48355000800	124	13.2%	1	Yes
Houston	Harris	48201230200	248	13.1%	1	Yes
Houston	Harris	48201220400	170	13.0%	1	Yes
Houston	Harris	48201310100	150	13.0%	1	Yes
El Paso	El Paso	48141003502	186	12.9%	1	Yes
San Marcos	Hays	48209010301	495	12.8%	2	Yes
Dallas	Dallas	48113011500	188	12.8%	1	Yes
Dallas	Dallas	48113007819	264	12.7%	1	Yes
San Antonio	Bexar	48029181806	248	12.7%	1	Yes
Houston	Harris	48201310900	234	12.7%	1	Yes
San Antonio	Bexar	48029110100	196	12.3%	1	Yes
Fort Worth	Tarrant	48439104802	200	12.2%	1	Yes
Dallas	Dallas	48113002701	178	12.0%	1	Yes
Arlington	Tarrant	48439122800	366	12.0%	1	Yes
Del Rio	Val Verde	48465950400	150	11.7%	3	Yes
Houston	Harris	48201533300	250	11.7%	1	Yes
Houston	Harris	48201221500	220	11.6%	1	Yes
Austin	Travis	48453000802	131	11.6%	1	Yes
Fort Worth	Tarrant	48439105205	320	11.6%	1	Yes
Paris	Lamar	48277000500	203	11.6%	3	Yes
Dallas	Dallas	48113019209	303	11.5%	1	Yes
Lubbock	Lubbock	48303001200	100	11.4%	1	Yes
Commerce	Hunt	48231960500	161	11.3%	3	Yes
Dallas	Dallas	48113009802	192	11.2%	1	Yes
Orange	Orange	48361020200	200	11.1%	3	Yes
Huntsville	Walker	48471790800	232	11.0%	3	Yes
Fort Worth	Tarrant	48439106102	140	11.0%	1	Yes

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
San Antonio	Bexar	48029130900	150	11.0%	1	Yes
Crystal City	Zavala	48507950301	60	11.0%	3	Yes
San Antonio	Bexar	48029130400	252	10.7%	1	Yes
Pasadena	Harris	48201323000	240	10.7%	2	Yes
Houston	Harris	48201232700	414	10.7%	1	Yes
Mercedes	Hidalgo	48215023101	228	10.6%	3	Yes
Dallas	Dallas	48113010101	120	10.6%	1	Yes
San Antonio	Bexar	48029110300	105	10.5%	1	Yes
Greenville	Hunt	48231960900	178	10.5%	2	Yes
Dallas	Dallas	48113010801	212	10.4%	1	Yes
Waxahachie	Ellis	48139060400	121	10.2%	2	Yes
Garland	Dallas	48113019013	183	10.1%	2	Yes
San Antonio	Bexar	48029170500	160	10.1%	1	Yes
Freeport	Brazoria	48039664300	178	10.0%	2	Yes
Belton	Bell	48027021602	54	10.0%	1	Yes
Marshall	Harrison	48203020402	167	9.7%	3	Yes
Longview	Gregg	48183001400	137	9.5%	1	Yes
Hereford	Deaf Smith	48117950500	107	9.4%	3	Yes
Dallas	Dallas	48113011800	229	9.4%	1	Yes
Lockhart	Caldwell	48055960200	104	9.3%	3	Yes
Jefferson	Marion	48315950400	86	9.2%	3	Yes
Houston	Harris	48201320600	200	9.1%	1	Yes
San Antonio	Bexar	48029160100	143	8.8%	1	Yes
Irving	Dallas	48113014602	132	8.8%	2	Yes
Austin	Travis	48453001805	175	8.8%	1	Yes
Abilene	Taylor	48441011700	80	8.8%	1	Yes
Palestine	Anderson	48001950700	76	8.7%	3	Yes
Pasadena	Harris	48201323100	93	8.6%	2	Yes
Houston	Harris	48201211300	189	8.6%	1	Yes
Houston	Harris	48201220800	76	8.5%	1	Yes
Austin	Travis	48453000902	136	8.5%	1	Yes
Robstown	Nueces	48355005602	169	8.4%	3	Yes
Dallas	Dallas	48113006700	161	8.3%	1	Yes
Austin	Travis	48453002107	122	8.3%	1	Yes
Greenville	Hunt	48231960800	100	8.3%	2	Yes
San Antonio	Bexar	48029180400	112	8.2%	1	Yes
Houston	Harris	48201433000	433	8.2%	1	Yes
Rosenberg	Fort Bend	48157675000	84	8.2%	2	Yes
Houston	Harris	48201332800	114	8.0%	1	Yes
Mathis	San Patricio	48409011300	134	8.0%	3	Yes
Waco	McLennan	48309001400	205	7.9%	1	Yes
San Antonio	Bexar	48029171400	152	7.8%	1	Yes
Roma	Starr	48427950702	68	7.7%	3	Yes
Edcouch	Hidalgo	48215024500	121	7.6%	3	Yes
Amarillo	Potter	48375014800	68	7.5%	1	Yes
Amarillo	Potter	48375012000	54	7.5%	1	Yes
Tyler	Smith	48423000201	95	7.4%	1	Yes
Huntsville	Walker	48471790600	76	7.4%	3	Yes
Temple	Bell	48027020701	61	7.4%	1	Yes
Austin	Travis	48453002304	196	7.4%	1	Yes

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Vernon	Wilbarger	48487950500	85	7.4%	3	Yes
Houston	Harris	48201421400	302	7.3%	1	Yes
Grand Prairie	Dallas	48113015500	102	6.8%	2	Yes
Pearsall	Frio	48163950200	106	6.8%	3	Yes
Texarkana	Bowie	48037010400	112	6.7%	1	Yes
Pittsburg	Camp	48063950200	116	6.7%	3	Yes
Dallas	Dallas	48113012000	150	6.6%	1	Yes
Cleveland	Liberty	48291700200	70	6.6%	3	Yes
Houston	Harris	48201230700	66	6.5%	1	Yes
Houston	Harris	48201240500	228	6.5%	1	Yes
Cotulla	La Salle	48283950100	100	6.5%	3	Yes
Laredo	Webb	48479000300	50	6.3%	1	Yes
San Antonio	Bexar	48029170700	87	6.2%	1	Yes
Beaumont	Jefferson	48245002300	105	6.1%	1	Yes
Houston	Harris	48201433500	278	6.0%	1	Yes
San Antonio	Bexar	48029180800	85	5.9%	1	Yes
Kingsville	Kleberg	48273020200	120	5.9%	3	Yes
El Paso	El Paso	48141003903	95	5.7%	1	Yes
Bay City	Matagorda	48321730400	60	5.7%	3	Yes
Corpus Christi	Nueces	48355001700	152	5.7%	1	Yes
Marshall	Harrison	48203020401	76	5.7%	3	Yes
Runge	Karnes	48255970400	32	5.6%	3	Yes
Dilley	Frio	48163950300	68	5.5%	3	Yes
Alice	Jim Wells	48249950600	76	5.5%	3	Yes
Longview	Gregg	48183001500	79	5.4%	1	Yes
Eagle Pass	Maverick	48323950500	100	5.4%	3	Yes
Donna	Hidalgo	48215022202	108	5.3%	3	Yes
Houston	Harris	48201210500	81	5.3%	1	Yes
Uvalde	Uvalde	48463950500	100	5.3%	3	Yes
El Paso	El Paso	48141001900	54	5.2%	1	Yes
Odessa	Ector	48135000700	85	5.2%	1	Yes
Austin	Travis	48453000901	26	5.2%	1	Yes
Bryan	Brazos	48041000900	48	5.2%	1	Yes
Waco	McLennan	48309001900	64	5.2%	1	Yes
El Paso	El Paso	48141001800	25	5.0%	1	Yes
Houston	Harris	48201510100	27	4.9%	1	Yes
Dallas	Dallas	48113001504	61	4.9%	1	Yes
Dallas	Dallas	48113003400	30	4.8%	1	Yes
Austin	Travis	48453002316	100	4.8%	1	Yes
Lubbock	Lubbock	48303001703	144	4.7%	1	Yes
Houston	Harris	48201432700	173	4.7%	1	Yes
Paris	Lamar	48277000800	68	4.7%	3	Yes
Houston	Harris	48201421600	93	4.7%	1	Yes
Plainview	Hale	48189950200	60	4.7%	3	Yes
Nacogdoches	Nacogdoches	48347950700	76	4.6%	3	Yes
Austin	Travis	48453001812	117	4.5%	1	Yes
Weslaco	Hidalgo	48215023101	96	4.4%	1	Yes
Dallas	Dallas	48113004900	60	4.4%	1	Yes
Big Spring	Howard	48227950400	63	4.3%	3	Yes
Alamo	Hidalgo	48215021901	76	4.3%	1	Yes

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Place	County	Tract	Total HTC's	HTC Units/Tract Households	Area Type	QCT
Arlington	Tarrant	48439121703	75	4.2%	1	Yes
Athens	Henderson	48213951200	76	4.2%	3	Yes
Dallas	Dallas	48113001400	63	4.1%	1	Yes
Raymondville	Willacy	48489950400	61	4.1%	3	Yes
Carrizo Springs	Dimmit	48127950200	102	4.1%	3	Yes
Rockport	Aransas	48007950400	55	4.0%	3	Yes
Dallas	Dallas	48113002000	76	4.0%	1	Yes
Houston	Harris	48201332000	72	3.9%	1	Yes
Mount Pleasant	Titus	48449950600	48	3.9%	3	Yes
Fort Stockton	Pecos	48371950300	47	3.9%	3	Yes
Kirbyville	Jasper	48241950600	36	3.8%	3	Yes
Longview	Gregg	48183001200	40	3.8%	1	Yes
Marlin	Falls	48145990300	56	3.7%	3	Yes
El Paso	El Paso	48141000404	47	3.7%	1	Yes
Alice	Jim Wells	48249950500	72	3.6%	3	Yes
Calvert	Robertson	48395960200	24	3.5%	3	Yes
Mineral Wells	Palo Pinto	48363980800	40	3.4%	3	Yes
Menard	Menard	48327950200	24	3.4%	3	Yes
El Paso	El Paso	48141001600	62	3.0%	1	Yes
Marlin	Falls	48145990400	25	2.9%	3	Yes
Austin	Travis	48453002307	70	2.8%	1	Yes
Zapata	Zapata	48505950300	68	2.8%	3	Yes
Crockett	Houston	48225950400	36	2.8%	3	Yes
Rio Grande City	Starr	48427950500	40	2.8%	3	Yes
San Diego	Duval	48131950100	44	2.7%	3	Yes
San Antonio	Bexar	48029151100	50	2.4%	1	Yes
Huntsville	Walker	48471790700	50	2.4%	3	Yes
Gonzales	Gonzales	48177990300	30	2.3%	3	Yes
Harlingen	Cameron	48061010900	16	2.3%	1	Yes
Eagle Pass	Maverick	48323950202	60	2.1%	3	Yes
Presidio	Presidio	48377950200	30	2.1%	3	Yes
Houston	Harris	48201521100	15	2.0%	1	Yes
Austin	Travis	48453002111	26	1.9%	1	Yes
El Paso	El Paso	48141000301	36	1.7%	1	Yes
Lufkin	Angelina	48005000600	28	1.6%	3	Yes
San Antonio	Bexar	48029170200	29	1.6%	1	Yes
El Paso	El Paso	48141000800	31	1.6%	1	Yes
San Antonio	Bexar	48029150300	24	1.5%	1	Yes
Rio Grande City	Starr	48427950600	24	1.5%	3	Yes
Luling	Caldwell	48055960700	30	1.5%	3	Yes
Socorro	El Paso	48141010403	52	1.5%	1	Yes
Denton	Denton	48121021100	24	1.5%	2	Yes
Anthony	El Paso	48141002800	26	1.4%	1	Yes
Houston	Harris	48201230400	18	1.4%	1	Yes
Eagle Pass	Maverick	48323950300	20	1.3%	3	Yes
Austin	Travis	48453002109	16	1.3%	1	Yes
Fabens	El Paso	48141010503	24	1.2%	3	Yes
El Paso	El Paso	48141002800	21	1.2%	1	Yes
La Casita-Garciasville	Starr	48427950400	28	1.1%	3	Yes
Brownfield	Terry	48445950400	24	0.9%	3	Yes

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
El Paso	El Paso	48141002100	9	0.8%	1	Yes
Hearne	Robertson	48395960500	16	0.7%	3	Yes
Conroe	Montgomery	48339693100	19	0.7%	2	Yes
Amarillo	Potter	48375013900	7	0.7%	1	Yes
Amarillo	Potter	48375013000	4	0.6%	1	Yes
Clint	El Paso	48141010403	20	0.6%	3	Yes
Fort Worth	Tarrant	48439104604	4	0.6%	1	Yes
Austin	Travis	48453000803	3	0.4%	1	Yes
Fort Worth	Tarrant	48439104603	2	0.2%	1	Yes
Amarillo	Potter	48375012200	2	0.2%	1	Yes
Galveston	Galveston	48167724300	2	0.1%	2	Yes
Fort Worth	Tarrant	48439104602	1	0.1%	1	Yes
Amarillo	Potter	48375015300	1	0.1%	1	Yes
Houston	Harris	48201331000	248	12400.0%	1	No
Fort Worth	Tarrant	48439106600	648	79.6%	1	No
Houston	Harris	48201240200	582	73.6%	1	No
Dallas	Dallas	48113006301	1076	67.5%	1	No
Brownsville	Cameron	48061012610	184	59.9%	1	No
San Antonio	Bexar	48029161200	280	51.4%	1	No
Austin	Travis	48453002201	250	48.3%	1	No
Austin	Travis	48453002110	441	46.3%	1	No
Arlington	Tarrant	48439111543	541	45.0%	1	No
Irving	Dallas	48113014802	169	38.1%	2	No
Houston	Harris	48201232500	244	34.0%	1	No
Lancaster	Dallas	48113016703	422	33.8%	2	No
Houston	Harris	48201222200	326	32.7%	1	No
Houston	Harris	48201550800	238	32.6%	1	No
Dallas	Dallas	48113007809	386	31.9%	1	No
Waxahachie	Ellis	48139060500	250	30.1%	2	No
Fort Worth	Tarrant	48439111013	248	29.7%	1	No
Amarillo	Potter	48375011100	218	29.0%	1	No
Dallas	Dallas	48113016902	280	28.9%	1	No
Brownsville	Cameron	48061012608	250	27.7%	1	No
Dallas	Dallas	48113010901	696	27.6%	1	No
Houston	Harris	48201552600	580	27.4%	1	No
Houston	Harris	48201453300	250	26.7%	1	No
Houston	Harris	48201330800	240	26.6%	1	No
Hitchcock	Galveston	48167723700	214	26.6%	2	No
Houston	Harris	48201330400	280	26.1%	1	No
Alvin	Brazoria	48039661100	178	25.5%	2	No
Pasadena	Harris	48201342200	489	25.3%	2	No
Dallas	Dallas	48113012100	322	25.2%	1	No
El Paso	El Paso	48141004105	314	24.3%	1	No
Mesquite	Dallas	48113018130	356	24.3%	2	No
Dallas	Dallas	48113000800	482	23.5%	1	No
Austin	Travis	48453002313	376	22.8%	1	No
Austin	Travis	48453001835	360	22.4%	1	No
Arlington	Tarrant	48439111523	520	22.2%	1	No
Dallas	Dallas	48113011601	240	21.6%	1	No
Houston	Harris	48201350100	260	21.1%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Fort Worth	Tarrant	48439110704	330	20.7%	1	No
Jacinto City	Harris	48201233400	160	20.6%	2	No
McAllen	Hidalgo	48215020503	324	20.5%	1	No
San Antonio	Bexar	48029141300	408	20.3%	1	No
Fort Worth	Tarrant	48439104605	310	20.3%	1	No
San Antonio	Bexar	48029180202	444	20.2%	1	No
Houston	Harris	48201532900	326	19.7%	1	No
Dallas	Dallas	48113011200	250	19.7%	1	No
Houston	Harris	48201550300	932	19.1%	1	No
Houston	Harris	48201240700	252	18.9%	1	No
Ennis	Ellis	48139061700	250	18.8%	3	No
Stafford	Fort Bend	48157671400	250	18.6%	2	No
Sherman	Grayson	48181001700	289	18.4%	2	No
McKinney	Collin	48085030800	525	18.4%	2	No
Houston	Harris	48201313900	260	18.3%	1	No
Houston	Harris	48201520400	158	18.1%	1	No
Austin	Travis	48453001842	248	18.0%	1	No
Fort Worth	Tarrant	48439102100	430	17.9%	1	No
Houston	Harris	48201533900	510	17.8%	1	No
Austin	Travis	48453002411	240	17.6%	1	No
Fort Worth	Tarrant	48439113916	240	17.4%	1	No
Carrollton	Denton	48113013718	244	17.4%	2	No
San Antonio	Bexar	48029181602	336	17.3%	1	No
San Marcos	Hays	48209010400	274	17.2%	2	No
Fort Worth	Tarrant	48439111005	280	17.1%	1	No
Plano	Collin	48085031803	351	17.0%	2	No
Wichita Falls	Wichita	48485011500	140	17.0%	1	No
Pharr	Hidalgo	48215021302	276	16.9%	1	No
Houston	Harris	48201552200	248	16.7%	1	No
Houston	Harris	48201340100	216	16.5%	1	No
San Antonio	Bexar	48029181505	280	16.2%	1	No
San Antonio	Bexar	48029171902	250	16.1%	1	No
Houston	Harris	48201455200	248	16.1%	1	No
The Woodlands	Montgomery	48339691300	620	16.1%	2	No
Austin	Travis	48453001908	160	16.0%	1	No
Houston	Harris	48201420200	161	15.9%	1	No
Wichita Falls	Wichita	48485011600	210	15.8%	1	No
Austin	Travis	48453002108	196	15.8%	1	No
Terrell	Kaufman	48257050701	187	15.8%	3	No
Dallas	Dallas	48113006800	318	15.8%	1	No
San Antonio	Bexar	48029171700	371	15.8%	1	No
Texas City	Galveston	48167722700	230	15.8%	2	No
Corpus Christi	Nueces	48355005405	180	15.4%	1	No
El Paso	El Paso	48413950200	128	15.4%	1	No
DeSoto	Dallas	48113016619	180	15.3%	2	No
McKinney	Collin	48085030602	420	15.3%	2	No
Victoria	Victoria	48469000302	116	15.1%	1	No
Fort Worth	Tarrant	48439110401	252	15.1%	1	No
Port Arthur	Jefferson	48245006500	200	15.0%	1	No
Fort Worth	Tarrant	48439105005	280	14.9%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Pasadena	Harris	48201322900	182	14.9%	2	No
Keller	Tarrant	48439113911	250	14.9%	2	No
Garland	Dallas	48113018131	464	14.8%	2	No
Amarillo	Potter	48375013300	184	14.7%	1	No
Amarillo	Potter	48375011600	261	14.7%	1	No
Brownsville	Cameron	48061012504	223	14.7%	1	No
Houston	Harris	48201240300	216	14.7%	1	No
Houston	Harris	48201333300	276	14.6%	1	No
San Antonio	Bexar	48029151000	152	14.5%	1	No
Abilene	Taylor	48441010900	388	14.4%	1	No
Plano	Collin	48085031631	240	14.3%	2	No
Amarillo	Potter	48375012600	120	14.3%	1	No
Angleton	Brazoria	48039662100	248	14.3%	3	No
Grand Prairie	Dallas	48439113002	264	14.2%	2	No
Victoria	Victoria	48469001601	303	14.2%	1	No
Austin	Travis	48453001823	290	13.8%	1	No
Houston	Harris	48201553000	452	13.8%	1	No
Houston	Harris	48201350400	250	13.8%	1	No
Houston	Harris	48201453900	240	13.6%	1	No
Georgetown	Williamson	48491021403	105	13.4%	2	No
Denison	Grayson	48181000501	176	13.3%	2	No
Austin	Travis	48453001847	240	13.3%	1	No
Houston	Harris	48201521500	251	13.2%	1	No
San Antonio	Bexar	48029161302	140	13.1%	1	No
Grand Prairie	Dallas	48113015404	160	13.1%	2	No
The Woodlands	Montgomery	48339691500	216	13.0%	2	No
Arlington	Tarrant	48439113111	350	12.6%	1	No
Dallas	Dallas	48113006100	196	12.6%	1	No
Baytown	Harris	48201254400	128	12.6%	2	No
Humble	Harris	48201250200	192	12.6%	2	No
Harlingen	Cameron	48061010602	80	12.6%	1	No
Odessa	Ector	48135002000	120	12.6%	1	No
Rosenberg	Fort Bend	48157675100	252	12.4%	2	No
Eules	Tarrant	48439113514	260	12.4%	2	No
Mansfield	Tarrant	48439111305	280	12.3%	2	No
Mission	Hidalgo	48215020100	336	12.3%	1	No
Port Lavaca	Calhoun	48057990200	181	12.2%	3	No
Weatherford	Parker	48367140100	292	12.2%	3	No
Arlington	Tarrant	48439121610	114	12.2%	1	No
Fredericksburg	Gillespie	48171950500	127	12.1%	3	No
Fort Worth	Tarrant	48439100201	121	12.1%	1	No
Pflugerville	Travis	48453001836	654	12.1%	2	No
Plano	Collin	48085031632	240	12.0%	2	No
Garland	Dallas	48113019026	220	11.9%	2	No
Dallas	Dallas	48113016501	256	11.7%	1	No
Houston	Harris	48201454300	468	11.7%	1	No
Houston	Harris	48201422500	314	11.7%	1	No
Fort Worth	Tarrant	48439105511	216	11.6%	1	No
Irving	Dallas	48113014405	155	11.6%	2	No
Dallas	Dallas	48113019016	158	11.5%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
White Settlement	Tarrant	48439110704	184	11.5%	2	No
Amarillo	Potter	48375015000	235	11.5%	1	No
Pasadena	Harris	48201323600	303	11.5%	2	No
Houston	Harris	48201520500	285	11.4%	1	No
San Antonio	Bexar	48029171906	165	11.4%	1	No
Irving	Dallas	48113014110	504	11.4%	2	No
Fort Worth	Tarrant	48439110804	192	11.4%	1	No
Waco	McLennan	48309002100	207	11.2%	1	No
Fort Worth	Tarrant	48439114001	186	11.2%	1	No
Arlington	Tarrant	48439121702	260	11.1%	1	No
Austin	Travis	48453002421	148	11.1%	1	No
Houston	Harris	48339692400	193	11.0%	1	No
Grapevine	Tarrant	48439113705	224	10.9%	2	No
Texas City	Galveston	48167721900	242	10.9%	2	No
Mount Vernon	Franklin	48159950200	100	10.9%	3	No
San Antonio	Bexar	48029121403	166	10.8%	1	No
Houston	Harris	48201330300	260	10.8%	1	No
Austin	Travis	48453001813	228	10.8%	1	No
Irving	Dallas	48113014310	144	10.6%	2	No
Houston	Harris	48201330100	372	10.6%	1	No
Corpus Christi	Nueces	48355003302	306	10.5%	1	No
Amarillo	Potter	48375010700	120	10.5%	1	No
Fort Worth	Tarrant	48439105508	237	10.5%	1	No
College Station	Brazos	48041001601	199	10.4%	1	No
El Paso	El Paso	48141000101	234	10.4%	1	No
Greenville	Hunt	48231961300	250	10.3%	2	No
Houston	Harris	48201333900	272	10.3%	1	No
Fort Worth	Tarrant	48439106511	180	10.3%	1	No
Baytown	Harris	48201253200	250	10.3%	2	No
Dallas	Dallas	48113011101	144	10.1%	1	No
Houston	Harris	48201551900	240	10.1%	1	No
Austin	Travis	48453002422	200	10.1%	1	No
Austin	Travis	48453002419	173	10.1%	1	No
Dallas	Dallas	48113010803	252	10.0%	1	No
Watauga	Tarrant	48439113809	166	10.0%	2	No
Round Rock	Williamson	48491020703	255	10.0%	2	No
La Porte	Harris	48201343100	141	10.0%	2	No
Houston	Harris	48201251700	200	10.0%	1	No
Houston	Harris	48201540300	212	9.9%	1	No
Seguin	Guadalupe	48187210200	152	9.8%	2	No
Kaufman	Kaufman	48257051100	154	9.8%	3	No
Arlington	Tarrant	48439111532	224	9.8%	1	No
Killeen	Bell	48027022401	128	9.7%	1	No
Dallas	Dallas	48113012301	158	9.7%	1	No
Grand Prairie	Dallas	48439111539	176	9.7%	2	No
Hondo	Medina	48325990300	187	9.6%	3	No
Georgetown	Williamson	48491020102	224	9.5%	2	No
San Antonio	Bexar	48029181801	248	9.5%	1	No
Houston	Harris	48201422400	368	9.5%	1	No
Hurst	Tarrant	48439113408	197	9.4%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Taylor	Williamson	48491021100	90	9.3%	3	No
Bryan	Brazos	48041001000	232	9.3%	1	No
Dallas	Dallas	48113006200	172	9.3%	1	No
Marble Falls	Burnet	48053960700	200	9.0%	3	No
Dallas	Dallas	48085031703	382	9.0%	1	No
Tyler	Smith	48423002007	176	8.9%	1	No
Frisco	Collin	48085030402	216	8.9%	2	No
Port Arthur	Jefferson	48245007002	120	8.8%	1	No
Wichita Falls	Wichita	48485012200	180	8.7%	1	No
Houston	Harris	48201453600	250	8.7%	1	No
Irving	Dallas	48113015202	103	8.7%	2	No
Spring	Harris	48339691600	304	8.7%	2	No
Plano	Collin	48085031648	194	8.6%	2	No
Wharton	Wharton	48481740500	106	8.6%	3	No
El Paso	El Paso	48141004309	128	8.6%	1	No
Amarillo	Potter	48375011700	144	8.6%	1	No
The Woodlands	Montgomery	48339691600	300	8.6%	2	No
Baytown	Harris	48201253500	210	8.5%	2	No
Beaumont	Jefferson	48245002100	110	8.5%	1	No
Fredericksburg	Gillespie	48171950400	180	8.5%	3	No
Mission	Hidalgo	48215024106	160	8.4%	1	No
Houston	Harris	48201533600	118	8.4%	1	No
Round Rock	Williamson	48491020705	168	8.4%	2	No
San Antonio	Bexar	48029151200	186	8.4%	1	No
Corpus Christi	Nueces	48355001902	172	8.4%	1	No
Dallas	Dallas	48113013614	374	8.3%	1	No
La Porte	Harris	48201343000	180	8.3%	2	No
Ennis	Ellis	48139061600	146	8.3%	3	No
Odessa	Ector	48135000500	136	8.3%	1	No
Austin	Travis	48453001833	174	8.3%	1	No
Harlingen	Cameron	48061011302	132	8.3%	1	No
Houston	Harris	48201530900	136	8.2%	1	No
Alvin	Brazoria	48039661200	126	8.2%	2	No
Texarkana	Bowie	48037011100	156	8.2%	1	No
DeSoto	Dallas	48113016606	198	8.2%	2	No
Ennis	Ellis	48139061500	112	8.2%	3	No
Houston	Harris	48201550400	416	8.2%	1	No
Kingsland	Llano	48299970500	170	8.1%	3	No
Irving	Dallas	48113014306	142	8.1%	2	No
Bryan	Brazos	48041000500	119	7.9%	1	No
Seguin	Guadalupe	48187210300	156	7.9%	2	No
Cedar Park	Williamson	48491020308	236	7.9%	2	No
Houston	Harris	48201421100	265	7.9%	1	No
Dallas	Dallas	48113004202	93	7.9%	1	No
Irving	Dallas	48113014701	127	7.8%	2	No
San Antonio	Bexar	48029181503	155	7.8%	1	No
Harlingen	Cameron	48061010800	174	7.8%	1	No
Victoria	Victoria	48469001604	150	7.7%	1	No
Buda	Hays	48209010902	144	7.7%	2	No
Laredo	Webb	48479001801	251	7.6%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Edinburg	Hidalgo	48215023800	219	7.6%	1	No
Waco	McLennan	48309003000	144	7.6%	1	No
Garland	Dallas	48113018111	150	7.6%	2	No
Tyler	Smith	48423001700	160	7.5%	1	No
Sanger	Denton	48121020201	208	7.5%	3	No
Fort Worth	Tarrant	48439105510	116	7.4%	1	No
Houston	Harris	48201232800	153	7.4%	1	No
Katy	Harris	48201542300	174	7.3%	2	No
Lewisville	Denton	48121021712	218	7.3%	2	No
Dallas	Dallas	48467950100	120	7.3%	1	No
El Paso	El Paso	48141000203	152	7.1%	1	No
San Antonio	Bexar	48029180503	90	7.1%	1	No
Alamo	Hidalgo	48215021902	188	7.1%	1	No
Hereford	Deaf Smith	48117950400	131	7.1%	3	No
El Paso	El Paso	48141010315	36	7.0%	1	No
Dallas	Dallas	48113019202	145	7.0%	1	No
Donna	Hidalgo	48215022102	157	6.9%	3	No
Little Elm	Denton	48121020102	202	6.9%	2	No
Hitchcock	Galveston	48167723200	72	6.9%	2	No
Lake Dallas	Denton	48121021403	184	6.9%	3	No
Katy	Harris	48201542800	120	6.8%	2	No
Hillsboro	Hill	48217960700	52	6.8%	3	No
Fort Worth	Tarrant	48439105506	216	6.8%	1	No
Houston	Harris	48201252300	250	6.8%	1	No
Arlington	Tarrant	48439111524	171	6.7%	1	No
Laguna Vista	Cameron	48061012301	64	6.7%	3	No
Dayton	Liberty	48291700800	202	6.7%	3	No
Houston	Harris	48201541300	144	6.7%	1	No
Lubbock	Lubbock	48303002400	152	6.7%	1	No
Lancaster	Dallas	48113016705	126	6.7%	2	No
Fort Worth	Tarrant	48439106508	246	6.7%	1	No
San Antonio	Bexar	48029131000	120	6.7%	1	No
Tomball	Harris	48201555400	236	6.7%	3	No
San Antonio	Bexar	48029181003	160	6.7%	1	No
Hurst	Tarrant	48439113407	108	6.6%	2	No
Jasper	Jasper	48241950200	96	6.6%	3	No
Balch Springs	Dallas	48113017202	128	6.6%	2	No
Houston	Harris	48201232900	160	6.5%	1	No
Seagoville	Dallas	48113017003	158	6.5%	2	No
North Richland Hills	Tarrant	48439113217	108	6.5%	2	No
Killeen	Bell	48027022200	88	6.5%	1	No
Livingston	Polk	48373210500	110	6.5%	3	No
Eules	Tarrant	48439113515	250	6.4%	2	No
Henderson	Rusk	48401950700	76	6.4%	3	No
Temple	Bell	48027021202	103	6.4%	1	No
El Paso	El Paso	48141001201	100	6.3%	1	No
San Marcos	Hays	48209010904	156	6.3%	2	No
Houston	Harris	48201453200	164	6.3%	1	No
Houston	Harris	48201232400	254	6.3%	1	No
Lewisville	Denton	48121021601	194	6.3%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
San Marcos	Hays	48209010600	180	6.2%	2	No
Mexia	Limestone	48293970300	47	6.1%	3	No
Azle	Tarrant	48439114204	109	6.1%	2	No
Plainview	Hale	48189950400	90	6.1%	3	No
Fort Worth	Tarrant	48439113914	248	6.1%	1	No
Midland	Midland	48329000305	124	6.1%	1	No
Killeen	Bell	48027022500	172	6.1%	1	No
Palacios	Matagorda	48321730600	122	6.1%	3	No
Jersey Village	Harris	48201552000	160	6.0%	2	No
San Antonio	Bexar	48029181706	150	6.0%	1	No
Webster	Harris	48201341200	216	6.0%	2	No
Leon Valley	Bexar	48029181704	100	6.0%	2	No
Austin	Travis	48453001822	142	6.0%	1	No
Austin	Travis	48453001852	204	5.9%	1	No
Canyon	Randall	48381021900	76	5.9%	3	No
Houston	Harris	48201522300	154	5.9%	1	No
La Porte	Harris	48201343500	61	5.9%	2	No
El Paso	El Paso	48141000206	88	5.9%	1	No
Katy	Harris	48201542700	84	5.8%	2	No
San Benito	Cameron	48061011400	97	5.8%	1	No
Laredo	Webb	48479001102	120	5.8%	1	No
Cedar Park	Williamson	48491020306	180	5.8%	2	No
Houston	Harris	48201533700	156	5.8%	1	No
Crockett	Houston	48225950500	100	5.7%	3	No
Jacksonville	Cherokee	48073950600	124	5.7%	3	No
San Antonio	Bexar	48029140800	100	5.7%	1	No
North Richland Hills	Tarrant	48439113219	194	5.7%	2	No
El Paso	El Paso	48141001112	96	5.7%	1	No
Tyler	Smith	48423001000	114	5.7%	1	No
Corrigan	Polk	48373210400	96	5.6%	3	No
Houston	Harris	48201432300	160	5.6%	1	No
Trinity	Trinity	48455950300	40	5.6%	3	No
Navasota	Grimes	48185180200	128	5.6%	3	No
Pearland	Brazoria	48039660700	246	5.6%	2	No
Carrollton	Denton	48121021605	144	5.5%	2	No
El Paso	El Paso	48141003804	64	5.5%	1	No
San Angelo	Tom Green	48451001400	112	5.5%	1	No
Corinth	Denton	48121021402	224	5.5%	2	No
Gainesville	Cooke	48097990600	100	5.5%	3	No
Weslaco	Hidalgo	48215022502	80	5.4%	1	No
Mount Pleasant	Titus	48449950700	28	5.4%	3	No
Balch Springs	Dallas	48113017201	96	5.4%	2	No
San Antonio	Bexar	48029161100	108	5.4%	1	No
College Station	Brazos	48041002003	92	5.4%	1	No
Hempstead	Waller	48473680500	147	5.4%	3	No
Cedar Park	Williamson	48453001765	90	5.3%	2	No
Amarillo	Potter	48375014700	117	5.3%	1	No
Llano	Llano	48299970200	76	5.3%	3	No
North Richland Hills	Tarrant	48439113806	180	5.3%	2	No
Cedar Park	Williamson	48491020309	132	5.3%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Baytown	Harris	48201254100	88	5.3%	2	No
Amarillo	Potter	48375013200	38	5.3%	1	No
Edinburg	Hidalgo	48215023600	100	5.2%	1	No
Dallas	Dallas	48113004500	100	5.2%	1	No
El Paso	El Paso	48141004003	100	5.2%	1	No
El Paso	El Paso	48141004202	104	5.2%	1	No
Queen City	Cass	48067950300	36	5.2%	3	No
Stephenville	Erath	48143950600	76	5.1%	3	No
Katy	Harris	48201454800	120	5.1%	2	No
Houston	Harris	48201551800	86	5.1%	1	No
Garland	Dallas	48113018119	152	5.1%	2	No
Madisonville	Madison	48313980400	84	5.1%	3	No
Clifton	Bosque	48035950500	56	5.1%	3	No
Dallas	Dallas	48113005400	80	5.1%	1	No
Eules	Tarrant	48439113511	60	5.0%	2	No
Quitman	Wood	48499950500	48	5.0%	3	No
Baytown	Harris	48201253000	62	5.0%	2	No
Anthony	El Paso	48141010203	34	5.0%	1	No
Texarkana	Bowie	48037010100	100	4.9%	1	No
Killeen	Bell	48027022102	129	4.9%	1	No
Floresville	Wilson	48493980600	58	4.9%	3	No
San Antonio	Bexar	48029180702	152	4.9%	1	No
Victoria	Victoria	48469001603	120	4.9%	1	No
Clute	Brazoria	48039663800	75	4.9%	2	No
El Paso	El Paso	48141004303	100	4.9%	1	No
Kingsville	Kleberg	48273020400	128	4.9%	3	No
Sonora	Sutton	48435950200	64	4.9%	3	No
Humble	Harris	48201240300	71	4.8%	2	No
Beaumont	Jefferson	48245001301	100	4.8%	1	No
Refugio	Refugio	48391950200	68	4.7%	3	No
Pampa	Gray	48179950400	96	4.7%	3	No
Fairfield	Freestone	48161980200	24	4.7%	3	No
Lampasas	Lampasas	48281950400	64	4.7%	3	No
Decatur	Wise	48497150200	89	4.7%	3	No
Spring	Harris	48201553400	168	4.7%	2	No
Perryton	Ochiltree	48357950300	47	4.7%	3	No
Houston	Harris	48201240800	154	4.7%	1	No
Port Isabel	Cameron	48061012304	76	4.6%	3	No
Beeville	Bee	48025950300	90	4.6%	3	No
Taylor	Williamson	48491021203	44	4.6%	3	No
El Paso	El Paso	48141004316	81	4.6%	1	No
Waller	Waller	48473680300	130	4.5%	3	No
Fort Worth	Tarrant	48439105704	126	4.5%	1	No
Sweeny	Brazoria	48039662800	107	4.5%	3	No
Houston	Harris	48201534000	115	4.5%	1	No
Wolfe City	Hunt	48231960200	40	4.5%	3	No
Ingleside	San Patricio	48409010300	144	4.5%	1	No
Sebastian	Willacy	48489950600	32	4.5%	3	No
Sulphur Springs	Hopkins	48223950500	48	4.4%	3	No
Princeton	Collin	48085031002	104	4.4%	2	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
El Paso	El Paso	48141010321	142	4.4%	1	No
Wylie	Collin	48085031303	90	4.4%	3	No
Floresville	Wilson	48493980300	70	4.3%	3	No
San Antonio	Bexar	48029121206	113	4.3%	1	No
Dallas	Dallas	48113013005	82	4.3%	1	No
Houston	Harris	48201552000	114	4.3%	1	No
El Campo	Wharton	48481741000	60	4.3%	3	No
Jacksboro	Jack	48237950300	59	4.3%	3	No
Boerne	Kendall	48259970500	71	4.3%	3	No
Hillsboro	Hill	48217961100	48	4.3%	3	No
San Antonio	Bexar	48029181601	50	4.3%	1	No
Houston	Harris	48201334000	147	4.2%	1	No
El Paso	El Paso	48141004004	64	4.2%	1	No
Electra	Wichita	48485013700	54	4.2%	3	No
Lewisville	Denton	48121021703	192	4.2%	2	No
Silsbee	Hardin	48199030700	56	4.1%	3	No
Forest Hill	Tarrant	48439111202	78	4.1%	2	No
Houston	Harris	48157670100	105	4.1%	1	No
Three Rivers	Live Oak	48297950100	60	4.1%	3	No
Channelview	Harris	48201252300	150	4.1%	2	No
New Braunfels	Comal	48091310300	100	4.1%	2	No
Boerne	Kendall	48259970300	100	4.0%	3	No
Nacogdoches	Nacogdoches	48347950500	124	4.0%	3	No
Rusk	Cherokee	48073950800	114	3.9%	3	No
Kerrville	Kerr	48265960300	152	3.9%	3	No
Springtown	Parker	48367140403	72	3.9%	3	No
Brenham	Washington	48477170300	76	3.9%	3	No
Austin	Travis	48453002417	93	3.9%	1	No
Highlands	Harris	48201253000	48	3.9%	2	No
Wills Point	Van Zandt	48467950500	60	3.9%	3	No
San Juan	Hidalgo	48215021802	86	3.9%	1	No
Cameron	Milam	48331950400	100	3.8%	3	No
San Antonio	Bexar	48029181809	72	3.8%	1	No
Big Spring	Howard	48227950800	76	3.7%	3	No
Childress	Childress	48075950200	80	3.7%	3	No
Brenham	Washington	48477170400	76	3.7%	3	No
Allen	Collin	48085031506	94	3.7%	2	No
Laredo	Webb	48479001706	56	3.7%	1	No
Ozona	Crockett	48105950100	56	3.7%	3	No
Trinity	Trinity	48455950500	36	3.7%	3	No
Cedar Hill	Dallas	48113016614	132	3.7%	2	No
Lake Jackson	Brazoria	48039663500	80	3.7%	2	No
Lufkin	Angelina	48005000400	75	3.7%	3	No
Dallas	Dallas	48113007814	112	3.6%	1	No
Pecos	Reeves	48371950400	55	3.6%	3	No
San Benito	Cameron	48061011500	65	3.6%	1	No
Palestine	Anderson	48001950800	79	3.6%	3	No
West	McLennan	48309004202	44	3.6%	3	No
Waco	McLennan	48309002302	91	3.6%	1	No
Breckenridge	Stephens	48429950200	56	3.5%	3	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
El Paso	El Paso	48141010309	76	3.5%	1	No
Brady	McCulloch	48307950300	76	3.5%	3	No
Prairie View	Waller	48473680300	100	3.5%	3	No
Meadows Place	Fort Bend	48157672000	145	3.4%	2	No
Kilgore	Gregg	48183010600	76	3.4%	3	No
Mineral Wells	Palo Pinto	48363980400	72	3.4%	3	No
Houston	Harris	48201531600	40	3.4%	1	No
Lake Jackson	Brazoria	48039663400	80	3.4%	2	No
Waco	McLennan	48309003707	100	3.4%	1	No
Garrison	Nacogdoches	48347950100	32	3.4%	3	No
Junction	Kimble	48267950200	30	3.4%	3	No
Lubbock	Lubbock	48303010401	126	3.4%	1	No
Fort Worth	Tarrant	48439110203	88	3.4%	1	No
Cleveland	Liberty	48291700300	96	3.4%	3	No
Bryson	Jack	48237950200	16	3.4%	3	No
Hubbard	Hill	48217961300	36	3.4%	3	No
Burnet	Burnet	48053960200	30	3.4%	3	No
San Benito	Cameron	48061011600	60	3.4%	1	No
Terrell	Kaufman	48257050300	45	3.3%	3	No
Carthage	Panola	48365950400	88	3.3%	3	No
Elsa	Hidalgo	48215024401	74	3.3%	3	No
San Antonio	Bexar	48029141200	80	3.3%	1	No
Wallis	Austin	48015760100	24	3.3%	3	No
Kyle	Hays	48209010904	80	3.2%	3	No
Sour Lake	Hardin	48199030200	60	3.2%	3	No
Willis	Montgomery	48339694200	150	3.2%	3	No
San Augustine	San Augustine	48405950200	36	3.2%	3	No
Santa Fe	Galveston	48167723300	48	3.2%	2	No
Gilmer	Upshur	48459950400	54	3.1%	3	No
Johnson City	Blanco	48031950100	48	3.1%	3	No
Orange	Orange	48361021300	68	3.1%	3	No
Rockport	Aransas	48007950100	76	3.1%	3	No
Columbus	Colorado	48089750500	48	3.1%	3	No
Albany	Shackelford	48417950300	40	3.1%	3	No
Corsicana	Navarro	48349970900	76	3.1%	3	No
Graham	Young	48503950600	64	3.1%	3	No
Victoria	Victoria	48469000202	51	3.1%	1	No
Borger	Hutchinson	48233951000	47	3.0%	3	No
Socorro	El Paso	48141010310	64	3.0%	1	No
Center	Shelby	48381020200	32	3.0%	3	No
Del Rio	Val Verde	48465950201	76	3.0%	3	No
Seven Points	Henderson	48213950700	47	3.0%	3	No
League City	Galveston	48167721200	105	3.0%	2	No
Haltom City	Tarrant	48439110101	74	3.0%	2	No
Spring	Harris	48201241100	144	3.0%	2	No
Wichita Falls	Wichita	48485013200	76	3.0%	1	No
Joshua	Johnson	48251130206	56	3.0%	2	No
Brownwood	Brown	48049951100	44	2.9%	3	No
Hereford	Deaf Smith	48117950300	56	2.9%	3	No
Nocona	Montague	48337950300	36	2.9%	3	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Honey Grove	Fannin	48147950100	32	2.9%	3	No
McGregor	McLennan	48387950600	36	2.9%	1	No
Lewisville	Denton	48121021709	163	2.9%	2	No
La Feria	Cameron	48061011902	36	2.9%	3	No
Venus	Johnson	48251130408	48	2.9%	3	No
Elgin	Bastrop	48453001837	76	2.9%	3	No
Eastland	Eastland	48133950200	68	2.8%	3	No
El Paso	El Paso	48141003401	58	2.8%	1	No
Burnet	Burnet	48053960300	54	2.8%	3	No
Sealy	Austin	48015760300	54	2.8%	3	No
Edgewood	Van Zandt	48467950300	46	2.8%	3	No
Idalou	Lubbock	48303010102	24	2.8%	3	No
Whitewright	Grayson	48181001802	40	2.8%	3	No
Dallas	Dallas	48113007102	60	2.8%	1	No
Colorado City	Mitchell	48335950200	56	2.7%	3	No
Yoakum	Lavaca	48123970100	40	2.7%	3	No
Edna	Jackson	48239950300	48	2.7%	3	No
Socorro	El Paso	48141010402	40	2.7%	1	No
Webster	Harris	48201341000	80	2.7%	2	No
Seagraves	Gaines	48165950100	32	2.7%	3	No
Hempstead	Waller	48473680300	76	2.7%	3	No
Hebbronville	Jim Hogg	48247950200	20	2.7%	3	No
Crosbyton	Crosby	48107950100	24	2.6%	3	No
Aransas Pass	San Patricio	48409010200	76	2.6%	3	No
Van Alstyne	Grayson	48181001803	40	2.6%	3	No
Coldspring	San Jacinto	48407200200	48	2.5%	3	No
Mineola	Wood	48499950800	48	2.5%	3	No
Alto	Cherokee	48073951000	32	2.5%	3	No
El Paso	El Paso	48141000106	44	2.5%	1	No
La Villa	Hidalgo	48215024600	30	2.5%	3	No
Brackettville	Kinney	48271950100	32	2.4%	3	No
Bellville	Austin	48015760500	72	2.4%	3	No
Groesbeck	Limestone	48293970600	44	2.4%	3	No
Elkhart	Anderson	48001951000	54	2.4%	3	No
Bandera	Bandera	48019980100	76	2.4%	3	No
Fort Stockton	Pecos	48371950400	36	2.4%	3	No
Levelland	Hockley	48219950200	36	2.4%	3	No
Santa Anna	Coleman	48083950700	24	2.4%	3	No
St. Jo	Montague	48337950100	24	2.3%	3	No
Detroit	Red River	48387950300	16	2.3%	3	No
Buna	Jasper	48241950800	23	2.3%	3	No
Snyder	Scurry	48415950600	39	2.3%	3	No
Rusk	Cherokee	48073950900	24	2.3%	3	No
Grand Saline	Van Zandt	48467950200	28	2.3%	3	No
Waskom	Harrison	48203020102	48	2.2%	3	No
Corinth	Denton	48121021401	76	2.2%	2	No
Pampa	Gray	48179950100	32	2.2%	3	No
Caldwell	Burleson	48051970300	32	2.2%	3	No
Groveton	Trinity	48455950200	32	2.2%	3	No
Leonard	Fannin	48147950701	32	2.2%	3	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Irving	Dallas	48113014304	92	2.2%	2	No
Kerrville	Kerr	48265960500	48	2.2%	3	No
Bonham	Fannin	48147950400	65	2.2%	3	No
Goliad	Goliad	48175960100	32	2.1%	3	No
Presidio	Presidio	48377950100	23	2.1%	3	No
Sabinal	Uvalde	48463950100	24	2.1%	3	No
Bowie	Montague	48337950500	48	2.1%	3	No
Whitney	Hill	48217960600	10	2.1%	3	No
Alpine	Brewster	48043950300	36	2.1%	3	No
Eagle Lake	Colorado	48089750100	36	2.1%	3	No
Brenham	Washington	48477170200	43	2.1%	3	No
Keene	Johnson	48251131000	36	2.1%	3	No
Clarksville	Red River	48387950500	48	2.1%	3	No
Farmersville	Collin	48085031100	56	2.0%	3	No
Timpson	Shelby	48419950200	28	2.0%	3	No
Lone Star	Morris	48343950200	48	2.0%	3	No
Smithville	Bastrop	48021950700	32	2.0%	3	No
Donna	Hidalgo	48215022101	50	2.0%	3	No
Hidalgo	Hidalgo	48215021301	39	2.0%	3	No
Emory	Rains	48379950100	40	1.9%	3	No
Bastrop	Bastrop	48021950500	70	1.9%	3	No
Stephenville	Erath	48143950500	44	1.9%	3	No
Vidor	Orange	48361021900	47	1.9%	3	No
West Columbia	Brazoria	48039662600	24	1.9%	3	No
Pearsall	Frio	48163950100	36	1.8%	3	No
Forney	Kaufman	48257050202	51	1.8%	3	No
Hondo	Medina	48325990500	31	1.8%	3	No
Whitehouse	Smith	48423002200	32	1.8%	3	No
Keene	Johnson	48251130301	56	1.8%	3	No
Chandler	Henderson	48213950100	43	1.8%	3	No
Big Lake	Reagan	48383950100	20	1.8%	3	No
Santa Rosa	Cameron	48061010300	53	1.8%	3	No
San Antonio	Bexar	48029120200	49	1.8%	1	No
Brookshire	Waller	48473680200	44	1.8%	3	No
Karnes City	Karnes	48255970200	24	1.7%	3	No
Hallettsville	Lavaca	48285980200	24	1.7%	3	No
Bastrop	Bastrop	48021950400	48	1.7%	3	No
Granbury	Hood	48221160300	50	1.7%	3	No
Dripping Springs	Hays	48209010801	76	1.7%	3	No
Burkburnett	Wichita	48485013501	40	1.7%	3	No
Godley	Johnson	48251130100	20	1.7%	3	No
Somerset	Bexar	48029162002	40	1.7%	3	No
Rhame	Wise	48497150602	24	1.7%	3	No
League City	Galveston	48167720500	80	1.7%	2	No
Grapeland	Houston	48225950100	32	1.7%	3	No
El Paso	El Paso	48141000108	16	1.7%	1	No
Joaquin	Shelby	48419950100	32	1.6%	3	No
Quinlan	Hunt	48231961500	56	1.6%	3	No
Hooks	Bowie	48037011300	40	1.6%	3	No
Littlefield	Lamb	48279950600	24	1.6%	3	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Athens	Henderson	48213950300	44	1.6%	3	No
Teague	Freestone	48161980600	20	1.6%	3	No
El Paso	El Paso	48141000110	22	1.6%	1	No
Dimmitt	Castro	48069950200	24	1.6%	3	No
El Paso	El Paso	48141010314	60	1.6%	1	No
Tomball	Harris	48201555500	48	1.6%	3	No
Alton	Hidalgo	48215024105	30	1.6%	3	No
Valley View	Cooke	48097990900	24	1.5%	3	No
Royse City	Rockwall	48397040400	32	1.5%	3	No
Hughes Springs	Cass	48067950700	32	1.5%	3	No
Hemphill	Sabine	48403950300	32	1.5%	3	No
Rio Hondo	Cameron	48061010100	30	1.5%	3	No
Horizon City	El Paso	48141010320	72	1.5%	3	No
Lytle	Atascosa	48013960201	24	1.5%	3	No
Caldwell	Burleson	48051970200	24	1.5%	3	No
Mabank	Kaufman	48257051300	42	1.5%	3	No
Lexington	Lee	48287980100	24	1.5%	3	No
Giddings	Lee	48287980400	28	1.5%	3	No
Somerville	Burleson	48051970500	24	1.5%	3	No
Dalhart	Dallam	48205950200	24	1.5%	3	No
Shepherd	San Jacinto	48407200101	32	1.5%	3	No
Round Rock	Williamson	48491020503	24	1.5%	2	No
Athens	Henderson	48213951300	32	1.5%	3	No
Van	Van Zandt	48467950800	28	1.5%	3	No
Bridgeport	Wise	48497150500	24	1.5%	3	No
Leander	Williamson	48491020309	36	1.4%	2	No
Post	Garza	48169950100	24	1.4%	3	No
Sinton	San Patricio	48409011000	32	1.4%	3	No
Azle	Tarrant	48367140405	31	1.4%	2	No
Frankston	Anderson	48001950100	24	1.4%	3	No
Comanche	Comanche	48093950300	22	1.4%	3	No
Baird	Callahan	48059030200	24	1.4%	3	No
Devine	Medina	48325990800	32	1.4%	3	No
Mission	Hidalgo	48215020203	35	1.4%	1	No
Elgin	Bastrop	48021950200	27	1.3%	3	No
Martindale	Caldwell	48055960500	24	1.3%	3	No
Hamilton	Hamilton	48193950300	18	1.3%	3	No
Alvarado	Johnson	48251130410	24	1.3%	3	No
Shepherd	San Jacinto	48407200200	24	1.3%	3	No
Rockport	Aransas	48007950300	28	1.3%	3	No
Willis	Montgomery	48339694100	48	1.3%	3	No
Bay City	Matagorda	48321730200	40	1.3%	3	No
Palestine	Anderson	48001950900	42	1.3%	3	No
Gladewater	Gregg	48183010200	34	1.3%	3	No
Rockdale	Milam	48331950700	29	1.3%	3	No
El Campo	Wharton	48481740900	32	1.2%	3	No
Big Sandy	Upshur	48459950500	24	1.2%	3	No
Tatum	Rusk	48401950100	24	1.2%	3	No
Lake Dallas	Denton	48121021401	40	1.2%	3	No
San Antonio	Bexar	48029180300	18	1.2%	1	No

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Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Andrews	Andrews	48003950200	24	1.2%	3	No
El Paso	El Paso	48141001107	30	1.1%	1	No
Dublin	Erath	48143950300	24	1.1%	3	No
Blanco	Blanco	48031950200	20	1.1%	3	No
Glen Rose	Somervell	48425990100	20	1.1%	3	No
Center	Shelby	48419950400	26	1.1%	3	No
Troup	Smith	48423002100	36	1.1%	3	No
Grandview	Johnson	48251130500	24	1.1%	3	No
Irving	Dallas	48113014408	17	1.1%	2	No
Slaton	Lubbock	48303010600	24	1.1%	3	No
Castroville	Medina	48325990100	39	1.1%	3	No
Frisco	Collin	48085030401	38	1.1%	2	No
Iowa Park	Wichita	48485013600	24	1.0%	3	No
De Kalb	Bowie	48037011600	24	1.0%	3	No
Cibolo	Guadalupe	48187210701	24	1.0%	3	No
El Paso	El Paso	48141003601	14	1.0%	1	No
Orange Grove	Jim Wells	48249950100	24	1.0%	3	No
West Columbia	Brazoria	48039662000	24	1.0%	3	No
Pilot Point	Denton	48121020101	40	1.0%	3	No
Aransas Pass	San Patricio	48007950500	24	1.0%	3	No
Amherst	Lamb	48279950300	9	1.0%	3	No
Lamesa	Dawson	48115950400	24	1.0%	3	No
Buffalo	Leon	48289950100	24	1.0%	3	No
Hallsville	Harrison	48203020601	32	0.9%	3	No
Pleasanton	Atascosa	48013960402	24	0.9%	3	No
Normangee	Leon	48289950200	20	0.9%	3	No
Abernathy	Hale	48303010200	24	0.9%	3	No
Weimar	Colorado	48089750300	16	0.9%	3	No
Caddo Mills	Hunt	48231961400	16	0.9%	3	No
Harlingen	Cameron	48061010700	10	0.9%	1	No
Lorena	McLennan	48309003801	16	0.8%	3	No
Alamo	Hidalgo	48215022002	26	0.8%	1	No
Justin	Denton	48121020301	24	0.8%	3	No
Yantis	Wood	48499950300	24	0.8%	3	No
Cisco	Eastland	48133950300	16	0.8%	3	No
Sulphur Springs	Hopkins	48223950400	24	0.8%	3	No
Ferris	Ellis	48139060101	16	0.8%	3	No
El Paso	El Paso	48141001105	19	0.8%	1	No
Eldorado	Schleicher	48141010313	32	0.8%	3	No
La Grange	Fayette	48149970300	16	0.7%	3	No
Reno (Lamar)	Lamar	48277000400	24	0.7%	3	No
Evant	Coryell	48099010100	17	0.7%	3	No
Cedar Park	Williamson	48491020307	24	0.7%	2	No
El Paso	El Paso	48141010209	36	0.7%	1	No
Corsicana	Navarro	48349970300	16	0.6%	3	No
La Joya	Hidalgo	48215024202	24	0.6%	3	No
Bullard	Smith	48423001904	24	0.6%	3	No
Austin	Travis	48453001503	10	0.6%	1	No
Waxahachie	Ellis	48139060600	14	0.5%	2	No
Mesquite	Dallas	48113017702	12	0.5%	2	No

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Place	County	Tract	Total HTC's	HTC Units/Tract Households	Area Type	QCT
El Paso	El Paso	48141010313	19	0.4%	1	No
Schulenburg	Fayette	48149970600	8	0.4%	3	No
Laredo	Webb	48479001400	8	0.4%	1	No
Ganado	Jackson	48239950100	8	0.4%	3	No
Laredo	Webb	48479001001	3	0.2%	1	No
Amarillo	Potter	48375011900	3	0.2%	1	No
McAllen	Hidalgo	48215020901	2	0.1%	1	No
Mission	Hidalgo	48215020401	4	0.1%	1	No
Mission	Hidalgo	48215020300	4	0.1%	1	No
Port Lavaca	Calhoun	48057990400	2	0.1%	3	No
New Braunfels	Comal	48187210503	1	0.1%	2	No
New Braunfels	Comal	48091310900	1	0.0%	2	No
New Braunfels	Comal	48091310402	1	0.0%	2	No



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§50.49.1. Purpose and Authority; Program Statement; Allocation Goals.

(a) **Purpose and Authority.** The Rules in this chapter apply to the allocation by the Texas Department of Housing and Community Affairs (the Department) of Housing Tax Credits authorized by applicable federal income tax laws. The Internal Revenue Code of 1986, §42, as amended, provides for credits against federal income taxes for owners of qualified low-income rental housing Developments. That section provides for the allocation of the available tax credit amount by state housing credit agencies. Pursuant to Chapter 2306, Subchapter DD, Texas Government Code, the Department is authorized to make Housing Credit Allocations for the State of Texas. As required by the Internal Revenue Code, §42(m)(1), the Department developed this Qualified Allocation Plan (QAP) which is set forth in ~~§§50.49.1 - 50.49.23~~ of this title. Sections in this chapter establish procedures for applying for and obtaining an allocation of Housing Tax Credits, along with ensuring that the proper threshold criteria, selection criteria, priorities and preferences are followed in making such allocations.

(b) **Program Statement.** The Department shall administer the program to encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, accessible, affordable rental housing in the private marketplace; maximize the number of suitable, accessible, affordable residential rental units added to the state's housing supply; prevent losses for any reason to the state's supply of suitable, accessible, affordable residential rental units by enabling the Rehabilitation of rental housing or by providing other preventive financial support; and provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development and operation of accessible affordable housing developments in rural and urban communities. (2306.6701)

(c) **Allocation Goals.** It shall be the goal of this Department and the Board, through these provisions, to encourage diversity through broad geographic allocation of tax credits within the state, and in accordance with the regional allocation formula; to promote maximum utilization of the available tax credit amount; and to allocate credits among as many different entities as practicable without diminishing the quality of the housing that is being built. The processes and criteria utilized to realize this goal are described in ~~§50.49.8~~ and ~~§50.49.9~~ of this title, without in any way limiting the effect or applicability of all other provisions of this title. (General Appropriation Act, Article VII, Rider 8(e))

§50.49.2. Coordination with Rural Agencies.

To ensure maximum utilization and optimum geographic distribution of tax credits in rural areas, and to provide for sharing of information, efficient procedures, and fulfillment of Development compliance requirements in rural areas, the Department ~~has will~~ entered into a Memorandum of Understanding (MOU) or other agreement with the TX-USDA-RHS to coordinate on existing, Rehabilitation, and New Construction housing Developments financed by TX-USDA-RHS; and will jointly administer the Rural Regional Allocation with the Texas Office of Rural Community Affairs (ORCA). Through participation in hearings and meetings, ORCA will assist in developing all Threshold, Selection and Underwriting Criteria applied to Applications eligible for the Rural Regional Allocation. The Criteria will be approved by that Agency. To ensure that the Rural Regional Allocation receives a sufficient volume of eligible Applications, the Department and ORCA shall jointly implement outreach, training, and rural area capacity building efforts. (2306.6723)

§50.49.3. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Administrative Deficiencies**--The absence of information or a document from the Application as is required under ~~§50.49.5~~, ~~§50.49.6~~, ~~§50.49.8(d)~~ and ~~§50.49.9(g), (h), (i) and (j)~~ of this title, unless determined by the Department as unable to be corrected.

(2) **Affiliate**--An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other Person, and specifically shall include parents or subsidiaries. Affiliates also include all General Partners, Special Limited Partners and Principals with an ownership interest unless the entity is an experienced developer as described in ~~§50.49.9(i)(210)(B)~~ of this title.

(3) **Agreement and Election Statement**--A document in which the Development Owner elects, irrevocably, to fix the Applicable Percentage with respect to a building or buildings, as that in effect for the month in which the Department and the Development Owner enter into a binding agreement as to the housing credit dollar amount to be allocated to such building or buildings.

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(4) **Applicable Fraction**--The fraction used to determine the Qualified Basis of the qualified low-income building, which is the smaller of the Unit fraction or the floor space fraction, all determined as provided in the Code, §42(c)(1).

(5) **Applicable Percentage**--The percentage used to determine the amount of the Housing Tax Credit for any Development (New Construction, Reconstruction, and/or Rehabilitation), as defined more fully in the Code, §42(b).

(A) For purposes of the Application, the Applicable Percentage will be projected at ~~10 basis points above the greater of:~~

(i) 40 basis points over the current applicable percentage for Competitive Housing Tax Credit Developments for the month in which the Application is submitted to the Department, or

(ii) 15 basis points over the current applicable percentage for Tax Exempt Bond Developments for the trailing 1-year, 2-year or 3-year average rate in effect during the month in which the Application is submitted to the Department.

(B) For purposes of making a credit recommendation at any other time, the Applicable Percentage will be based in order of priority on:

(i) The percentage indicated in the Agreement and Election Statement, if executed; or

(ii) The actual applicable percentage as determined by the Code, §42(b), if all or part of the Development has been placed in service and for any buildings not placed in service the percentage will be the actual percentage as determined by Code, §42(b) for the most current month; or

(iii) The percentage as calculated in subparagraph (A) of this paragraph if the Agreement and Election Statement has not been executed and no buildings have been placed in service.

(6) **Applicant**--Any Person or Affiliate of a Person who files a Pre-Application or an Application with the Department requesting a Housing Credit Allocation. (2306.6702)

(7) **Application**--An application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material. (2306.6702)

(8) **Application Acceptance Period**--That period of time during which Applications for a Housing Credit Allocation from the State Housing Credit Ceiling may be submitted to the Department as more fully described in ~~§50.49.9(a) and §50.49.21~~ of this title. For Tax-Exempt Bond Developments this period is the date the Volume 1 and 2 are submitted or the date the reservation is issued by the Texas Bond Review Board, whichever is earlier that period of time prior to the deadline stated in §50.12 of this title, and for Rural Rescue Applications this is that period of time stated in the Rural Rescue Policy.

(9) **Application Round**--The period beginning on the date the Department begins accepting Applications for the State Housing Credit Ceiling and continuing until all available Housing Tax Credits from the State Housing Credit Ceiling (as stipulated by the Department) are allocated, but not extending past the last day of the calendar year. (2306.6702)

(10) **Application Submission Procedures Manual**--The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for the filing of Pre-Applications and Applications for Housing Tax Credits.

(11) **Area**--

(A) The geographic area contained within the boundaries of:

(i) An incorporated place or

(ii) Census Designated Place (CDP) as defined established by the U.S. Census Bureau for the most recent Decennial Census.

(B) For Developments located outside the boundaries of an incorporated place or CDP, place shall use the Area definition of the closest place. the Development shall take up the Area characteristics of the incorporated place or CDP whose boundary is nearest to the Development site.

(12) **Area Median Gross Income (AMGI)**--Area median gross household income, as determined for all purposes under and in accordance with the requirements of the Code, §42.

(13) **At-Risk Development**--a Development that: (2306.6702)

(A) has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under at least one of the following federal laws, as applicable:

(i) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 17151);

(ii) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(iii) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(v) the Section 8 Additional Assistance Program for housing ~~d~~Developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;

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(vi) the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development;

(vii) Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486);

~~and~~

(viii) Section 42, of the Internal Revenue Code of 1986 (26 U.S.C. Section 42), and

(B) is subject to the following conditions:

(i) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration (expiration will occur within two calendar years of July 31 of the year the Application is submitted);
or

(ii) the federally insured mortgage on the Development is eligible for prepayment or is nearing the end of its mortgage term (the term will end within two calendar years of July 31 of the year the Application is submitted).

(C) An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in subparagraph (A) of this paragraph will not qualify as an At-Risk Development unless the redevelopment will include the same site.

(D) Developments must be at risk of losing all affordability from all of the financial benefits available on the Development described in subparagraph (A) of this paragraph on the site. However, Developments that have an opportunity to retain or renew any of the financial benefit described in subparagraph (A) of this paragraph must retain or renew all possible financial benefit to qualify as an At-Risk Development.

(E) Nearing expiration on a requirement to maintain affordability includes Developments eligible to request a qualified contract under Section 42 of the Code. Evidence must be provided in the form of a copy of the recorded LURA, the first years IRS Forms 8609 for all buildings showing Part II completed and, if applicable, documentation from the original application regarding the right of first refusal.

(14) ~~Bedroom~~--A portion of a Unit ~~set aside for sleeping~~ which is no less than 100 square feet; has no width or length less than 8 feet; has at least one window that provides exterior access; and has at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to accommodate 5 feet of hanging space. A den, study or other similar space that could reasonably function as a bedroom and meets this definition is considered a bedroom.

(15) ~~Board~~--The governing Board of the Department. (2306.004)

(16) ~~Carryover Allocation~~--An allocation of current year tax credit authority by the Department pursuant to the provisions of the Code, §42(h)(1)(C) and Treasury Regulations, §1.42-6.

(17) ~~Carryover Allocation Document~~--A document issued by the Department, and executed by the Development Owner, pursuant to ~~§50.49.14~~ of this title.

(18) ~~Carryover Allocation Procedures Manual~~--The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for filing Carryover Allocation requests.

(19) ~~Code~~--The Internal Revenue Code of 1986, as amended from time to time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued thereunder by the United States Department of the Treasury or the Internal Revenue Service.

(20) ~~Colonia~~--A geographic Area located in a county some part of which is within 150 miles of the international border of this state and that:

(A) has a majority population composed of individuals and families of low-income and very low-income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed Area under §17.921, Water Code; or

(B) has the physical and economic characteristics of a colonia, as determined by the Texas Water Development Board.

(21) ~~Commitment Notice~~--A notice issued by the Department to a Development Owner pursuant to ~~§50.49.13~~ of this title and also referred to as the "commitment."

(22) ~~Community Revitalization Plan~~--A published document under any name, approved and adopted by the local governing body by ordinance or resolution, that targets specific geographic areas for revitalization and development of low-income residential developments (serving residents at or below 60% of the area median income).

(23) ~~Competitive Housing Tax Credits~~--Tax credits available from the State Housing Credit Ceiling.

(24) ~~Compliance Period~~--With respect to a building, the period of 15 taxable years, beginning with the first taxable year of the Credit Period pursuant to the Code, §42(i)(1).

(25) ~~Control~~--(including the terms "Controlling," "Controlled by", and/or "under common Control with") the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person, whether through the ownership of voting securities, by contract or otherwise, including

specifically ownership of more than 50% of the General Partner interest in a limited partnership, or designation as a managing General Partner of a limited liability company.

~~(265)~~ **Cost Certification Procedures Manual**--The manual produced, and amended from time to time, by the Department which sets forth procedures, forms, and guidelines for filing requests for IRS Form(s) 8609 for Developments placed in service under the Housing Tax Credit Program.

~~(276)~~ **Credit Period**--With respect to a building within a Development, the period of ten taxable years beginning with the taxable year the building is placed in service or, at the election of the Development Owner, the succeeding taxable year, as more fully defined in the Code, §42(f)(1).

~~(2728)~~ **Department**--The Texas Department of Housing and Community Affairs, an agency of the State of Texas, established by Chapter 2306, Texas Government Code, including Department employees and/or the Board. (2306.004)

~~(298)~~ **Determination Notice**--A notice issued by the Department to the Development Owner of a Tax-Exempt Bond Development which states that the Development may be eligible to claim Housing Tax Credits without receiving an allocation of Housing Tax Credits from the State Housing Credit Ceiling because it satisfies the requirements of this QAP; sets forth conditions which must be met by the Development before the Department will issue the IRS Form(s) 8609 to the Development Owner; and specifies the Department's determination as to the amount of tax credits necessary for the financial feasibility of the Development and its viability as a rent restricted Development throughout the affordability period. (42(m)(1)(D))

~~(3029)~~ **Developer**--Any Person entering into a contract with the Development Owner to provide development services with respect to the Development and receiving a fee for such services (which fee cannot the limits identified in §49.9(d)(6)(B) of this title exceed 15% of the Eligible Basis) and any other Person receiving any portion of such fee, whether by subcontract or otherwise.

~~(310)~~ **Development**--A proposed qualified and/ or approved low-income housing project, as defined by the Code, §42(g), for New Construction, Reconstruction, or Rehabilitation, that consists of one or more buildings containing multiple Units, and that, if the Development shall consist of multiple buildings, is financed under a common plan and is owned by the same Person for federal tax purposes, and the buildings of which are either:

(A) located on a single site or contiguous site; or

(B) located on scattered sites and contain only rent-restricted units. (2306.6702)

~~(324)~~ **Development Consultant**--Any Person (with or without ownership interest in the Development) who provides professional services relating to the filing of an Application, Carryover Allocation Document, and/or cost certification documents.

~~(332)~~ **Development Owner**--Any Person, General Partner, or Affiliate of a Person who owns or proposes a Development or expects to acquire Control of a Development under a purchase contract approved by the Department. (2306.6702)

~~(34)~~ **Development Site**--The area, or if scattered site areas, for which the Development is proposed to be located and is to be under control pursuant to §49.9(h)(7)(A) of this title.

~~(353)~~ **Development Team**--All Persons or Affiliates thereof that play a role in the Development, construction, Rehabilitation, management and/or continuing operation of the subject Property, which will include any Development Consultant and Guarantor.

~~(364)~~ **Economically Distressed Area**--Consistent with §17.921 of Texas Water Code, an Area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by Texas Water Development Board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 1989, as determined by the Texas Water Development Board.

~~(375)~~ **Eligible Basis**--With respect to a building within a Development, the building's Eligible Basis as defined in the Code, §42(d).

~~(386)~~ **Executive Award and Review Advisory Committee ("The Committee")**--A Departmental committee that will develop funding priorities and make funding and allocation recommendations to the Board based upon the evaluation of an Application in accordance with the housing priorities as set forth in Chapter 2306 of the Texas Government Code, and as set forth herein, and the ability of an Applicant to meet those priorities. (2306.1112)

~~(39)~~ **Existing Residential Development**--Any Development Site which contains 4 or more existing residential Units at the time the Volume I is submitted to the Department.

~~(3407)~~ **Extended Housing Commitment**--An agreement between the Department, the Development Owner and all successors in interest to the Development Owner concerning the extended housing use of buildings within the Development throughout the extended use period as provided in the Code, §42(h)(6). The Extended Housing Commitment with respect to a Development is expressed in the LURA applicable to the Development.

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~~(4138)~~ **General Contractor**--One who contracts for the construction or Rehabilitation of an entire Development, rather than a portion of the work. The General Contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the subcontractors. This party may also be referred to as the "contractor."

~~(4239)~~ **General Partner**--That partner, or collective of partners, identified as the general partner of the partnership that is the Development Owner and that has general liability for the partnership. In addition, unless the context shall clearly indicate the contrary, if the Development Owner in question is a limited liability company, the term "General Partner" shall also mean the managing member or other party with management responsibility for the limited liability company.

~~(430)~~ **Governmental Entity**--Includes federal or state agencies, departments, boards, bureaus, commissions, authorities, and political subdivisions, special districts and other similar entities.

~~(444)~~ **Governmental Instrumentality**--A legal entity such as a housing authority of a city or county, a housing finance corporation, or a municipal utility, which is created by a local political subdivision under statutory authority and which instrumentality is authorized to transact business for the political subdivision.

~~(452)~~ **Guarantor**--Means any Person that provides, or is anticipated to provide, a guaranty for the equity or debt financing for the Development.

~~(463)~~ **Historically Underutilized Businesses (HUB)**--Any entity defined as a historically underutilized business with its principal place of business in the State of Texas in accordance with Chapter 2161, Texas Government Code.

~~(474)~~ **Housing Credit Agency**--A Governmental Entity charged with the responsibility of allocating Housing Tax Credits pursuant to the Code, §42. For the purposes of this title, the Department is the sole "Housing Credit Agency" of the State of Texas.

~~(485)~~ **Housing Credit Allocation**--An allocation by the Department to a Development Owner for a specific Application of Housing Tax Credits in accordance with the provisions of this title.

~~(496)~~ **Housing Credit Allocation Amount**--With respect to a Development or a building within a Development, that amount the Department determines to be necessary for the financial feasibility of the Development and its viability as a Development throughout the affordability period and which it allocates to the Development.

~~(5047)~~ **Housing Tax Credit ("tax credits")**--A tax credit allocated, or for which a Development may qualify, under the Housing Tax Credit Program, pursuant to the Code, §42. (2306.6702)

~~(5148)~~ **HUD**--The United States Department of Housing and Urban Development, or its successor.

~~(5249)~~ **Ineligible Building Types**--Those Developments which are ineligible, pursuant to this QAP, for funding under the Housing Tax Credit Program, as follows:

(A) Hospitals, nursing homes, trailer parks, dormitories (or other buildings that will be predominantly occupied by students) or other facilities which are usually classified as transient housing (other than certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §42(i)(3)(B)(iii) and (iv)) are not eligible. However, structures formerly used as hospitals, nursing homes or dormitories are eligible for Housing Tax Credits if the Development involves the conversion of the building to a non-transient multifamily residential development. Refer to IRS Revenue Ruling 98-47 for clarification of assisted living.

(B) Any Qualified Elderly Development or age restricted buildings in Intergenerational Housing Developments of two stories or more that does not include elevator service for any Units or living space above the first floor.

(C) Any Qualified Elderly Development or age restricted buildings in Intergenerational Housing Developments with any Units having more than two bedrooms.

(D) Any Development with building(s) with four or more stories that does not include an elevator.

(E) Any Development proposing any New Construction (excluding New Construction of non-residential buildings), other than a Development (New Construction, Reconstruction, or Rehabilitation) composed entirely of single-family dwellings, having more than 5% of the Units in the Development with four or more bedrooms. An Application may reflect a total of Units in the Development with four or more bedrooms greater than 5% to the extent that the increase is only to reach the next highest number divisible by four.

~~(F)~~ Any Development that violates the Integrated Housing Policy of the Department, §1.15 of this title.

~~(F)~~ Any Development located in an Urban/Exurban Area involving any New Construction (excluding New Construction of non-residential buildings) of additional Units (other than a Qualified Elderly Development, a Development composed entirely of single family dwellings, and certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §42(i)(3)(B)(iii) and (iv)) in which any of the designs in clauses (i) - (iii) of this subparagraph are proposed. ~~For purposes of this limitation, a den, study or other similar space that could reasonably function as a bedroom will be considered a bedroom.~~ For Applications

involving a combination of single family detached dwellings and multifamily dwellings, the percentages in this subparagraph do not apply to the single family detached dwellings. For Intergenerational Housing Applications, the percentages in this subparagraph do not apply to the buildings that are restricted to the age requirements of a Qualified Elderly Development. An Application may reflect a total of Units for a given Bedroom size greater than the percentages stated below to the extent that the increase is only to reach the next highest number divisible by four.

- (i) more than 30% of the total Units are one Bedroom Units; or
- (ii) more than 55% of the total Units are two Bedroom Units; or
- (iii) more than 40% of the total Units are three Bedroom Units; or

(G) Any Development that includes age restricted units that are not consistent with the Intergenerational Housing definition and policy or the definition of a Qualified Elderly Development.

(530) **Intergenerational Housing**--Housing that includes specific units that are restricted to the age requirements of a Qualified Elderly Development and specific units that are not age restricted in the same Development that:

- (A) have separate and specific buildings exclusively for the age restricted units
- (B) have separate and specific leasing offices and leasing personnel exclusively for the age restricted units
- (C) have separate and specific entrances, and other appropriate security measures for the age restricted units
- (D) provide shared social service programs that encourage intergenerational activities but also provide separate amenities for each age group
- (E) share the same Development site
- (F) are developed and financed under a common plan and owned by the same Person for federal tax purposes; and
- (G) meet the requirements of the federal Fair Housing Act.

(544) **IRS**--The Internal Revenue Service, or its successor.

(552) **Land Use Restriction Agreement (LURA)**--An agreement between the Department and the Development Owner which is binding upon the Development Owner's successors in interest, that encumbers the Development with respect to the requirements of this chapter, Chapter 2306, Texas Government Code, and the requirements of the Code, §42. (2306.6702)

(563) **Local Political Subdivision**--A county or municipality (city) in Texas. For purposes of §50.49.9(i)(5) of this title, a local political subdivision may act through a government instrumentality such as a housing authority, housing finance corporation, or municipal utility.

(574) **Material Noncompliance**--As defined in §60.1 of this title.

(585) **Minority Owned Business**--A business entity at least 51% of which is owned by members of a minority group or, in the case of a corporation, at least 51% of the shares of which are owned by members of a minority group, and that is managed and Controlled by members of a minority group in its daily operations. Minority group includes women, African Americans, American Indians, Asian Americans, and Mexican Americans and other Americans of Hispanic origin. (2306.6734)

(596) **New Construction**--Any Development or portion of the Development that does not meeting the definition of Rehabilitation or Reconstruction.

(6057) **ORCA**--Office of Rural Community Affairs, as established by Chapter 487 of Texas Government Code. (2306.6702)

(6158) **Person**--Means, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality or other organization or entity of any nature whatsoever and shall include any group of Persons acting in concert toward a common goal, including the individual members of the group.

(6259) **Persons with Disabilities**--A person who:

- (A) has a physical, mental or emotional impairment that:
 - (i) is expected to be of a long, continued and indefinite duration,
 - (ii) substantially impedes his or her ability to live independently, and
 - (iii) is of such a nature that the disability could be improved by more suitable housing conditions,
- (B) has a developmental disability, as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. Section 15002), or
- (C) has a disability, as defined in 24 CFR §5.403.

(630) **Persons with Special Needs**--Persons with alcohol and/or drug addictions, Colonia residents, Persons with Disabilities, victims of domestic violence, persons with HIV/AIDS, homeless populations and migrant farm workers.

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(644) **Pre-Application**--A preliminary application, in a form prescribed by the Department, filed with the Department by an Applicant prior to submission of the Application, including any required exhibits or other supporting material, as more fully described in ~~§50.8 and §50.21~~ of this title. (2306.6704)

(652) **Pre-Application Acceptance Period**--That period of time during which Competitive Housing Tax Credit Pre-Applications for a Housing Credit Allocation from the State Housing Credit Ceiling may be submitted to the Department.

(663) **Principal**--the term Principal is defined as Persons that will exercise Control over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:

(A) partnerships, Principals include all General Partners, Special Limited Partners and Principals with ownership interest;

(B) corporations, Principals include any officer authorized by the board of directors to act on behalf of the corporation, including the president, vice president, secretary, treasurer and all other executive officers, and each stock holder having a ten percent or more interest in the corporation; and

(C) limited liability companies, Principals include all managing members, members having a ten percent or more interest in the limited liability company or any officer authorized to act on behalf of the limited liability company.

(674) **Property**--The real estate and all improvements thereon which are the subject of the Application (including all items of personal property affixed or related thereto), whether currently existing or proposed to be built thereon in connection with the Application.

(685) **Qualified Allocation Plan (QAP)**--

(A) As defined in §42(m)(1)(B): Any plan which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions; which also gives preference in allocating housing credit dollar amounts among selected projects to projects serving the lowest-income tenants, projects obligated to serve qualified tenants for the longest periods, and projects which are located in qualified census tracts and the development of which contributes to a concerted community revitalization plan; and which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of §42 and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

(B) As defined in §2306.6702, Texas Government Code: A plan adopted by the board that provides the threshold, scoring, and underwriting criteria based on housing priorities of the Department that are appropriate to local conditions; provides a procedure for the Department, the Department's agent, or another private contractor of the Department to use in monitoring compliance with the qualified allocation plan and this subchapter; and consistent with §2306.6710(e), gives preference in housing tax credit allocations to Developments that, as compared to the other Developments:

(i) when practicable and feasible based on documented, committed, and available third-party funding sources, serve the lowest-income tenants per housing tax credit; and

(ii) produce for the longest economically feasible period the greatest number of high quality units committed to remaining affordable to any tenants who are income-eligible under the low-income housing tax credit program.

(696) **Qualified Basis**--With respect to a building within a Development, the building's Eligible Basis multiplied by the Applicable Fraction, within the meaning of the Code, §42(c)(1).

(7067) **Qualified Census Tract**--Any census tract which is so designated by the Secretary of HUD in accordance with the Code, §42(d)(5)(C)(ii).

(6871) **Qualified Elderly Development**--A Development which meets the requirements of the federal Fair Housing Act and:

(A) is intended for, and solely occupied by, individuals 62 years of age or older; or

(B) is intended and operated for occupancy by at least one individual 55 years of age or older per Unit, where at least 80% of the total housing Units are occupied by at least one individual who is 55 years of age or older; and where the Development Owner publishes and adheres to policies and procedures which demonstrate an intent by the owner and manager to provide housing for individuals 55 years of age or older. (See 42 U.S.C. Section 3607(b)).

(7269) **Qualified Market Analyst**--A real estate appraiser certified or licensed by the Texas Appraiser Licensing and Certification Board, a real estate consultant, or other professional currently active in the subject property's market area who demonstrates competency, expertise, and the ability to render a high quality written report. The individual's performance, experience, and educational background will provide the general basis for determining competency as a Market Analyst. Competency will be determined by the Department, in its sole discretion. The Qualified Market Analyst must be a Third Party.

(730) **Qualified Nonprofit Organization**--An organization that is described in the Code, §501(c)(3) or (4), as these cited provisions may be amended from time to time, that is exempt from federal income taxation under the Code, §501(a), that is not affiliated with or Controlled by a for profit organization, and includes as one of its exempt purposes the fostering of low-income housing within the meaning of the Code, §42(h)(5)(C). A Qualified Nonprofit Organization may select to compete in one or more of the Set-Asides, including, but not limited to, the nonprofit Set-Aside, the At-Risk Development Set-Aside and the TX-USDA-RHS Allocation. (2306.6729)

(744) **Qualified Nonprofit Development**--A Development in which a Qualified Nonprofit Organization (directly or through a partnership or wholly-owned subsidiary) holds a controlling interest, materially participates (within the meaning of the Code, §469(h), as it may be amended from time to time) in its development and operation throughout the Compliance Period, and otherwise meets the requirements of the Code, §42(h)(5). (2306.6729)

(75) **Reconstruction**-- The demolition of an Existing Residential Development and the re-construction of the Units on the Development Site. Developments proposing adaptive re-use or proposing to increase the number of Units in the Existing Residential Development are not considered Reconstruction.

(762) **Reference Manual**--That certain manual, and any amendments thereto, produced by the Department which sets forth reference material pertaining to the Housing Tax Credit Program.

(773) **Rehabilitation**--The improvement or modification of an Existing Residential Development structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices. Rehabilitation may include demolition, reconstruction within the and adding rooms outside the existing walls of a structure to increase or decrease the number of Units or Bedrooms, but does not include demolition or adaptive reuse. ~~adding a housing unit is considered New Construction.~~

(784) **Related Party**--As defined, (2306.6702)

(A) The following individuals or entities:

- (i) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573, Texas Government Code;
- (ii) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;
- (iii) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:
 - (I) the total combined voting power of all classes of stock of each of the corporations that can vote;
 - (II) the total value of shares of all classes of stock of each of the corporations; or
 - (III) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;
- (iv) a grantor and fiduciary of any trust;
- (v) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (vi) a fiduciary of a trust and a beneficiary of the trust;
- (vii) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:
 - (I) the trust; or
 - (II) a person who is a grantor of the trust;
- (viii) a person or organization and an organization that is tax-exempt under the Code, §501(a), and that is controlled by that person or the person's family members or by that organization;
- (ix) a corporation and a partnership or joint venture if the same persons own more than:
 - (I) 50 percent of the outstanding stock of the corporation; and
 - (II) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;
- (x) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;
- (xi) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;
- (xii) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or
- (xiii) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

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(B) Nothing in this definition is intended to constitute the Department's determination as to what relationship might cause entities to be considered "related" for various purposes under the Code.

~~(795)~~ **Rules**--The Department's Housing Tax Credit Program Qualified Allocation Plan and Rules as presented in this title.

~~(8076)~~ **Rural Area**--An area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or

(C) in an ~~a~~Area that is eligible for New Construction funding by TX-USDA-RHS; or

(D) on a specific Development Site eligible for Rehabilitation funding by TX-USDA-RHS as evidenced by an executed TX-USDA-RHS letter indicating TX-USDA-RHS has received a Consent Request, also referred to as a Preliminary Submittal, as described in 7 CFR 3560.406. (2306.6702)

~~(8177)~~ **Rural Development**--A Development located within a Rural Area. A Rural Development may not exceed 76 Units if involving any New Construction (excluding New Construction of non-residential buildings).

~~(8278)~~ **Selection Criteria**--Criteria used to determine housing priorities of the State under the Housing Tax Credit Program as specifically defined in ~~§50.49.9(i)~~ of this title.

~~(8379)~~ **Set-Aside**--A reservation of a portion of the available Housing Tax Credits under the State Housing Credit Ceiling to provide financial support for specific types of housing or geographic locations or serve specific types of Applications or Applicants as permitted by the Qualified Allocation Plan on a priority basis. (2306.6702)

~~(840)~~ **State Housing Credit Ceiling**--The limitation on the aggregate amount of Housing Credit Allocations that may be made by the Department during any calendar year, as determined from time to time by the Department in accordance with the Code, §42(h)(3)(C).

~~(854)~~ **Student Eligibility**--Per the Code, §42(i)(3)(D), A unit shall not fail to be treated as a low-income unit merely because it is occupied:

(A) by an individual who is:

(i) a student and receiving assistance under Title IV of the Social Security Act (42 U.S.C. §§601 et seq.), or

(ii) enrolled in a job training program receiving assistance under the Job Training Partnership Act (29 USCS §§1501 et seq., generally; for full classification, consult USCS Tables volumes) or under other similar Federal, State, or local laws, or

(B) entirely by full-time students if such students are:

(i) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

(ii) married and file a joint return.

~~(862)~~ **Tax-Exempt Bond Development**--A Development requesting or having been awarded housing tax credits and which receives a portion of its financing from the proceeds of tax-exempt bonds which are subject to the state volume cap as described in the Code, §42(h)(4), such that the Development does not receive an allocation of tax credit authority from the State Housing Credit Ceiling.

~~(873)~~ **Third Party**--A Third Party is a Person who is not an:

(A) Applicant, General Partner, Developer, or General Contractor, or

(B) an Affiliate or a Related Party to the Applicant, General Partner, Developer or General Contractor, or

(C) Person(s) receiving any portion of the contractor fee or developer fee.

~~(884)~~ **Threshold Criteria**--Criteria used to determine whether the Development satisfies the minimum level of acceptability for consideration as specifically defined in ~~§50.49.9(h)~~ of this title. (2306.6702)

~~(895)~~ **Total Housing Development Cost**--The total of all costs incurred or to be incurred by the Development Owner in acquiring, constructing, rehabilitating and financing a Development, as determined by the Department based on the information contained in the Application. Such costs include reserves and any expenses attributable to commercial areas. Costs associated with the sale or use of Housing Tax Credits to raise equity capital shall also be included in the Total Housing Development Cost. Such costs include but are not limited to syndication and partnership organization costs and fees, filing fees, broker commissions, related attorney and accounting fees, appraisal, engineering, and the environmental site assessment.

~~(9086)~~ **TX-USDA-RHS**--The Rural Housing Services (RHS) of the United States Department of Agriculture (USDA) serving the State of Texas (formerly known as TxFmHA) or its successor.

~~(9187)~~ **Unit**--Any residential rental unit ~~in a Development~~ consisting of an accommodation including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking (such as a microwave), and sanitation. (2306.6702) For purposes of

completing the Rent Schedule for loft or studio type Units (which still must meet the definition of Bedroom), a Unit with 649 square feet or less is considered an efficiency ~~u~~Unit, a Unit with 650 to 899 square feet is considered not more than a one-bedroom Unit, a Unit with 900 to 999 square feet is considered not more than a two-bedroom Unit, a Unit with 1000 to 1199 square feet is considered not more than a three-bedroom Unit, and a Unit with 1200 square feet or more is considered a four bedroom ~~U~~Unit.

(~~9288~~) **Urban/Exurban Area**-- Non-Rural Areas located within the boundaries of a metropolitan Area as designated by the US Office of Management and Budget as of November 1, ~~2005~~2006, or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.), the date Volume III is submitted to the Department.

§50.49.4. State Housing Credit Ceiling.

The Department shall determine the State Housing Credit Ceiling for each calendar year as provided in the Code, §42(h)(3)(C), using such information and guidance as may be made available by the Internal Revenue Service. The Department shall publish each such determination in the *Texas Register* within 30 days after the receipt of such information as is required for that purpose by the Internal Revenue Service. The aggregate amount of commitments of Housing Credit Allocations made by the Department during any calendar year shall not exceed the State Housing Credit Ceiling for such year as provided in the Code, §42. As permitted by §42(h)(4), Housing Credit Allocations made to Tax-Exempt Bond Developments are not included in the State Housing Credit Ceiling.

§50.49.5. Ineligibility; Disqualification and Debarment; Certain Applicant and Development Standards; Representation by Former Board Member or Other Person; Due Diligence, Sworn Affidavit; Appeals and Administrative Deficiencies for Ineligibility, Disqualification and Debarment.

(a) **Ineligibility.** An Application is ineligible if:

(1) The Applicant, Development Owner, Developer or Guarantor has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs; or, (2306.6721(c)(2))

(2) The Applicant, Development Owner, Developer or Guarantor has been convicted of a state or federal crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline; or,

(3) The Applicant, Development Owner, Developer or Guarantor at the time of Application is: subject to an enforcement or disciplinary action under state or federal securities law or by the NASD; is subject to a federal tax lien; or is the subject of an enforcement proceeding with any Governmental Entity; or

(4) The Applicant, Development Owner, Developer or Guarantor with any past due audits has not submitted those past due audits to the Department in a satisfactory format. A Person is not eligible to receive a commitment of Housing Tax Credits from the Department if any audit finding or questioned or disallowed cost is unresolved as of June 1 of each year, or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; or

(5) (2306.6703(a)(1)) At the time of Application or at any time during the two-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been:

(A) a member of the Board; or

(B) the Executive Director, a Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Portfolio Management and Compliance, the Director of Real Estate Analysis, or a manager over housing tax credits employed by the Department.

(6) (2306.6703(a)(2)) The Applicant proposes to replace in less than 15 years any private activity bond financing of the Development described by the Application, unless:

(A) the Applicant proposes to maintain for a period of 30 years or more 100 percent of the Development Units supported by Housing Tax Credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the Area Median Gross Income, adjusted for family size; and

(B) at least one-third of all the units in the Development are public housing units or Section 8 Development-based units; or,

(7) The Development is located in a municipality or in a valid Extra Territorial Jurisdiction (ETJ) of a municipality, or if located completely outside a municipality, a county, that has more than twice the state

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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 reservation is made by the Texas Bond Review Board) unless the Applicant: (2306.6703(a)(4))

(A) has obtained prior approval of the Development from the governing body of the appropriate municipality or county containing the Development; and

(B) has included in the Application a written statement of support from that governing body referencing this rule and authorizing an allocation of housing tax credits for the Development;

(C) For purposes of this paragraph, evidence under subparagraphs (A) and (B) of this paragraph must be received by the Department no later than ~~April 1, April 2, 2006~~2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be considered) and may not be more than one year old from the date the Volume 1 is submitted to the Department; or

(8) The Applicant proposes to construct a new Development proposing Reconstruction, New Construction and/or Rehabilitation that is located one linear mile (measured by a straight line on a map) or less from a Development that: (2306.6703(a)(3))

(A) serves the same type of household as the new Development, regardless of whether the Developments serve families, elderly individuals, or another type of household (Intergenerational Housing is not a type of household as it relates to this restriction);

(B) has received an allocation of Housing Tax Credits (including Tax-Exempt Bond Developments) 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 the Volume I is submitted); and

(C) has not been withdrawn or terminated from the Housing Tax Credit Program.

(D) 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. Section 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. Section 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 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 subparagraphs (A) - (C) of this paragraph. For purposes of this clause, evidence of the local government vote or evidence required by subparagraph (D) of this paragraph must be received by the Department no later than ~~April 1, April 2, 2006~~2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed) and may not be more than one year old.

(E) In determining the age of an existing Ddevelopment as it relates to the application of the three-year period, the Ddevelopment 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 ~~§50.49.9~~(j).

(9) A submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review can not reasonably be performed by the Department, as determined by the Department. If an Application is determined ineligible pursuant to this section, the Application will be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the Termination letter to the Applicant.

(b) Disqualification and Debarment. The Department will disqualify an Application, and/or debar a Person (see §2306.6721, Texas Government Code), if it is determined by the Department that any issues identified in the paragraphs of this subsection exist. The Department may debar a Person for one year from the date of debarment, or until the violation causing the debarment has been remedied, whichever term is longer, if the Department determines the facts warrant it-. Causes for disqualification and debarment include: (2306.6721)

(1) The provision of fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation in the Application or other information submitted to the Department at any stage of the evaluation or approval process; or,

(2) The Applicant, Development Owner, Developer or Guarantor or anyone that has ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with the LURA (or any other document containing an Extended Housing Commitment) or the

program rules in effect for such property as further described in §60.1 of this title on May 1, 2006~~2007~~ or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; (2306.6721(c)(3)) or

(3) The Applicant, Development Owner, Developer or Guarantor or anyone that has ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties outside of the state of Texas has an incidence of Material Noncompliance with the LURA or the program rules in effect for such tax credit property as further described in §60.1 of this title on May 1, 2006~~2007~~ or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; or

(4) The Applicant, Development Owner, Developer, or any Guarantor, or any Affiliate of such entity has been a Principal of any entity that failed to make all loan payments to the Department in accordance with the terms of the loan, as amended, or was otherwise in default with any provisions of any loans from the Department.

(5) The Applicant or the Development Owner that is active in the ownership or Control of one or more tax credit properties in the state of Texas has failed to pay in full any fees within 30 days of when they were billed by the Department, as further described in §50.49.20 of this title; or

(6) the Applicant or a Related Party and any Person who is active in the construction, Rehabilitation, ownership, or Control of the proposed Development, including a General Partner or contractor, and a Principal or Affiliate of a General Partner or contractor, or an individual employed as a lobbyist by the Applicant or a Related Party, communicates with any Board member during the period of time beginning on the date an Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, unless the communication takes place at any board meeting or public hearing held with respect to that Application. Communication with Department staff must be in accordance with §50.49.9(b) of this title; violation of the communication restrictions of §50.49.9(b) is also a basis for disqualification and/or debarment. (2306.1113)

(7) It is determined by the Department's General Counsel that there is evidence that establishes probable cause to believe that an Applicant, Development Owner, Developer, or any of their employees or agents has violated a state revolving door or other standard of conduct or conflict of interest statute, including §2306.6733, Texas Government Code, or a section of Chapter 572, Texas Government Code, in making, advancing, or supporting the Application.

(8) Applicants may be ineligible as further described in §50.49.17(d)(8) of this title.

~~(9) The Applicant or a Related Party has failed to comply in the past with, or materially violates, any condition imposed by the Department in connection with the allocation of Housing Tax Credits, or has repeatedly violated a LURA. (2306.6721(b), (c)(1) and (c)(3)). The Applicant, Development Owner, Developer, Guarantor, or any Affiliate of such entity whose previous funding contracts or commitments have been partially or fully deobligated due to a failure to meet contractual obligations during the 12 months prior to the submission of the applications.~~

(10) The Applicant, Development Owner, Developer, Guarantor, or any Affiliate of such entity whose pre-development loan has not been repaid for the Development at the time of commitment or Bond closing.

(c) Certain Applicant and Development Standards. Notwithstanding any other provision of this section, the Department may not allocate tax credits to a Development proposed by an Applicant if the Department determines that: (2306.223)

(1) the Development is not necessary to provide needed decent, safe, and sanitary housing at rental prices that individuals or families of low and very low-income or families of moderate income can afford;

(2) the Development Owner undertaking the proposed Development will not supply well-planned and well-designed housing for individuals or families of low and very low-income or families of moderate income;

(3) the Development Owner is not financially responsible;

(4) the Development Owner has contracted, or will contract for the proposed Development with, a Developer that:

(A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development;

(B) has breached a contract with a public agency and failed to cure that breach; or

(C) misrepresented to a subcontractor the extent to which the Developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Developer's participation in contracts with the agency and the amount of financial assistance awarded to the Developer by the agency;

(5) the financing of the housing Development is not a public purpose and will not provide a public benefit; and

(6) the Development will be undertaken outside the authority granted by this chapter to the Department and the Development Owner.

(d) Representation by Former Board Member or Other Person. (2306.6733)

(1) A former Board member or a former executive director, deputy executive director, director of multifamily finance production, director of portfolio management and compliance, director of real estate analysis or manager over housing tax credits previously employed by the Department may not:

(A) for compensation, represent an Applicant or one of its Related Parties for an allocation of tax credits before the second anniversary of the date that the Board member's, director's, or manager's service in office or employment with the Department ceased;

(B) represent any Applicant or a Related Party of an Applicant or receive compensation for services rendered on behalf of any Applicant or Related Party regarding the consideration of an Application in which the former board member, director, or manager participated during the period of service in office or employment with the Department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an Applicant or Related Party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the Department ceased.

(2) A Person commits a criminal offense if the Person violates section 2306.6733. An offense under this section is a Class A misdemeanor.

(e) **Due Diligence, Sworn Affidavit.** In exercising due diligence in considering information of possible ineligibility, possible grounds for disqualification and debarment, Applicant and Development standards, possible improper representation or compensation, or similar matters, the Department may request a sworn affidavit or affidavits from the Applicant, Development Owner, Developer, Guarantor, or other persons addressing the matter. If an affidavit determined to be sufficient by the Department is not received by the Department within seven business days of the date of the request by the Department, the Department may terminate the Application.

(f) **Appeals and Administrative Deficiencies for Ineligibility, Disqualification and Debarment.** An Applicant or Person found ineligible, disqualified, debarred or otherwise terminated under subsections (a) - (e) of this section will be notified in accordance with the Administrative Deficiency process described in ~~§50.49.9(d)(4)~~ of this title. They may also utilize the appeals process described in ~~§50.49.17(b)~~ of this title. (2306.6721(d))

~~§50.49.6. Site and Development Restrictions: Floodplain; Ineligible Building Types; Scattered Site Limitations; Credit Amount; Limitations on the Size of Developments; Limitations no Rehabilitation Costs; Unacceptable Sites; Appeals and Administrative Deficiencies for Site and Development Restrictions.~~

(a) **Floodplain.** Any Development proposing New Construction located within the 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the 100 year floodplain. No buildings or roads that are part of a Development proposing Rehabilitation, with the exception of ~~D~~developments with federal funding assistance from HUD or TX USDA-RHS, will be permitted in the 100 year floodplain unless they already meet the requirements established in this subsection for New Construction.

(b) **Ineligible Building Types.** Applications involving Ineligible Building Types as defined in ~~§50.49.3(5249)~~ of this title will not be considered for allocation of tax credits.

(c) **Scattered Site Limitations.** Consistent with ~~§50.49.3(319)~~ of this title, a Development must be financed under a common plan, be owned by the same Person for federal tax purposes, and the buildings may be either located on a single site or contiguous site, or be located on scattered sites and contain only rent-restricted units.

(d) **Credit Amount.** The Department shall issue tax credits only in the amount needed for the financial feasibility and viability of a Development throughout the affordability period. The issuance of tax credits or the determination of any allocation amount in no way represents or purports to warrant the feasibility or viability of

the Development by the Department, or that the Development will qualify for and be able to claim Housing Tax Credits. The Department will limit the allocation of tax credits to no more than \$1.2 million per Development. The Department shall not allocate more than \$2 million of tax credits in any given Application Round to any Applicant, Developer, Related Party or Guarantor; Housing Tax Credits approved by the Board during the ~~2006~~2007 calendar year, including commitments from the ~~2006~~2007 Credit Ceiling and forward commitments from the ~~2007~~2008 Credit Ceiling, are applied to the credit cap limitation for the ~~2006~~2007 Application Round. In order to encourage the capacity enhancement of developers in rural areas, the Department will prorate the credit amount allocated in situations where an Application is submitted in the Rural Regional Allocation and the Development has 76 Units or less. The Department will prorate the credits based on the percentage ownership, if there is an ownership interest, or the proportional percentage of the developer fee received, if this applies to a Developer without an ownership interest. To be considered for this provision, a copy of a Joint Venture Agreement and narrative on how this builds the capacity of the inexperienced developers is required. Tax-Exempt Bond Development Applications are not subject to these Housing Tax Credit limitations, and Tax-Exempt Bond Developments will not count towards the total limit on tax credits per Applicant. The limitation does not apply (2306.6711(b)):

(1) to an entity which raises or provides equity for one or more Developments, solely with respect to its actions in raising or providing equity for such Developments (including syndication related activities as agent on behalf of investors);

(2) to the provision by an entity of "qualified commercial financing" within the meaning of the Code (without regard to the 80% limitation thereof);

(3) to a Qualified Nonprofit Organization or other not-for-profit entity, to the extent that the participation in a Development by such organization consists only of the provision of loan funds, grants or social services; and

(4) to a Development Consultant with respect to the provision of consulting services, provided the Development Consultant fee received for such services does not exceed 10% of the fee to be paid to the Developer (or 20% for Qualified Nonprofit Developments), or \$150,000, whichever is greater.

(e) Limitations on the Size of Developments.

(1) The minimum Development size will be 16 Units if the Development involves Housing Tax Credits. The minimum Development size will be 4 Units if the funding source only involves the Housing Trust Fund or HOME Program.

(2) Rural Developments involving any New Construction (excluding New Construction of non-residential buildings) will be limited to 76 Units. Rural Developments involving only Rehabilitation do not have a size limitation.

(3) Developments involving any New Construction (excluding New Construction of non-residential buildings), that are not Tax-Exempt Bond Developments, will be limited to 252 Total Units, wherein the maximum Department administered Units will be limited to 200 Units. Tax-Exempt Bond Developments will be limited to 252 Total Units. These maximum Unit limitations also apply to those Developments which involve a combination of Rehabilitation, Reconstruction, and New Construction. Developments that consist solely of acquisition/Rehabilitation or Rehabilitation only may exceed the maximum Unit restrictions.

(4) For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is Reconstruction of an Existing Residential Development being constructed to provide replacement of previously existing affordable multifamily units on its site (in a number not to exceed the original units being replaced) or that were originally located within a one mile radius from the proposed Development, the combined Unit total for the Developments may not exceed the maximum allowable Development size, unless the first phase has been completed and has attained Sustaining Occupancy (as defined in §1.31 of this title) for at least six months.

(f) Limitations on the Location of Developments. Staff will only recommend, and the Board may only allocate, housing tax credits from the Credit Ceiling to more than one Development from the Credit Ceiling in the same calendar year if the Developments are, or will be, located more than one linear mile apart as determined by the Department. If the Board forward commits credits from the following year's allocation of credits, the Development is considered to be in the calendar year in which the Board votes, not in the year of the Credit Ceiling. This limitation applies only to communities contained within counties with populations exceeding one million (which for calendar year ~~2006~~2007 are Harris, Dallas, Tarrant and Bexar Counties). For purposes of this rule, any two sites not more than one linear mile apart are deemed to be "in a single community." (2306.6711) This restriction does not apply to the allocation of housing tax credits to Developments financed through the Tax-Exempt Bond program, including the Tax-Exempt Bond Developments under review and existing Tax-Exempt Bond Developments in the Department's portfolio. (2306.67021); or,

(g) Limitations of Development 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 the Applicant:

(A) Proposes only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings); or,

(B) 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. For purposes of this paragraph, evidence of the local government approval must be received by the Department no later than April 2, 2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed). These ineligible census tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(h) Limitations on Developments Proposing to Qualify for a 30% increase in Eligible Basis. Staff will only recommend a 30% increase in Eligible Basis:

(1) If the Development proposing to build in a Hurricane Rita Gulf Opportunity Zone (Rita GO Zone), which was designated as a Difficult to Develop Area as determined by HB4440, is able to be placed in service by December 31, 2008 (or date as revised by the Internal Revenue Service) as certified in the Application; or,

(2) The Development is located in a Qualified Census Tract that has less than 40% Housing Tax Credit Units per households in the tract as established by the U.S. Census Bureau for the most recent Decennial Census. Developments located in a Qualified Census Tract that has in excess of 40% Housing Tax Credit Units per households in the tract are not eligible to qualify for a 30% increase in Eligible Basis, which would otherwise be available for the Development site pursuant to the Code, §42(d)(5)(C), unless the Development is proposing only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings). These ineligible Qualified Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(ig) Rehabilitation Costs. ~~Rehabilitation~~ Developments involving Rehabilitation must establish that the Rehabilitation will substantially improve the condition of the housing and will involve at least \$12,000 per Unit in direct hard costs (including site work, contingency, contractor profit, overhead and general requirements) unless financed with TX-USDA-RHS in which case the minimum is \$6,000.

(ih) Unacceptable Sites. Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.

(ji) Appeals and Administrative Deficiencies for Site and Development Restrictions. An Application or Development found to be in violation under subsections (a) - (h) of this section will be notified in accordance with the Administrative Deficiency process described in §50.49.9(d)(4) of this title. They may also utilize the appeals process described in §50.49.17(b) of this title.

§50.49.7. Regional Allocation Formula; Set-Asides; Redistribution of Credits.

(a) Regional Allocation Formula. As required by §2306.111(d), Texas Government Code, the Department uses a regional distribution formula developed by the Department to distribute credits from the State Housing Credit Ceiling to all urban/exurban areas and rural areas. The formula is based on the need for housing assistance, and the availability of housing resources in those urban/exurban areas and rural areas, and the Department uses the information contained in the Department's annual state low income housing plan and other appropriate data to develop the formula. This formula establishes separate targeted tax credit amounts for rural areas and urban/exurban areas within each of the Uniform State Service Regions. Each Uniform State Service Region's targeted tax credit amount will be published on the Department's web site. The regional allocation for rural areas is referred to as the Rural Regional Allocation and the regional allocation for urban/exurban areas is referred to as the Urban/Exurban Regional Allocation. Developments qualifying for the Rural Regional Allocation must meet the Rural Development definition. At least 5% of each region's allocation for each calendar year shall be allocated to Developments which are financed through TX-USDA-RHS, that meet the definition of a Rural Development, do not exceed 76 Units if proposing any New Construction (excluding New Construction of non-residential buildings), and have filed an "Intent to Request 2006/2007 Housing Tax Credits" form by the Pre-Application submission deadline. These Developments will be attributed to the Rural Regional Allocation in each region where they are located. Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will not be considered under this set-aside. Commitments of 2005/2006 Housing Tax Credits issued by the Board in 2005/2006 will be applied to each Set-Aside, Rural Regional Allocation, Urban/Exurban Regional Allocation and TX-USDA-RHS Allocation for the 2006/2007 Application Round as appropriate.

(b) **Set-Asides.** An Applicant may elect to compete in as many of the following Set-Asides for which the proposed Development qualifies: (2306.111(d))

(1) At least 10% of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of the Code, §42(h)(5). Qualified Nonprofit Organizations must have the Controlling interest in the Qualified Nonprofit Development applying for this Set-Aside. If the organization's Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the controlling managing General Partner. If the organization's Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member. Additionally, a Qualified Nonprofit Development submitting an Application in the nonprofit set-aside must have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or a co-Developer as evidenced in the development agreement. (2306.6729 and 2306.6706(b))

(2) At least 15% of the allocation to each Uniform State Service Region will be set aside for allocation under the At-Risk Development Set-Aside. Through this Set-Aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of Developments designated as At-Risk Developments as defined in §50.49.3(13) of this title. (2306.6714). To qualify as an At-Risk Development, the Applicant must provide evidence that it either is not eligible to renew, retain or preserve any portion of the financial benefit described in §50.49.3(13)(A) of this title, or provide evidence that it will renew, retain or preserve the financial benefit described in §50.49.3(13)(A) of this title; and must have filed an "Intent to Request 2006/2007 Housing Tax Credits" form by the Pre-Application submission deadline.

(c) **Redistribution of Credits.** (2306.111(d)) If any amount of housing tax credits remain after the initial commitment of housing tax credits among the Rural Regional Allocation and Urban/Exurban Regional Allocation within each Uniform State Service Region and among the Set-Asides, the Department may redistribute the credits amongst the different regions and Set-Asides depending on the quality of Applications submitted as evaluated under the factors described in §50.49.9(d) of this title, the need to most closely achieve regional allocation goals and then the level of demand exhibited in the Uniform State Service Regions during the Allocation Round. However as described in subsection (b)(1) of this section, no more than 90% of the State's Housing Credit Ceiling for the calendar year may go to Developments which are not Qualified Nonprofit Developments. If credits will be transferred from a Uniform State Service Region which does not have enough qualified Applications to meet its regional credit distribution amount, then those credits will be apportioned to the other Uniform State Service Regions.

§50.49.8. Pre-Applications for Competitive Housing Tax Credits: Submission; Communication with Departments Staff; Evaluation Process; Threshold Criteria and Review; Results. (2306.6704)

(a) **Pre-Application Submission.** Any Applicant requesting a Housing Credit Allocation may submit a Pre-Application to the Department during the Pre-Application Acceptance Period along with the required Pre-Application Fee as described in §50.49.20 of this title. Only one Pre-Application may be submitted by an Applicant for each site under the State Housing Credit Ceiling. The Pre-Application submission is a voluntary process. While the Pre-Application Acceptance Period is open, Applicants may withdraw their Pre-Application and subsequently file a new Pre-Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized to request the Applicant to provide additional information it deems relevant to clarify information contained in the Pre-Application or to submit documentation for items it considers to be Administrative Deficiencies. The rejection of a Pre-Application shall not preclude an Applicant from submitting an Application with respect to a particular Development or site at the appropriate time.

(b) **Communication with the Department.** Applicants that submit a Pre-Application are restricted from communication with Department staff as provided in §50.49.9(b) of this title. (2306.1113)

(c) **Pre-Application Evaluation Process.** Eligible Pre-Applications will be evaluated for Pre-Application Threshold Criteria. ~~A TX-USDA-RHS 515 Development (only for Rehabilitation) will receive the Pre-Application points further outlined in §50.9(i) of this title upon submission to the Department of an executed TX-USDA-RHS letter indication TX-USDA-RHS has received a Consent Request, also referred to as a preliminary Submittal, as described in 7 CFR 3560.406. Applications involving New Construction that are associated with a TX-USDA-RHS Development are not exempt from Pre-Application and are eligible to compete for the Pre-Application points further outlined in §50.49.9(i) of this title. An Application that has not received confirmation from the state office of RHS of its financing from TX-USDA-RHS may qualify for Pre-Application points, but such points shall be withdrawn upon the Development's receipt of TX-USDA-RHS financing. Pre-Applications that are found to have Administrative Deficiencies will be handled in accordance with §50.49.9(d)(4) of this title. Department review at~~

this stage is limited and not all issues of eligibility and threshold are reviewed at Pre-Application. Acceptance by staff of a Pre-Application does not ensure that an Applicant satisfies all Application eligibility, Threshold or documentation requirements. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or threshold deficiencies at the time of Pre-Application.

(d) **Pre-Application Threshold Criteria and Review.** Applicants submitting a Pre-Application will be required to submit information demonstrating their satisfaction of the Pre-Application Threshold Criteria. The Pre-Applications not meeting the Pre-Application Threshold Criteria will be terminated and the Applicant will receive a written notice to the effect that the Pre-Application Threshold Criteria have not been met. The Department shall not be responsible for the Applicant's failure to meet the Pre-Application Threshold Criteria and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Pre-Application Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. The Pre-Application Threshold Criteria include:

(1) Submission of a "Pre-Application Submission Form" and "Certification of Pre-Application Itemized Self-Score" . The applicant may not change the Self-Score unless requested by the Department in a Deficiency Notice; and

(2) Evidence of property control through March 1, ~~2006~~2007 as evidenced by the documentation required under ~~§50.49.9(h)(7)(A)~~ of this title.

(3) Evidence in the form of a certification that all of the notifications required under this paragraph have been made. ~~Notifications-Requests for Neighborhood Organizations~~ under subparagraph (BA)(i) of this paragraph must be made by the deadlines described in that clause; notifications under subparagraphs (CB)(ii) ~~-(ix)-~~ of this paragraph must be made prior to the close of the Pre-Application Acceptance Period. (2306.6704) Evidence of notification must meet the requirements identified in subparagraph (AB) of this paragraph to all of the individuals and entities identified in subparagraph (CB) of this paragraph. ~~Evidence of such notifications shall include a certification in the format provided by the Department that the Applicant made the notifications to all required individuals and entities in the format provided by the Department on or before the deadlines.~~ (2306.6704)

(A) The Applicant must request Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site as follows:

(i) No later than December 08, 2006, the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Pre-Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format.

(ii) If no reply letter is received from the local elected officials by January 1, 2007, then the Applicant must certify to that fact in the "Pre-Application Notification Certification Form" provided in the Pre-Application.

(iii) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of Pre-Application Submission in the "Pre-Application Notification Certification Form" provided in the Pre-Application.

(A) Each such notice must include, at a minimum, all of the following:

(i) The Applicant's name, address, individual contact name and phone number;
(ii) The Development name, address, city and county;
(iii) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
(iv) Statement of whether the Development proposes New Construction or Rehabilitation;
(v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing, or elderly);
(vi) The approximate total number of Units and approximate total number of low-income Units;

(vii) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;

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~~(viii) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Pre-Application, which are subject to change as annual changes in the area median income occur; and~~

~~(ix) The expected completion date if credits are awarded.~~

~~(B) Not later than the date the Pre-Application is submitted, Notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt return or similar tracking mechanism in the format required in the "Pre-Application Notification Template" provided in the Pre-Application. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials. Evidence of Notification is required in the form of a certification in the "Pre-Application Notification Certification Form" provided in the Pre-Application, although it is encouraged that Applicants retain proof of notifications in the event that the Department requires proof of Notification. Officials to be notified are those officials in office at the time the Pre-Application is submitted.~~

~~(i) Neighborhood Organizations on record with the city, state or county whose boundaries include the proposed Development Site as identified in subsection (A)(iii) of this subparagraph. Applicants must provide evidence that neighborhood organizations were notified pursuant to this subsection. Evidence in the form of a certification must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Neighborhood Organization Request" as outlined in the Application was sent no later than December 20, 2005 to the local elected official for the city or if located outside of a city, then the county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located in a jurisdiction that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. For urban/exurban areas, entities identified in the letter from the local elected official whose boundaries include the proposed Development and whose listed address has the same zip code as the zip code for the Development must be provided with written notification. If any other zip codes exist within a half mile of the Development site, then all entities identified in the letters with those adjacent zip codes must also be provided with written notification. For rural areas, all entities identified in the letters whose listed address is within a half mile of the Development site must be provided with written notification. If the Applicant can certify that there are no neighborhood organizations on any list from the local elected officials which are required to be notified pursuant to this subsection, then such certification in lieu of notification may be acceptable. If no reply letter is received from the local elected officials by January 1, 2006, (or For Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application) then the Applicant must submit a statement attesting to that fact. If an Applicant has knowledge of 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 site, the Applicant must notify those organizations. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format. If the Applicant has no knowledge of neighborhood organizations within whose boundaries the Development is proposed to be located, the Applicant must attest to that fact in the format provided by the Department as part of the Application.~~

~~(ii) Superintendent of the school district containing the Development;~~

~~(iii) Presiding officer of the board of trustees of the school district containing the Development;~~

~~(iv) Mayor of any municipality containing the Development;~~

~~(v) All elected members of the governing body of any municipality containing the Development;~~

~~(vi) Presiding officer of the governing body of the county containing the Development;~~

~~(vii) All elected members of the governing body of the county containing the Development;~~

~~(viii) State senator of the district containing the Development; and~~

~~(ix) State representative of the district containing the Development.~~

(C) Each such notice must include, at a minimum, all of the following:

(i) The Applicant's name, address, individual contact name and phone number;

(ii) The Development name, address, city and county;

(iii) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(iv) Statement of whether the Development proposes New Construction, Reconstruction, or Rehabilitation;

(v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing, or elderly);

(vi) The approximate total number of Units and approximate total number of low-income Units;

(vii) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;

(viii) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Pre-Application, which are subject to change as annual changes in the area median income occur; and

(ix) The expected completion date if credits are awarded.

(e) **Pre-Application Results.** Only Pre-Applications which have satisfied all of the Pre-Application Threshold Criteria requirements set forth in subsection (d) of this section and ~~§50-49.9(i)(132)~~ of this title, will be eligible for Pre-Application points. The order and scores of those Developments released on the Pre-Application Submission Log do not represent a commitment on the part of the Department or the Board to allocate tax credits to any Development and the Department bears no liability for decisions made by Applicants based on the results of the Pre-Application Submission Log. Inclusion of a Development on the Pre-Application Submission Log does not ensure that an Applicant will receive points for a Pre-Application.

§50-49.9. Application: Submission; Communication with Department Employees; Adherence to Obligations; Evaluation Process for Competitive Applications Under the State Housing Credit Ceiling; Evaluation Process for Tax-Exempt Bond Development Applications; Evaluation Process for Rural Rescue Applications Under the ~~2007~~2008 Credit Ceiling; Experience Pre-Certification Procedures; Threshold Criteria; Selection Criteria; Tiebreaker Factors; Staff Recommendations.

(a) **Application Submission.** Any Applicant requesting a Housing Credit Allocation or a Determination Notice must submit an Application, and the required Application fee as described in ~~§50-49.20~~ of this title, to the Department during the Application Acceptance Period. Only complete Applications will be accepted. All required volumes must be appropriately bound as required by the Application Submission Procedures Manual and fully complete for submission and received by the Department not later than 5:00 p.m. on the date the Application is due. Only one Application may be submitted for a site in an Application Round. While the Application Acceptance Period is open, Applicants may withdraw their Application and subsequently file a new Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized, but not required, to request the Applicant to provide additional information it deems relevant to clarify information contained in the Application or to submit documentation for items it considers to be an Administrative Deficiency, including ineligibility criteria, site and development restrictions, and threshold and selection criteria documentation. (2306.6708) An Applicant may not change or supplement an Application in any manner after the filing deadline, and may not add any set-asides, increase their credit amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct request from the Department to remedy an Administrative Deficiency as further described in ~~§50-49.3(1)~~ of this title or by amendment of an Application after a commitment or allocation of tax credits as further described in ~~§50-49.17(d)~~ of this title.

(b) **Communication with Department Employees.** Communication with Department staff by Applicants that submit a Pre-Application or Application must follow the following requirements. During the period beginning on the date a Development Pre-Application or Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person that is active in the construction, rehabilitation, ownership or Control of the proposed Development including a General Partner or contractor and a Principal or Affiliate of a General Partner or contractor, or individual employed as a lobbyist by the Applicant or a Related Party, may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet, so long as that communication satisfies the conditions established under paragraphs (1) - (3) of this subsection. Section ~~50-49.5(b)(6)~~ of this title applies to all communication with Board members. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.

(1) The communication must be restricted to technical or administrative matters directly affecting the Application;

(2) The communication must occur or be received on the premises of the Department during established business hours (emails may be sent and received after business hours);

(3) a record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication. (2306.1113)

(c) **Adherence to Obligations.** (2306.6720, General Appropriation Act, Article VII, Rider 8(a)) All representations, undertakings and commitments made by an Applicant in the application process for a Development, whether with respect to Threshold Criteria, Selection Criteria or otherwise, shall be deemed to be a condition to any Commitment Notice, Determination Notice, or Carryover Allocation for such Development, the violation of which shall be cause for cancellation of such Commitment Notice, Determination Notice, or Carryover Allocation by the Department, and if concerning the ongoing features or operation of the Development, shall be enforceable even if not reflected in the LURA. All such representations are enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, as stated in the representations and in accordance with the LURA. Effective December 1, 2006 (~~meaning this does not apply to amendments received prior to this effective date and does not apply to 2006 Tax Credit Applications~~), if a Development Owner does not produce the Development as represented in the Application and in any amendments approved by the Department subsequent to the Application (unless granted an extension by the Department), or does not provide the necessary evidence for any points received for the Commitment of Development Funding by Local Political Subdivisions by the required deadline (~~unless granted an extension by the Department~~):

(1) the Development Owner must provide a plan to the Department, for approval and subsequent implementation, that incorporates additional amenities to compensate for the non-conforming components; and

(2) the Board will opt either to terminate the Application and rescind the Commitment Notice, Determination Notice or Carryover Allocation Agreement as applicable or the Department must:

(A) Reduce the score ~~by ten points~~ for Applications for tax credits that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development by ten points for the two Application Rounds concurrent to, or following, the date that the non-conforming aspect, or lack of financing, was identified by the Department; and

(B) prohibit eligibility to apply for tax credits for a Tax-Exempt Bond Development that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development for 12 months from the date that the non-conforming aspect, or lack of financing, was identified by the Department.

(d) **Evaluation Process for Competitive Applications Under the State Housing Credit Ceiling.** Applications submitted for competitive consideration under the State Housing Credit Ceiling will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in ~~§50.49.5~~; Applicants will be promptly notified in these instances.

(1) ~~Eligibility Set-Aside~~ and Selection Criteria Review. All Applications will first be reviewed as described in this paragraph. Applications will be confirmed for eligibility ~~under §50.5 of this chapter and Set-Asides eligibility will be confirmed~~. Then, each Application will be preliminarily scored according to the Selection Criteria listed in subsection (i) of this section. When a particular scoring criterion involves multiple points, the Department will award points to the proportionate degree, in its determination, to which a proposed Development complied with that criterion. As necessary to complete this process only, Administrative Deficiencies may be issued to the Applicant. This process will generate a preliminary Department score for every application.

(2) Priority Review Assessment. Each Application will be assessed based on either the Applicant's self-score or the Department's preliminary score, region, and any Set-Asides that the Application indicates it is eligible for, consistent with paragraph (5) of this subsection. Those Applications that appear to be most competitive will be designated as "priority" Applications. Applications that do not appear to be competitive may not be reviewed in detail for Eligibility and Threshold Criteria during the Application Round. The designation of priority is not a stage of the application pursuant to §49.11(a)(7) of this title, and the designations will not be posted to the Department's website until final scoring notices are issued.

(3) Eligibility and Threshold Criteria Review. Applications that are designated as "priority" from the Priority Review Assessment will be evaluated ~~in detail~~ for eligibility under ~~§§50.49.5(a)(7) through (9), 49.5(c), (e), and (f), and 49.6 of this chapter. The remaining portions of the Eligibility Review under §49.5 of this chapter will be performed in the Compliance Evaluation and Eligibility Review as described under (7) of this subparagraph. Priority Applications will also be evaluated and against the Threshold Criteria under §§49.9(h)(1) through (4), (7)(A) and (B), (8), (9), (11), and (15) of this chapter, at minimum. The remaining portions of the Threshold Criteria review may be performed in the Underwriting Evaluation and Criteria review for financial~~

feasibility by the Department's Real Estate Analysis Division as described under (6) of this subparagraph. Applications not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria. To the extent that the review of Threshold Criteria documentation, or submission of Administrative Deficiency documentation, alters the score assigned to the Application, Applicants will be notified of their final score. As Applications are evaluated under this Review process, a final score by the Department may remove the Application from "priority" status at which point other Applications may be designated as "priority" and reviewed under this paragraph.

(4) Administrative Deficiencies. If an Application contains Administrative Deficiencies pursuant to §49.3(1) of this title which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, and Selection, and Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an email, or if an e-mail address is not provided in the Application, by facsimile, email (if an email address is provided by the Applicant) and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within ~~three~~ five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within ~~five~~ seven business days from the deficiency notice date, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. If the applicant fully responds to the Administrative Deficiency Notice within the first business day following the deficiency notice date, the Department will review the documentation submitted and contact the Applicant by the end of the second business day following the deficiency notice date with guidance on items not clarified or corrected to the satisfaction of the Department. If Administrative Deficiencies are submitted to the Department within the first business day following the deficiency notice date, and the Department fails to respond to the Applicant on the second day, the Applicant will be granted one business day after the Department's response to submit the remaining documentation to the Department without a point penalty. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period.

(5) Subsequent Evaluation of Prioritized Applications and Methodology for Award Recommendations to the Board. The Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division - in general these will be those applications identified as "priority". This prioritization order will also be used in making recommendations to the Board as follows:-

(A) Assignments will be determined by first selecting the Applications with the highest scores in the At-Risk Set-Aside and TX-USDA-RHS Allocation within each Uniform State Service Region until the minimum requirements stated in ~~§50.49.7(b)~~ are attained.

(B) Remaining funds within each Uniform State Service Region will then be selected based on the highest scoring Developments in each of the 26 sub-regions, regardless of Set-Aside, in accordance with the requirements under ~~§50.49.7(a)~~ of this title, without exceeding the credit amounts available for a Rural Regional Allocation and Urban/Exurban Regional Allocation in each region.

(C) Funds for the Rural Regional Allocation or Urban/Exurban Regional Allocation for which there are more requests for credits than remaining credits available will be combined in each Uniform State Service Regions. If the next eligible application in the Rural Allocation or Urban/Exurban for a given Uniform State Service Region is less than the remaining credits in a region, then that application is selected; however, if both Rural and Urban/Exurban areas in the region have Applications that are requesting less than the remaining credits in that Uniform State Service Region, then Application in the sub-region whose shortfall of credits being recommended would have been the most significant portion of their targeted sub-regional allocation will be selected. All credits still remaining will be combined with the remaining credits from all other regions and will be allocated to an Application in the sub-region whose shortfall of credits being recommended would have been the most significant portion of their targeted sub-regional allocation. However, once a region's awarded credits exceeds the total allocation for that region no other applications will be selected.

(D) After this priority review has occurred, staff will review priority applications to ensure that at least 10% of the priority applications are qualified Nonprofits to satisfy the Nonprofit Set-Aside. If 10% is not

met, then the Department will add the highest Qualified Nonprofits statewide until the 10% Nonprofit Set-Aside is met. Selection for each of the Set-Asides will take precedence over selection for the Rural Regional Allocation and Urban/Exurban Regional Allocation. Funds for the Rural Regional Allocation or Urban/Exurban Regional Allocation within a region, for which there are no eligible feasible applications, will be redistributed as provided in ~~§50.49.7(c)~~ of this title, Redistribution of Credits. If the Department determines that an allocation recommendation would cause a violation of the \$2 million limit described in ~~§50.49.6(d)~~ of this title, the Department will make its recommendation by selecting the Development(s) that most effectively satisfies(y) the Department's goals in meeting set-aside and regional allocation goals. Based on Application rankings, the Department shall continue to underwrite Applications until the Department has processed enough Applications satisfying the Department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and Set-Aside categories. To enable the Board to establish a Waiting List, the Department shall underwrite as many additional Applications as necessary to ensure that all available housing tax credits are allocated within the period required by law. (2306.6710(a), (b) and (d); 2306.111)

(6) Underwriting Evaluation and Criteria. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits. In determining an appropriate level of housing tax credits, the Department shall, at a minimum, evaluate the cost of the Development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for the county in which the Development is to be located; if certifications are unavailable for the county, then the metropolitan statistical area in which the Development is to be located; or if certifications are unavailable under the county or the metropolitan statistical area, then the Uniform State Service Region in which the Development is to be located. Underwriting of a Development will include a determination by the Department, pursuant to the Code, §42, that the amount of credits recommended for commitment to a Development is necessary for the financial feasibility of the Development and its long-term viability as a qualified rent restricted housing property. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title. To the extent that the review of Administrative Deficiency documentation during this review alters the score assigned to the Application, Applicants will be re-notified of their final score. Receipt of feasibility points under ~~§50.49.9(i)(1)~~ of this title does not ensure that an Application will be considered feasible during the feasibility evaluation by the Real Estate Analysis Division and conversely, a Development may be found feasible during the feasibility evaluation by the Real Estate Analysis Division even if it did not receive points under ~~§50.49.9(i)(1)~~ of this title. (2306.6711(b); 2306.6710(d))

(A) The Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation.

(B) The Department will reduce the Applicant's estimate of Developer's and/or Contractor fees in instances where these exceed the fee limits determined by the Department. The Developer's fee limits will be calculated as follows:

(i) For New Construction Developments the developer fee cannot exceed 15% of the project's Total Eligible Basis, less developer fees or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less.

(ii) For acquisition/Rehabilitation Developments that are eligible for acquisition credits, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, and will be limited to Tax-Exempt Bond Developments. The Rehabilitation portion of the developer fee cannot exceed 15% of the total Rehabilitation basis, less developer fee, and will be limited to the Competitive Housing Tax Credit Developments.

In the instance where the Contractor is an Affiliate of the Development Owner and both parties are claiming fees, Contractor's overhead, profit, and general requirements, the Department shall be authorized to reduce the total fees estimated to a level that it determines to be reasonable under the circumstances. Further, the Department shall deny or reduce the amount of Housing Tax Credits allocated with respect to any portion of costs which it deems excessive or unreasonable. Excessive or unreasonable costs may include developer fee attributable to Related Party acquisition costs. The Department also may require bids or Third Party estimates in support of the costs proposed by any Applicant.

(7) Compliance Evaluation and Eligibility Review. After the Department has determined which Developments will be reviewed for financial feasibility, those same Developments will be reviewed for evaluation of the compliance status by the Department's Portfolio Management and Compliance Division, in accordance with Chapter 60 of this title, and will be evaluated in detail for eligibility under ~~§§49.5(a)(1) through (5)~~, 49.5(b), and 49.5(d) of this chapter.

(8) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its assigns. Such inspection will evaluate the site based upon the criteria set forth in the Site

Evaluation form provided in the Application and the inspector shall provide a written report of such site evaluation. The evaluations shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational, and educational facilities, and employment centers. The site's appearance to prospective tenants and its accessibility via the existing transportation infrastructure and public transportation systems shall be considered. "Unacceptable" sites include, without limitation, those containing a non-mitigable environmental factor that may adversely affect the health and safety of the residents. For Developments applying under the TX-USDA-RHS Set-Aside, the Department may rely on the physical site inspection performed by TX-USDA-RHS.

(e) Evaluation Process for Tax-Exempt Bond Development Applications. Applications submitted for consideration as Tax-Exempt Bond Developments will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in §50.49.5; Applicants will be promptly notified in these instances.

(1) Eligibility and Threshold Criteria Review. All Tax-Exempt Bond Development Applications will first be reviewed as described in this paragraph. Tax-Exempt Bond Development Applications will be confirmed for eligibility under §50.49.5 and §50.49.6 of this chapter and Applications will be evaluated in detail against the Threshold Criteria. Tax-Exempt Bond Development Applications found to be ineligible and/or not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria.

(2) Administrative Deficiencies. If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies ~~as further described in subsection (d)(4) of this section.~~ Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. All Administrative Deficiencies shall be clarified or corrected to the satisfaction of the Department within five business days. Failure to resolve all outstanding deficiencies within 5 business days from the deficiency notice date will result in a penalty fee of \$500 for each business day the deficiency remains unresolved. Applications with unresolved deficiencies after the 10th day from the issuance of the deficiency notice will be terminated. The Applicant will be responsible for the payment of fees accrued pursuant to this section regardless of any termination pursuant to this section. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. The Application will not be presented to the Board for consideration until all outstanding fees have been paid.

(3) Underwriting and Compliance Evaluation and Criteria. The Department will assign all eligible Tax-Exempt Bond Development Applications meeting the eligibility and threshold requirements for review for financial feasibility by the Department's Real Estate Analysis Division, or the Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation. The Department or external party shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits as further described in subsection (d)(6) of this section. Tax-Exempt Bond Development Applications will also be reviewed for evaluation of the compliance status by the Department's Portfolio Management and Compliance Division in accordance with Chapter 60 of this title.

(4) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its assigns as further described in subsection (d)(8) of this section.

(f) Evaluation Process for Rural Rescue Applications Under the ~~2007~~2008 Credit Ceiling. Applications submitted for consideration as Rural Rescue Applications pursuant to §50.49.10(c) of this title under the ~~2007~~2008 Credit Ceiling will be reviewed according to the process outlined in this subsection. A Rural Rescue Application, during any of these stages of review, may be determined to be ineligible as further described in §50.49.5 of this chapter; Applicants will be promptly notified in these instances.

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(1) Eligibility and Threshold Criteria Review. All Rural Rescue Applications will first be reviewed as described in this paragraph. Rural Rescue Applications will be confirmed for eligibility under ~~§50.49.5~~ and ~~§50.49.6~~ of this chapter, Set-Aside and Rural Rescue eligibility will be confirmed, and Applications will be evaluated in detail against the Threshold Criteria. Applications found to be ineligible and/or not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria.

(2) Selection Criteria Review. All Rural Rescue Applications will be evaluated against the Selection Criteria and a score will be assigned to the Application. The minimum score for Selection Criteria is not required to be achieved to be eligible.

(3) Administrative Deficiencies. If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies as further described in subsection (d)(4) of this section.

(4) Underwriting and Compliance Evaluation and Criteria. The Department will assign all eligible ~~Tax-Exempt Bond Development~~ Rural Rescue Applications meeting the eligibility and threshold requirements for review for financial feasibility by the Department's Real Estate Analysis Division, or the Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation. The Department or external party shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits as further described in subsection (d)(6) of this section. ~~Tax-Exempt Bond~~ Rural Rescue Development Applications will also be reviewed for evaluation of the previous participation by the Department's Portfolio Management and Compliance Division in accordance with Chapter 60 of this title.

(5) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its assigns as further described in subsection (d)(8) of this section.

(g) Experience Pre-Certification Procedures. No later than 14 days prior to the close of the Application Acceptance Period, an Applicant must submit the documents required in this subsection to obtain the required pre-certification. For Applications submitted for Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) all of the documents in this section must be submitted with the Application. Upon receipt of the evidence required under this section, a certification from the Department will be provided to the Applicant for inclusion in their Application(s). Evidence must show that one of the Development Owner's General Partners, the Developer or their Principals have a record of successfully constructing or developing residential units (single family or multifamily) in the capacity of owner, General Partner or Developer. If a Public Housing Authority organized an entity for the purpose of developing residential units the Public Housing Authority shall be considered a principal for the purpose of this requirement. If the individual requesting the certification was not the Development Owner, General Partner or Developer, but was the individual within one of those entities doing the work associated with the development of the units, the individual must show that the units were successfully developed as required below, and also provide written confirmation from the entity involved stating that the individual was the person responsible for the development. If rehabilitation experience is being claimed to qualify for an Application involving new construction, then the rehabilitation must have been substantial and involved at least \$6,000 of direct hard cost per unit.

(1) The term "successfully" is defined as acting in a capacity as the owner, General Partner, or Developer of:

(A) at least 100 residential units or, if less than 100 residential units, 80 percent of the total number of Units the Applicant is applying to build (e.g. you must have 40 units successfully built to apply for 50 Units); or

(B) at least 36 residential units if the Development ~~applying for credits~~ is a Rural Development; or

(C) at least 25 residential units if the Development ~~applying for credits~~ has 36 or fewer total Units.

(2) One or more of the following documents must be submitted: American Institute of Architects (AIA) Document A111 - Standard Form of Agreement Between Owner & Contractor, AIA Document G704 - Certificate of Substantial Completion, IRS Form 8609, HUD Form 9822, development agreements, partnership agreements, or other documentation satisfactory to the Department verifying that the Development Owner's General Partner,

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partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals have the required experience. If submitting the IRS Form 8609, only one form per Development is required. The evidence must clearly indicate:

(A) that the Development has been completed (i.e. Development Agreements, Partnership Agreements, etc. must be accompanied by certificates of completion);

(B) that the names on the forms and agreements tie back to the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals as listed in the Application; and

(C) the number of units completed or substantially completed.

(h) **Threshold Criteria.** The following Threshold Criteria listed in this subsection are mandatory requirements at the time of Application submission unless specifically indicated otherwise:

(1) Completion and submission of the Application, which includes the entire Uniform Application and any other supplemental forms which may be required by the Department. (2306.1111)

(2) Completion and submission of the Site Packet as provided in the Application.

(3) Set-Aside Eligibility. Documentation must be provided that confirms eligibility for all Set-Asides under which the Application is seeking funding as required in the Application.

(4) Certifications. The "Certification Form" provided in the Application confirming the following items:

(A) A certification of the basic amenities selected for the Development. All Developments, must meet at least the minimum threshold of points. These points are not associated with the selection criteria points in subsection (i) of this section. The amenities selected must be made available for the benefit of all tenants. If fees in addition to rent are charged for amenities reserved for an individual tenant's use, then the amenity may not be included among those provided to satisfy this requirement. Developments must provide a minimum number of common amenities in relation to the Development size being proposed. The amenities selected must be selected from clause (ii) of this subparagraph and made available for the benefit of all tenants. Developments proposing Rehabilitation or proposing Single Room Occupancy will receive 1.5 points for every point double points for each item. Applications for non-contiguous scattered site housing, including New Construction, Reconstruction, Rehabilitation, and single-family design, will have the threshold test applied based on the number of Units per individual site, and must submit a separate certification for each individual site under control by the Applicant individual site. Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §50.49.17(d) of this title and may result in a decrease in awarded credits if the substitution or change includes a decrease in cost, or in the cancellation of a Commitment Notice or Carryover Allocation if all of the Common Amenities claimed are no longer met.

(i) Applications must meet a minimum threshold of points (based on the total number of Units in the Development) as follows:

(I) Total Units are less than 13, 0 points are required to meet Threshold for Single Room Occupancy Rehabilitation and 1 point is required to meet threshold for all other Developments for New Construction;

(II) Total Units are between 13 and 24, 1 point is required to meet Threshold;

(III) Total Units are between 25 and 40, 3 points are required to meet Threshold;

(IV) Total Units are between 41 and 76, 6 points are required to meet Threshold;

(V) Total Units are between 77 and 99, 9 points are required to meet Threshold;

(VI) Total Units are between 100 and 149, 12 points are required to meet Threshold;

(VII) Total Units are between 150 and 199, 15 points are required to meet Threshold;

(VIII) Total Units are 200 or more, 18 points are required to meet Threshold.

(ii) Amenities for selection include those items listed in subclauses (I) - (XXIV) of this clause. Both Developments designed for families and Qualified Elderly Developments can earn points for providing each identified amenity unless the item is specifically restricted to one type of Development. All amenities must meet accessibility standards as further described in §50.49.9(h)(4)(D) and (F) of this title. An Application can only count an amenity once, therefore combined functions (a library which is part of a community room) only count under one category. Spaces for activities must be sized appropriately to serve the anticipated population.

(I) Full perimeter fencing (2 points);

(II) Controlled gate access (1 point);

(III) Gazebo w/sitting area (1 point);

(IV) Accessible walking/ jogging path separate from a sidewalk (1 point);

~~(V) Community gardens (1 point);~~

(V) Community laundry room with at least one front loading washer (1 point);

(VI) ~~Public telephone(s)~~ Emergency 911 telephones accessible and available to tenants 24 hours a day (2 points);

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- (VIII) Barbecue grills and picnic tables--at least one of each for every 50 Units (1 point);
- ~~(VIII)~~ Covered pavilion that includes barbecue grills and tables (2 points);
- (IX) Swimming pool (3 points);
- (X) Furnished fitness center (2 points);
- ~~(XI)~~ Equipped and functioning Business Center (computer and fax machine) or Equipped Computer Learning Center with 1 computer and 1 fax machine for every 25 Units proposed in the Application, and 1 printer for every 2 computers (2 points);
- ~~(XII)~~ Furnished Community room (1 point);
- ~~(XIII)~~ Library with an accessible sitting area (separate from the community room) (1 point);
- ~~(XIV)~~ Enclosed sun porch or covered community porch/patio (2 points);
- ~~(XV)~~ Service coordinator office in addition to leasing offices (1 point);
- ~~(XVI)~~ Senior Activity Room (Arts and Crafts, etc.)--Only Qualified Elderly Developments Eligible (2 points);
- ~~(XVII)~~ Health Screening Room (1 point);
- ~~(XIII)~~ Secured Entry (elevator buildings only)--(1 point);
- ~~(XIX)~~ Horseshoe pit, Lawn Bowling Courts, Croquet Courts, Bocce Ball Courts, Pputting Green or Sshuffleboard Court--Only Qualified Elderly Developments Eligible (1 point);
- ~~(XX)~~ Community Dining Room w/full or warming kitchen--Only Qualified Elderly Developments Eligible (3 points);
- (XXI) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot, --Only Family Developments Eligible--Only Family Developments Eligible (1 Point)
- ~~(XXII)~~ Two Children's ~~Playgrounds~~ Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each--Only Family Developments Eligible (2 points) ~~or one point for one playground or one tot lot;~~
- ~~(XXIII)~~ Sport Court (Tennis, Basketball or Volleyball)--Only Family Developments Eligible (2 points); or
- ~~(XXIV)~~ Furnished and staffed Children's Activity Center--Only Family Developments Eligible (3 points).

(B) A certification that the Development will have all of the following Unit Amenities (not required for Single Room Occupancy Developments). If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to satisfy this requirement. Any future changes in these amenities, or substitution of these amenities, may result in a decrease in awarded credits if the substitution or change includes a decrease in cost or in a cancellation of a Commitment Notice or Carryover Allocation if the Threshold Criteria are no longer met.

- (i) All New Construction Units must be built with three networks: One network installed for phone using CAT5e or better wiring; a second network for data installed using CAT5e or better wiring; and a third network for TV services using COAX cable;
- (ii) ~~Mini Blinds~~ Blinds or window coverings for all windows;
- (iii) Dishwasher and Disposal (not required for TX-USDA-RHS Developments);
- (iv) Refrigerator;
- (v) Oven/Range;
- (vi) Exhaust/vent fans in bathrooms; and
- (vii) Ceiling fans in living areas and bedrooms.

(C) A certification that the Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or if no local building codes are in place then to the most recent version of the International Building Code.

(D) A certification that the Applicant is in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.); the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.); Fair Housing Accessibility; the Texas Fair Housing Act; and that the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, the Code Requirements for Housing Accessibility 2000 (or as amended from time to time) produced by the International Code Council and the Texas Accessibility Standards. (2306.257; 2306.6705(7))

(E) A certification that the Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses, and that the Applicant will submit a report at least once in each 90-day period following the date of the Commitment Notice until the Cost Certification is submitted, in a format prescribed by the

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Department and provided at the time a Commitment Notice is received, on the percentage of businesses with which the Applicant has contracted that qualify as Minority Owned Businesses. (2306.6734)

(F) Pursuant to §2306.6722, any Development supported with a housing tax credit allocation shall comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C. The Applicant must provide a certification from an accredited architect or Department-approved third party accessibility specialist, that the Development will comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C and this subparagraph. ~~This includes that for all New Construction Developments, a minimum of five percent of the total dwelling Units or at least one Unit, whichever is greater, shall be made accessible for individuals with mobility impairments. A Unit that is on an accessible route and is adaptable and otherwise compliant with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS), shall be deemed to meet this requirement. An additional two percent of the total dwelling Units, or at least one Unit, whichever is greater, shall be accessible for individuals with hearing or vision impairments.~~ (2306.6722 and 2306.6730)

(G) ~~Additionally, in Developments involving New Construction (excluding New Construction of non-residential buildings) where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A similar certification will also be required after the Development is completed from an inspector, architect, or accessibility specialist. Any Developments designed as single family structures must also satisfy the requirements of §2306.514, Texas Government Code.~~ (2306.6722 and 2306.6730)

(H) A certification that the Development will be equipped with energy saving devices that meet the standard statewide energy code adopted by the state energy conservation office, unless historic preservation codes permit otherwise for a Development involving historic preservation. All Units must be air-conditioned. The measures must be certified by the Development architect as being included in the design of each tax credit Unit at the time the 10% Test Documentation is submitted and in actual construction upon Cost Certification. (2306.6725(b)(1))

(I) A certification that the Development will be built by a General Contractor that satisfies the requirements of the General Appropriation Act, Article VII, Rider 8(c) applicable to the Department which requires that the General Contractor hired by the Development Owner or the Applicant, if the Applicant serves as General Contractor, must demonstrate a history of constructing similar types of housing without the use of federal tax credits.

(J) A certification that the Development Owner agrees to establish a reserve account consistent with 2306.186 Texas Government Code and as further described in §1.37 of this title.

(K) A certification that the Applicant, Developer, or any employee or agent of the Applicant has not formed a neighborhood organization for purposes of subsection 50.49.9(i)(2) of this title, has not given money or a gift to cause the neighborhood organization to take its position of support or opposition, nor has provided any assistance to a neighborhood organization to meet the requirements under 50.49.9(i)(2) of this title which are not allowed under that subsection, as it relates to the Applicant's Application or any other Application under consideration in ~~2006~~2007.

(L) A certification that the Development Owner will cooperate with the local public housing authority, to the extent there are any, in accepting tenants from their waiting lists (42(m)(1)(C)(vi)).

(M) A certification that the Development Owner will contract with a Management Company through out the Compliance Period that will perform criminal background checks on all adult tenants, head and co head of households.

(5) Design Items. This exhibit will provide:

(A) All of the architectural drawings identified in clauses (i) - (iii) of this subparagraph. While full size design or construction documents are not required, the drawings must have an accurate and legible scale and show the dimensions. All Developments involving New Construction, or conversion of existing buildings not configured in the Unit pattern proposed in the Application, must provide all of the items identified in clauses (i) - (iii) of this subparagraph. For Developments involving Rehabilitation for which the Unit configurations are not being altered, only the items identified in clauses (i) and (ii) of this subparagraph are required:

(i) a site plan which:

(I) is consistent with the number of Units and Unit mix specified in the "Rent Schedule" provided in the Application;

(II) identifies all residential and common buildings and amenities; and

(III) clearly delineates the flood plain boundary lines and all easements shown in the site survey;

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(ii) floor plans and elevations for each type of residential building and each common area building clearly depicting the height of each floor and a percentage estimate of the exterior composition; and

(iii) Unit floor plans for each type of Unit showing special accessibility and energy features. The net rentable areas these Unit floor plans represent should be consistent with those shown in the "Rent Schedule" provided in the application; and

(B) A boundary survey of the proposed Development site and of the property to be purchased. In cases where more property is purchased than the proposed site of the Development, the survey or plat must show the survey calls for both the larger site and the subject site. The survey does not have to be recent; but it must show the property purchased and the property proposed for development. In cases where the site of the Development is only a part of the site being purchased, the depiction or drawing of the Development portion may be professionally compiled and drawn by an architect, engineer or surveyor.

(6) Evidence of the Development's development costs and corresponding credit request and syndication information as described in subparagraphs (A) - (G) of this paragraph.

(A) A written narrative describing the financing plan for the Development, including any non-traditional financing arrangements; the use of funds with respect to the Development; the funding sources for the Development including construction, permanent and bridge loans, rents, operating subsidies, and replacement reserves; and the commitment status of the funding sources for the Development. This information must be consistent with the information provided throughout the Application. (2306.6705(a)(1))

(B) All Developments must submit the "Development Cost Schedule" provided in the Application. This exhibit must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(C) Provide a letter of commitment from a syndicator that, at a minimum, provides an estimate of the amount of equity dollars expected to be raised for the Development in conjunction with the amount of housing tax credits requested for allocation to the Development Owner, including pay-in schedules, syndicator consulting fees and other syndication costs. No syndication costs should be included in the Eligible Basis. (2306.6705(a)(2) and (3))

(D) For Developments located in a Qualified Census Tract (QCT) as determined by the Secretary of HUD and qualifying for a 30% increase in Eligible Basis, pursuant to the Code, §42(d)(5)(C), if permitted under 49.6(h) of this title, Applicants must submit a copy of the census map clearly showing that the proposed Development is located within a QCT. Census tract numbers must be clearly marked on the map, and must be identical to the QCT number stated in the Department's Reference Manual.

(E) Rehabilitation Developments must submit a Property Condition Assessment meeting the requirements of paragraph (14)(C) of this subsection.

(F) If offsite costs are included in the budget as a line item, or embedded in the site acquisition contract, or referenced in the utility provider letters, then the supplemental form "Off Site Cost Breakdown" must be provided.

(G) If projected site work costs include unusual or extraordinary items or exceed \$7,500 per Unit, then the Applicant must provide a detailed cost breakdown prepared by a Third Party engineer or architect, and a letter from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible.

(7) Evidence of readiness to proceed as evidenced by at least one of the items under each of subparagraphs (A) - (D) of this paragraph:

(A) Evidence of Property control in the name of the Development Owner. If the evidence is not in the name of the Development Owner, then the documentation should reflect an expressed ability to transfer the rights to the Development Owner. All of the sellers of the proposed Property for the 36 months prior to the first day of the Application Acceptance Period and their relationship, if any, to members of the Development team must be identified at the time of Application (not required at Pre-Application).- One of the following items described in clauses (i) - (iii) of this subparagraph must be provided:

(i) a recorded warranty deed with corresponding executed settlement statement; or

(ii) a contract for lease (the minimum term of the lease must be at least 45 years) which is valid for the entire period the Development is under consideration for tax credits; or

(iii) a contract for sale, an exclusive option to purchase, ~~or earnest money contract (which must show that the earnest money has been deposited)~~ which is valid for the entire period the Development is under consideration for tax credits. For Tax Exempt Bond Developments site control must be valid for 150 days after the Application Acceptance Period or through the full reservation and allocation period whichever is longer. If the acquisition can be characterized as an identity of interest transaction as described in §1.32(e)(1)(B), the following (I) and (II) of this clause must be provided (not required at Pre-Application):

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(I) documentation of the original acquisition cost in the form of a settlement statement or, if a settlement statement is not available, the seller's most recent audited financial statement indicating the asset value for the proposed Property, and

(II) if the original acquisition cost evidenced by (I) of this clause is less than the acquisition cost claimed in the application,

(-a-) an appraisal meeting the requirements of paragraph (14)(D) of this subsection, and

(-b-) any other verifiable costs of owning, holding, or improving the Property that when added to the value from subclause (I) of this clause justifies the Applicant's proposed acquisition amount.

(-1-) For land-only transactions, documentation of owning, holding or improving costs since the original acquisition date may include Property taxes, interest expense, a calculated return on equity at a rate consistent with the historical returns of similar risks, the cost of any physical improvements made to the Property, the cost of rezoning, replatting or developing the Property, or any costs to provide or improve access to the Property.

(-2-) For transactions which include existing buildings that will be rehabilitated or otherwise maintained as part of the Development, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the Property, a calculated return on equity at a rate consistent with the historical returns of similar risks, and allow the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the Property and avoid foreclosure.

(iv) As described in clauses (ii) and (iii) of this title, Property control must be continuous. Closing on the Property is acceptable, as long as evidence is provided that there was no period in which control was not retained.

(B) Evidence from the appropriate local municipal authority that satisfies one of clauses (i) - (iii) of this subparagraph. Documentation may be from more than one department of the municipal authority and must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period. (2306.6705(5))

(i) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision which does not have a zoning ordinance; the letter must also state that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan, comprehensive plan, or other local planning document; or if no such planning document exists, then the letter from the local municipal authority must state that there is a need for affordable housing.

(ii) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that:

(I) the Development is permitted under the provisions of the zoning ordinance that applies to the location of the Development ~~or that there is not a zoning requirement~~; or

(II) the Applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied, and a time schedule for completion of appropriate zoning. The Applicant must also provide at the time of Application a copy of the application for appropriate zoning filed with the local entity responsible for zoning approval and proof of delivery of that application in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. Final approval of appropriate zoning must be achieved and documentation of acceptable zoning for the Development, as proposed in the Application, must be provided to the Department at the time the Commitment Fee, or Determination Notice Fee, is paid. If this evidence is not provided with the Commitment Fee, any commitment of credits will be rescinded. No extensions may be requested for the deadline for submitting evidence of final approval of appropriate zoning.

(iii) In the case of a Rehabilitation Development, if the property is currently a non-conforming use as presently zoned, a letter which discusses the items in subclauses (I) - (IV) of this clause:

(I) a detailed narrative of the nature of non-conformance;

(II) the applicable destruction threshold;

(III) owner's rights to reconstruct in the event of damage; and

(IV) penalties for noncompliance.

(C) Evidence of interim and permanent financing sufficient to fund the proposed Total Housing Development Cost less any other funds requested from the Department and any other sources documented in the Application. Any local, state or federal financing identified in this section which restricts household incomes at any AMGI lower than restrictions required pursuant to the Rules must be identified in the Rent Schedule and the local, state or federal income restrictions must include corresponding rent levels that do not exceed 30% of the income limitation in accordance with §42(g), Internal Revenue Code. The income and corresponding rent

restrictions will be continuously maintained over the compliance and extended use period as specified in the LURA. Such evidence must be consistent with the sources and uses of funds represented in the Application and shall be provided in one or more of the following forms described in clauses (i) - (iv) of this subparagraph:

(i) bona fide financing in place as evidenced by:

(I) a valid and binding loan agreement;

(II) deed(s) of trust in the name of the Development Owner expressly allowing transfer to the Development Owner; and

(III) for TX-USDA-RHS 515 Developments involving Rehabilitation, an executed TX-USDA-RHS letter indicating TX-USDA-RHS has received a Consent Request, also referred to as a Preliminary Submittal, as described in 7 CFR 3560.406; or,

(ii) bona fide commitment or term sheet for the interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the Development Owner and which has been executed by the lender (the term of the loan must be for a minimum of 15 years with at least a 30 year amortization). The commitment must state an expiration date and all the terms and conditions applicable to the financing including the mechanism for determining the interest rate, if applicable, and the anticipated interest rate and any required Guarantors. Such a commitment may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; or,

(iii) any Federal, State or local gap financing, whether of soft or hard debt, must be identified at the time of Application as evidenced by ~~At a minimum:~~

(I), evidence from the lending agency that an application for funding has been made or from the Applicant indicating an intent to apply for funding; and

(II) a term sheet which clearly describes the amount and terms of the funding, and the date by which the funding determination will be made and any commitment issued, must be submitted; and-

(III) Evidence of application for funding from another Department program is not required except as indicated on the Uniform Application, as long as the Department funding is on a concurrent funding period with the Application submitted and the Applicant clearly indicates that such an Application has been filed as required by the Application Submission Procedures Manual; and -

(IV) If the commitment from any the other funding source identified in this subparagraph has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the other funding source, the Commitment Notice may will be rescinded; or

(iv) if the Development will be financed through more than 5% of Development Owner contributions, provide a letter from an Third Party CPA verifying the capacity of the Development Owner to provide the proposed financing with funds that are not otherwise committed together with a letter from the Development Owner's bank or banks confirming that sufficient funds are available to the Development Owner. Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(D) Provide the documents in clause (i) - (iii) of this subparagraph:

(i) a copy of the full legal description

(ii) a current valuation report from the county tax appraisal district and documentation of the current total property tax rate for the proposed Property, and

(iii) a copy of:

(I) the current title policy which shows that the ownership (or leasehold) of the land/Development is vested in the exact name of the Development Owner; or

(II) a current title commitment with the proposed insured matching exactly the name of the Development Owner and the title of the Property/Development vested in the exact name of the seller or lessor as indicated on the sales contract or lease.

(III) if the title policy or commitment is more than six months old as of the day the Application Acceptance Period closes, then a letter from the title company indicating that nothing further has transpired on the policy or commitment.

(8) Evidence in the form of a certification of all of the notifications described in the subparagraphs of this paragraph. Such notices must be prepared in accordance with the "Public Notifications" certification statement provided in the Application.

~~(A) Evidence of notification in the form of a certification that the Applicant met meeting the requirements and deadlines identified in clause (i) through of this subparagraph to all of the individuals and entities identified in clause (iii) of this subparagraph. Evidence of such notifications must be in the form of a certification in the format provided by the Department that the Applicant made the notifications to all required individuals and entities in the format provided by the Department on or before the deadlines. Notification must~~

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not be older than three months from the first day of the Application Acceptance Period. (2306.6705(9)) If evidence of these notifications was submitted with the Pre-Application Threshold for the same Application and satisfied the Department's review of Pre-Application Threshold, then no additional notification is required at Application, except that re-notification is required by tax credit Applicants who have submitted a change in the Application, whether from Pre-Application to Application or as a result of a deficiency that reflects a total Unit increase of greater than 10%, a total increase of greater than 10% for any given level of AMGI, or a change to the population being served (elderly, Intergenerational Housing or family). For Applications submitted for Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.), notifications and proof thereof must not be older than three months prior to the date the Volume III of the Application is submitted.

(i) The Applicant must request Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site from local elected officials as follows:

(I) No later than January 15, 2007 (or for Tax-Exempt Bond Applications, Rural Rescue, or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., not later than 21 days prior to submission of the Threshold documentation), the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format.

(II) If no reply letter is received from the local elected officials by February 25, 2007, (or For Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application), then the Applicant must certify to that fact in the "Application Notification Certification Form" provided in the Application.

(III) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of the submission of the Application, in the "Application Notification Certification Form" provided in the Application.

(i) Each such notice must include, at a minimum, all of the following:

- (I) The Applicant's name, address, individual contact name and phone number;
- (II) The Development name, address, city and county;
- (III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
- (IV) Statement of whether the Development proposes New Construction or Rehabilitation;
- (V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing or elderly);
- (VI) The approximate total number of Units and approximate total number of low-income Units;
- (VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;
- (VIII) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Application, which are subject to change as annual changes in the area median income occur; and
- (IX) The expected completion date if credits are awarded.

(ii) Not later than the date the Application is submitted, notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt return or similar tracking mechanism e-mail, fax or mail with registered receipt in the format required in the "Application Notification Template" provided in the Application. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials. Evidence of Notification is required in the form of a certification in the "Application Notification Certification Form" provided in the Application, although it is encouraged that Applicants retain proof of notifications in the event that the Department requires proof of Notification. Officials to be notified are those officials in office at the time the Application is submitted.

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~~(ii) Notification must be sent to all of the following individuals and entities. Officials to be notified are those officials in office at the time the Application is submitted.~~

~~(I) Neighborhood Organizations on record with the state or county whose boundaries include the proposed Development Site as identified in (i)(III) of this subparagraph. Applicants must provide evidence that neighborhood organizations were notified pursuant to this subsection. Evidence in the form of a certification must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Neighborhood Organization Request" as outlined in the Application was sent no later than January 15, 2006 (or for Tax-Exempt Bond Applications or Rural Rescue Applications not later than 21 days prior to submission of the Threshold documentation) to the local elected official for the city or if located outside of a city, then the county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located in a jurisdiction that has only at large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. For urban/exurban areas, entities identified in the letters from the local elected official whose boundaries include the proposed Development and whose listed address has the same zip code as the zip code for the Development site must be provided with written notification. If any other zip codes exist within a half mile of the Development site, then all entities identified in the letters with those adjacent zip codes must also be provided with written notification. For rural areas, all entities identified in the letters whose listed address is within a half mile of the Development site must be provided with written notification. If the Applicant can certify that there are no neighborhood organizations on a list from the local elected officials which are required to be notified pursuant to this subsection, then such certification in lieu of notification may be acceptable. If no reply letter is received from the local elected officials by February 25, 2006, (or For Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application) then the Applicant must submit a statement attesting to that fact. If an Applicant has knowledge of 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 site, the Applicant must notify those organizations. In the event that local elected officials refer the Applicant to another source, the Applicant must also request neighborhood organizations from that source in the same format. If the Applicant has no knowledge of neighborhood organizations within whose boundaries the Development is proposed to be located, the Applicant must attest to that fact in the format provided by the Department as part of the Application.~~

- ~~(II) Superintendent of the school district containing the Development;~~
- ~~(III) Presiding officer of the board of trustees of the school district containing the Development;~~
- ~~(IV) Mayor of the governing body of any municipality containing the Development;~~
- ~~(V) All elected members of the governing body of any municipality containing the Development;~~
- ~~(VI) Presiding officer of the governing body of the county containing the Development;~~
- ~~(VII) All elected members of the governing body of the county containing the Development;~~
- ~~(VIII) State senator of the district containing the Development; and~~
- ~~(IX) State representative of the district containing the Development.~~

~~(iii) Each such notice must include, at a minimum, all of the following:~~

- ~~(I) The Applicant's name, address, individual contact name and phone number;~~
- ~~(II) The Development name, address, city and county;~~
- ~~(III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;~~
- ~~(IV) Statement of whether the Development proposes New Construction, Reconstruction, or Rehabilitation;~~
- ~~(V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing or elderly);~~
- ~~(VI) The approximate total number of Units and approximate total number of low-income Units;~~
- ~~(VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;~~
- ~~(VIII) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those~~

that are effective at the time of the Application, which are subject to change as annual changes in the area median income occur; and

(IX) The expected completion date if credits are awarded.

(B) Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development Site prior to the date the Application is submitted. Scattered site Developments must install a sign on each Development Site. For Tax-Exempt Bond Developments the sign must be installed no later than 30 days after the Department's receipt of Volumes I and II, regardless of the Priority of the application or the Issuer, the sign must be installed within thirty (30) days of the Department's receipt of Volumes I and II or thirty (30) days prior to the Bond public hearing date, whichever is earlier. Evidence submitted with the Application must include photographs of the site with the installed sign and invoice receipt confirming installation from the entity that installed the sign. The sign must be at least 4 feet by 8 feet in size and located within twenty feet of, and facing, the main road adjacent to the site. The sign shall be continuously maintained on the site until the day that the Board takes final action on the Application for the Development. The information and lettering on the sign must meet the requirements identified in the Application. For Tax-Exempt Bond Developments ~~for which the Department is not the issuer of the bonds,~~ regardless of the issuer, the Applicant must certify to the fact that the date, time and location of the TEFRA hearing are indicated on the sign as soon as the hearing has been scheduled. As an alternative to installing a Public Notification Sign and at the same required time, the Applicant may instead, at the Applicant's option, mail written notification to those addresses described in either clause (i) or (ii) of this subparagraph. This written notification must include the information otherwise required for the sign as provided in the Application. If the Applicant chooses to provide this mailed notice in lieu of signage, the final Application must include a map of the proposed Development site and mark the distance required by clause (i) or (ii) of this subparagraph, up to 1,000 feet, showing street names and addresses; a list of all addresses the notice was mailed to; an exact copy of the notice that was mailed; and a certification that the notice was mailed through the U.S. Postal Service and stating the date of mailing. For Tax-Exempt Bond Development, regardless of the issuer, the notification must also include the date, time and location of the bond public hearing date and must be mailed within thirty (30) days of the Department's receipt of the Volume I and II or thirty (30) days prior to the bond public hearing date, whichever is earlier. If the option in clause (i) of this subparagraph is used, then evidence must be provided affirming the local zoning notification requirements.

(i) All addresses required for notification by local zoning notification requirements. For example, if the local zoning notification requirement is notification to all those addresses within 200 feet, then that would be the distance used for this purpose; or

(ii) For Developments located in communities that do not have zoning, communities that do not require a zoning notification, or those located outside of a municipality, all addresses located within 1,000 feet of any part of the proposed Development site.

(C) If any of the Units in the Development are occupied at the time of Application, then the Applicant must certify that they have notified each tenant at the Development and let the tenants know of the Department's public hearing schedule for comment on submitted Applications.

(9) Evidence of the Development's proposed ownership structure and the Applicant's previous experience as described in subparagraphs (A) - ~~(D)~~ of this paragraph.

(A) Chart which clearly illustrates the complete organizational structure of the final proposed Development Owner and of any Developer or Guarantor, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner or the Developer or Guarantor, as applicable, whether directly or through one or more subsidiaries. Nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors must be included in this exhibit.

(B) Each Applicant, Development Owner, Developer or Guarantor, or any entity shown on an organizational chart as described in subparagraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, shall provide the following documentation, as applicable:

(i) For entities that are not yet formed but are to be formed either in or outside of the state of Texas, a certificate of reservation of the entity name from the Texas Secretary of State; or

(ii) For existing entities whether formed in or outside of the state of Texas, evidence that the entity has the authority to do business in Texas or has applied for such authority.

(C) Evidence that each entity shown on the organizational chart described in subparagraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, has provided a copy of the completed and executed Previous Participation and Background Certification Form to the Department. Nonprofit entities, public housing authorities and publicly traded corporations are required to submit documentation for the entities involved; documentation for individual board members and executive directors is required for this exhibit. Any Person receiving more than 10% of the Developer fee will also be required to submit documents for this exhibit. The ~~2006~~2007 versions of these forms, as required in the Uniform Application, must be submitted. Units of local government are also required to submit this document. The form must include

a list of all developments that are, or were, previously under ownership or Control of the Person. All participation in any TDHCA funded or monitored activity, including non-housing activities, must be disclosed.

~~(D) Evidence in the form of a certification from the Applicant, that each entity shown on the organizational chart described in subparagraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, and has, or has had, ownership or Control of affordable housing, being housing that receives any form of financing and/or assistance from any Governmental Entity for the purpose of enhancing affordability to persons of low or moderate income, outside the state of Texas, that such Persons have submitted the appropriate "National Previous Participation and Background Certification Form" to the appropriate Housing Credit Agency for each state in which they have developed or operated affordable housing. Nonprofit entities and public housing authorities are only required to submit documentation for the entity itself; documentation for board members and executive directors is not required for this exhibit. Any Person receiving more than 10% of the Developer fee will also be required to submit documents for this exhibit. This form is only necessary when the Developments involved are outside the state of Texas. An original form is not required.~~

(ED) Evidence, in the form of a certification, that one of the Development Owner's General Partners, the Developer or their Principals have a record of successfully constructing or developing residential units in the capacity of owner, General Partner or Developer. Evidence must be a certification from the Department that the Person with the experience satisfies this exhibit, as further described under subsection (g)(1) of this section. Applicants must request this certification at least fourteen days prior to the close of the Application Acceptance Period. Applicants must ensure that the Person whose name is on the certification appears in the organizational chart provided in subparagraph (A) of this paragraph.

(10) Evidence of the Development's projected income and operating expenses as described in subparagraphs (A) - (D) of this paragraph:

(A) All Developments must provide a 30-year proforma estimate of operating expenses and supporting documentation used to generate projections (operating statements from comparable properties).

(B) If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, any related contract or other agreement securing those funds or proof of Application must be provided, which at a minimum identifies the source and annual amount of the funds, the number of Units receiving the funds, and the term and expiration date of the contract or other agreement. (2306.6705(a)(4))

(C) Applicant must provide documentation from the source of the "Utility Allowance" estimate used in completing the Rent Schedule provided in the Application. This exhibit must clearly indicate which utility costs are included in the estimate. If there is more than one entity (Section 8 administrator, public housing authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided.

(D) Occupied Developments undergoing Rehabilitation must also submit the items described in clauses (i) - (iv) of this subparagraph.

(i) The items in subclauses (I) and (II) of this clause are required unless the current property owner is unwilling to provide the required documentation. In that case, submit a signed statement as to its inability to provide all documentation as described.

(I) Submit at least one of the following:

(-a-) historical monthly operating statements of the subject Development for 12 consecutive months ending not more than 3 months from the first day of the Application Acceptance Period;

(-b-) The two most recent consecutive annual operating statement summaries;

(-c-) the most recent consecutive six months of operating statements and the most recent available annual operating summary;

(-d-) all monthly or annual operating summaries available and a written statement from the seller refusing to supply any other summaries or expressing the inability to supply any other summaries, and any other supporting documentation used to generate projections may be provided; and

(II) a rent roll not more than 6 months old as of the first day the Application Acceptance Period, that discloses the terms and rate of the lease, rental rates offered at the date of the rent roll, Unit mix, tenant names or vacancy, and dates of first occupancy and expiration of lease.

(ii) a written explanation of the process used to notify and consult with the tenants in preparing the Application; (2306.6705(a)(6))

(iii) For Intergenerational Applications or Qualified Elderly Developments, identification of the number of existing tenants qualified under the target population elected under this title;

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(ivii) a relocation plan outlining relocation requirements and a budget with an identified funding source; and (2306.6705(a)(6))

(iv) if applicable, evidence that the relocation plan has been submitted to the appropriate legal agency. (2306.6705(a)(6))

(11) Applications involving Nonprofit General Partners and Qualified Nonprofit Developments.

(A) All Applications involving a nonprofit General Partner, regardless of the Set-Aside applied under, must submit all of the documents described in clauses (i) and (ii) of this subparagraph: (2306.6706)

(i) an IRS determination letter which states that the nonprofit organization is a 501(c)(3) or (4) entity or; and

(ii) the "Nonprofit Participation Exhibit."

(B) Additionally, all Applications applying under the Nonprofit Set-Aside, established under ~~§50.49.7~~(b)(1) of this title, must also provide the following information with respect to the Qualified Nonprofit Organization as described in clauses (i) - (vii) of this subparagraph.

~~(i) copy of the page from the articles of incorporation or bylaws indicating that one of the exempt purposes of the nonprofit organization is to provide low-income housing;~~

~~(ii) copy of the page from the articles of incorporation or bylaws indicating that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;~~

(iii) a Third Party legal opinion stating:

(I) that the nonprofit organization is not affiliated with or Controlled by a for-profit organization and the basis for that opinion, and

(II) that the nonprofit organization is eligible, as further described, for a Housing Credit Allocation from the Nonprofit Set-Aside and the basis for that opinion. Eligibility is contingent upon the nonprofit organization Controlling the Development, or if the organization's Application is filed on behalf of a limited partnership, or limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member; and otherwise meet the requirements of the Code, §42(h)(5),

(III) that one of the exempt purposes of the nonprofit organization is to provide low-income housing, and

(IV) that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board, and

(V) that the Qualified Nonprofit Development will have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or co-Developer as evidenced in the development agreement; and

~~(iv) a copy of the nonprofit organization's most recent audited financial statement; and~~

~~(v) a certification that the Qualified Nonprofit Development will have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or co-Developer as evidenced in the development agreement.~~

(vii) evidence in the form of a certification that a majority of the members of the nonprofit organization's board of directors principally reside:

(I) in this state, if the Development is located in a ~~Rural a~~Area; or

(II) not more than 90 miles from the Development, if the Development is not located in a ~~Rural a~~Area.

(12) Applicants applying for acquisition credits must provide must provide

(A) an appraisal meeting the requirements of subparagraph (14)(D) of this subsection, ~~and~~

(B) an "Acquisition of Existing Buildings Form-," and

(C) a Third Party legal opinion stating that the proposed acquisition meets the requirements of the Code, §42(d)(2)(B).

(13) Evidence of Financial Statement and Authorization to Release Credit Information. The financial statements and authorization to release credit information must be unbound and clearly labeled. A "Financial Statement and Authorization to Release Credit Information" must be completed and signed for any General Partner, Developer or Guarantor and any Person that has ownership interest in the Development Owner, General Partner, Developer, or Guarantor. Nonprofit entities, public housing authorities and publicly traded corporations are only required to submit documentation for the entities involved; documentation for individual board members and executive directors is not required for this exhibit.

(A) Financial statements for an individual must not be older than 90 days from the ~~date of Application submission~~first day of the Application Acceptance Period.

(B) Financial statements for partnerships or corporations should be for the most recent fiscal year ended 90 days ~~prior to the date of Application submission~~from the first day of the Application Acceptance Period. An audited financial statement should be provided, if available, and all partnership or corporate

financials must be certified. Financial statements are required for an entity even if the entity is wholly-owned by a Person who has submitted this document as an individual.

(C) Entities that have not yet been formed and entities that have been formed recently but have no assets, liabilities, or net worth are not required to submit this documentation, but must submit a statement with their Application that this is the case.

(14) Supplemental Threshold Reports. All Applications must include documents under subparagraph (A) and (B) of this paragraph. If required under paragraph (6) of this subsection, a Property Condition Assessment as described in subparagraph (C) of this paragraph must be submitted. If required under paragraph (7) or (12) of this subsection, an appraisal as described in subparagraph (D) of this paragraph must be submitted. All submissions must meet the requirements stated in subparagraphs (E) - (G) of this paragraph.

(A) A Phase I Environmental Site Assessment (ESA) report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 12 months prior to the first day of the Application Acceptance Period. In

the event that a Phase I Environmental Site Assessment on the Development is more than 12 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated letter or updated report dated not more than three months prior to the first day of the Application Acceptance Period from the Person or organization which prepared the initial assessment confirming that the site has been re-inspected and reaffirming the conclusions of the initial report or identifying the changes since the initial report; and

(iii) prepared in accordance with the Department's Environmental Site Assessment Rules and Guidelines, §1.35 of this title.

(iv) Developments whose funds have been obligated by TX-USDA-RHS will not be required to supply this information; however, the Applicants of such Developments are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

(B) A comprehensive Market Analysis report:

(i) prepared by a Third Party Qualified Market Analyst approved by the Department in accordance with the approval process outlined in the Market Analysis Rules and Guidelines, §1.33 of this title;

(ii) dated not more than 6 months prior to the first day of the Application Acceptance Period. In the event that a Market Analysis is more than 6 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated Market Analysis from the Person or organization which prepared the initial report; however the Department will not accept any Market Analysis which is more than 12 months old as of the first day of the Application Acceptance Period; and

(iii) prepared in accordance with the methodology prescribed in the Department's Market Analysis Rules and Guidelines, §1.33 of this title.

(iv) For Applications in the TX-USDA-RHS Set-Aside proposing acquisition and Rehabilitation with residential structures at or above 80% occupancy at the time of Application Submission, the appraisal, required under paragraph (7) or (12) of this subsection and prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Department's Appraisal Rules and Guidelines, §1.34 of this title, will satisfy the requirement for a Market Analysis; however the Department may request additional information as needed. (2306.67055) (§42(m)(1)(A)(iii))

(C) A Property Condition Assessment (PCA) report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 36 months prior to the first day of the Application Acceptance Period. In the event that the PCA report is more than 3 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated PCA report from the Person or organization which prepared the initial report; however the Department will not accept any PCA report which is more than 6 months old as of the first day of the Application Acceptance Period; and

(iii) prepared in accordance with the Department's Property Condition and Assessment Rules and Guidelines, §1.36 of this title.

(iv) For Developments which require a capital needs assessment from TX-USDA-RHS, the capital needs assessment may be substituted and may be more than 6 months old, as long as TX-USDA-RHS has confirmed in writing that the existing capital needs assessment is still acceptable.

(D) An appraisal report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 6 months prior to the first day of the Application Acceptance Period. In the event that an appraisal is more than 6 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated appraisal from the Person or organization which

prepared the initial report; however the Department will not accept any appraisal which is more than 12 months old as of the first day of the Application Acceptance Period; and

(iii) prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Department's Appraisal Rules and Guidelines, §1.34 of this title.

(iv) For Developments which require an appraisal from TX-USDA-RHS, the appraisal may be more than 6 months old, as long as TX-USDA-RHS has confirmed in writing that the existing appraisal is still acceptable.

(E) Inserted at the front of each of these reports must be a transmittal letter from the individual preparing the report that states that the Department is granted full authority to rely on the findings and conclusions of the report. The transmittal letter must also state the report preparer has read and understood the Department rules specific to the report found at §§1.33 - 1.36.

(F) All Applicants acknowledge by virtue of filing an Application that the Department is not bound by any opinion expressed in the report. The Department may determine from time to time that information not required in the Department's Rules and Guidelines will be relevant to the Department's evaluation of the need for the Development and the allocation of the requested Housing Credit Allocation Amount. The Department may request additional information from the report provider or revisions to the report to meet this need. In instances of non-response by the report provider, the Department may substitute in-house analysis.

(G) The requirements for each of the reports identified in subparagraphs (A) - (C) of this paragraph can be satisfied in either of the methods identified in clauses (i) or (ii) of this subparagraph and meet the requirements of clause (iii) of this subparagraph.

(i) Upon Application submission, the documentation for each of these exhibits may be submitted in its entirety; or

(ii) Upon Application submission, the Applicant may provide evidence in the form of an executed engagement letter with the party performing each of the individual reports that the required exhibit has been commissioned to be performed and that the delivery date will be no later than ~~April 1, April 2, 2006~~2007. In addition to the submission of the engagement letter with the Application, a map must be provided that reflects the Qualified Market Analyst's intended market area. Subsequently, the entire exhibit must be submitted on or before 5:00 p.m. CST, ~~April 1, April 2, 2006~~2007. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration.

(iii) A single hard copy of the report and a searchable soft copy in the format of a single file containing all information and exhibits in the hard copy report, presented in the order they appear in the hard copy report on a CD-R clearly labeled with the report type, Development name, and Development location are required.

(15) Self-Scoring. Applicant's self-score must be completed on the "Application Self-Scoring Form." An Applicant may not adjust the Application Self Scoring Form without a request from the Department as a result of an Administrative Deficiency.

(i) **Selection Criteria.** All Applications will be scored and ranked using the point system identified in this subsection. Unless otherwise stated, ~~When applicable,~~ use normal rounding. Points other than (2) and (6) of this subsection will not be awarded unless requested in the Self Scoring Form. All Applications, with the exception of TX-USDA-RHS Applications, must receive a final score totaling a minimum of 105, not including any points awarded or deducted pursuant to (2) and (6) of this subsection ~~425 points~~ to be eligible for an allocation of Housing Tax Credits. Maximum Total Points: 21509.

(1) **Financial Feasibility of the Development.** Financial Feasibility of the Development based on the supporting financial data required in the Application that will include a Development underwriting pro forma from the permanent or construction lender. (2306.6710(b)(1)(A)) Applications may qualify to receive 28 points for this item. No partial points will be awarded. Evidence will include the documentation required for this exhibit, as reflected in the Application submitted, in addition to the commitment letter required under subsection (h)(7)(C) of this section. The supporting financial data shall include:

(A) a thirty year pro forma prepared by the permanent or construction lender;

(i) specifically identifying each of the first ~~five~~ten years and every fifth year thereafter;-

(ii) specifically identifying underlying assumptions including, but not limited to general growth factor applied to income and expense; and

(iii) indicating ~~The pro forma must indicate~~ that the ~~D~~development ~~pro forma~~ maintains a minimum 1.150 debt coverage ratio throughout the initial thirty years proposed for all third party lenders that require scheduled repayment;-; and

~~(B) In addition, a statement in the commitment letter must state indicating that the lender's assessment finds that the Development will be feasible for thirty years.~~

~~(C) Points will be awarded if these criteria are met. No partial points will be awarded. For Developments receiving financing from TX-USDA-RHS, the form entitled "Sources and Uses Comprehensive Evaluation for Multi-Family Housing Loans" or other form deemed acceptable by the Department shall meet the requirements of this section.~~

(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site. Points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. (§2306.6710(b)(1)(B); §2306.6725(a)(2)). It is possible for points to be awarded or deducted based on written statements from organizations that were not identified by the process utilized for notification purposes under subsection (h)(8)(A)(ii)(I) of this section if the organization provides the information and documentation required below. It is also possible that neighborhood organizations that were initially identified as appropriate organizations for purposes of the notification requirements will subsequently be determined by the Department not to meet the requirements for scoring.

(A) Basic Submission Requirements for Scoring. Each neighborhood organization may submit one letter (and enclosures) that represents the organization's input. In order to receive a point score, the letter (and enclosures) must be received or postmarked (or similar tracking system) by the Department no later than ~~March April 1, 2006~~2007, for letters relating to Applications that submitted a Pre-Application, or April 2, 2007 if a Pre-Application was not submitted. Letters should be addressed to the Texas Department of Housing and Community Affairs, "Attention: Executive Director (Neighborhood Input)." Letters received after ~~April 1, 2006~~the applicable deadline will be summarized for the Board's information and consideration, but will not affect the score for the Application. The organization's letter (and enclosures) must:

(i) state the name and location of the proposed Development on which input is provided. A letter may provide input on only one proposed Development; if an organization is eligible to provide input on additional Developments, each Development must be addressed in a separate letter;

(ii) certify that the letter is signed by the person with the authority to sign on behalf of the neighborhood organization~~the chairman of the board, chief executive officer, or comparable head of the organization~~, and provide the street and/or mailing addresses, day and evening phone numbers, and e-mail addresses and/or facsimile numbers for the signer of the letter and for one additional contact for the organization;

(iii) establish/certify that the organization has boundaries, ~~state what the boundaries are, and establish and~~ that the boundaries in effect December 1, 2006 contain the proposed ~~D~~development site. ~~A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;~~

(iv) establish/certify that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils ~~(only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the Rehabilitation or Reconstruction demolition/ New Construction of the property Development occupied by the residents).~~ "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations-," unless the large organization is a parent organization of smaller organizations whose purpose, and composition would otherwise meet the requirements of this definition. ~~Organizations whose boundaries include an entire city are generally not "neighborhood organizations-," unless the city organization is a parent organization of smaller organizations whose purpose, and composition would otherwise meet the requirements of this definition.~~

(v) include documentation showing that the organization is on record as of ~~March 1~~December 1, 2006 with the state or county in which the Development is proposed to be located. A record from the Secretary of State showing that the organization is incorporated or from the county clerk showing that the organization is on record with the county is sufficient. For a property owners association, a record from the county showing that the organization's management certificate is on record is sufficient. The documentation must be from the state or county and be current. If an organization's status with the Secretary of State is shown as "forfeited,"

“dissolved,” or any similar status in the documentation provided by the organization, the organization will not be considered on record with the state, unless corrected in a deficiency response. It is insufficient to be “on record” to provide only a request to the county or a state entity to be placed on record or to show that the organization has corresponded with such an entity or used its services or programs. ~~It is insufficient to show that the organization is on record with a city. There are two As an options~~ to be considered on record with the Department (and thereby the state);:

~~(I) The neighborhood organization may submit a letter from the city showing that the organization was on record with a city as of December 1, 2006 may be submitted including a contact name with a mailing address and phone number; name and position of officers; and a written description and map of the organization’s geographical boundaries must be received by the Department no later than March 1, 2006 with the QCP Package to place the organization on record with the state effective December 1, 2006. The letter should be addressed to the Texas Department of Housing and Community Affairs, “Attention: Executive Director (Recording of Neighborhood Organization)”-; or~~

~~(II) The neighborhood organization may submit a letter including a contact name with a mailing address and phone number; and a written description and map of the organization’s geographical boundaries, as well as proof that the boundaries described were in effect as of December 1, 2006. Under this option, a certification will not suffice. This request must be received no later than February 15, 2007. Acceptance of this documentation by the Department will be effective December 1, 2006 and will satisfy the “on record with the state” requirement, but is not a determination that the organization is a “neighborhood organization” or that other requirements are met. The Department is permitted to issue a deficiency notice for this registration process and if satisfied, the organization will still be deemed to be timely placed on record with the state.~~

~~(vi) accurately state certify that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant (the seller of land is not considered to be an agent of the Application) in the 20062007 Tax Credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the “TDHCA Information Packet for Neighborhoods” to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any “production” assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).~~

~~(vii) state the total number of members of the organization and provide a brief description of the process used to determine the members’ position of support or opposition. While not required, the organization is encouraged to hold a meeting to which all the members of the organization are invited to consider whether the organization should support, oppose, or be neutral on the proposed Development, and to have the membership vote on whether the organization should support, oppose, or be neutral on the proposed Development. The organization is also encouraged to invite the developer to this meeting.~~

~~(viii) include the organization’s articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.~~

~~(ixviii) The boundaries in effect for the organization on March 1, 2006, will be those boundaries utilized for the purposes of evaluating these letters and determining eligibility. The organization must accurately certify that the boundaries in effect December 1, 2006 are those identified in the letter and that Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization to satisfy eligibility for this item; a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site.~~

~~(ix) Letters from organizations, and subsequent correspondence from organizations, may not be provided via the Applicant which includes facsimile and email communication.~~

~~(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization’s support for or opposition to the proposed Development.~~

~~(i) The score awarded for each letter for this exhibit will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. The number of points to be allocated to each organization’s letter will be based on the organization’s letter and evidence enclosed with the letter. The final score will be determined by the Executive Director. The Department may investigate a matter and contact the Applicant and neighborhood organizations for more information. The~~

Department may consider any relevant information specified in letters from other neighborhood organizations regarding a Development in determining a score.

(ii) The Department highly values quality public input addressed to the merits of a Development. Input that points out matters that are specific to the neighborhood, the proposed site, the proposed Development, or Developer are valued. If a proposed Development is permitted by the existing or pending zoning or absence of zoning, concerns addressed by the allowable land use that are related to any multifamily development may generally be considered to have been addressed at the local level through the land use planning process. Input concerning positive efforts or the lack of efforts by the Applicant to inform and communicate with the neighborhood about the proposed Development is highly valued. If the neighborhood organization refuses to communicate with the Applicant the efforts of the Applicant will not be considered negative. Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) In general, letters that meet the requirements of this paragraph and

(I) ~~establish three or more reasons~~ at least one reason for support or opposition will be scored the maximum points for either support (+24 points) or opposition (zero);

~~(II) establish two reasons for support or opposition will be scored up to +18 points for support or +6 points for opposition;~~

~~(III) establish one reason for support or opposition will be scored +13 points for support or +11 points for opposition;~~

~~(IV)~~ that do not establish a reason for support or opposition or that are unclear will be considered ineligible and scored as neutral (+12 points).

(iv) Applications for which there are multiple eligible letters received, an average score will be applied to the Application.

~~(iv)~~ Applications for which no letters from neighborhood organizations are scored will receive a neutral score of +12 points.

(C) Basic Submission Deficiencies. The Department is authorized but not required to request that the neighborhood organization provide additional information or documentation the Department deems relevant to clarify information contained in the organization's letter (and enclosures). If the Department determines to request additional information from an organization, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised. This potential deficiency process does not extend any deadline required above for the "Quantifiable Community Participation" process. An organization may not submit additional information or documentation after the applicable deadlines ~~April 1, 2006~~ deadline except in response to an e-mail or facsimile from the Department specifically requesting additional information.

(3) **The Income Levels of Tenants of the Development.** Applications may qualify to receive up to 22 points for qualifying under only one of subparagraphs (A) - (F) of this paragraph. To qualify for these points, the household tenant incomes must not be higher than permitted by the AMGI level- Households receiving any Section 8 voucher rental subsidies, Tenant Based Rental Assistance (TBRA), or similar rental assistance may not occupy the Units designated for points under this section (excluding 100% Project Based Section 8.) The Development Owner, upon making selections for this exhibit, will set aside Units at the levels of AMGI and will maintain the percentage of such Units occupied by households who do not receive Section 8 voucher rental subsidies, TBRA, or similar rental assistance continuously over the compliance and extended use period as specified in the LURA. These income levels require corresponding rent levels that do not exceed 30% of the income limitation in accordance with §42(g), Internal Revenue Code. (2306.6710(b)(1)(C); 2306.111(g)(3)(B); 2306.6710(e); 42(m)(1)(B)(ii)(I); 2306.111(g)(3)(E))

(A) 22 points if at least 80% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

(B) 22 points if at least 10% of the Total Units in the Development are set-aside with incomes at or below 30% of AMGI; or

(C) 20 points if at least 60% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

(D) 18 points if at least 40% of the Total Units in the Development are set-aside with incomes at or below a combination of 50% and 30% of AMGI in which at least 5% of the Total Units are at or below 30% of AMGI; or

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(E) 16 points if at least 40% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

(F) 14 points if at least 35% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI.

(4) **The Size and Quality of the Units (Development Characteristics).** Applications may qualify to receive up to 20 points. Applications may qualify for points under both subparagraphs (A) and (B) of this paragraph. (2306.6710(b)(1)(D); 42(m)(1)(C)(iii))

(A) **Size of the Units.** Applications may qualify to receive 6 points. The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Six points for this item will be automatically granted for Applications involving Rehabilitation, Developments receiving funding from TX-USDA-RHS, or Developments proposing single room occupancy without meeting these square footage minimums if requested in the Self Scoring Form. The square feet of all of the Units in the Development, for each type of Unit, must be at least the minimum noted below.

(i) 500 square feet for an efficiency unit;

(ii) 650 square feet for a non-elderly one bedroom unit; 550 square feet for an elderly one bedroom unit;

(iii) 900 square feet for a non-elderly two bedroom unit; 750 square feet for an elderly two bedroom unit;

(iv) 1,000 square feet for a three bedroom unit; and

(v) 1,200 square feet for a four bedroom unit.

(B) **Quality of the Units.** Applications may qualify to receive up to 14 points. Applications in which Developments provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in clauses (i) - (xx) of this subparagraph, not to exceed 14 points in total. Applications involving scattered site Developments must have all at least half of the Units located with a specific amenity to count for points. Applications involving Rehabilitation or single room occupancy may 1.5 double the points for listed for each item, not to exceed 14 points in total.

(i) Covered entries (1 point);

(ii) Nine foot ceilings in living room and all bedrooms (at minimum) (1 point);

(iii) Microwave ovens (1 point);

(iv) Self-cleaning or continuous cleaning ovens (1 point);

(v) Ceiling fixtures in all rooms (light with ceiling fan in living area and all bedrooms) (1 point);

(vi) Refrigerator with icemaker (1 point);

(vii) Laundry connections (2 points);

(viii) Storage room or closet, of approximately 9 square feet or greater, which does not include bedroom, entryway or linen closets - does not need to be in the Unit but must be on the property site (1 point);

(ix) Laundry equipment (washers and dryers) for each individual unit including a front loading washer and dryer in required UFAS compliant Units (3 points);

(x) Thirty year architectural shingle roofing (1 point);

(xi) Covered patios or covered balconies (1 point);

(xii) Covered parking (including garages) of at least one covered space per Unit (2 points);

(xiii) 100% masonry on exterior, which can include stucco, cementitious board products, concrete brick and mortarless concrete masonry, but not EIFS ~~or~~ synthetic stucco (3 points);

(xiv) Greater than 75% masonry on exterior, which can include stucco and cementitious board products, concrete brick and mortarless concrete masonry, but not EIFS ~~or~~ synthetic stucco ~~EIFS~~ (1 points);

(xv) Use of energy efficient alternative construction materials (for example, Structural Insulated Panel construction) with wall insulation at a minimum of R-20 (3 points).

(xvi) R-15 Walls / R-30 Ceilings (rating of wall system) (3 points);

(xvii) 14 SEER HVAC for New Construction or radiant barrier in the attic for Rehabilitation (3 points);(WG)

(xviii) Energy Star ~~or equivalently~~ rated refrigerators and dishwashers (2 points); or

(xix) High Speed Internet service to all Units at no cost to residents (2 points).

(xx) Fire sprinklers in all Units (2 points).

(5) **The Commitment of Development Funding by Local Political Subdivisions.** Applications may qualify to receive up to 18 points for qualifying under this paragraph. An Applicant may only submit one ~~several~~ sources to substantiate points for this section in the Application, but may ~~not~~ substitute any source in response to a Deficiency Notice or after the Application has been submitted to the Department. Use normal rounding (2306.6710(b)(1)(E)) Evidence that the proposed Development has received an allocation of funds for on-site development costs from a Local Political Subdivision or a properly-created governmental instrumentality thereof.

An Applicant may receive points under this subparagraph even if the government instrumentality's creating statute states that the entity is not itself a "political subdivision." An Applicant whose Development receives a commitment from a governmental instrumentality with the legal authority to act on behalf of a Local Political Subdivision is also eligible for such points. In addition to loans or grants, in-kind contributions such as donation of land or waivers of fees such as building permits, water and sewer tap fees, or similar contributions that provide a tangible economic benefit that results in a quantifiable cost reduction to benefit the Development will be acceptable to qualify for these points. Points will be determined on a sliding scale based on the amount per Unit. Evidence to be submitted with the Application must include a copy of the commitment of funds; a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received; or a certification of intent to apply for funding that indicates the funding entity and program to which the application will be submitted, the loan amount to be applied for and the specific proposed terms. For in-kind contributions, evidence must be submitted in the Application from Local Political Subdivision or a properly-created governmental instrumentality thereof to substantiate the value of the in-kind contributions claimed for points as well as a statement of how the contribution will benefit the Development. At the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the local political subdivision for the sufficient local funding to the Department. If the funding commitment from the local political subdivision has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the local political subdivision's funds, the Commitment Notice will be rescinded and the credits reallocated. No funds from TDHCA's HOME (with the exception of Developments located in non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category ~~unless a resolution is submitted with the application from the Local Political Subdivision authorizing that the Applicant act on behalf of the Local Political Subdivision in applying for HOME or Housing Trust Funds from TDHCA for the particular application.~~ A commitment will not be accepted unless the Local Political Subdivision must attest to the fact that any funds committed were not first provided to the Local Political Subdivision by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision or subsidiary. Do not round for the following calculations.

(A) A total contribution equal to or greater than 4% of the Total Housing Development Cost of the Development of \$500 to \$1,000 per Low-income Unit receives 6 points; or

(B) A total contribution equal to or greater than 8% of the Total Housing Development Cost of the Development of \$1,001 to \$3,500 per Low-income Unit receives 12 points; or

(C) A total equal to or greater than 12% of the Total Housing Development Cost of the Development contribution of \$3,501 or more per Low-income Unit receives 18 points; or

(6) The Level of Community Support from State Elected Officials. The level of community support for the application, evaluated on the basis of written statements from state elected officials. (2306.6710(b)(1)(F) and (f) and (g); 2306.6725(a)(2)) Applications may qualify to receive up to 14 points for this item. Points will be awarded based on the written statements of support or opposition from state elected officials representing constituents in areas that include the location of the Development. Letters of support must identify the specific Development and must clearly state support for or opposition to the specific Development. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or official by ~~April 1, April 2, 2006~~2007. Officials to be considered are those officials in office at the time the Application is submitted. Letters of support from state officials that do not represent constituents in areas that include the location of the Development will not qualify for points under this Exhibit. Neutral letters, or letters that do not specifically refer to the Development, will receive neither positive nor negative points. Letters from State of Texas Representative or Senator: support letters are 7 points each for a maximum of 14 points; opposition letters are -7 points each for a maximum of -14 points.

(7) The Rent Levels of the Units. Applications may qualify to receive up to 12 points for qualifying under this exhibit. (2306.6710(b)(1)(G)) If 80% or fewer of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 7 points. If between 81% and 85% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 8 points. If between 86% and 90% of the Units in the Development (excluding any Units reserved for a manager) are

restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 9 points. If between 91% and 95% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 10 points. If greater than 95% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 12 points. ~~Developments that are scattered site will receive the full 12 points provided that they have received points under paragraph (3) of this subsection.~~

(8) The Cost of the Development by Square Foot (Development Characteristics). Applications may qualify to receive 10 points for this item. (2306.6710(b)(1)(H); 42(m)(1)(C)(iii)) For this exhibit, costs shall be defined as construction costs, including site work, direct hard costs, contingency, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be costs per square foot of net rentable area (NRA). The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule of the Application. Developments qualify for 10 points if their costs do not exceed \$850 per square foot for Qualified Elderly, transitional, and single room occupancy Developments (transitional housing for the homeless and single room occupancy units as provided in the Code, §42(i)(3)(B)(iii) and (iv)), unless located in a "First Tier County" in which case their costs do not exceed \$872 per square foot; and \$750 for all other Developments, unless ~~located in a designated as "First Tier County" by the Texas Department of Insurance~~, in which case their costs do not exceed \$727 per square foot. For ~~2005~~2006, the First Tier ~~c~~Counties are Aransas, Brazoria, Calhoun, Chambers, Galveston, Jefferson, ~~Kenedy~~, Kleberg, Matagorda, Nueces, San Patricio, and Willacy. There are also specifically designated First Tier communities in Harris County that are east of State Highway 146, and evidence in the Application must include a map with the Development site designated clearly within the community. These communities are Pasadena, Morgan's Point, Shoreacres, Seabrook and La Porte. Brazoria, Cameron, Galveston, Kennedy, Matagorda, Refugio and Willacy. Intergenerational developments will receive 10 points if costs described above do not exceed the square footage limit for elderly and non-elderly units as determined by using the NRA attributable to the respective elderly and non-elderly units. The Department will determine if points will be awarded by multiplying the NRA for elderly units by the applicable square footage limit for the elderly units and adding that total to the result of the multiplication of the NRA for family units by the applicable non-elderly square footage limit. If this maximum cost amount is equal to, or greater than the total of the costs identified above for the application, points will be awarded(10 points).

(9) The Services to be Provided to Tenants of the Development. Applications may qualify to receive up to 8 points. Applications may qualify for points under both subparagraphs (A) and (B) of this paragraph. (2306.6710(b)(1)(I); 2306.254; 2306.6725(a)(1); General Appropriation Act, Article VII, Rider 7)

(A) Applicants will receive points for coordinating their tenant services with those services provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points).

(B) The Applicant must certify that the Development will provide a combination of special supportive services appropriate for the proposed tenants. The provision of supportive services will be included in the LURA as selected from the list of services identified in this subparagraph. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to off-site services must be provided (maximum of 6 points).

(i) Applications will be awarded points for selecting services listed in clause (ii) of this subparagraph based on the following scoring range:

- (I) Two points will be awarded for providing two of the services; or
- (II) Four points will be awarded for providing four of the services; or
- (III) Six points will be awarded for providing six of the services.

(ii) Service options include child care; transportation; basic adult education; legal assistance; counseling services; GED preparation; English as a second language classes; vocational training; home buyer education; credit counseling; financial planning assistance or courses; health screening services; health and nutritional courses; organized team sports programs or youth programs; scholastic tutoring; any other programs described under Title IV-A of the Social Security Act (42 U.S.C. §§601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of wedlock pregnancies; and encourages the formation and maintenance of two-parent families; any services addressed by §2306.254 Texas Government Code; or any other services approved in writing by the Department.

(10) Rehabilitation or Reconstruction. Applications may qualify to receive 7 points. Applications proposing to build solely Rehabilitation (excluding New Construction of non-residential buildings), or solely Reconstruction (excluding New Construction of non-residential buildings) qualify for points.

(11) Housing Needs Characteristics. (42(m)(1)(C)(ii)) Applications may qualify to receive up to 7 points. Each Application, based on the Area or county where the Development is located, will may receive a score based on objective measures of housing need in the Area where the Development is located. This Affordable Housing Need Score for each Area will be published in a Site Demographic Characteristics table in the Reference Manual, the Uniform Housing Needs Scoring Component. If a Development is in a place, the Area score will be used. If a Development is not within a place, then the county score will be used. The Uniform Housing Needs Scoring Component scores for each Area and county will be published in the Reference Manual.

(12) Development Includes the Use of Existing Housing as part of a Community Revitalization Plan (Development Characteristics). Applications may qualify to receive 7 points for this item. (42(m)(1)(C)(iii)) The Development is an Existing Residential Development and the proposed proposed any Rehabilitation or any Reconstruction or demolition and reconstruction that is part of a Community Revitalization Plan. Evidence of the Community Revitalization Plan and a map showing the boundaries of the Community Revitalization Plan and the location of the Development site within the boundaries a letter from the governing body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted.

(13) Pre-Application Participation Incentive Points. (2306.6704) Applications which submitted a Pre-Application during the Pre-Application Acceptance Period and meet the requirements of this paragraph will qualify to receive 6 points for this item. To be eligible for these points, the Application must:

(A) be for the identical Development Site, or reduced portion of the Development sSite as the proposed Development Site under control in the Pre-Application;

(B) have met the Pre-Application Threshold Criteria;

(C) be serving the same target population (family, Intergenerational Housing, or elderly) as in the Pre-Application;

(D) be serving the same target Set-Asides as indicated in the Pre-Application (Set-Asides can be dropped between Pre-Application and Application, but no Set-Asides can be added); and

(E) be awarded by the Department an Application score that is not more than 5% greater or less than the number of points awarded by the Department at Pre-Application, with the exclusion of points for support and opposition under subsections (i)(2) and (i)(6) of this title. An Applicant must choose, at the time of Application either clause (i) or (ii) of this subparagraph:

(i) to request the Pre-Application points and have the Department cap the Application score at no greater than the 5% increase regardless of the total points accumulated in the scoring evaluation. This allows an Applicant to avoid penalty for increasing the point structure outside the 5% range from Pre-Application to Application; or

(ii) to request that the Pre-Application points be forfeited and that the Department evaluate the Application as requested in the self-scoring sheet.

(14) Development Location. (2306.6725(a)(4)); 42(m)(1)(C)(i)) Applications may qualify to receive 4 points. Evidence, not more than 6 months old from the date of the close the first day of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) - (G) of this paragraph. Areas qualifying under any one of the subparagraphs (A) - (G) of this paragraph will receive 4 points. An Application may only receive points under one of the subparagraphs (A) - (G) of this paragraph.

(A) A geographical Area which is an Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD at the time of Application submission (2306.1273).

(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the first day of the Application Acceptance Period. (General Appropriation Act, Article VII, Rider 6; 2306.127)

~~(C) a city or county sponsored area or zone where a city or county has, through a local government initiative, specifically encouraged or channeled growth, neighborhood preservation, or redevelopment. Such Developments must submit all of the following documentation: a letter from a city/county official verifying that~~

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~~the proposed Development is located within the city or county-sponsored zone or district; a map from the city/county official which clearly delineates the boundaries of the district; and a certified copy of the appropriate resolution or documentation from the mayor, local city council, county judge, or county commissioners court which documents that the designated Area was created by the local city council/county commission, and targets a specific geographic Area which was not created solely for the benefit of the Applicant.~~

(CD) the Development is located in a county that has received an award as of November 15, 2005~~2006~~, within the past three years, from the Texas Department of Agriculture's Rural Municipal Finance Program or Real Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.

(DE) the Development is located in a census tract in which there are no other existing developments supported by housing tax credits. Applicant must provide evidence. (2306.6725(b)(2)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(EF) the Development is located in a census tract which has a median family income (MFI), as published by the United States Bureau of the Census (U.S. Census), that is higher than the median family income for the county in which the census tract is located. This comparison shall be made using the most recent data available as of the date the Application Round opens the year preceding the applicable program year. Developments eligible for these points must submit evidence documenting the median income for both the census tract and the county. These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(FG) the proposed Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and is proposed to be located in an elementary school attendance zone of an elementary school that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. The date for consideration of the attendance zone is that in existence as of the opening date of the Application Round and the academic rating is the most current rating determined by the Texas Education Agency as of that same date. (42(m)(1)(C)(vii))

(GH) the proposed Development will expand affordable housing opportunities for low-income families with children outside of poverty areas. This must be demonstrated by showing that the Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and that the census tract in which the Development is proposed to be located has no greater than 10% poverty population according to the most recent census data. (42(m)(1)(C)(vii)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

~~(154) Exurban Developments or Reconstruction or Rehabilitation of Developments (Development characteristics). (2306.6725(a)(4) and (b)(2); 2306.127; 42(m)(1)(C)(ii)) Applications may qualify to receive 7 points if the Development is not located in an incorporated place or census designated place that is not a Rural Area and but has a population no greater less than 100,000 based on the most current available information published by the United States Bureau of the Census as of October 1 of the year preceding the applicable program year Decennial Census., or if a Development is proposed for reconstruction or rehabilitation (in whole or in part, on-site or off-site) that will be financed, in part, with HOPE VI financing or HUD capital grant financing provided that the Application is a joint venture partnership between the public housing authority or an entity formed by the public housing authority and private market interests (either for profit or nonprofit).~~

(165) **Tenant Populations with Special Housing Needs.** Applications may qualify to receive 4 points for this item. (42(m)(1)(C)(v)) The Department will award these points to Applications in which at least 10% of the Units are set aside for Persons with Special Needs. Throughout the Compliance Period, unless otherwise permitted by the Department, the Development owner agrees to affirmatively market Units to Persons with Special needs. In addition, the Department will require a minimum ~~1224~~ month period during which units must either be occupied by persons with Special Needs or held vacant. The ~~1224~~ month period will begin on the date each building receives its certificate of occupancy. For buildings that do not receive a Certificate of Occupancy, the ~~1224~~ month period will begin on the placed in service date as provided in the Cost Certification manual. After the ~~1224~~ month period, the owner will no longer be required to hold units vacant for households with special needs, but will be required to continue to affirmatively market units to household with special needs.

(176) **Length of Affordability Period.** Applications may qualify to receive up to 4 points. (2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1) and (c); 2306.6710(e)(2); 42(m)(1)(B)(ii)(II)) In accordance with the Code, each Development is required to maintain its affordability for a 15-year compliance period and, subject to certain exceptions, an additional 15-year extended use period. Development Owners that are willing

to extend the affordability period for a Development beyond the 30 years required in the Code may receive points as follows:

(A) Add 5 years of affordability after the extended use period for a total affordability period of 35 years (2 points); or

(B) Add 10 years of affordability after the extended use period for a total affordability period of 40 years (4 points)

(187) Site Characteristics. Development Sites, including scattered sites, will be evaluated based on proximity to amenities, the presence of positive site features and the absence of negative site features. Sites will be rated based on the criteria below.

(A) Proximity of site to amenities. Developments Sites located on sites within a one mile radius (two-mile radius for Developments competing for a Rural Regional Allocation) of at least three services appropriate to the target population will receive four points. A site located within one-quarter mile of public transportation that is accessible to all residents including persons with disabilities and/or located within a community that has "on demand" transportation, special transit service, or specialized elderly transportation for Qualified Elderly Developments, will receive full points regardless of the proximity to amenities, as long as the Applicant provides appropriate evidence of the transportation services used to satisfy this requirement. If a Development is providing its own specialized van or on demand service, then this will be a requirement of the LURA. Only one service of each type listed below will count towards the points. A map must be included identifying the Development site and the location of the services. The services must be identified by name on the map. If the services are not identified by name, points will not be awarded. All services must exist or, if under construction, must be at least 50% complete by the date the Application is submitted. (4 points)

(i) Full service grocery store or supermarket

(ii) Pharmacy

(iii) Convenience Store/Mini-market

(iv) Department or Retail Merchandise Store

(v) Bank/Credit Union

(vi) Restaurant (including fast food)

(vii) Indoor public recreation facilities, such as civic centers, community centers, and libraries

(viii) Outdoor public recreation facilities such as parks, golf courses, and swimming pools

(ix) Hospital/medical clinic

(x) Doctor's offices (medical, dentistry, optometry)

(xi) Public Schools (only eligible for Developments that are not Qualified Elderly Developments)

(xii) Senior Center (only eligible for Qualified Elderly Developments)

(B) Negative Site Features. Development Sites with the following negative characteristics will have points deducted from their score. For purpose of this exhibit, the term 'adjacent' is interpreted as sharing a boundary with the Development site. The distances are to be measured from all boundaries of the Development site. If an Applicant negligently fails to note a negative feature, double points will be deducted from the score or the Application may be terminated. If none of these negative features exist, the Applicant must sign a certification to that effect. (-5 points)

(i) Developments located adjacent to or within 300 feet of junkyards will have 1 point deducted from their score.

(ii) Developments located adjacent to or within 300 feet of active railroad tracks will have 1 point deducted from their score. Rural Developments funded through TX-USDA-RHS are exempt from this point deduction.

(iii) Developments located adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants will have 1 point deducted from their score.

(iv) Developments located adjacent to or within 300 feet of a solid waste or sanitary landfills will have 1 point deducted from their score.

(v) Developments located adjacent to or within 100 feet of high voltage transmission power lines will have 1 point deducted from their score.

(1948) Development Size. The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger existing tax credit Development (3 points).

(1920) Qualified Census Tracts with Revitalization. Applications may qualify to receive 21 points for this item. (42(m)(1)(B)(ii)(III)) Applications will receive the points for this item if the Development is located within a Qualified Census Tract and contributes to a concerted Community Revitalization Plan. Evidence of the Community Revitalization Plan and a letter from the governing body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted. a

~~map showing boundaries of the Community Revitalization Plan and the location of the Development site within the boundaries must be submitted.~~

~~(210) Sponsor Characteristics.~~ Applications may qualify to receive a maximum of 2 points for this item for qualifying under either subparagraph (A) or (B) of this paragraph. (42(m)(1)(C)(iv))

~~(A) An Application will receive these two points for submitting a plan to use Historically Underutilized Businesses in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas.~~

~~(B) An Application will receive these points if there is evidence that a HUB that does not meet the experience requirements under §50.49.9(g) of this title, as certified by the Texas Building and Procurement Commission, has at least 51% ownership interest in the General Partner and materially participates in the Development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission that the Person is a HUB at the close of the Application Acceptance Period. The HUB will be disqualified from receiving these points if any Principal of the HUB has developed, and received 8609's for, more than two Developments involving tax credits. Additionally, to qualify for these points, the HUB must partner with an experienced developer (as defined by §50.49.9 of this title); the experienced developer, as an Affiliate, will not be subject to the credit limit described under §50.49.6(d) of this title for one application per Application Round. For purposes of this section the experienced developer may not be a Related Party to the HUB.~~

~~(224) Developments Intended for Eventual Tenant Ownership - Right of First Refusal.~~ Applications may qualify to receive 1 point for this item. (2306.6725(b)(1)) (42(m)(1)(C)(viii)) Evidence that Development Owner agrees to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period for the minimum purchase price provided in, and in accordance with the requirements of, §42(i)(7) of the Code (the "Minimum Purchase Price"), to a Qualified Nonprofit Organization, the Department, or either an individual tenant with respect to a single family building, or a tenant cooperative, a resident management corporation in the Development or other association of tenants in the Development with respect to multifamily developments (together, in all such cases, including the tenants of a single family building, a "Tenant Organization"). Development Owner may qualify for these points by providing the right of first refusal in the following terms.

~~(A) Upon the earlier to occur of:~~

~~(i) the Development Owner's determination to sell the Development; or~~

~~(ii) the Development Owner's request to the Department, pursuant to §42(h)(6)(E)(II) of the Code, to find a buyer who will purchase the Development pursuant to a "qualified contract" within the meaning of §42(h)(6)(F) of the Code, the Development Owner shall provide a notice of intent to sell the Development ("Notice of Intent") to the Department and to such other parties as the Department may direct at that time. If the Development Owner determines that it will sell the Development at the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to expiration of the Compliance Period. If the Development Owner determines that it will sell the Development at some point later than the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to date upon which the Development Owner intends to sell the Development.~~

~~(B) During the two years following the giving of Notice of Intent, the Sponsor may enter into an agreement to sell the Development only in accordance with a right of first refusal for sale at the Minimum Purchase Price with parties in the following order of priority:~~

~~(i) during the first six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization that is also a community housing development organization, as defined for purposes of the federal HOME Investment Partnerships Program at 24 C.F.R. §92.1 (a "CHDO") and is approved by the Department,~~

~~(ii) during the second six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization or a Tenant Organization; and~~

~~(iii) during the second year after the Notice of Intent, only with the Department or with a Qualified Nonprofit Organization approved by the Department or a Tenant Organization approved by the Department.~~

~~(iv) If, during such two-year period, the Development Owner shall receive an offer to purchase the Development at the Minimum Purchase Price from one of the organizations designated in clauses (i) - (iii) of this subparagraph (within the period(s) appropriate to such organization), the Development Owner shall sell the Development at the Minimum Purchase Price to such organization. If, during such period, the Development Owner shall receive more than one offer to purchase the Development at the Minimum Purchase Price from one or more of the organizations designated in clauses (i) - (iii) of this subparagraph (within the period(s) appropriate to such organizations), the Development Owner shall sell the Development at the Minimum Purchase Price to whichever of such organizations it shall choose.~~

- (C) After whichever occurs the later of:
(i) the end of the Compliance Period; or
(ii) two years from delivery of a Notice of Intent,

the Development Owner may sell the Development without regard to any right of first refusal established by the LURA if no offer to purchase the Development at or above the Minimum Purchase Price has been made by a Qualified Nonprofit Organization, a Tenant Organization or the Department, or a period of 120 days has expired from the date of acceptance of all such offers as shall have been received without the sale having occurred, provided that the failure(s) to close within any such 120-day period shall not have been caused by the Development Owner or matters related to the title for the Development.

(D) At any time prior to the giving of the Notice of Intent, the Development Owner may enter into an agreement with one or more specific Qualified Nonprofit Organizations and/or Tenant Organizations to provide a right of first refusal to purchase the Development for the Minimum Purchase Price, but any such agreement shall only permit purchase of the Development by such organization in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(E) The Department shall, at the request of the Development Owner, identify in the LURA a Qualified Nonprofit Organization or Tenant Organization which shall hold a limited priority in exercising a right of first refusal to purchase the Development at the Minimum Purchase Price, in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(F) The Department shall have the right to enforce the Development Owner's obligation to sell the Development as herein contemplated by obtaining a power-of-attorney from the Development Owner to execute such a sale or by obtaining an order for specific performance of such obligation or by such other means or remedy as shall be, in the Department's discretion, appropriate.

~~(232)~~ **Leveraging of Private, State, and Federal Resources.** Applications may qualify to receive 1 point for this item. (2306.6725(a)(3)) Evidence that the proposed Development has received an allocation of private, state or federal resources, including HOPE VI funds, that is equal to or greater than 2% of the Total Development costs reflected in the Application. The funding must be in addition to the primary funding (construction and permanent loans) that is proposed to be utilized and cannot be from the same source or an affiliated source. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The Development must have already applied for funding from the funding entity. Evidence to be submitted with the Application must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. At the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the entity for the sufficient financing to the Department. If the funding commitment from the private, state or federal source has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the commitment from the private, state or federal source, the Commitment Notice will be rescinded and the credits reallocated. Use normal rounding. Funds from the Department's HOME and Housing Trust Fund sources will only qualify under this category if there is a Notice of Funding Availability (NOFA) out for available funds and the Applicant is eligible under that NOFA. To qualify for this point, the Rent Schedule must show that at least 3% of all low-income Units are designated to serve individuals or families with incomes at or below 30% of AMGI.

~~(243)~~ **Third-Party Funding Commitment Outside of Qualified Census Tracts.** Applications may qualify to receive 1 point for this item. (2306.6710(e)(1)) Evidence that the proposed Development has documented and committed third-party funding sources and the Development is located outside of a Qualified Census Tract. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The commitment of funds (an application alone will not suffice) must already have been received from the third-party funding source and must be equal to or greater than 2% of the Total Development costs reflected in the Application. Funds from the Department's HOME

and Housing Trust Fund sources will not qualify under this category. The third-party funding source cannot be a loan from a commercial lender.

(254) Scoring Criteria Imposing Penalties. (2306.6710(b)(2))

(A) Penalties will be imposed on an Application if the Applicant has requested an extension of a Department deadline, and did not meet the original submission deadline, relating to ~~d~~Developments receiving a housing tax credit commitment made in the ~~a~~Application ~~#~~Round preceding the current round. The extension that will receive a penalty is an extension related to the submission of the ~~e~~Carryover Allocation Agreement or the 10% Test pursuant to §49.14 of this title. For each extension request made, the Applicant will receive a 5 point deduction for not meeting the Carryover deadline. Subsequent extension requests for carryover after the first extension request made for each ~~D~~development from the preceding round will not result in a further point reduction than already described. No penalty points or fees will be deducted for extensions that were requested on Developments that involved Rehabilitation when the Department is the primary lender, or for Developments that involve TX-USDA-RHS as a lender if TX-USDA-RHS or the Department is the cause for the Applicant not meeting the deadline.

(B) Penalties will be imposed on an Application if the Developer or Principal of the Applicant has been removed by the lender, equity provider, or limited partners in the past five years for failure to perform its obligations under the loan documents or limited partnership agreement. An affidavit will be provided by the Applicant and the Developer certifying that they have not been removed as described, or requiring that they disclose each instance of removal with a detailed description of the situation. If an Applicant or Developer submits the affidavit, and the Department learns at a later date that a removal did take place as described, then the Application will be terminated and any Allocation made will be rescinded. The Applicant, Developers or Principals of the Applicant that are in court proceedings at the time of Application must disclose this information and the situation will be evaluated on a case-by-case basis. 3 points will be deducted for each instance of removal.

(C) Penalties will be imposed on an Application if Developer or Principal of the Applicant violates the Adherence to Obligations pursuant to §49.9(c) of this title.

(j) Tie Breaker Factors.

(1) In the event that two or more Applications receive the same number of points in any given Set-Aside category, Rural Regional Allocation or Urban/Exurban Regional Allocation, or Uniform State Service Region, and are both practicable and economically feasible, the Department will utilize the factors in this paragraph, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit commitment.

(A) Applications involving any Rehabilitation of existing Units will win this first tier tie breaker over Applications involving solely New Construction.

(B) The Application located in the municipality or, if located outside a municipality, the county, that has the lowest state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins as reflected in the Reference Manual will win this second tier tie breaker.

(C) The amount of requested tax credits per net rentable square foot requested (the lower credits per square foot has preference)

(D) Projects that are intended for eventual tenant ownership. Such Developments must utilize a detached single family site plan and building design and have a business plan describing how the project will convert to tenant ownership at the end of the 15-year compliance period.

(2) This clause identifies how ties will be handled when dealing with the restrictions on location identified in ~~§50.49.5(a)(8)~~ §49.5(a)(8) of this title, and in dealing with any issues relating to capture rate calculation. When two Tax-Exempt Bond Developments would violate one of these restrictions, and only one Development can be selected, the Department will utilize the reservation docket number issued by the Texas Bond Review Board in making its determination. When two competitive Housing Tax Credits Applications in the Application Round would violate one of these restrictions, and only one Development can be selected, the Department will utilize the tie breakers identified in paragraph (1) of this subsection. When a Tax-Exempt Bond Development and a competitive Housing Tax Credit Application in the Application Round would both violate a restriction, the following determination will be used:

(A) Tax-Exempt Bond Developments that receive their reservation from the Bond Review Board on or before April 30, ~~2006~~2007 will take precedence over the Housing Tax Credit Applications in the ~~2006~~2007 Application Round;

(B) Housing Tax Credit Applications approved by the Board for tax credits in July ~~2006~~2007 will take precedence over the Tax-Exempt Bond Developments that received their reservation from the Bond Review Board on or between May 1, ~~2006~~2007 and July 31, ~~2006~~2007; and

(C) After July 31, ~~2006~~2007, a Tax-Exempt Bond Development with a reservation from the Bond Review Board will take precedence over any Housing Tax Credit Application from the ~~2006~~2007 Application Round on the Waiting List. However, if no reservation has been issued by the date the Board approves an allocation to a Development from the Waiting List of Applications in the ~~2006~~2007 Application Round or a forward commitment, then the Waiting List Application or forward commitment will be eligible for its allocation.

(k) **Staff Recommendations.** (2306.1112 and 2306.6731) After eligible Applications have been evaluated, ranked and underwritten in accordance with the QAP and the Rules, the Department staff shall make its recommendations to the Executive Award and Review Advisory Committee. The Committee will develop funding priorities and shall make commitment recommendations to the Board. Such recommendations and supporting documentation shall be made in advance of the meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. The Committee will provide written, documented recommendations to the Board which will address at a minimum the financial or programmatic viability of each Application and a list of all submitted Applications which enumerates the reason(s) for the Development's proposed selection or denial, including all factors provided in subsection ~~§50.49.10~~(a) of this section that were used in making this determination.

§50.49.10 Board Decisions; Waiting List; Forward Commitments

(a) **Board Decisions.** The Board's decisions shall be based upon the Department's and the Board's evaluation of the proposed Developments' consistency with the criteria and requirements set forth in this QAP and Rules.

(1) On awarding tax credits, the Board shall document the reasons for each Application's selection, including any discretionary factors used in making its determination, and the reasons for any decision that conflicts with the recommendations made by Department staff. The Board may not make, without good cause, a commitment decision that conflicts with the recommendations of Department staff. Good cause includes the Board's decision to apply discretionary factors. (2306.6725(c); 42(m)(1)(A)(iv); 2306.6731)

(2) In making a determination to allocate tax credits, the Board shall be authorized to not rely solely on the number of points scored by an Application. It shall in addition, be entitled to take into account, as it deems appropriate, the discretionary factors listed in this paragraph. The Board may also apply these discretionary factors to its consideration of Tax-Exempt Bond Developments. If the Board disapproves or fails to act upon an Application, the Department shall issue to the Applicant a written notice stating the reason(s) for the Board's disapproval or failure to act. In making tax credit decisions (including those related to Tax-Exempt Bond Developments), the Board, in its discretion, may evaluate, consider and apply any one or more of the following discretionary factors: (2306.111(g)(3); 2306.0661(f))

- (A) the developer market study;
- (B) the location;
- (C) the compliance history of the Developer;
- ~~(D) the Applicant and/or Developer's efforts to engage the neighborhood;~~
- ~~(DE) the financial feasibility;~~
- ~~(FE) the appropriateness of the Development's size and configuration in relation to the housing needs of the community in which the Development is located;~~
- ~~(G) the housing needs of the community, area, region and state;~~
- ~~(HE) the Development's proximity to other low-income housing developments;~~
- ~~(F) the availability of adequate public facilities and services;~~
- ~~(GJ) the anticipated impact on local school districts;~~
- ~~(HK) zoning and other land use considerations;~~
- ~~(L) laws relating to fair housing including affirmatively furthering fair housing;~~
- ~~(M) the efficient use of the tax credits;~~
- ~~(N) consistency with local needs, including consideration of revitalization or preservation needs;~~
- ~~(O) the allocation of credits among many different entities without diminishing the quality of the housing; (General Appropriation Act, Article VII, Rider 8(e))~~
- ~~(P) meeting a compelling housing need;~~
- ~~(Q) providing integrated, affordable housing for individuals and families with different levels of income;~~
- ~~(R) the inclusive capture rate as described under §1.32(g)(2);~~
- ~~(S) any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes and the policies of Chapter 2306, Texas Government Code; or and~~
- ~~(JT) other good cause as determined by the Board.~~

(3) Before the Board approves any Application, the Department shall assess the compliance history of the Applicant with respect to all applicable requirements; and the compliance issues associated with the proposed

Development, including compliance information provided by the Texas State Affordable Housing Corporation. The Committee shall provide to the Board a written report regarding the results of the assessments. The written report will be included in the appropriate Development file for Board and Department review. The Board shall fully document and disclose any instances in which the Board approves a Development Application despite any noncompliance associated with the Development or Applicant. (2306.057)

(b) **Waiting List.** (2306.6711(c) and (d)) If the entire State Housing Credit Ceiling for the applicable calendar year has been committed or allocated in accordance with this chapter, the Board shall generate, concurrently with the issuance of commitments, a waiting list of additional Applications ranked by score in descending order of priority based on Set-Aside categories and regional allocation goals. The Board may also apply discretionary factors in determining the Waiting List. If at any time prior to the end of the Application Round, one or more Commitment Notices expire and a sufficient amount of the State Housing Credit Ceiling becomes available, the Board shall issue a Commitment Notice to Applications on the waiting list subject to the amount of returned credits, the regional allocation goals and the Set-Aside categories, including the 10% Nonprofit Set-Aside allocation required under the Code, §42(h)(5). At the end of each calendar year, all Applications which have not received a Commitment Notice shall be deemed terminated. The Applicant may re-apply to the Department during the next Application Acceptance Period.

(c) **Forward Commitments.** The Board may determine to issue commitments of tax credit authority with respect to Applications from the State Housing Credit Ceiling for the calendar year following the year of issuance (each a "forward commitment") to Applications submitted in accordance with the rules and timelines required under this rule and the Application Submission Procedures Manual. The Board will utilize its discretion in determining the amount of credits to be allocated as forward commitments and the reasons for those commitments considering score and discretionary factors. The Board may utilize the forward commitment authority to allocate credits to TX-USDA-RHS Developments which are experiencing foreclosure or loan acceleration at any time during the ~~2006~~2007 calendar year, also referred to as Rural Rescue Developments. Applications that are submitted under the ~~2006~~2007 QAP and granted a Forward Commitment of ~~2007~~2008 Housing Tax Credits are considered by the Board to comply with the ~~2007~~2008 QAP by having satisfied the requirements of this ~~2006~~2007 QAP, except for statutorily required QAP changes.

(1) Unless otherwise provided in the Commitment Notice with respect to a Development selected to receive a forward commitment, actions which are required to be performed under this chapter by a particular date within a calendar year shall be performed by such date in the calendar year of the Credit Ceiling from which the credits are allocated.

(2) Any forward commitment made pursuant to this section shall be made subject to the availability of State Housing Credit Ceiling in the calendar year with respect to which the forward commitment is made. If a forward commitment shall be made with respect to a Development placed in service in the year of such commitment, the forward commitment shall be a "binding commitment" to allocate the applicable credit dollar amount within the meaning of the Code, §42(h)(1)(C).

(3) If tax credit authority shall become available to the Department in a calendar year in which forward commitments have been awarded, the Department may allocate such tax credit authority to any eligible Development which received a forward commitment, in which event the forward commitment shall be canceled with respect to such Development.

~~§50.49.11.~~ Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants; Viewing of Pre-Applications and Applications; Confidential Information.

(a) Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants.

(1) Within approximately seven business days after the close of the Pre-Application Acceptance Period, the Department shall publish a Pre-Application Submission Log on its web site. Such log shall contain the Development name, address, Set-Aside, number of units, requested credits, owner contact name and phone number. (2306.6717(a)(1))

(2) Approximately 30 days before the close of the Application Acceptance Period, the Department will release the evaluation and assessment of the Pre-Applications on its web site.

(3) Not later than 14 days after the close of the Pre-Application Acceptance Period, or Application Acceptance Period for Applications for which no Pre-Application was submitted, the Department shall: (2306.1114)

(A) publish an Application submission log on its web site.

(B) give notice of a proposed Development in writing that provides the information required under clause (i) of this subparagraph to all of the individuals and entities described in clauses (ii) - (x) of this subparagraph. (2306.6718(a) - (c))

(i) The following information will be provided in these notifications:

(I) The relevant dates affecting the Application including the date on which the Application was filed, the date or dates on which any hearings on the Application will be held and the date by which a decision on the Application will be made;

(II) A summary of relevant facts associated with the Development;

(III) A summary of any public benefits provided as a result of the Development, including rent subsidies and tenant services; and

(IV) The name and contact information of the employee of the Department designated by the director to act as the information officer and liaison with the public regarding the Application.

(ii) Presiding officer of the governing body of the political subdivision containing the Development (mayor or county judge) to advise such individual that the Development, or a part thereof, will be located in his/her jurisdiction and request any comments which such individual may have concerning such Development.

(iii) If the Department receives a letter from the mayor or county judge of an affected city or county that expresses opposition to the Development, the Department will give consideration to the objections raised and will offer to visit the proposed site or Development with the mayor or county judge or their designated representative within 30 days of notification. The site visit must occur before the Housing Tax Credit can be approved by the Board. The Department will obtain reimbursement from the Applicant for the necessary travel and expenses at rates consistent with the state authorized rate (General Appropriation Act, Article VII, Rider 5) (§42(m)(1));

(iv) Any member of the governing body of a political subdivision who represents the Area containing the Development. If the governing body has single-member districts, then only that member of the governing body for that district will be notified, however if the governing body has at-large districts, then all members of the governing body will be notified;

(v) state representative and state senator who represent the community where the Development is proposed to be located. If the state representative or senator host a community meeting, the Department, if timely notified, will ensure staff are in attendance to provide information regarding the Housing Tax Credit Program; (General Appropriation Act, Article VII, Rider 8(d))

(vi) United States representative who represents the community containing the Development;

(vii) Superintendent of the school district containing the Development;

(viii) Presiding officer of the board of trustees of the school district containing the Development;

(ix) Any Neighborhood Organizations on record with the city or county in which the Development is to be located and whose boundaries contain the proposed Development site or otherwise known to the Applicant or Department and on record with the state or county; and

(x) Advocacy organizations, social service agencies, civil rights organizations, tenant organizations, or others who may have an interest in securing the development of affordable housing that are registered on the Department's email list service.

(C) The elected officials identified in subparagraph (B) of this paragraph will be provided an opportunity to comment on the Application during the Application evaluation process. (§42(m)(1))

(4) The Department shall hold at least three public hearings in different Uniform State Service Regions of the state to receive comment on the submitted Applications and on other issues relating to the Housing Tax Credit Program for competitive Applications under the State Housing Credit Ceiling. (2306.6717(c))

(5) The Department shall make available on the Department's website information regarding the Housing Tax Credit Program including notice of public hearings, meetings, Application Round opening and closing dates, submitted Applications, and Applications approved for underwriting and recommended to the Board, and shall provide that information to locally affected community groups, local and state elected officials, local housing departments, any appropriate newspapers of general or limited circulation that serve the community in which a proposed Development is to be located, nonprofit and for-profit organizations, on-site property managers of occupied Developments that are the subject of Applications for posting in prominent locations at those Developments, and any other interested persons including community groups, who request the information. (2306.6717(b);)

(6) Approximately forty days prior to the date of the July Board meeting at which the issuance of Commitment Notices shall be discussed, the Department will notify each Applicant of the receipt of any opposition received by the Department relating to his or her Development at that time.

(7) Not later than the third working day after the date of completion of each stage of the Application process, including the results of the Application scoring and underwriting phases and the commitment phase, the results will be posted to the Department's web site. (2306.6717(a)(3))

(8) At least thirty days prior to the date of the July Board meeting at which the issuance of Commitment Notices shall be discussed, the Department will:

(A) provide the Application scores to the Board; (2306.6711(a))

(B) if feasible, post to the Department's web site the entire Application, including all supporting documents and exhibits, the Application Log as further described in ~~§50.49.19(b)~~ of this title, a scoring sheet providing details of the Application score, and any other documents relating to the processing of the Application. (2306.6717(a)(1) and (2))

(9) A summary of comments received by the Department on specific Applications shall be part of the documents required to be reviewed by the Board under this subsection if it is received 30 business days prior to the date of the Board Meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. Comments received after this deadline will not be part of the documentation submitted to the Board. However, a public comment period will be available prior to the Board's decision, at the Board meeting where tax credit commitment decisions will be made.

(10) Not later than the 120th day after the date of the initial issuance of Commitment Notices for housing tax credits, the Department shall provide an Applicant who did not receive a commitment for housing tax credits with an opportunity to meet and discuss with the Department the Application's deficiencies, scoring and underwriting. (2306.6711(e))

(b) Viewing of Pre-Applications and Applications. Pre-Applications and Applications for tax credits are public information and are available upon request after the Pre-Application and Application Acceptance Periods close, respectively. All Pre-Applications and Applications, including all exhibits and other supporting materials, except Personal Financial Statements and Social Security numbers, will be made available for public disclosure after the Pre-Application and Application periods close, respectively. The content of Personal Financial Statements may still be made available for public disclosure upon request if the Attorney General's office deems it is not protected from disclosure by the Texas Public Information Act.

(c) Confidential Information. The Department may treat the financial statements of any Applicant as confidential and may elect not to disclose those statements to the public. A request for such information shall be processed in accordance with §552.305 of the Government Code. (2306.6717(d))

§50.49.12. Tax-Exempt Bond Developments: Filing of Applications; Applicability of Rules; Supportive Services; Financial Feasibility Evaluation; Satisfaction of Requirements.

(a) Filing of Applications for Tax-Exempt Bond Developments. Applications for a Tax-Exempt Bond Development may be submitted to the Department as described in paragraphs (1) and (2) of this subsection:

(1) Applicants which receive advance notice of a Program Year ~~2006~~2007 reservation as a result of the Texas Bond Review Board's (TBRB) lottery for the private activity volume cap must file a complete Application not later than 12:00 p.m. on December ~~289~~, ~~2005~~2006. Such filing must be accompanied by the Application fee described in ~~§50.49.20~~ of this title.

(2) Applicants which receive advance notice of a Program Year ~~2006~~2007 reservation after being placed on the waiting list as a result of the TBRB lottery for private activity volume cap must submit Volume 1 and Volume 2 of the Application and the Application fee described in ~~§50.49.20~~ of this title prior to the Applicant's bond reservation date as assigned by the TBRB. Those applications designated as Priority 3 by the TBRB must submit Volumes I and II within 14 days of the bond reservation date if the Applicant intends to apply for tax credits regardless of the Issuer. Any outstanding documentation required under this section regardless of Priority must be submitted to the Department at least 60 days prior to the Board meeting at which the decision to issue a Determination Notice would be made unless a waiver is being requested.

(b) Applicability of Rules for Tax-Exempt Bond Developments. Tax-Exempt Bond Development Applications are subject to all rules in this title, with the only exceptions being the following sections: ~~§50.49.4~~ of this title (regarding State Housing Credit Ceiling), ~~§50.49.7~~ of this title (regarding Regional Allocation and Set-Asides), ~~§50.49.8~~ of this title (regarding Pre-Application), ~~§50.49.9(d)~~ and (f) of this title (regarding Evaluation Processes for Competitive Applications and Rural Rescue Applications), ~~§50.49.9(i)~~ of this title (regarding Selection Criteria), ~~§50.49.10(b)~~ and (c) of this title (regarding Waiting List and Forward Commitments), and ~~§50.49.14(a)~~ and (b) of this title (regarding Carryover and 10% Test). Such Developments requesting a Determination Notice in the current calendar year must meet all Threshold Criteria requirements stipulated in ~~§50.49.9(h)~~ of this title. Such Developments which received a Determination Notice in a prior calendar year must meet all Threshold Criteria requirements stipulated in the QAP and Rules in effect for the calendar year in which the Determination Notice was issued; provided, however, that such Developments shall comply with all procedural requirements for obtaining Department action in the current QAP and Rules; and such other requirements of the QAP and Rules as the Department determines applicable. Consistency with the local municipality's consolidated plan or similar planning document must be demonstrated in those instances where the city or county has a consolidated plan. If no such planning document exists then the Applicant must submit a letter from the local municipal authority

stating such and that there is a need for affordable housing. This documentation must be submitted no later than 14 days before the Board meeting where the credits will be considered. Applicants will be required to meet all conditions of the Determination Notice by the time the construction loan is closed unless otherwise specified in the Determination Notice. Applicants must meet the requirements identified in ~~§50.49.15~~ of this title. No later than 60 days following closing of the bonds, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan (as further described in the Carryover Allocation Procedures Manual), and evidence must be provided at this time of attendance of the Development Owner or management company at Department-approved Fair Housing training relating to leasing and management issues for at least five hours and the Development architect at Department-approved Fair Housing training relating to design issues for at least five hours. Certifications must not be older than two years. Applications that receive a reservation from the Bond Review Board on or before December 31, ~~20052006~~ will be required to satisfy the requirements of the ~~20052006~~ QAP; Applications that receive a reservation from the Bond Review Board on or after January 1, ~~20062007~~ will be required to satisfy the requirements of the ~~20062007~~ QAP.

(c) **Supportive Services for Tax-Exempt Bond Developments.** (2306.254) Tax-Exempt Bond Development Applications must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of these services will be included in the LURA. Acceptable services as described in paragraphs (1) - (3) of this subsection include:

(1) the services must be in at least one of the following categories: child care, transportation, basic adult education, legal assistance, counseling services, GED preparation, English as a second language classes, vocational training, home buyer education, credit counseling, financial planning assistance or courses, health screening services, health and nutritional courses, organized team sports programs, youth programs, scholastic tutoring, social events and activities, community gardens or computer facilities;

(2) any other program described under Title IV-A of the Social Security Act (42 U.S.C. §5601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of wedlock pregnancies; and encourages the formation and maintenance of two-parent families, or

(3) any other services approved in writing by the Issuer. The plan for tenant supportive services submitted for review and approval of the Issuer must contain a plan for coordination of services with state workforce development and welfare programs. The coordinated effort will vary depending upon the needs of the tenant profile at any given time as outlined in the plan.

(d) **Financial Feasibility Evaluation for Tax-Exempt Bond Developments.** Code §42(m)(2)(D) requires the bond issuer (if other than the Department) to ensure that a Tax-Exempt Bond Development does not receive more tax credits than the amount needed for the financial feasibility and viability of a Development throughout the Compliance Period. Treasury Regulations prescribe the occasions upon which this determination must be made. In light of the requirement, issuers may either elect to underwrite the Development for this purpose in accordance with the QAP and the Underwriting Rules and Guidelines, §1.32 of this title or request that the Department perform the function. If the issuer underwrites the Development, the Department will, nonetheless, review the underwriting report and may make such changes in the amount of credits which the Development may be allowed as are appropriate under the Department's guidelines. The Determination Notice issued by the Department and any subsequent IRS Form(s) 8609 will reflect the amount of tax credits for which the Development is determined to be eligible in accordance with this subsection, and the amount of tax credits reflected in the IRS Form 8609 may be greater or less than the amount set forth in the Determination Notice, based upon the Department's and the bond issuer's determination as of each building's placement in service. Any increase of tax credits, from the amount specified in the Determination Notice, at the time of each building's placement in service will only be permitted if it is determined by the Department, as required by Code §42(m)(2)(D), that the Tax-Exempt Bond Development does not receive more tax credits than the amount needed for the financial feasibility and viability of a Development throughout the Compliance Period. Increases to the amount of tax credits that exceed 110% of the amount of credits reflected in the Determination Notice are contingent upon approval by the Board. Increases to the amount of tax credits that do not exceed 110% of the amount of credits reflected in the Determination Notice may be approved administratively by the Executive Director.

(e) **Satisfaction of Requirements for Tax-Exempt Bond Developments.** If the Department staff determines that all requirements of this QAP and Rules have been met, the Department will recommend that the Board authorize the issuance of a Determination Notice. The Board, however, may utilize the discretionary factors identified in ~~§50.49.10(a)~~ of this title in determining if they will authorize the Department to issue a

Determination Notice to the Development Owner. The Determination Notice, if authorized by the Board, will confirm that the Development satisfies the requirements of the QAP and Rules in accordance with the Code, §42(m)(1)(D).

(f) Certification of Tax Exempt Applications with New Docket Numbers Applications that are processed through the Department review and evaluation process and receive an affirmative Board Determination, but do not close the bonds prior to the bond reservation expiration date, and subsequently have that docket number withdrawn from the Bond Review Board, may have their Determination Notice reinstated. The Applicant would need to receive a new docket number from the Texas Bond Review Board.

The new docket number must be issued in the same program year as the original docket number and must not be more than four months from the date the original application was withdrawn from the BRB. The application must remain unchanged. This means that at a minimum, the following can not have changed: site control, total number of units, unit mix (bedroom sizes and income restrictions), design/site plan documents, financial structure including bond and housing tax credit amounts, development costs, rent schedule, operating expenses, sources and uses, ad valorem tax exemption status, target population, scoring criteria (TDHCA issues) or BRB priority status including the effect on the inclusive capture rate. Note that the entities involved in the applicant entity and developer can not change; however, the certification can be submitted even if the lender, syndicator or issuer changes, as long as the financing structure and terms remain unchanged. Notifications under §49.9(h)(8) of this title are not required to be reissued. In the event that the Department's Board has already approved the application for tax credits, the application is not required to be presented to the Board again (unless there is public opposition) and a revised Determination Notice will be issued once notice of the assignment of a new docket number has been provided to the Department and the Department has confirmed that the capture rate and market demand remain acceptable. This certification must be submitted no later than thirty days after the date the Bond Review Board issues the new docket number and no later than thirty days before the anticipated closing. In the event that the Department's Board has not yet approved the application, the application will continue to be processed and ultimately provided to the Board for consideration. This certification must be submitted no later than thirty days after the date the Bond Review Board issues the new docket number and no later than forty-five days before the anticipated Department's Board meeting date.

(2) If there are changing to the Application as referenced in paragraph (1) of this subsection, the Application will be required to submit a new Application in full, along with the applicable fees, to be reviewed and evaluated in its entirety for a new determination notice to be issued.

§50.49.13 Commitment and Determination Notices; Agreement and Election Statement; Documentation Submission Requirements.

(a) **Commitment and Determination Notices.** If the Board approves an Application, ~~within ten days of approval~~ the Department will:

(1) if the Application is for a commitment from the State Housing Credit Ceiling, issue a Commitment Notice to the Development Owner which shall:

(A) confirm that the Board has approved the Application; and

(B) state the Department's commitment to make a Housing Credit Allocation to the Development Owner in a specified amount, subject to the feasibility determination described at § 50.49.16 of this title, and compliance by the Development Owner with the remaining requirements of this chapter and any other terms and conditions set forth therein by the Department. This commitment shall expire on the date specified therein unless the Development Owner indicates acceptance of the commitment by executing the Commitment Notice or Determination Notice, pays the required fee specified in §50.49.20 of this title, and satisfies any other conditions set forth therein by the Department. A Development Owner may request an extension of the Commitment Notice expiration date by submitting an extension request and associated extension fee as described in §50.49.20 of this title. ~~Any such extension must be approved by the Board.~~ In no event shall the expiration date of a Commitment Notice be extended beyond the last business day of the applicable calendar year.

(2) if the Application regards a Tax-Exempt Bond Development, issue a Determination Notice to the Development Owner which shall:

(A) confirm the Board's determination that the Development satisfies the requirements of this QAP; and

(B) state the Department's commitment to issue IRS Form(s) 8609 to the Development Owner in a specified amount, subject to the requirements set forth at §50.49.12 of this title and compliance by the Development Owner with all applicable requirements of this title and any other terms and conditions set forth therein by the Department. The Determination Notice shall expire on the date specified therein unless the Development Owner indicates acceptance by executing the Determination Notice and paying the required fee

specified in ~~§50.49.20~~ of this title. The Determination Notice shall also expire unless the Development Owner satisfies any conditions set forth therein by the Department within the applicable time period.

(3) notify, in writing, the mayor or other equivalent chief executive officer of the municipality in which the Property is located informing him/her of the Board's issuance of a Commitment Notice or Determination Notice, as applicable.

(4) A Commitment or Determination Notice shall not be issued with respect to any Development for an unnecessary amount or where the cost for the total development, acquisition, construction or Rehabilitation exceeds the limitations established from time to time by the Department and the Board, unless the Department staff make a recommendation to the Board based on the need to fulfill the goals of the Housing Tax Credit Program as expressed in this QAP and Rules, and the Board accepts the recommendation. The Department's recommendation to the Board shall be clearly documented.

(5) A Commitment or Determination Notice shall not be issued with respect to the Applicant, the Development Owner, the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of one or more other low-income rental housing properties in the state of Texas administered by the Department, or outside the state of Texas, that is in Material Noncompliance with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for such property, as described in §60.1 of this title.

(6) The executed Commitment or Determination Notice must be returned to the Department on the date specified with the Commitment Notice ~~within ten days of the effective date of the Notice.~~

(b) **Agreement and Election Statement.** Together with the Development Owner's acceptance of the Carryover Allocation, the Development Owner may execute an Agreement and Election Statement, in the form prescribed by the Department, for the purpose of fixing the Applicable Percentage for the Development as that for the month in which the Carryover Allocation was accepted (or the month the bonds were issued for Tax-Exempt Bond Developments), as provided in the Code, §42(b)(2). Current Treasury Regulations, §1.42-8(a)(1)(v), suggest that in order to permit a Development Owner to make an effective election to fix the Applicable Percentage for a Development, the Carryover Allocation Document must be executed by the Department and the Development Owner within the same month. The Department staff will cooperate with a Development Owner, as possible or reasonable, to assure that the Carryover Allocation Document can be so executed.

(c) **Documentation Submission Requirements at Commitment of Funds.** No later than the date the Commitment Notice or Determination Notice is executed by the Applicant and returned to the Department with the appropriate Commitment Fee as further described in ~~§50.49.20(f)~~ of this title, the following documents must also be provided to the Department. Failure to provide these documents may cause the Commitment to be rescinded. For each Applicant all of the following must be provided:

(1) Evidence that the entity has the authority to do business in Texas;

(2) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and a Certificate of Organization from the Secretary of State;

(3) Copies of the entity's governing documents, including, but not limited to, its Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement; and

(4) Evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by-laws which indicate same from the sub-entity in Control and that those Persons signing the Application constitute all Persons required to sign or submit such documents.

§50.49.14. Carryover; 10% Test; Commencement of Substantial Construction.

(a) **Carryover.** All Developments which received a Commitment Notice, and will not be placed in service and receive IRS Form 8609 in the year the Commitment Notice was issued, must submit the Carryover documentation to the Department no later than November 1 of the year in which the Commitment Notice is issued pursuant to 42(h)(1)(c) IRC. Commitments for credits will be terminated if the Carryover documentation, or an approved extension, has not been received by this deadline. In the event that a Development Owner intends to submit the Carryover documentation in any month preceding November of the year in which the Commitment Notice is issued, in order to fix the Applicable Percentage for the Development in that month, it must be submitted no later than the first Friday in the preceding month. If the financing structure, syndication rate, amount of debt or syndication proceeds are revised at the time of Carryover from what was proposed in the original Application, applicable documentation of such changes must be provided and the Development may be reevaluated by the Department. The Carryover Allocation format must be properly completed and delivered to the Department as

prescribed by the Carryover Allocation Procedures Manual. All Carryover Allocations will be contingent upon the following, in addition to all other conditions placed upon the Application in the Commitment Notice:

(1) The Development Owner for all New Construction Developments must have purchased the property for the Development.

(2) A current original plat or survey of the land, prepared by a duly licensed Texas Registered Professional Land Surveyor. Such survey shall conform to standards prescribed in the Manual of Practice for Land Surveying in Texas as promulgated and amended from time to time by the Texas Surveyors Association as more fully described in the Carryover Procedures Manual.

(3) For all Developments involving New Construction, evidence of the availability of all necessary utilities/services to the Development site must be provided. Necessary utilities include natural gas (if applicable), electric, trash, water, and sewer. Such evidence must be a letter or a monthly utility bill from the appropriate municipal/local service provider. If utilities are not already accessible, then the letter must clearly state: an estimated time frame for provision of the utilities, an estimate of the infrastructure cost, and an estimate of any portion of that cost that will be borne by the Development Owner. Letters must be from an authorized individual representing the organization which actually provides the services. Such documentation should clearly indicate the Development property. If utilities are not already accessible (undeveloped areas), then the letter should not be older than three months from the first day of the Application Acceptance Period.

(4) The Department will not execute a Carryover Allocation Agreement with any Owner in Material Noncompliance on October 1, ~~2006~~2007.

(b) **10% Test.** No later than six months from the date the Carryover Allocation Document is executed by the Department and the Development Owner, more than 10% of the Development Owner's reasonably expected basis must have been incurred pursuant to §42(h)(1)(E)(i) and (ii) of the Internal Revenue Code and Treasury Regulations, §1.42-6. The evidence to support the satisfaction of this requirement must be submitted to the Department no later than June 30 of the year following the execution of the Carryover Allocation Document in a format prescribed by the Department. At the time of submission of the documentation, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan as further described in the Carryover Allocation Procedures Manual. Evidence must be provided at this time of attendance of the Development Owner or management company at Department-approved Fair Housing training relating to leasing and management issues for at least five hours and the Development architect at Department-approved Fair Housing training relating to design issues for at least five hours on or before the time the 10% Test Documentation is submitted. Certifications must not be older than two years.

(c) **Commencement of Substantial Construction.** The Development Owner must submit evidence of having commenced and continued substantial construction activities. The evidence must be submitted not later than December 1 of the year after the execution of the Carryover Allocation Document with the possibility of an extension as described in ~~§50.49.20~~ of this title.

§50.49.15. LURA, Cost Certification.

(a) **Land Use Restriction Agreement (LURA).** The Development Owner must request a LURA from the Department no later than the date specified in §60.1(p)(6), the Department's Compliance Monitoring Policies and Procedures. The Development Owner must date, sign and acknowledge before a notary public the LURA and send the original to the Department for execution. The initial compliance and monitoring fee must be accompanied by a statement, signed by the Owner, indicating the start of the Development's Credit Period and the earliest placed in service date for the Development buildings. After receipt of the signed LURA from the Department, the Development Owner shall then record the LURA, along with any and all exhibits attached thereto, in the real property records of the county where the Development is located and return the original document, duly certified as to recordation by the appropriate county official, to the Department no later than the date that the Cost Certification Documentation is submitted to the Department. If any liens (other than mechanics' or materialmen's liens) shall have been recorded against the Development and/or the Property prior to the recording of the LURA, the Development Owner shall obtain the subordination of the rights of any such lienholder, or other effective consent, to the survival of certain obligations contained in the LURA, which are required by §42(h)(6)(E)(ii) of the Code to remain in effect following the foreclosure of any such lien. Receipt of such certified recorded original LURA by the Department is required prior to issuance of IRS Form 8609. A representative of the Department, or assigns, shall physically inspect the Development for compliance with the Application and the representations, warranties, covenants, agreements and undertakings contained therein. Such inspection will be conducted before the IRS Form 8609 is issued for a building, but it shall be conducted in no event later than the end of the second calendar year following the year the last building in the Development is placed in service. The Development Owner for Tax-Exempt Bond Developments shall obtain a subordination agreement wherein the lien of the mortgage is subordinated to the LURA.

(b) **Cost Certification.** The Cost Certification Procedures Manual sets forth the documentation required for the Department to perform a feasibility analysis in accordance with §42(m)(2)(C)(i)(II), Internal Revenue Code, and determine the final Credit to be allocated to the Development.

(1) To request IRS Forms 8609, Developments must have:

(A) Placed in Service by December 31 of the year the Commitment Notice was issued if a Carryover Allocation was not requested and received; or December 31 of the second year following the year the Carryover Allocation Agreement was executed;

(B) Scheduled a final construction inspection in accordance with §60.1(c) of this title;

(C) Informed the Department of and received written approval for all Development amendments in accordance with ~~§50.49.17~~(c) of this title;

(D) Submitted to the Department the LURA in accordance with ~~§50.49.15~~(a) of this title;

(E) Paid all applicable Department fees; and

(F) Prepared all Cost Certification documentation in the format prescribed by the Cost Certification Procedures Manual.

(2) Required Cost Certification documentation must be received by the Department no later than January 15 following the year the Credit Period begins. Any Developments issued a Commitment Notice or Determination Notice that fails to submit its Cost Certification documentation by this deadline will be reported to the IRS and the Owner will be required to submit a request for extension consistent with ~~§50.49.20~~(l) of this title.

(3) The Department will perform an initial evaluation of the Cost Certification documentation within 45 days from the date of receipt and notify the Owner in a deficiency letter of all additional required documentation. Any deficiency letters issued to the Owner pertaining to the Cost Certification documentation will also be copied to the syndicator. The Department will issue IRS Forms 8609 no later than 90 days from the date that all required documents have been received.

(4) The Department will perform an evaluation of the Applicant, the Development Owner, the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of the Development to determine if any entity is in Material Noncompliance with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for such property, as described in §60.1 of this title prior to issuance of IRS Forms 8609.

§50.49.16. Housing Credit Allocations.

(a) In making a commitment of a Housing Credit Allocation under this chapter, the Department shall rely upon information contained in the Application to determine whether a building is eligible for the credit under the Code, §42. The Development Owner shall bear full responsibility for claiming the credit and assuring that the Development complies with the requirements of the Code, §42. The Department shall have no responsibility for ensuring that a Development Owner who receives a Housing Credit Allocation from the Department will qualify for the housing credit.

(b) The Housing Credit Allocation Amount shall not exceed the dollar amount the Department determines is necessary for the financial feasibility and the long term viability of the Development throughout the affordability period. (2306.6711(b)) Such determination shall be made by the Department at the time of issuance of the Commitment Notice or Determination Notice; at the time the Department makes a Housing Credit Allocation; and as of the date each building in a Development is placed in service. Any Housing Credit Allocation Amount specified in a Commitment Notice, Determination Notice or Carryover Allocation Document is subject to change by the Department based upon such determination. Such a determination shall be made by the Department based on its evaluation and procedures, considering the items specified in the Code, §42(m)(2)(B), and the department in no way or manner represents or warrants to any Applicant, sponsor, investor, lender or other entity that the Development is, in fact, feasible or viable.

(c) The General Contractor hired by the Development Owner must meet specific criteria as defined by the General Appropriation Act, Article VII, Rider 8(c). A General Contractor hired by a Development Owner or a Development Owner, if the Development Owner serves as General Contractor must demonstrate a history of constructing similar types of housing without the use of federal tax credits. Evidence must be submitted to the Department, in accordance with ~~§50.49.9~~(h)(4)(H) of this title, which sufficiently documents that the General Contractor has constructed some housing without the use of Housing Tax Credits. This documentation will be required as a condition of the commitment notice or carryover agreement, and must be complied with prior to commencement of construction and at cost certification and final allocation of credits.

(d) An allocation will be made in the name of the Development Owner identified in the related Commitment Notice or Determination Notice. If an allocation is made to a member or Affiliate of the ownership entity proposed at the time of Application, the Department will transfer the allocation to the ownership entity as consistent with the intention of the Board when the Development was selected for an award of tax credits. Any other transfer of an allocation will be subject to review and approval by the Department consistent with ~~§50.49.17(c)~~ of this title. The approval of any such transfer does not constitute a representation to the effect that such transfer is permissible under §42 of the Code or without adverse consequences thereunder, and the Department may condition its approval upon receipt and approval of complete current documentation regarding the owner including documentation to show consistency with all the criteria for scoring, evaluation and underwriting, among others, which were applicable to the original Applicant.

(e) The Department shall make a Housing Credit Allocation, either in the form of IRS Form 8609, with respect to current year allocations for buildings placed in service, or in the Carryover Allocation Document, for buildings not yet placed in service, to any Development Owner who holds a Commitment Notice which has not expired, and for which all fees as specified in ~~§50.49.20~~ of this title have been received by the Department and with respect to which all applicable requirements, terms and conditions have been met. For Tax-Exempt Bond Developments, the Housing Credit Allocation shall be made in the form of a Determination Notice. For an IRS Form 8609 to be issued with respect to a building in a Development with a Housing Credit Allocation, satisfactory evidence must be received by the Department that such building is completed and has been placed in service in accordance with the provisions of the Department's Cost Certification Procedures Manual. The Cost Certification documentation requirements will include a certification and inspection report prepared by a Third-Party accredited accessibility inspector to certify that the Development meets all required accessibility standards. IRS Form 8609 will not be issued until the certifications are received by the Department. The Department shall mail or deliver IRS Form 8609 (or any successor form adopted by the Internal Revenue Service) to the Development Owner, with Part I thereof completed in all respects and signed by an authorized official of the Department. The delivery of the IRS Form 8609 will occur only after the Development Owner has complied with all procedures and requirements listed within the Cost Certification Procedures Manual. Regardless of the year of Application to the Department for Housing Tax Credits, the current year's Cost Certification Procedures Manual must be utilized when filing all cost certification materials. A separate Housing Credit Allocation shall be made with respect to each building within a Development which is eligible for a housing credit; provided, however, that where an allocation is made pursuant to a Carryover Allocation Document on a Development basis in accordance with the Code, §42(h)(1)(F), a housing credit dollar amount shall not be assigned to particular buildings in the Development until the issuance of IRS Form 8609s with respect to such buildings. The Department may delay the issuance of IRS Form 8609 if any Development violates the representations of the Application.

(f) In making a Housing Credit Allocation, the Department shall specify a maximum Applicable Percentage, not to exceed the Applicable Percentage for the building permitted by the Code, §42(b), and a maximum Qualified Basis amount. In specifying the maximum Applicable Percentage and the maximum Qualified Basis amount, the Department shall disregard the first-year conventions described in the Code, §42(f)(2)(A) and §42(f)(3)(B). The Housing Credit Allocation made by the Department shall not exceed the amount necessary to support the extended low-income housing commitment as required by the Code, §42(h)(6)(C)(i).

(g) Development inspections shall be required to show that the Development is built or rehabilitated according to construction threshold criteria and Development characteristics identified at application. At a minimum, all Development inspections must meet Uniform Physical Condition Standards (UPCS) as referenced in Treasury Regulation 1.42-5 (d)(2)(ii) and include an inspection for quality during the construction process while defects can reasonably be corrected and a final inspection at the time the Development is placed in service. All such Development inspections shall be performed by the Department or by an independent Third Party inspector acceptable to the Department. The Development Owner shall pay all fees and costs of said inspections as described in ~~§50.49.20~~ of this title. ~~For properties receiving financing through TX-USDA-RHS, the Department shall accept the inspections performed by TX-USDA-RHS in lieu of having other Third party inspections. Details regarding the construction inspection process are set forth in the Department Rule §60.1 of this title (2306.081; General Appropriation Act, Article VII, Rider 8(b)).~~

(h) After the entire Development is placed in service, which must occur prior to the deadline specified in the Carryover Allocation Document and as further outlined in ~~§50.49.15~~ of this title, the Development Owner shall be responsible for furnishing the Department with documentation which satisfies the requirements set forth in the Cost Certification Procedures Manual. For purposes of this title, and consistent with IRS Notice 88-116, the placed in service date for a new or existing building used as residential rental property is the date on which the building is ready and available for its specifically assigned function and more specifically when the first Unit in the building is certified as being suitable for occupancy in accordance with state and local law and as certified

by the appropriate local authority or registered architect as ready for occupancy. The Cost Certification must be submitted for the entire Development; therefore partial Cost Certifications are not allowed. The Department may require copies of invoices and receipts and statements for materials and labor utilized for the New Construction or Rehabilitation and, if applicable, a closing statement for the acquisition of the Development as well as for the closing of all interim and permanent financing for the Development. If the Development Owner does not fulfill all representations and commitments made in the Application, the Department may make reasonable reductions to the tax credit amount allocated via the IRS Form 8609, may withhold issuance of the IRS Form 8609s until these representations and commitments are met, and/or may terminate the allocation, if appropriate corrective action is not taken by the Development Owner.

(i) The Board at its sole discretion may allocate credits to a Development Owner in addition to those awarded at the time of the initial Carryover Allocation in instances where there is bona fide substantiation of cost overruns and the Department has made a determination that the allocation is needed to maintain the Development's financial viability.

(j) The Department may, at any time and without additional administrative process, determine to award credits to Developments previously evaluated and awarded credits if it determines that such previously awarded credits are or may be invalid and the owner was not responsible for such invalidity.

§50.49.17 Board Reevaluation, Appeals Process; Provision of Information or Challenges Regarding Applications; Amendments; Housing Tax Credit and Ownership Transfers; Sale of Tax Credit Properties; Withdrawals; Cancellations; Alternative Dispute Resolution.

(a) **Board Reevaluation.** (2306.6731(b)) Regardless of development stage, the Board shall reevaluate a Development that undergoes a substantial change between the time of initial Board approval of the Development and the time of issuance of a Commitment Notice or Determination Notice for the Development. For the purposes of this subsection, substantial change shall be those items identified in subsection (d)(4) of this section. The Board may revoke any Commitment Notice or Determination Notice issued for a Development that has been unfavorably reevaluated by the Board.

(b) **Appeals Process.** (2306.6715) An Applicant may appeal decisions made by the Department as follows.

(1) The decisions that may be appealed are identified in subparagraphs (A) - (D) of this paragraph.

(A) a determination regarding the Application's satisfaction of:

- (i) Eligibility Requirements;
- (ii) Disqualification or debarment criteria;
- (iii) Pre-Application or Application Threshold Criteria;
- (iv) Underwriting Criteria;

(B) the scoring of the Application under the Application Selection Criteria; and

(C) a recommendation as to the amount of housing tax credits to be allocated to the Application.

(D) Any Department decision that results in termination of an Application.

(2) An Applicant may not appeal a decision made regarding an Application filed by another Applicant.

(3) An Applicant must file its appeal in writing with the Department not later than the seventh day after the date the Department publishes the results of any stage of the Application evaluation process identified in §50.49.9 of this title. In the appeal, the Applicant must specifically identify the Applicant's grounds for appeal, based on the original Application and additional documentation filed with the original Application. If the appeal relates to the amount of housing tax credits recommended to be allocated, the Department will provide the Applicant with the underwriting report upon request.

(4) The Executive Director of the Department shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the Applicant is not satisfied with the Executive Director's response to the appeal, the Applicant may appeal directly in writing to the Board, provided that an appeal filed with the Board under this subsection must be received by the Board before:

(A) the seventh day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made; or

(B) the third day preceding the date of the Board meeting described by subparagraph (A) of this paragraph, if the Executive Director does not respond to the appeal before the date described by subparagraph (A) of this paragraph.

(5) Board review of an appeal under paragraph (4) of this subsection is based on the original Application and additional documentation filed with the original Application. The Board may not review any information not contained in or filed with the original Application. The decision of the Board regarding the appeal is final.

(6) The Department will post to its web site an appeal filed with the Department or Board and any other document relating to the processing of the appeal. (2306.6717(a)(5))

(c) **Provision of Information or Challenges Regarding Applications from Unrelated Entities to the Application.** The Department will address information or challenges received from unrelated entities to a specific 2006/2007 active Application, utilizing a preponderance of the evidence standard, in the following manner.

(1) Within 14 business ~~seven~~ days of the receipt of the information or challenge, the Department will post all information and challenges received (including any identifying information) to the Department's website.

(2) Within seven business days of the receipt of the information or challenge, the Department will notify the Applicant related to the information or challenge. The Applicant will then have seven business days to respond to all information and challenges provided to the Department.

(3) Within 14 business days of the receipt of the response from the Applicant, the Department will evaluate all information submitted and other relevant documentation related to the investigation. This information may include information requested by the Department relating to this evaluation. The Department will post its determination summary to its website. Any determinations made by the Department cannot be appealed by any party unrelated to the Applicant.

(d) Amendment of Application Subsequent to Allocation by Board. (2306.6712 and 2306.6717(a)(4))

(1) If a proposed modification would materially alter a Development approved for an allocation of a housing tax credit, or if the Applicant has altered any selection criteria item for which it received points, the Department shall require the Applicant to file a formal, written request for an amendment to the Application.

(2) The Executive Director of the Department shall require the Department staff assigned to underwrite Applications to evaluate the amendment and provide an analysis and written recommendation to the Board. The appropriate party monitoring compliance during construction in accordance with ~~§50-49.18~~ of this title shall also provide to the Board an analysis and written recommendation regarding the amendment. For amendments which require Board approval, the amendment request must be received by the Department at least 30 days prior to the Board meeting where the amendment will be considered.

(3) The Board must vote on whether to approve an amendment. The Board by vote may reject an amendment and, if appropriate, rescind a Commitment Notice or terminate the allocation of housing tax credits and reallocate the credits to other Applicants on the Waiting List if the Board determines that the modification proposed in the amendment:

- (A) would materially alter the Development in a negative manner; or
- (B) would have adversely affected the selection of the Application in the Application Round.

(4) Material alteration of a Development includes, but is not limited to:

- (A) a significant modification of the site plan;
- (B) a modification of the number of units or bedroom mix of units;
- (C) a substantive modification of the scope of tenant services;
- (D) a reduction of three percent or more in the square footage of the units or common areas;
- (E) a significant modification of the architectural design of the Development;
- (F) a modification of the residential density of the Development of at least five percent;
- (G) an increase or decrease in the site acreage of greater than 10% from the original site under control and proposed in the Application; and
- (H) any other modification considered significant by the Board.

(5) In evaluating the amendment under this subsection, the Department staff shall consider whether the need for the modification proposed in the amendment was:

- (A) reasonably foreseeable by the Applicant at the time the Application was submitted; or
- (B) preventable by the Applicant.

(6) This section shall be administered in a manner that is consistent with the Code, §42.

(7) Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and monitor regarding the amendment will be posted to the Department's web site.

(8) In the event that an Applicant or Developer seeks to be released from the commitment to serve the income level of tenants targeted in the original Application, the following procedure will apply. For amendments that involve a reduction in the total number of low-income Units being served, or a reduction in the number of low-income Units at any level of AMGI represented at the time of Application, evidence must be presented to the Department that includes written confirmation from the lender and syndicator that the Development is infeasible without the adjustment in Units. The Board may or may not approve the amendment request, however, any affirmative recommendation to the Board is contingent upon concurrence from the Real Estate Analysis Division that the Unit adjustment (or an alternative Unit adjustment) is necessary for the continued feasibility of the Development. Additionally, if it is determined by the Department that the allocation of credits

would not have been made in the year of allocation because the loss of low-income targeting points would have resulted in the Application not receiving an allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the Applicant and all persons or entities with any ownership interest in the Application (excluding any tax credit purchaser/syndicator), from participation in the Housing Tax Credit Program (for both the Competitive Housing Tax Credit Developments and Tax-Exempt Bond Developments~~4% or 9%~~) for 24 months from the time that the amendment is approved.

(e) **Housing Tax Credit and Ownership Transfers.** (2306.6713) A Development Owner may not transfer an allocation of housing tax credits or ownership of a Development supported with an allocation of housing tax credits to any Person other than an Affiliate of the Development Owner unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer.

(1) Transfers will not be approved prior to the issuance of IRS Forms 8609 unless the Development Owner can provide evidence that a hardship is creating the need for the transfer (potential bankruptcy, removal by a partner, etc.). A Development Owner seeking Executive Director approval of a transfer and the proposed transferee must provide to the Department a copy of any applicable agreement between the parties to the transfer, including any third-party agreement with the Department.

(2) A Development Owner seeking Executive Director approval of a transfer must provide the Department with documentation requested by the Department, including but not limited to, a list of the names of transferees and Related Parties; and detailed information describing the experience and financial capacity of transferees and related parties. All transfer requests must disclose the reason for the request. The Development Owner shall certify to the Executive Director that the tenants in the Development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the Department. Not later than the fifth working day after the date the Department receives all necessary information under this section, the Department shall conduct a qualifications review of a transferee to determine the transferee's past compliance with all aspects of the Housing Tax Credit Program, LURAs; and the sufficiency of the transferee's experience with Developments supported with Housing Credit Allocations. If the viable operation of the Development is deemed to be in jeopardy by the Department, the Department may authorize changes that were not contemplated in the Application.

(3) As it relates to the Credit Cap further described in ~~§50.49.6~~(d) of this section, the credit cap will not be applied in the following circumstances:

(A) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(B) in cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.

(f) **Sale of Certain Tax Credit Properties.** Consistent with 2306.6726, Texas Government Code, not later than two years before the expiration of the Compliance Period, a Development Owner who agreed to provide a right of first refusal under 2306.6725(b)(1), Texas Government Code and who intends to sell the property shall notify the Department of its intent to sell.

(1) The Development Owner shall notify Qualified Nonprofit Organizations and tenant organizations of the opportunity to purchase the Development. The Development Owner may:

(A) during the first six-month period after notifying the Department, negotiate or enter into a purchase agreement only with a Qualified Nonprofit Organization that is also a community housing development organization as defined by the ~~F~~federal ~~H~~home ~~i~~investment ~~P~~partnership ~~P~~rogram (HOME);

(B) during the second six-month period after notifying the Department, negotiate or enter into a purchase agreement with any Qualified Nonprofit Organization or tenant organization; and

(C) during the year before the expiration of the compliance period, negotiate or enter into a purchase agreement with the Department or any Qualified Nonprofit Organization or tenant organization approved by the Department.

(2) Notwithstanding items for which points were received consistent with ~~§50.49.9~~(i) of this title, a Development Owner may sell the Development to any purchaser after the expiration of the compliance period if a Qualified Nonprofit Organization or tenant organization does not offer to purchase the Development at the minimum price provided by ~~§42(i)(7)~~, Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)), and the Department declines to purchase the Development.

(g) **Withdrawals.** An Applicant may withdraw an Application prior to receiving a Commitment Notice, Determination Notice, Carryover Allocation Document or Housing Credit Allocation, or may cancel a Commitment Notice or Determination Notice by submitting to the Department a notice, as applicable, of withdrawal or

cancellation, and making any required statements as to the return of any tax credits allocated to the Development at issue.

(h) **Cancellations.** The Department may cancel a Commitment Notice, Determination Notice or Carryover Allocation prior to the issuance of IRS Form 8609 with respect to a Development if:

(1) The Applicant or the Development Owner, or the Development, as applicable, fails to meet any of the conditions of such Commitment Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Applications process for the Development;

(2) Any statement or representation made by the Development Owner or made with respect to the Development Owner or the Development is untrue or misleading;

(3) An event occurs with respect to the Applicant or the Development Owner which would have made the Development's Application ineligible for funding pursuant to ~~§50.49.5~~ of this title if such event had occurred prior to issuance of the Commitment Notice or Carryover Allocation; or

(4) The Applicant or the Development Owner or the Development, as applicable, fails to comply with these Rules or the procedures or requirements of the Department.

(i) **Alternative Dispute Resolution Policy.** In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at §1.17 of this title.

§50.49.18. Compliance Monitoring and Material Noncompliance.

The Code, §42(m)(1)(B)(iii), requires the Department as the housing credit agency to include in its QAP a procedure that the Department will follow in monitoring Developments for compliance with the provisions of the Code, §42 and in notifying the IRS of any noncompliance of which the Department becomes aware. Detailed compliance rules and procedures for monitoring are set forth in Department Rule §60.1 of this title.

§50.49.19. Department Records; Application Log; IRS Filings.

(a) **Department Records.** At all times during each calendar year the Department shall maintain a record of the following:

(1) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Commitment Notices during such calendar year;

(2) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Carryover Allocation Documents during such calendar year;

(3) the cumulative amount of Housing Credit Allocations made during such calendar year; and

(4) the remaining unused portion of the State Housing Credit Ceiling for such calendar year.

(b) **Application Log.** (2306.6702(a)(3) and 2306.6709) The Department shall maintain for each Application an Application Log that tracks the Application from the date of its submission. The Application Log will contain, at a minimum, the information identified in paragraphs (1) - (9) of this subsection.

(1) the names of the Applicant and all General Partners of the Development Owner, the owner contact name and phone number, and full contact information for all members of the Development Team;

(2) the name, physical location, and address of the Development, including the relevant Uniform State Service Region of the state;

(3) the number of Units and the amount of housing tax credits requested for allocation by the Department to the Applicant;

(4) any Set-Aside category under which the Application is filed;

(5) the requested and awarded score of the Application in each scoring category adopted by the Department under the Qualified Allocation Plan;

(6) any decision made by the Department or Board regarding the Application, including the Department's decision regarding whether to underwrite the Application and the Board's decision regarding whether to allocate housing tax credits to the Development;

(7) the names of individuals making the decisions described by paragraph (6) of this subsection, including the names of Department staff scoring and underwriting the Application, to be recorded next to the description of the applicable decision;

(8) the amount of housing tax credits allocated to the Development; and

(9) a dated record and summary of any contact between the Department staff, the Board, and the Applicant or any Related Parties.

(c) **IRS Filings.** The Department shall mail to the Internal Revenue Service, not later than the 28th day of the second calendar month after the close of each calendar year during which the Department makes Housing Credit Allocations, ~~the a copy~~original of each completed (as to Part I) IRS Form 8609, ~~a copy~~the original of which was mailed or delivered by the Department to a Development Owner during such calendar year, along with a single completed IRS Form 8610, Annual Low-income Housing Credit Agencies Report. When a Carryover Allocation is made by the Department, a copy of the Carryover Allocation Agreement will be mailed or ~~faxed~~delivered to the Development Owner by the Department ~~in the year in which the building(s) is placed in service, and thereafter the original will be mailed to the Internal Revenue Service in the time sequence in this subsection.~~ The original of the Carryover Allocation Document will be ~~retained~~filed by the Department ~~and with IRS Form 8610 Schedule A will be filed by the Department with IRS Form 8610 for the year in which the allocation is made.~~ ~~The original of all executed Agreement and Election Statements shall be filed by the Department with the Department's IRS Form 8610 for the year a Housing Credit Allocation is made as provided in this section.~~ The Department shall be authorized to vary from the requirements of this section to the extent required to adapt to changes in IRS requirements.

§50.49.20. Program Fees; Refunds; Public Information Requests; Adjustments of Fees and Notification of Fees; Extensions; Penalties.

(a) **Timely Payment of Fees.** All fees must be paid as stated in this section. Any fees, as further described in this section, that are not timely paid will cause an Applicant to be ineligible to apply for tax credits and additional tax credits and ineligible to submit extension requests, ownership changes and Application amendments. Payments made by check, for which insufficient funds are available, may cause the Application, commitment or allocation to be terminated.

(b) **Pre-Application Fee.** Each Applicant that submits a Pre-Application shall submit to the Department, along with such Pre-Application, a non refundable Pre-Application fee, in the amount of \$10 per Unit. Units for the calculation of the Pre-Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Pre-Applications without the specified Pre-Application Fee in the form of a check will not be accepted. Pre-Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Pre-Application fee. (General Appropriation Act, Article VII, Rider 7; 2306.6716(d))For Tax Exempt Bond Developments with the Department as the issuer, the Applicant shall submit the following fees: \$1,000 (payable to TDHCA), \$1,500 (payable to Vincent & Elkins, Bond Counsel), and \$5,000 (payable to the Texas Bond Review Board).

(c) **Application Fee.** Each Applicant that submits an Application shall submit to the Department, along with such Application, an Application fee. For Applicants having submitted a Pre-Application which met Pre-Application Threshold and for which a Pre-Application fee was paid, the Application fee will be \$20 per Unit. For Applicants not having submitted a Pre-Application, the Application fee will be \$30 per Unit. Units for the calculation of the Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Applications without the specified Application Fee in the form of a check will not be accepted. Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Application fee. (General Appropriation Act, Article VII, Rider 7; 2306.6716(d))For Tax Exempt Bond developments with the Department as the Issuer the Applicant shall submit a tax credit application fee of \$30 per unit and bond application fee of \$10,000. Those applications utilizing a local issuer only need to submit the tax credit application fee.

(d) **Refunds of Pre-Application or Application Fees.** (2306.6716(c)) Upon written request from the Applicant, the Department shall refund the balance of any fees collected for a Pre-Application or Application that is withdrawn by the Applicant or that is not fully processed by the Department. The amount of refund on Pre-Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 50% of the review, and Threshold review prior to a deficiency issued will constitute 30% of the review. Deficiencies submitted and reviewed constitute 20% of the review. The

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amount of refund on Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 20% of the review, the site visit will constitute 20% of the review, Eligibility and Selection review will constitute 20%, and Threshold review will constitute 20% of the review, and underwriting review will constitute 20%. The Department must provide the refund to the Applicant not later than the 30th day after the date ~~the last official action is taken with respect to the Application of request.~~

(e) **Third Party Underwriting Fee.** Applicants will be notified in writing prior to the evaluation of a Development by an independent external underwriter in accordance with ~~§§50.49.9(d)(6), (e)(3), and (f)(4)~~ of this title if such a review is required. The fee must be received by the Department prior to the engagement of the underwriter. The fees paid by the Development Owner to the Department for the external underwriting will be credited against the commitment fee established in subsection (f) of this section, in the event that a Commitment Notice or Determination Notice is issued by the Department to the Development Owner.

(f) **Commitment or Determination Notice Fee.** Each Development Owner that receives a Commitment Notice or Determination Notice shall submit to the Department, not later than the expiration date on the commitment or Determination notice, a non-refundable commitment fee equal to 5% of the annual Housing Credit Allocation amount. The commitment fee shall be paid by check.

(g) **Compliance Monitoring Fee.** Upon receipt of the cost certification, the Department will invoice the Development Owner for compliance monitoring fees. The amount due will equal \$40 per tax credit unit. The fee will be collected, retroactively if applicable, beginning with the first year of the credit period. The invoice must be paid prior to the issuance of form 8609. Subsequent anniversary dates on which the compliance monitoring fee payments are due shall be determined by the beginning month of the compliance period.

(h) **Building Inspection Fee.** The Building Inspection Fee must be paid at the time the Commitment Fee is paid. The Building Inspection Fee for all Developments is ~~\$750.49~~. Inspection fees in excess of \$750 may be charged to the Development Owner not to exceed an additional \$250 per Development. ~~Developments receiving financing through TX-USDA-RHS that will not have construction inspections performed through the Department will be exempt from the payment of an inspection fee.~~

(i) **Tax-Exempt Bond Credit Increase Request Fee.** As further described in ~~§50.49.12~~ of this title, requests for increases to the credit amounts to be issued on IRS Forms 8609 for Tax-Exempt Bond Developments must be submitted with a request fee equal to ~~five~~ one percent of the amount of the credit increase for one year's credit amount.

(j) **Public Information Requests.** Public information requests are processed by the Department in accordance with the provisions of the Government Code, Chapter 552. The Department uses the guidelines promulgated by The Texas Building and Procurement Commission- to determine the cost of copying, and other costs of production.

(k) **Periodic Adjustment of Fees by the Department and Notification of Fees.** (2306.6716(b)) All fees charged by the Department in the administration of the tax credit program will be revised by the Department from time to time as necessary to ensure that such fees compensate the Department for its administrative costs and expenses. The Department shall publish each year an updated schedule of Application fees that specifies the amount to be charged at each stage of the Application process. Unless otherwise determined by the Department, all revised fees shall apply to all Applications in process and all Developments in operation at the time of such revisions.

(l) **Extension and Amendment Requests.** All extension requests relating to the Commitment Notice, Carryover, Documentation for 10% Test, Substantial Construction Commencement, Placed in Service or Cost Certification requirements and amendment requests shall be submitted to the Department in writing and be accompanied by a non-refundable extension fee in the form of a check in the amount of \$2,500. Such requests must be submitted to the Department no later than the date for which an extension is being requested. For extensions which require Board approval, the extension request must be received by the Department at least 15 business days prior to the Board meeting where the extension will be considered-. The extension request shall specify a requested extension date and the reason why such an extension is required. Carryover extension requests shall not request an extended deadline later than December 1st of the year the Commitment Notice was issued. The Department, in its sole discretion, may consider and grant such extension requests for all items. If an extension is required at Cost Certification, the fee of \$2,500 must be received by the Department to qualify for issuance of Forms 8609. Amendment requests must be submitted consistent with ~~§50.49.17(d)~~ of this title. The Board may waive related fees for good cause.

(m) **Penalties.** Development Owners who have more tax credits allocated to them than they can substantiate through Cost Certification will return those excess tax credits prior to issuance of 8609's. For ~~non-tax-exempt bond-funded developments~~ **Competitive Housing Tax Credit Developments**, a penalty fee equal to the one year credit amount of the lost credits (10% of the total unused tax credit amount) will be required to be paid by the Owner prior to the issuance of form 8609's if the tax credits are not returned, and 8609's issued, within ~~60~~**180** days of the end of the first year of the credit period. This penalty fee may be waived without further Board action if the Department recaptures and re-issues the returned tax credits in accordance with Section 42, Internal Revenue Code.

§50.49.21. Manner and Place of Filing All Required Documentation.

(a) All Applications, letters, documents, or other papers filed with the Department must be received only between the hours of 8:00 a.m. and 5:00 p.m. on any day which is not a Saturday, Sunday or a holiday established by law for state employees.

(b) All notices, information, correspondence and other communications under this title shall be deemed to be duly given if delivered or sent and effective in accordance with this subsection. Such correspondence must reference that the subject matter is pursuant to the Tax Credit Program and must be addressed to the Housing Tax Credit Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, TX 78711-3941 or for hand delivery or courier to 507 Sabine, Suite 400, Austin, Texas 78701 or more current address of the Department as released on the Department's website. Every such correspondence required or contemplated by this title to be given, delivered or sent by any party may be delivered in person or may be sent by courier, telecopy, express mail, telex, telegraph or postage prepaid certified or registered air mail (or its equivalent under the laws of the country where mailed), addressed to the party for whom it is intended, at the address specified in this subsection. Regardless of method of delivery, documents must be received by the Department no later than 5:00 p.m. for the given deadline date. Notice by courier, express mail, certified mail, or registered mail will be considered received on the date it is officially recorded as delivered by return receipt or equivalent. Notice by telex or telegraph will be deemed given at the time it is recorded by the carrier in the ordinary course of business as having been delivered, but in any event not later than one business day after dispatch. Notice not given in writing will be effective only if acknowledged in writing by a duly authorized officer of the Department.

(c) If required by the Department, Development Owners must comply with all requirements to use the Department's web site to provide necessary data to the Department.

§50.49.22. Waiver and Amendment of Rules.

(a) The Board, in its discretion, may waive any one or more of these Rules if the Board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for other good cause, as determined by the Board.

(b) §1.13 of this title may be waived for any person seeking any action by filing a request with the Board.

~~(c)~~ The Department may amend this chapter and the Rules contained herein at any time in accordance with the Government Code, Chapter 2001.

§50.49.23. Deadlines for Allocation of Housing Tax Credits. (2306.6724)

(a) Not later than September 30 of each year, the Department shall prepare and submit to the Board for adoption the draft QAP required by federal law for use by the Department in setting criteria and priorities for the allocation of tax credits under the Housing Tax Credit program.

(b) The Board shall adopt and submit to the Governor the QAP not later than November 15 of each year.

(c) The Governor shall approve, reject, or modify and approve the QAP not later than December 1 of each year. (2306.67022)(§42(m)(1))

(d) The Board shall annually adopt a manual, corresponding to the QAP, to provide information on how to apply for housing tax credits.

(e) Applications for Housing Tax Credits to be issued a Commitment Notice during the Application Round in a calendar year must be submitted to the Department not later than March 1.

(f) The Board shall 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 not later than June 30.

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(g) The Board shall approve final commitments for allocations of housing tax credits each year in accordance with the Qualified Allocation Plan not later than July 31, unless unforeseen circumstances prohibit action by that date. In any event, the Board shall approve final commitments for allocations of housing tax credits each year in accordance with the Qualified Allocation Plan not later than September 30. Department staff will subsequently issue Commitment Notices based on the Board's approval. Final commitments may be conditioned on various factors approved by the Board, including resolution of contested matters in litigation.



Multifamily Finance Production Division

DRAFT 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES
TITLE 10, PART 1, CHAPTER 3335, TEXAS ADMINISTRATIVE CODE

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TITLE 10. COMMUNITY DEVELOPMENT
PART I. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER ~~3335~~. MULTIFAMILY HOUSING REVENUE BOND RULES
10 TAC §§~~3335~~.1 - ~~3335~~.10

~~§3335~~.1. Introduction

The purpose of this Chapter ~~33-35~~ is to state the Texas Department of Housing and Community Affairs (the "Department") requirements for issuing Bonds, the procedures for applying for multifamily housing revenue Bond financing, and the regulatory and land use restrictions imposed upon Developments financed with the issuance of Bonds for the ~~2006-2007~~ Private Activity Bond Program Year. The rules and provisions contained in Chapter ~~3335~~, of this title are separate from the rules relating to the Department's administration of the Housing Tax Credit Program. Applicants seeking a housing tax credit allocation should consult the Department's Qualified Allocation Plan and Rules ("QAP"), in effect for the program year for which the Housing Tax Credit application will be submitted. If the applicable QAP contradicts rules set forth in this chapter, the applicable QAP will take precedence over the rules in the chapter.

~~§3335~~.2. Authority

The Department receives its authority to issue Bonds from Chapter 2306 of the Texas Government Code. All Bonds issued by the Department must conform to the requirements of the Act. Notwithstanding anything herein to the contrary, tax-exempt Bonds which are issued to finance the Development of multifamily rental housing are specifically subject to the requirements of the laws of the State of Texas, including but not limited to Chapter 2306 and Chapter 1372 of the Texas Government Code relating to Private Activity Bonds, and to the requirements of the Code (as defined in this chapter).

~~§3335~~.3. Definitions

The following words and terms, when used in the chapter, shall have the following meaning, unless context clearly indicates otherwise.

~~(1) Administrative Deficiency--as defined in §49.3(1) of this title.~~

~~(2) Applicant--as defined in §49.3(6) of this title. any Person or Affiliate of a Person who is a member of the General Partner, who files a Pre-Application or full Application with the Department requesting the Department issue Bonds to finance a Development.~~

~~(23) Application-- as defined in §49.3(7) of this title.an Application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material.~~

~~(34) Board--the Governing Board of the Department.~~

~~(45) Bond--an evidence of indebtedness or other obligation, regardless of the sources of payment, issued by the Department under the Act, including a bond, note, or bond or revenue anticipation note, regardless of whether the obligation is general or special, negotiable, or nonnegotiable, in bearer or registered form, in certified or book entry form, in temporary or permanent form, or with or without interest coupons.~~

~~(56) Code--the U. S. Internal Revenue Code of 1986, as amended from time to time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued by the United States Department of the Treasury or the Internal Revenue Service.~~

~~(67) Development--as defined in §49.3(31) of this title.property or work or a development, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the Department for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, or use by individuals and families of Low Income and Very Low Income and Families of Moderate Income in need of housing. The term includes:~~

~~(A) buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewage facilities, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community,~~

~~and recreational facilities the Department determines to be necessary, convenient, or desirable appurtenances; and~~

~~(B) multifamily dwellings in rural and urban areas.~~

~~(78) Development Owner-- as defined in §49.3(33) of this title. an Applicant that is approved by the Department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a Development subject to the regulatory powers of the Department and other terms and conditions required by the Department and the Act.~~

(89) Eligible Tenants--means

(A) individuals and families of Extremely Low, Very Low and Low Income,

(B) Families of Moderate Income (in each case in the foregoing subparagraph (A) and (B) of this paragraph as such terms are defined by the Issuer under the Act), and

(C) Persons with Special Needs, in each case, with an Anticipated Annual Income not in excess of 140% of the area median income for a four-person household in the applicable standard metropolitan statistical area; provided that all Low-Income Tenants shall count as Eligible Tenants.

(910) Extremely Low Income--the income received by an individual or family whose income does not exceed thirty percent (30%) of the area median income or applicable federal poverty line, as determined by the Act.

(101) Family of Moderate Income--a family:

(A) that is determined by the Board to require assistance taking into account

(i) the amount of total income available for the housing needs of the individuals and family,

(ii) the size of the family,

(iii) the cost and condition of available housing facilities,

(iv) the ability of the individuals and family 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.

~~(112) Ineligible Building Type-- as defined in §49.3(52) of this title. as defined in the Department's QAP and Rules in effect for the program year for which the Bond and Housing Tax Credit applications are submitted.~~

(123) Institutional Buyer--means

(A) an accredited investor as defined in Regulation D promulgated under the Securities Act of 1933, as amended (17 CFR §230.501(a)), but excluding any natural person or any director or executive officer of the Department (17 CFR §§230.501(a)(4) through (6)) or

(B) a qualified institutional buyer as defined by Rule 144A promulgated under the Securities Act of 1935, as amended (17 CFR §230.144A).

~~(14) Intergenerational Housing--as defined in §49.3(53) of this title.~~

(135) Low Income--the income received by an individual or family whose income does not exceed eighty percent (80%) of the area median income or applicable federal poverty line, as determined by the Act.

(146) Land Use Restriction Agreement (LURA)--an agreement between the Department and the Development Owner which is binding upon the Development Owner's successors in interest that encumbers the Development with respect to the requirements of law, including this title, the Act and Section 42 of the Code.

~~(17) New Construction--as defined in §49.3(59) of this title.~~

(158) Owner--an Applicant that is approved by the Department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a Development subject to the regulatory powers of the Department and other terms and conditions required by the Department and the Act.

(169) Persons with Special Needs--persons who

(A) are considered to be disabled under a state or federal law,

(B) are elderly, meaning 60 years of age or older or of an age specified by an applicable federal program,

(C) are designated by the Board as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise, or

(D) are legally responsible for caring for an individual described by subparagraph (A), (B) or (C) of this paragraph above and meet the income guidelines established by the Board.

(1720) Private Activity Bonds--any Bonds described by §141(a) of the Code.

(1821) Private Activity Bond Program Scoring Criteria--the scoring criteria established by the Department for the Department's Multifamily Housing Revenue Bond Program, §35.6(d) of this title.

(1922) Private Activity Bond Program Threshold Requirements--the threshold requirements established by the Department for the Department's Multifamily Housing Revenue Bond Program, §35.6(c) of this title.

(2023) Program--the Department's Multifamily Housing Revenue Bond Program.

(214) Proper Site Control--Regarding the legal control of the land to be used for the Development, means the earnest money contract is in the name of the Applicant (principal or member of the General Partner); fully executed by all parties and escrowed by the title company.

(225) Property--the real estate and all improvements thereon, whether currently existing or proposed to be built thereon in connection with the Development, and including all items of personal property affixed or related thereto.

(236) Qualified 501(c)(3) Bonds--any Bonds described by §145(a) of the Code.

(27) Reconstruction - as defined in §49.9(75) of this title.

(28) Rehabilitation--as defined in §49.9(77) of this title.

(249) Tenant Income Certification--a certification as to income and other matters executed by the household members of each tenant in the Development, in such form as reasonably may be required by the Department in satisfaction of the criteria prescribed by the Secretary of Housing and Urban Development under §8(f)(3) of the Housing Act of 1937 ("the Housing Act") (42 U.S.C. 1437f) for purposes of determining whether a family is a lower income family within the meaning of the §8(f)(1) of the Housing Act.

(2530) Tenant Services--social services, including child care, transportation, and basic adult education, that are provided to individuals residing in low income housing under Title IV-A, Social Security Act (42 U.S.C. §601 et seq.), and other similar services.

(2631) Tenant Services Program Plan--the plan, subject to approval by the Department, which describes the Tenant Services to be provided by the Development Owner in a Development.

(2732) Trustee--a national banking association organized and existing under the laws of the United States, as trustee (together with its successors and assigns and any successor trustee).

(2833) Unit--~~as defined in §49.9(91) of this title. any residential rental Unit in a Development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking and sanitation.~~

(2934) Very Low Income--the income received by an individual or family whose income does not exceed sixty percent (60%) of the area median income or applicable federal poverty line as determined under the Act.

§3335.4. Policy Objectives & Eligible Developments

The Department will issue Bonds to finance the rehabilitation, preservation or construction of decent, safe and affordable housing throughout the State of Texas. Eligible Developments may include those which are constructed, acquired, or rehabilitated and which provide housing for individuals and families of Low Income, Very Low Income, or Extremely Low Income, and Families of Moderate Income.

§3335.5. Bond Rating and Investment Letter

(a) Bond Ratings. All publicly offered Bonds issued by the Department to finance Developments shall have and be required to maintain a debt rating the equivalent of at least an "A" rating assigned to long-term obligations by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or Moody's Investors Service, Inc. If such rating is based upon credit enhancement provided by an institution other than the Applicant or Development Owner, the form and substance of such credit enhancement shall be subject to approval by the Board, which approval shall be evidenced by adoption by the Board of a resolution authorizing

the issuance of the credit-enhanced Bonds. Remedies relating to failure to maintain appropriate credit ratings shall be provided in the financing documents relating to the Development.

(b) Investment Letters. Bonds rated less than "A," or Bonds which are unrated must be placed with one or more Institutional Buyers and must be accompanied by an investment letter acceptable to the Department. Subsequent purchasers of such Bonds shall also be qualified as Institutional Buyers and shall sign and deliver to the Department an investment letter in a form acceptable to the Department. Bonds rated less than "A" and Bonds which are unrated shall be issued in physical form, in minimum denominations of one hundred thousand dollars (\$100,000), and shall carry a legend requiring any purchasers of the Bonds to sign and deliver to the Department an investment letter in a form acceptable to the Department.

§3335.6. Application Procedures, Evaluation and Approval

(a) Application Costs, Costs of Issuance, Responsibility and Disclaimer. The Applicant shall pay all costs associated with the preparation and submission of the Application--including costs associated with the publication and posting of required public notices--and all costs and expenses associated with the issuance of the Bonds, regardless of whether the Application is ultimately approved or whether Bonds are ultimately issued. At any stage during the Application process, the Applicant is solely responsible for determining whether to proceed with the Application, and the Department disclaims any and all responsibility and liability in this regard.

(b) Pre-application. An Applicant who requests financing from the Department for a Development shall submit a pre-application in a format prescribed by the Department. Within fourteen (14) days of the Department's receipt of the pre-application, the Department will be responsible for federal, state, and local community notifications of the proposed Development. Upon review of the pre-application, if the Development is determined to be ineligible for Bond financing by the Department, the Department will send a letter to the Applicant explaining the reason for the ineligibility. If the Development is determined to be eligible for Bond financing by the Department, the Department will score and rank the pre-application based on the Private Activity Bond Program Scoring Criteria as described in subsection (d) of this section. The Department will ~~score and~~ rank the pre-application with higher scores ranking higher within each priority defined by §1372.0321, Texas Government Code. All Priority 1 Applications will be ranked above all Priority 2 Applications which will be ranked above all Priority 3 Applications, regardless of score, reflecting a priority structure which gives consideration to the income levels of the tenants and the rent levels of the units consistent with Section 2306.359. This priority ranking will be used throughout the calendar year. In the event two or more Applications receive the same score, the Department will use, as a tie-breaking mechanism, a priority first for Applications involving rehabilitation; then if a tie still exists, the Application with the greatest number of points awarded for Quality and Amenities for the Development; then if a tie still exists, the Department will grant preference to the pre-application with the lower number of net rentable square feet per bond amount requested. Pre-Applications must meet the threshold requirements as stated in the Private Activity Bond Program Threshold Requirements as set out in subsection (c) of this section. ~~The Private Activity Bond Program Threshold Requirements will be posted on the Department's website.~~ After scoring ~~and ranking~~, the Development and the proposed financing structure will be presented to the Department's Board for consideration of a resolution declaring the Department's ~~initial~~ intent to issue Bonds (the "inducement resolution") with respect to the Development. ~~Approval of the inducement resolution does not guarantee final Board approval of the Bond Application.~~ Department staff, for good cause, may recommend that the Board not approve an inducement resolution for an Application. After Board approval of the inducement resolution, the ~~scored and ranked~~ ~~induced~~ Applications will be submitted to the Texas Bond Review Board for its lottery, waiting list or carryforward processing ~~in rank order~~. The Texas Bond Review Board will draw the number of lottery numbers that equates to the number of eligible Applications submitted by the Department for participation in lottery. The lottery numbers drawn will not equate to a specific Development. The Texas Bond Review Board will thereafter assign the lowest lottery number drawn to the highest ~~scored and~~ ranked Application as previously determined by the Department. The Texas Bond Review Board will issue reservations of allocation for Applications submitted for the waiting list or carryforward in the order ~~determined~~ ~~provided~~ by the Department ~~based on rank~~. The criteria by which a Development may be deemed to be eligible or ineligible are explained below in subsection (g) of this section, entitled Evaluation Eligibility Criteria. The Private Activity Bond Program Scoring Criteria will be posted on the Department's website. ~~The pre-application shall consist of the following information:~~

- ~~(1) Completed Current Uniform Application forms in the format required by the Department;~~
- ~~(2) Texas Bond Review Board's Residential Rental Attachment;~~
- ~~(3) Relevant Development Information;~~

- ~~(4) Certification of Local Elected Official request for neighborhood organization information and Public Notification Information;~~
- ~~(5) Certification and agreement to comply with the Department's rules;~~
- ~~(6) Agreement of responsibility of all cost incurred;~~
- ~~(7) An organizational chart showing the structure of the Applicant and the ownership structure of any principals of the Applicant;~~
- ~~(8) Evidence that the Applicant and principals are registered with the Texas Secretary of State, or if the Applicant has not yet been formed, evidence that the name of the Applicant is reserved with the Secretary of State;~~
- ~~(9) Organizational documents such as partnership agreements and articles of incorporation, as applicable, for the Applicant and its principals;~~
- ~~(10) Documentation of non-profit status if applicable; Evidence of good standing from the Comptroller of Public Accounts of the State of Texas for the Applicant and its principals; Corporate resumes and individual resumes of the Applicant and any principals;~~
- ~~(11) A copy of an executed earnest money contract between the Applicant and the seller of the Property. For all Applications submitted the earnest money contract must be in effect at the time of submission of the application and expire no earlier than December 1 of the year preceding the applicable program year for lottery Applications and expire no earlier than 120 days after the date of submission for waiting list and carryforward Applications. The earnest money contract must stipulate and provide for the Applicant's option to extend the contract expiration date through March 1 of the program year for lottery Applications or option to extend an additional 120 days from the initial expiration for waiting list and carryforward Applications, subject only to the seller's receipt of additional earnest money or extension fees, so that the Applicant will have site control at the time a reservation of allocation is granted. If the Applicant owns the Property, a copy of the recorded warranty deed is required;~~
- ~~(12) Evidence of zoning appropriate for the proposed use, application for the appropriate zoning or statement that no zoning is required;~~
- ~~(13) A local map showing the location of the proposed Property site;~~
- ~~(14) A boundary survey or subdivision plat which clearly identifies the location and boundaries of the subject Property;~~
- ~~(15) Name, address and telephone number of the Seller of the Property;~~
- ~~(16) Construction draw and lease-up proforma for Developments involving new construction;~~
- ~~(17) Past two years' operating statements for existing Developments;~~
- ~~(18) Current market information which includes rental comparisons;~~
- ~~(19) Documentation of local Section 8 utility allowances;~~
- ~~(20) Verification/Evidence of delivery of federal, state, and local community notifications;~~
- ~~(21) Self-Scoring Criteria; and~~
- ~~(22) Such other items deemed necessary by the Department per individual application.~~

(c) Pre-Application Threshold Requirements.

- (1) As the Department reviews the Application, the Department will use the following assumptions, even if not reflected by the Applicant in the Application. Prequalification Assumptions:
 - (A) Development Feasibility:
 - (i) Debt Coverage Ratio must be greater than or equal to 1. .4015;
 - ~~(ii) Annual Expenses must be at least \$3,800 per Unit or \$3.75 per square foot;~~
 - (iii) Deferred Developer Fees are limited to 80% of Developer's Fees;
 - ~~(iiiv) Contractor Fee, Overhead and General Requirements are limited to 146% of direct costs plus site work cost; and~~
 - ~~(v) Overhead is limited to 2% of direct costs plus site work cost;~~
 - ~~(vi) General Requirements are limited to 6% of direct costs plus site work cost;~~
 - (vii) Developer Fees cannot exceed 15% of the project's Total Eligible Basis.
 - (B) Construction Costs Per Unit Assumption. The acceptable range is \$55 to 65 ~~Costs not to exceed \$75~~ per Unit for general population developments and \$55 to \$75 ~~\$85~~ for elderly developments (Acquisition / Rehab developments are exempt from this requirement);
 - (C) Anticipated Interest Rate Assumption and Term. 6.00% for 30-year financing and 6.75% for 40-year financing as stated in the preliminary financing commitment from the Application;
 - (D) Size of Units (Acquisition / Rehab developments are exempt from this requirement);
 - (i) One bedroom Unit must be greater than or equal to 650 square feet for family and 550 square feet for senior Units.
 - (ii) Two bedroom Unit must be greater that or equal to 900 square feet for family and 750 square feet for senior Units.

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(iii) Three bedroom Unit must be greater than or equal to 1,000 square feet for family.

(iv) Four bedroom Unit must be greater than or equal to 1200 square feet for family.

(2) Appropriate Zoning. Evidence of appropriate zoning for the proposed use or evidence of application made and pending decision;

(3) Executed Site Control. Properly executed and escrow receipted site control through 12/1/05 December 1, 2006 with option to extend through 3/1/06 March 1, 2007 for lottery Applications or 150 days later than the date of Application submission or through the full reservation period, whichever is longer 120 days from date of Application submission with option to extend an additional 120 days from the initial expiration for waiting list and carryforward Applications;

(4) Previous Participation and Authorization to Release Credit Information (located in the uniform application);

(5) Current Market Information (must support affordable rents);

(6) Completed current TDHCA Uniform Bond Pre-Application and application exhibits;

(7) Completed Multifamily Rental Worksheets;

(8) Certification of Local Elected Official request for neighborhood organization information and Public Notification Information (see application package);

(9) Relevant Development Information and Public Notification Information Form (see application package);

(10) Completed 2006-2007 Bond Review Board Residential Rental Attachment;

(11) Signed letter of Responsibility for All Costs Incurred;

(12) Signed Mortgage Revenue Bond Program Certification Letter;

(13) Evidence of Paid Application Fees (\$1,000 to TDHCA, \$1,500 to Vinson and Elkins and \$5,000 to Bond Review Board);

(14) Boundary Survey or Plat clearly identifying the location and boundaries of the subject property;

(15) Local Area map showing the location of the Property and Community Services / Amenities within a three (3) mile radius;

(16) Utility Allowance documented from the Appropriate Local Housing Authority;

(17) Organization Chart showing the structure of the Applicant and the ownership structure of any principals of the Applicant with evidence of Entity Registration or Reservation with the Secretary of State; and

(18) Required Notification. Evidence of notifications shall include a copy of the exact letter and other materials that were sent to the individual or entity, a sworn affidavit stating that they made all the required notifications prior to the deadlines and a copy of the entire mailing list (including names and complete addresses) of all the recipients. Proof of notification must not be older than three months prior to the date of Application submission date. Notification must be sent to all the following individuals and entities (If the QAP and Rules in effect for the program year for which the Bond and Housing Tax Credit applications are submitted reflect a notification process that is different from the process listed below, then the QAP and Rules will override the notification process listed below):

(A) State Senator and Representative that represents the community containing the development;

(B) Presiding Officer of the governing body of any municipality containing the development and all elected members of that body (Mayor, City Council members);

(C) Presiding Officer of the governing body of the county containing the development and all elected members of that body (County Judge and/or Commissioners);

(D) School District Superintendent of the school district containing the development;

(E) Presiding Officer of the School Board of Trustees of the school district containing the development; and

~~(F) Evidence must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Local Elected Official Notification" as outlined in the Application was sent no later than twenty-one (21) days prior to the Application submission to the local elected official for the city or if located outside of a city, then the county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, or both at-large and district based local elected officials, the notification must be made to the city council member or county commissioner representing that district; if the Development is located in a jurisdiction that has only at-large local elected official, the notification must be made to the mayor or county judge for the jurisdiction. A copy of the reply letter or other official third-party documentation from the local elected official must be provided. For urban/exurban areas, entities identified in the letters from the local elected official whose listed address has the same zip code as the zip code for the Development must be provided with written notification, and evidence of the notification must be provided. If any other zip codes exist within a half mile of the Development site, then all entities identified in the letters with adjacent zip codes must also be provided with~~

~~written notification, and evidence of that notification must be provided. For rural areas, all entities identified in the letters whose listed address is within a half mile of the proposed Development site must be provided with written notification, and evidence of that notification must be provided. If no response is received from the local elected official by seven (7) days prior to Application submission then the Applicant must submit a statement attesting to that fact in the format provided by the Department as part of the Application.~~

(F) Evidence in the form of a certification that all of the notifications required under this paragraph have been made. Requests for Neighborhood Organizations under subparagraph (i) of this paragraph must be made by the deadlines described in that clause. Evidence of notification must meet the requirements identified in subparagraph (ii) of this paragraph to all of the individuals and entities identified in subparagraph (iii) of this paragraph.

(i) The Applicant must request Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site as follows:

(I) No later than twenty-one (21) days prior to the date the Application is submitted, the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Pre-Application materials to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format.

(II) If no reply letter is received from the local elected officials by seven (7) days prior to the Application submission, then the Applicant must certify to that fact with the "Pre-Application Notification Certification Form" provided in the Pre-Application materials.

(III) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of the Pre-Application Submission in the "Pre-Application Notification Certification Form" provided in the Pre-Application.

(ii) No later than the date the Pre-Application is submitted, Notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt in the format required in the "Pre-Application Notification Template" provided in the Pre-Application materials. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials. Evidence of Notification is required in the form of a certification in the "Pre-Application Notification Certification Form" provided in the Pre-Application materials. It is strongly encouraged that Applicants retain proof of notifications in the event the Department requires proof of Notification. Officials to be notified are those officials in office at the time the Pre-Application is submitted.

(I) Neighborhood Organizations on record with the city, state or county whose boundaries include the proposed Development Site as identified in subsection (i)(III) of this subparagraph.

(II) Superintendent of the school district containing the Development;

(III) Presiding officer of the board of trustees of the school district containing the

Development;

(IV) Mayor of any municipality containing the Development;

(V) All elected members of the governing body of any municipality containing the

Development;

(VI) Presiding officer of the governing body of the county containing the Development;

(VII) All elected members of the governing body of the county containing the Development;

(VIII) State representative of the district containing the Development; and

(IX) State senator of the district containing the Development.

(iii) Each such notice must include, at a minimum, all of the following:

(I) The Applicant's name, address, individual contact name and phone number;

(II) The Development name, address, city and county;

(III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Private Activity Bonds and Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(IV) Statement of whether the Development proposes New Construction or Rehabilitation;

(V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing, or elderly);

(VI) The approximate total number of Units and approximate total number of low-income Units;

(VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate; and

(VIII) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Pre-Application, which are subject to change as annual changes in the area median income occur.

(d) Pre-Application Scoring Criteria.

(1) Construction Cost Per Unit includes: direct hard costs, site work, contractor profit, overhead, general requirements and contingency. Calculation will be hard costs per square foot of net rentable area. Must be greater than or equal to ~~\$60-85~~ per square foot (1 point) (Acquisition / Rehab will automatically receive (1 point)).

(2) Size of Units. Average size of all Units combined in the development must be greater than or equal to 950 square foot for family and must be greater than or equal to 750 square foot for elderly (5 points). (Acquisition / Rehab developments will automatically receive 5 points).

(3) Period of Guaranteed Affordability for Low Income Tenants. Add 10 years of affordability after the extended use period for a total affordability period of 40 years (1 point).

(4) Quality and Amenities ~~((maximum 35 points) Acquisition / Rehab (with no demolition / new construction) will receive double points not to exceed 35 points)). (If there are changes to the Application prior to closing that have an adverse affect on the score and ranking order and that would have resulted in the Application being placed below another Application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points)).~~ Substitutions in amenities will be allowed as long as the overall score is not affected). Applications in which Developments provide specific qualities and amenities at no extra charge to the tenant will be awarded points as follows:

(A) Laundry Connections (2 points);
(B) Self-cleaning or continuous cleaning ovens (1 point);
(C) Microwave Ovens (in each Unit) (1 point);
(D) Refrigerator with icemaker (1 point);
(E) Laundry equipment (washer and dryers) for each Unit (3 points);
(F) Storage Room of approximately nine (9) square feet or greater (does not have to be in the unit but must be on the property) (1 point);

(G) Covered entries (1 point);
(H) Nine foot ceilings (1 point);
(I) Covered patios or covered balconies (1 point);
(J) Covered Parking (at least one per Unit) (3 points);
(K) Garages (equal to at least 35% of Units) (5 points);
(L) Ceiling Fans in all rooms except bathrooms and kitchens (light with ceiling fan in all bedrooms) (1 point);

(M) 75% or Greater Masonry (includes rock, stone, brick, stucco and cementious board product; excludes EIFS) (5 points);

(N) Thirty year architectural shingle roofing (1 point);
(O) Use of energy efficient alternative construction materials (structurally insulated panels) with wall insulation at a minimum of R-20 (3 points);

(P) R-15 Walls / R-30 Ceilings (rating of wall system) (3 points);
(Q) -14 SEER HVAC or evaporative coolers in dry climates for new construction or radiant barrier in the attic for the rehabilitation (3 points);

(R) -Energy Star or equivalently rated kitchen appliances (2 points);
(S) One Children's Playscape/Playground Equipped for 5 to 12 years olds, or one Tot Lot- Only Family Developments Eligible (1 point) and Equipment or Covered Community Porch (3 points);

(T) Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each-Only Family Developments Eligible (2 points);

(U) Sport Court (Tennis, Basketball or Volleyball) - Only Family Developments Eligible (2 points);

(V) Enclosed sun porch or covered community porch/patio (2 points);

~~(TW) BBQ Grills and Tables (at least one each per 50 Units) or Walking Trail (minimum length of 1/4 mile) (13 points);~~

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- (X) Accessible walking path/jogging path separate from a sidewalk (1 point);
- (UY) Full Perimeter Fencing with controlled gate access (32 points);
- (Z) Controlled access gate (1 point);
- (VAA) Equipped and functioning business center or equipped computer learning center with 1 computer and 1 fax machine for every 25 Units proposed in the Application, and 1 printer for every 2 computers (8 hour availability) (2 points);
- (WBB) Game Room or TV Lounge (2 points);
- (XCC) Furnished and staffed children's activity center—Only Family Developments Eligible (3 points);
- (YDD) Horseshoe pit, putting green or shuffleboard court (only qualified elderly developments)—(2 points); (1 point);
- (ZEE) Furnished Fitness Center/Workout Facilities or Library (with comparable square footage as workout facilities) (2 points).
- (FF) Library with an accessible sitting area (separate from the community room) (1 point);
- (GG) Gazebo with sitting area (1 point);
- (HH) Emergency 911 telephones accessible and available to tenants 24 hours a day (2 points);
- (II) Covered Pavilion that includes barbeque grills and tables (2 points);
- (JJ) Swimming pool (3 points).
- (KK) Community laundry room (with at least one front leading washer (1 point);
- (LL) Furnished Community room (1 point);
- (MM) Service coordinator office in addition to leasing offices (1 point);
- (NN) Senior Activity Room (Arts and Crafts, etc.) - Only Qualified Elderly Developments Eligible (2 points);
- (OO) Health Screening Room (1 point)
- (PP) Secured Entry (elevator buildings only) - (1 point);
- (QQ) Community Dining Room with full or warming kitchen—Only Qualified Elderly Developments Eligible (3 points);

(5) Tenant Services (Tenant Services shall include only direct costs (tenant services contract amount, supplies for services, internet connections, initial cost of computer equipment, etc.). Indirect costs such as overhead and utility allocations may not be included);

- (A) \$10.00 per Unit per month (10 points);
- (B) \$7.00 per Unit per month (5 points);
- (C) \$4.00 per Unit per month (3 points).

(6) Zoning appropriate for the proposed use or no zoning required (appropriate zoning for the intended use must be in place at the time of ~~a~~Application submission date, ~~September 6, 2005~~September 5, 2006 (Applications submitted for lottery) or ~~first Monday of each month~~the submission dates listed on the Department's website ~~{for Applications submitted for waiting list and carryforward}~~, in order to receive points) (5 points).

(7) Proper Site Control (as defined in ~~§3335.3~~(21) of this title control through ~~12/01/05~~December 1, 2006 with option to extend through ~~03/01/06~~March 1, 2007 (Applications submitted for lottery) or 150 days from the date of Application submission or through the full reservation period whichever is longer. 120 days after the applicable submission date with option to extend an additional 120 days after the initial expiration ~~{for Applications submitted for waiting list and carryforward}~~{all information must be correct at the time of the Application submission date, ~~September 6, 2005~~September 5, 2006 ~~{for Applications submitted for lottery}~~ or first Monday of each monththe submission dates listed on the Department's website ~~{for Applications submitted for waiting list or carryforward}~~, in order to receive points) (5 points).

(8) Development Support / Opposition ~~{Maximum net points of +24 to -24. Each letter will receive a maximum of +3 to -3. All letters received by 5:00 PM, ~~October 7, 2005~~September 29, 2006 ~~{for Applications submitted for lottery}~~ or fourteen (14) days prior to the date of the Board meeting at which the Application will be considered ~~{for Applications submitted for waiting list and carryforward}~~ will be used in scoring).~~

- (A) Texas State Senator and Texas State Representative (maximum +63 to -63 points per official);
- (B) Presiding officer of the governing body of any municipality containing the Development and the elected district member of the governing body of the municipality containing the Development (maximum +63 to -63 points per official);
- (C) Presiding officer of the governing body of the county containing the Development and the elected district member of the governing body of the county containing the Development (if the site is not in a municipality, these points will be doubled) (maximum +63 to -63 points per official);
- (D) Local School District Superintendent and Presiding Officer of the Board of Trustees for the School district containing the Development (maximum +63 to -63 points per official).

(9) Penalties for Missed Deadlines in the Previous Year's Bond and / or Tax Credit program year. ~~(This includes approved and used extensions)~~ (-1 point ~~with maximum 3 point deduction per missed deadline~~).

(10) Local Political Subdivision Development Funding Commitment that enables additional Units for the Very Low Income (CDBG, HOME or other funds through local political subdivisions) ~~must~~ must be greater than or equal to 2% of the bond amount requested and must provide at least 5% of the total Development Units at or below 30% AMFI or an additional 5% of the total Development Units if the Applicant has chosen category Priority 1B on the residential rental attachment) (2 points).

(11) Proximity to Community Services / Amenities ~~(Community services / amenities within three (3) miles of the site. A map must be included with the Application showing a three (3) mile radius notating where the services / amenities are located)~~ (maximum 12 points)

- (A) Full service grocery store or supermarket (1 point);
- (B) Pharmacy (1 point);
- (C) Convenience store / mini-market (1 point);
- (D) Retail Facilities (Target, Wal-Mart, Home Depot, etc.) (1 point);
- (E) Bank / Financial Institution (1 point);
- (F) Restaurant (1 point);
- (G) Indoor public recreation facilities (community center, civic center, YMCA) (1 point);
- (H) Outdoor public recreation facilities (park, golf course, public swimming pool) (1 point)
- (I) Fire / Police Station (1 point);
- (J) Medical Facilities (hospitals, minor emergency, doctor or dentist offices) (1 point);
- (K) Public Library (1 point);
- (L) Public Transportation (1/2 mile from site) (1 point);
- (M) Public School (only one school required for point and only eligible with general population developments) (1 point)-.

(12) Proximity to Negative Features ~~(adjacent to or within 300 feet of any part of the Development site boundaries)~~. A map must be included with the application showing where the feature is located. Developer must provide a letter stating there are none of the negative features listed below within the stated area if that is correct. (maximum -20 points)

- (A) Junkyards (5 points);
- (B) Active Railways (excluding light rail) (5 points);
- (C) Heavy industrial / manufacturing plants (5 points);
- (D) Solid Waste / Sanitary Landfills (5 points);
- (E) High Voltage Transmission Towers within 100 feet (5 points).

(13) Acquisition / Rehabilitation Developments will receive thirty (30) points. This will include the demolition of old buildings and new construction of the same number of units if allowed by local codes or less units to comply with local codes (not to exceed 252 total units).

(14) Preservation Developments will receive ten (10) points. This includes rehabilitation proposals on properties which are nearing expiration of an existing affordability requirement within the next two years or for which there has been a rent restriction requirement in the past ten years. Evidence must be provided.

(e) Financing Commitments. After approval by the Board of the inducement resolution, and before submission of a final application, the Applicant will be solely responsible for making appropriate arrangements with financial institutions which are to be involved with the issuance of the Bonds or the financing of the Development, and to begin the process of obtaining firm commitments for financing from each of the financial institutions involved.

(f) Final Application. An Applicant who elects to proceed with submitting a final Application to the Department must submit the Volumes I and II of the Application, for Priority 1 and 2, prior to receipt of a reservation of allocation from the Texas Bond Review Board. ~~and For Priority 3 Applications the Volumes I and II must be submitted within fourteen (14) days of the reservation date from the Texas Bond Review Board.~~ The Volumes III and VI of the Application and such supporting material as is required by the Department must be submitted at least sixty (60) days prior to the scheduled meeting of the Board at which the Development and the Bond issuance are to be considered, unless the Department directs the Applicant otherwise in writing. If the Applicant is applying for other Department funding then refer to the Rules for that program for Application submission requirements. The final application must adhere to the Department's QAP and Rules in effect for the program year for which the Bond and Housing Tax Credit applications are submitted. The Department may determine that supporting materials listed in paragraphs (1) through (42) of this subsection shall be provided subsequent to the final Application deadline in accordance with a schedule approved by the Department. Failure to provide any supporting materials in accordance with the approved schedule may be grounds for terminating the Application and returning the reservation to the Texas Bond Review Board. If an Application contains

deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. All Administrative Deficiencies shall be clarified or corrected to the satisfaction of the Department within five business days. Failure to resolve all outstanding deficiencies within five business days will result in a penalty fee of \$500 for each day the deficiency remains unresolved. Any Application with unresolved deficiencies after the 10th day from the issuance of the deficiency notice will be terminated. The Applicant will be responsible for the payment of any fees accrued pursuant to this section regardless of any termination pursuant to this section. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. The Application will not be presented to the Board for consideration until all outstanding fees have been paid. The final application and supporting material shall consist of the following information:

(1) A Public Notification Sign shall be installed on the proposed Development site, regardless of Priority, no later than thirty (30) days after the submission of Volume I and II of the Tax Credit Application to the Department (pictures and invoice receipts must be submitted as evidence of installation within thirty (30) days of the submission), within thirty (30) days of the Department's receipt of Volumes I and II or thirty (30) days prior to the bond public hearing date, whichever is earlier. The date, time and location of the Bond Public Hearing must be included on the sign as soon as the hearing has been scheduled. The sign must be at least four (4) feet by eight (8) feet in size and be located within twenty (20) feet of, and facing, the main road adjacent to the site. The sign shall be continuously maintained on the site until the day the TDHCA Board takes final action on the Application for the development. The information and lettering on the sign must meet the requirements identified in the Application. As an alternative to installing a Public Notification Sign and at the same required time, the Applicant may instead, at the Applicant's Option, mail written notification to all addresses located within the footage distance required by the local municipality zoning ordinance or 1,000 feet, if there is no local zoning ordinance or if the zoning ordinance does not require notification, of any part of the proposed Development site. This written notification must include the information otherwise required for the sign. If the Applicant chooses to provide this mailed notice in lieu of signage, the final Application must include a map of the proposed Development site and mark the 1,000 foot or local ordinance area showing street names and addresses; a list of all addresses the notice was mailed to; an exact copy of the notice that was mailed; and a certification that the notice was mailed through the U.S. Postal Service and stating the date of mailing. The Applicant must mail notice to any public official that changed from the submission of the pre-application to the submission of the final application and any neighborhood organization that is known and was not notified at the time of the pre-application submission. No additional notification is required unless the Applicant submitted a change in the Application that reflects a total Unit increase greater than 10%, an increase greater than 10% for any given AMFI, or a change in the population being served (elderly, general population or transitional);

(2) Completed Uniform Application and Multifamily Rental Worksheets forms in the format required by the Department;

(3) Certification of no changes from the pre-application to the final application. If there are changes to the Application that have an adverse affect on the score and ranking order and that would have resulted in the application being placed below another application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points);

(4) Certification and agreement to comply with the Department's rules;

(5) A narrative description of the Development;

(6) A narrative description of the proposed financing;

(7) Firm letters of commitment from any lenders, credit providers, and equity providers involved in the transaction;

(8) Documentation of local Section 8 utility allowances;

(9) Site plan;

(10) Unit and building floor plans and elevations;

(11) Complete construction plans and specifications;

(12) General contractor's contract;

(13) Completion schedule;

(14) Copy of a recorded warranty deed if the Applicant already owns the Property, or a copy of an executed earnest money contract between the Applicant and the seller of the Property if the Property is to be purchased;

(15) A local map showing the location of the Property;

(16) Photographs of the Site;

(17) Survey with legal description;

(18) Flood plain map;

(19) Evidence of zoning appropriate for the proposed use from the appropriate local municipality that satisfies one of these subparagraphs (A) through (C) of this paragraph:

(A) ~~no later than fourteen (14) days before the Board meets to consider the transaction, the Applicant must submit to the Department~~ written evidence that the local entity responsible for initial approval of zoning has approved the appropriate zoning and that they will recommend approval of the appropriate zoning to the entity responsible for final approval of zoning decisions;

(B) provide a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision which does not have a zoning ordinance;

(C) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating the Development is permitted under the provision of the zoning ordinance that apply to the location of the Development ~~or that there is not a zoning requirement.~~

(20) Evidence of the availability of utilities;

(21) Copies of any deed restrictions which may encumber the Property;

(22) A Phase I Environmental Site Assessment performed in accordance with the Department's Environmental Site Assessment Rules and Guidelines (§1.35 of this title);

(23) Title search or title commitment;

(24) Current tax assessor's valuation or tax bill;

(25) For existing Developments, current insurance bills;

(26) For existing Developments, past two (2) fiscal year end development operating statements;

(27) For existing Developments, current rent rolls;

(28) For existing Developments, substantiation that income-based tenancy requirements will be met prior to closing;

(29) A market study performed in accordance with the Department's Market Analysis Rules and Guidelines (§1.33 of this title);

(30) Appraisal of the existing or proposed Development performed in accordance with the Department's Underwriting Rules and Guidelines (§1.32 of this title);

(31) Statement that the Development Owner will accept tenants with Section 8 or other government housing assistance;

(32) An organizational chart showing the structure of the Applicant and the ownership structure of any principals of the Applicant;

(33) Evidence that the Applicant and principals are registered with the Texas Secretary of State, as applicable;

(34) Organizational documents such as partnership agreements and articles of incorporation, as applicable, for the Applicant and its principals;

(35) Documentation of non-profit status if applicable;

(36) Evidence of good standing from the Comptroller of Public Accounts of the State of Texas for the Applicant and its principals;

(37) Corporate resumes and individual resumes of the Applicant and any principals;

(38) Latest two (2) annual ~~financial~~ financial/operating statements and current interim financial statement for the Applicant and its principals;

(39) Latest income tax filings for the Applicant and its principals;

(40) Resolutions or other documentation indicating that the transaction has been approved by the general partner;

(41) Resumes of the general contractor's and the property manager's experience; and

(42) Such other items deemed necessary by the Department per individual application.

(g) Evaluation-Eligibility Criteria. The Department will evaluate the Development for eligibility at the time of pre-application, and at the time of final Application. If there are changes to the Application that have an adverse affect on the score and ranking order and that would have resulted in the Application being placed below another Application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and

support or opposition points). The Development and the Applicant must satisfy the conditions set out in paragraphs (1) through (6) of this subsection in order for a Development to be considered eligible:

(1) The proposed Development must further meet the public purposes of the Department as identified in the [ActCode](#).

(2) The proposed Development and the Applicant and its principals must satisfy the Department's Underwriting Rules and Guidelines (§1.32 of this title). The pre-application must include sufficient information for the Department to establish that the Underwriting Guidelines can be satisfied. The final Application will be thoroughly underwritten according to the Underwriting Rules and Guidelines (§1.32 of this title).

(3) The Development must not be located on a site determined to be unacceptable for the intended use by the Department.

(4) Any Development in which the Applicant or principals of the Applicant have an ownership interest must be found not to be in Material Non-Compliance under the compliance Rules in effect at the time of pre-application submission. Any corrective action documentation affecting the Material Non-compliance status score must be submitted to the Department no later than thirty (30) days prior to final application submission.

(5) Neither the Applicant nor any principals of the Applicant is, at the time of Application:

(A) barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs; or

(B) has been convicted of a state or federal crime involving fraud, bribery, theft, misrepresentation, misappropriation of funds, or other similar criminal offenses within fifteen (15) years; or

(C) is subject to enforcement action under state or federal securities law, action by the NASD, subject to a federal tax lien, or the subject of an enforcement proceeding with any governmental entity; or

(D) neither applicant nor any principals of the applicant have a development under their ownership or control with a Material Non-compliance score as set out in the Department's Compliance Monitoring Policies and Procedures (§60.1 of this title); or

(E) otherwise disqualified or debarred from participation in any of the Department's programs.

(6) Neither the Applicant nor any of its principals may have provided any fraudulent information, knowingly false documentation or other intentional or negligent misrepresentation in the Application or other information submitted to the Department.

(h) Bond Documents. After receipt of the final Application, bond counsel for the Department shall draft Bond documents which conform to the state and federal laws and regulations which apply to the transaction.

(i) Public Hearings; Board Decisions. For every Bond issuance, the Department will hold a public hearing in accordance with §2306.0661, Texas Government Code and §147(f) of the Code, in order to receive comments from the public pertaining to the Development and the issuance of the Bonds. The Applicant or member of the Development team must be present and will be responsible for conducting a brief presentation on the proposed Development and providing handouts at the hearing that should contain at a minimum, a description of the Development, maximum rents and income restrictions. If the proposed Development is an acquisition/rehabilitation then the presentation should include the scope of work that will be done to the property. All handouts must be submitted to the Department for review at least two (2) days prior to the public hearing. Publication of all notices required for the public hearing shall be at the sole expense of the Applicant. The Board's decisions on approvals of proposed Developments will consider all relevant matters. Any topics or matters, alone or in combination, may or may not determine the Board's decision. The Department's Board will consider the following topics in relation to the approval of a proposed Development:

~~(1) The Development Owner market study;~~

~~(2) The location, including supporting broad geographic dispersion;~~

~~(3) The compliance history of the Development Owner;~~

~~(4) The financial feasibility;~~

~~(5) The inclusive capture rate as described under Chapter 10, Texas Administrative Code, §1.32(g)(2);~~

~~(6) The Development's proposed size and configuration in relation to the housing needs of the community in which the Development is located;~~

~~(7) The Development's proximity to other low income Developments;~~

~~(8) The availability of adequate public facilities and services;~~

~~(9) The anticipated impact on local school districts, giving due consideration to the authorized land use;~~

~~(10) Zoning and other land use considerations;~~

~~(11) Fair Housing law, including affirmatively furthering fair housing;~~

~~(12) The Applicant and/or Developer's efforts to engage the neighborhood;~~

~~(13) The housing needs of the community, area, region and state;~~

~~(14) Consistency with local needs, including consideration of revitalization or preservation needs;~~

~~(15) Providing integrated, affordable housing for individuals and families with different levels of income;~~

~~(16) Meeting a compelling housing need;~~

~~(1) The developer market study;~~

~~(2) The location;~~

~~(3) The compliance history of the developer;~~

~~(4) The financial feasibility;~~

~~(5) The appropriateness of the Development's size and configuration in relation to the housing needs of the community in which the Development is located;~~

~~(6) The Development's proximity to other low income Developments;~~

~~(7) The availability of adequate public facilities and services;~~

~~(8) The anticipated impact on local school districts;~~

~~(9) Zoning and other land use considerations;~~

~~(10) Any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes and the policies of Chapter 2306, Texas Government Code; and~~

~~(11) Other good cause as determined by the Board.~~

(j) Approval of the Bonds.

(1) Subject to the timely receipt and approval of commitments for financing, an acceptable evaluation for eligibility, the satisfactory negotiation of Bond documents, and the completion of a public hearing, the Board, upon presentation by the Department's staff, will consider the approval of the Bond issuance, final Bond documents and, in the instance of privately placed Bonds, the pricing of the Bonds. The process for appeals and grounds for appeals may be found under §§1.7 and 1.8 of this title. The Department's conduit housing transactions will be processed in accordance with the Texas Bond Review Board rules Title 34, Part 9, Chapter 181, Subchapter A and Chapter 1372, Texas Government Code. The Bond issuance must receive an approving opinion from the Department's bond counsel with respect to the legality and validity of the Bonds and the security therefore, and in the case of tax-exempt Bonds, with respect to the excludability from gross income for federal income tax purposes of interest on the Bonds.

(2) Alternative Dispute Resolution Policy. ~~In accordance with Section 2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator (fax: (512) 475-3978). For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17. The Department encourages use of Alternative Dispute Resolution methods as outlined in §1.17 of this title.~~

(k) Local Permits. Prior to the closing of the Bonds, all necessary approvals, including building permits, from local municipalities, counties, or other jurisdictions with authority over the Development must have been obtained or evidence that the permits are obtainable subject only to payment of certain fees must be provided to the Department.

(l) Closing. ~~If there are changes to the Application prior to closing that have an adverse affect on the score and ranking order that would have resulted in the Application being placed below another Application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points).~~ Once all approvals have been obtained and Bond documents have been finalized to the respective parties' satisfaction, the Bond transaction will close. Any outstanding Housing Trust Fund Pre-Development loans for the proposed Development site must be paid in full at the time the bond transaction is closed. All Applicants are subject to §1.13 of this title. Upon satisfaction of all conditions precedent to closing, the Department will issue Bonds in exchange for payment thereof. The Department will then loan the proceeds of the Bonds to the Applicant and disbursements of the proceeds may begin.

~~§3335.7~~ Regulatory and Land Use Restrictions

(a) Filing and Term of LURA. A Regulatory and Land Use Restriction Agreement or other similar instrument (the "LURA"), will be filed in the property records of the county in which the Development is located for each

Development financed from the proceeds of Bonds issued by the Department. For Developments involving new construction, the term of the LURA will be the longer of 30 years, the period of guaranteed affordability or the period for which Bonds are outstanding. For the financing of an existing Development, the term of the LURA will be the longer of the longest period which is economically feasible in accordance with the Act, or the period for which Bonds are outstanding.

(b) Development Occupancy. The LURA will specify occupancy restrictions for each Development based on the income of its tenants, and will restrict the rents that may be charged for Units occupied by tenants who satisfy the specified income requirements. Pursuant to §2306.269, Texas Government Code, the LURA will prohibit a Development Owner from excluding an individual or family from admission to the Development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (the "Housing Act"), and from using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than two and one half (2.5) times the individual's or family's share of the total monthly rent payable to the Development Owner of the Development. Development occupancy requirements must be met on or prior to the date on which Bonds are issued unless the Development is under construction. Adequate substantiation that the occupancy requirements have been met, in the sole discretion of the Department, must be provided prior to closing. Occupancy requirements exclude Units for managers and maintenance personnel that are reasonably required by the Development.

(c) Set Asides.

(1) Developments which are financed from the proceeds of Private Activity Bonds or from the proceeds of Qualified 501(c)(3) Bonds must be restricted under one of the following two minimum set-asides:

(A) at least twenty percent (20%) of the Units within the Development that are available for occupancy shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed fifty percent (50%) of the area median income, or

(B) at least forty percent (40%) of the Units within the Development that are available for occupancy shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed sixty percent (60%) of the area median income.

(2) The Development Owner must designate at the time of Application which of the two set-asides will apply to the Development and must also designate the selected priority for the Development in accordance with §1372.0321, Texas Government Code. Units intended to satisfy set-aside requirements must be distributed evenly throughout the Development, and must include a reasonably proportionate amount of each type of Unit available in the Development.

(3) No tenant qualifying under either of the set-asides shall be denied continued occupancy of a Unit in the Development because, after commencement of such occupancy, such tenant's income increases to exceed the qualifying limit; provided, however, that, should a tenant's income, as of the most recent determination thereof, exceed 140% of the then applicable income limit and such tenant constitutes a portion of the set-aside requirement of this section, then such tenant shall only continue to qualify for so long as no Unit of comparable or smaller size is rented to a tenant that does not qualify as a Low-Income Tenant. (~~These are the~~Required federal set-aside requirements)

(d) Global Income Requirement. All of the Units that are available for occupancy in Developments financed from the proceeds of Private Activity Bonds or from the proceeds of Qualified 501(c)(3) Bonds shall be occupied or held vacant (in the case of new construction) and available for occupancy at all times by persons or families whose income does not exceed one hundred and forty percent (140%) of the area median income for a four-person household.

(e) Qualified 501(c)(3) Bonds. Developments which are financed from the proceeds of Qualified 501(c)(3) Bonds are further subject to the restriction that at least seventy-five percent (75%) of the Units within the Development that are available for occupancy shall be occupied (or, in the case of new construction, held vacant and available for occupancy until such time as initial lease-up is complete) at all times by individuals and families of Low Income (less than or equal to 80% of AMFI).

(f) Taxable Bonds. The occupancy requirements for Developments financed from the issuance of taxable Bonds will be negotiated, considered and approved by the Department on a case by case basis.

~~**(g) Special Needs.** At least five percent (5%) of the Units within each Development must be designed to be accessible to Persons with Special Needs and hardware and cabinetry must be stored on site or provided to be installed on an as needed basis in such Units. The Development will comply with accessibility requirements in the Fair Housing Act Design manual. The Development Owner will use its best efforts (including giving preference to Persons with Special Needs) to:~~

- ~~(1) make at least five percent (5%) of the Units within the Development available for occupancy by Persons with Special Needs;~~
- ~~(2) make reasonable accommodations for such persons; and~~
- ~~(3) allow reasonable modifications at the tenant's sole expense pursuant to the Housing Act. During the term of the LURA, the Development Owner shall maintain written policies regarding the Development Owner's outreach and marketing program to Persons with Special Needs.~~

(hg) Fair Housing. All Developments financed by the Department must comply with the Fair Housing Act which prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. The Fair Housing Act also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities.

(ih) Tenant Services. The LURA will require that the Development Owner offer a variety of services for residents of the Development through a Tenant Services Program Plan which is subject to annual approval by the Department.

(ji) ~~The LURA will require the Development Owner~~Land Use Restriction Agreement. Requirements as defined in §60 of this title:

~~(1) To obtain, complete and maintain on file Tenant Income Certifications from each Eligible Tenant, including:~~

~~(A) a Tenant Income Certification dated immediately prior to the initial occupancy of each new Eligible Tenant in the Development; and~~

~~(B) thereafter, annual Tenant Income Certifications which must be obtained on or before the anniversary of such Eligible Tenant's occupancy of the Unit, and in no event less than once in every 12-month period following each Eligible Tenant's occupancy of a Unit in the Development. For administrative convenience, the Development Owner may establish the first date that a Tenant Income Certification for the Development is received as the annual recertification date for all tenants. The Development Owner will obtain such additional information as may be required in the future by §142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations which are tax-exempt private activity bonds described in §142(d) of the Code. The Development Owner shall make a diligent and good-faith effort to determine that the income information provided by an applicant in a Tenant Income Certification is accurate by taking steps required under §142(d) of the Code pursuant to provisions of the Housing Act.~~

~~(C) The Development shall comply with Title 10, Part 1, Chapter 60, Subchapter A.~~

~~(2) As part of the verification, such steps may include the following, provided such action meets the requirements of §142(d) of the Code and the gross income of individuals shall be determined in a manner consistent with the determinations of low income families under section 8 of the United States Housing Act of 1937:~~

~~(A) obtain pay stubs sufficient to annualize income;~~

~~(B) obtain third-party written verification of income;~~

~~(C) obtain an income verification from the applicant's current employer;~~

~~(D) obtain an income verification from the Social Security Administration; or~~

~~(E) if the applicant is self-employed, unemployed, does not have income tax returns or is otherwise not reasonably able to provide other forms of verification as required above, obtain another form of independent verification as would, in the Development Owner's reasonable commercial judgment, enable the Development Owner to determine the accuracy of the applicant's income information. The Development Owner shall retain all Tenant Income Certifications obtained in compliance with this subsection (b) of this section until the date that is six years after the last Bond is retired.~~

~~(3) To obtain from each tenant in the Development, at the time of execution of the lease pertaining to the Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form as provided by the Department to the Development Owner from time to time that~~

~~(A) such lease is subordinate to the Mortgage and the LURA;~~

~~(B) all statements made in the Tenant Income Certification submitted by such tenant are accurate;~~

~~(C) the family income and eligibility requirements of the LURA and the Loan Agreement are substantial and material obligations of tenancy in the Development;~~

~~(D) such tenant will comply promptly with all requests for information with respect to such requirements from the Development Owner, the Trustee and the Department; and~~

~~(E) failure to provide accurate information in the Tenant Income Certification or refusal to comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Development;~~

~~(4) To maintain complete and accurate records pertaining to the Low-Income Units and to permit, at all reasonable times during normal business hours and upon reasonable notice, any duly authorized representative of the Department, the Trustee, the Department of the Treasury or the Internal Revenue Service to enter upon the Development Site to examine and inspect the Development and to inspect the books and records of the Development Owner pertaining to the Development, including those records pertaining to the occupancy of the Low-Income Units;~~

~~(5) On or before each February 15 during the qualified development period, to submit to the Department (to the attention of the Portfolio Management and Compliance Division) a draft of the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Development continues to meet the requirements of §142(d) of the Code and on or before each March 31 during the qualified development period, to submit such completed form to the Secretary of the Treasury and the Department;~~

~~(6) To prepare and submit the compliance monitoring report. To cause to be prepared and submitted to the Department and the Trustee on the first day of the state restrictive period, and thereafter by the tenth calendar day of each March, June, September, and December, or other quarterly schedule as determined by the Department with written notice to the Development Owner, a certified compliance monitoring report and Development Owner's certification in such form as provided by the Departments to the Development Owner from time to time; and~~

~~(7) To provide regular maintenance to keep the Development sanitary, decent and safe.~~

~~(8) To establish a reserve account consistent with the requirements of §2306.186, Texas Government Code.~~

~~(9) To prepare and submit the Housing Sponsor Report to the Department no later than March 1st of each year.~~

§3335.8 Fees

(a) Application and Issuance Fees. The Applicant is required to submit, at the time of pre-application, the following fees: \$1,000 (payable to TDHCA), \$1,500 (payable to Vinson & Elkins, the Department's Bond Counsel) and \$5,000 (payable to the Texas Bond Review Board (BRB)). These fees cover the costs of pre-application review and filing fees to the BRB. The Department shall set fees to be paid by the Applicant in order to cover the costs of pre-application review, Application and Development review, the Department's expenses in connection with providing financing for a Development, and as required by law. (§1372.006(a), Texas Government Code). At the time of full application the Applicant is required to submit a tax credit application fee of \$30/unit and \$10,000 for the bond application fee. At the closing of the bonds the following fees are required, an issuance fee equal to 5 basis points (0.005) of the issued bond amount, administration fee equal to 2 basis points (0.002) and a compliance fee equal to \$40/unit.

(b) Annual Administration, Portfolio Management and Compliance, and Asset Management Fees. The Department shall set ongoing fees to be paid by Development Owners to cover the Department's costs of administering the Bonds, portfolio management and compliance with the program requirements applicable to each Development and asset management applicable requirements. The annual compliance fee is paid in advance and is equal to \$40/unit beginning two years from the first payment date; the asset management fee is paid in advance and is equal to \$25/unit beginning two years from the first payment date; both are adjusted annually for CPI. The annual administration fee is paid in arrears and is equal to 1 basis point (0.001) of the outstanding bond amount beginning three years from the closing date. These fees are paid for a minimum of thirty (30) years or as long as the bonds are out standing.

§3335.9 Waiver of Rules

Provided all requirements of the Act, the Code, and any other applicable law are met, the Board may waive any one or more of the Rules set forth in §§3335.3 through 335.8 of this title relating to the Multifamily Housing Revenue Bond Program in order to further the purposes and the policies of Chapter 2306, Texas Government Code; to encourage the acquisition, construction, reconstruction, or rehabilitation of a Development that would provide decent, safe, and sanitary housing, including, but not limited to, providing such housing in economically

depressed or blighted areas, or providing housing designed and equipped for Persons with Special Needs; or for other good cause, as determined by the Board.

§3335.10 No Discrimination

The Department and its staff or agents, Applicants, Development Owners, and any participants in the Program shall not discriminate under this Program against any person or family on the basis of race, creed, national origin, age, religion, handicap, family status, or sex, or against persons or families on the basis of their having minor children, except that nothing herein shall be deemed to preclude a Development Owner from selecting tenants with Special Needs, or to preclude a Development Owner from selecting tenants based on income in renting Units to comply with the set asides under the provisions of this Chapter.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

August 30, 2006

Action Items

Request approval of the proposed 2007 Draft Housing Trust Fund Rules to be released for publication in the *Texas Register* and to accept public comment.

Required Action

Approve, or approve with revisions, the proposed 2007 Draft Housing Trust Fund Rules for publication and acceptance of public comment.

Background

Attached are the proposed 2007 Draft Housing Trust Fund Rules. The Department held a roundtable discussion open to the public on July 24, 2006 and has accepted written and verbal input from the public and staff. The document reflects the proposed changes in “black line” version showing the proposed changes to the Housing Trust Fund Rules currently in effect which were last amended by the Board on November 10, 2005. The “black line” version shows new language as underlined and deleted language with a line running through it. Upon approval by the Board, the Draft Rules will be published in the *Texas Register* and released to the public for comment. Public hearings will be held on the proposed Draft Rules, as well as the other rules before the Board at this meeting, from approximately September 26 to October 7, 2006. A final recommendation for this rule will be presented to the Board in November 2006.

The primary changes proposed are made to ensure consistency with other multifamily rules to the extent that Housing Trust Fund will be used for multifamily development and to provide other needed clarification. Listed below is a summary of the more significant changes proposed.

1. **§51.2 – Definitions (Page 1 of 16).** §51.2 adds definitions for Persons with Disabilities, and Received Date. The purpose of these additions is to provide clarity and consistency between program rules and definitions.
2. **§51.4 – Basic Eligible Activities (Page 6 of 16).** This section was updated to include language that allows for the use of HTF funds for the purpose of scrutinizing loan fund investments.
3. **§51.5 – Ineligible Activities and Restrictions. (Page 7 of 16).** The definition of Ineligible Applicant was revised and expanded to include both Applicants and Affiliates of Applicants for the purpose of ineligibility and compliance review.

4. **§51.6 –Application Procedure and Requirements (Page 9 of 16).** This section is revised to reduce the number of days required for Applicants to respond to application deficiencies from seven days to five days for consistency with other Department rules. Additionally, new language is added regarding the processing of applications jointly applying under open and competitive cycles. Applications that are layered with Competitive Housing Tax Credits will follow the process as outlined in §49.9(d) of this title.
5. **§51.7 – Criteria for Funding (Page 13 of 16).** New language was added requiring Applicants to repay Housing Trust Funds Pre-Development loans prior to the closing of development funding from the Department.

Additional minor modifications are made to align the proposed rules with either federal or state statutory language.

Recommendation

Staff recommends the Board approve the Draft 2007 Housing Trust Fund Rules for publication to receive public comment and conduct the consolidated public hearings with other applicable rules and allow staff to make changes to these rules, where applicable, to be consistent with other rules being approved at this Board meeting.



~~2006-2007~~ Draft HOUSING TRUST FUND RULE

TITLE 10, PART 1, CHAPTER 51 TEXAS ADMINISTRATIVE CODE

§51.1.	Purpose.	1
§51.2.	Definitions.	1
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§51.4.	Basic Eligible Activities.	6
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§51.1. Purpose.

This Chapter clarifies the use and administration of the Housing Trust Fund. The Department shall use the Housing Trust Fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, for profit entities, nonprofit organizations, income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. The fund is created pursuant to §2306.201 of the Texas Government Code. Pursuant to §2306.202 of the Texas Government Code, the use of the Housing Trust Fund is limited to providing:

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

§51.2. Definitions.

The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Administrative Deficiencies**--The absence of information or a document from the Application which is important to a review and scoring of the Application as required in this rule, and the Notice of Funding Availability (NOFA).

(2) **Applicant**-- Any Person or Affiliate of a Person who ~~An eligible entity which~~ is preparing to submit or has submitted an application for Housing Trust Fund assistance and is assuming contractual liability and legal responsibility by executing the written agreement with the Department.

(3) **Board**--The governing board of the Department.

(4) **Capacity Building**--Educational and organizational support assistance to promote the ability of community housing development organizations and nonprofit organizations to maintain, rehabilitate and construct housing for low, very low, and extremely low-income persons and families. This activity may include:

(A) organizational support to cover expenses for housing development or management related training, technical and other assistance to the board of directors, staff, and members of the nonprofit organizations or community housing development organizations;

(B) technical assistance and training related to housing development, housing management, or other subjects related to the provision of housing or housing services; or

(C) studies and analyses of housing needs.

(5) **Community Housing Development Organizations (CHDO)**--A nonprofit organization that satisfies the requirements of § 53.63 of this title.

(6) **Competitive Application Cycle**-- A competition for funding during a defined period when applications may be submitted in response to a NOFA. Applications will be reviewed and scored in accordance with the rules for application review published in the NOFA, and application guidelines.

(7) **Department**--The Texas Department of Housing and Community Affairs.

(8) **Eligible Applicants**--Local units of government, public housing authorities, community housing development organizations, nonprofit organizations, for-profit entities, and persons and families of low, very low, and extremely low income.

(9) **Extremely Low-Income Persons and Families**--Families whose annual incomes do not exceed 30% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

(10) **Housing Development Costs**--The total of all costs incurred, or to be incurred, by the Development Owner in acquiring, constructing, rehabilitating and financing a Development as determined by the Department based on the information contained in the Application. Such costs include reserves and any expenses attributable to commercial areas.

(11) **Housing Development**--Any real or personal property, project, building, structure, facilities, work, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, which meets or is designed to meet minimum property standards consistent with those prescribed in the Housing Trust Fund Property Standards, found in the Program Guidelines, for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by persons and families of low, very low, and extremely low income, and persons with special needs. The term may include buildings, structures, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community and recreational facilities the Department determines to be necessary, convenient, or desirable appurtenances.

(12) **HUD**--The United States Department of Housing and Urban Development, or its successor.

~~(13) Intergenerational Housing--as defined by §49.3 of this title. Housing that includes specific units that are restricted to the age requirements of a Qualified Elderly Development and specific units that are not age restricted in the same Development that:~~

~~(A) have separate and specific buildings exclusively for the age restricted units;~~

~~(B) have separate and specific leasing offices and leasing personnel exclusively for the age restricted units;~~

~~(C) have separate and specific entrances, and other appropriate security measures for the age restricted units;~~

~~(D) provide shared social service programs that encourage intergenerational activities but also provide separate amenities for each age group;~~

~~(E) share the same Development site;~~

~~(F) are developed and financed under a common plan and owned by the same Person for federal tax purposes; and~~

~~(G) meet the requirements of the federal Fair Housing Act (42 U.S.C. 3601).~~

(14) **Local Units of Government**--A county; an incorporated municipality; a special district; a council of governments; any other legally constituted political subdivision of the state; a public, nonprofit housing finance corporation created under the Local Government Code, Chapter 394; or a combination of any of the entities described here.

(15) **Low-Income Persons and Families**--Families whose annual incomes do not exceed 80% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

~~(16) New construction--Any Development not meeting the definition of Rehabilitation or Reconstruction.~~

~~(17)~~ **(16) Nonprofit Organization**--Any public or private, nonprofit organization that:

(A) is organized under state or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) has a current tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c)(3), a charitable, nonprofit corporation, or Section 501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization non-profit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and

(D) A private nonprofit organization's pending application for 501(c)(3) or (c)(4) status cannot be used to comply with the tax status requirement.

~~(17)~~ ~~(18)~~ **NOFA**--Notice of Funding Availability, published in the *Texas Register*.

~~(18)~~ ~~(19)~~ **Open Application Cycle**--A defined period during which applications may be submitted in response to a published NOFA and which will be reviewed on a first come-first served basis until all

funds available are committed, or until the NOFA is closed. Applications will be reviewed in accordance with the rules for application review published in the NOFA and application guidelines.

(19) Persons with Disabilities--A person who:

(A) has a physical, mental or emotional impairment that:

(i) is expected to be of a long, continued and indefinite duration,

(ii) substantially impedes his or her ability to live independently, and

(iii) is of such a nature that the disability could be improved by more suitable housing conditions,

(B) has a developmental disability, as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. Section 15002), or

(C) has a disability, as defined in 24 CFR §5.403.

(20) Person with Special Needs-

(A) Persons with alcohol and/or drug addictions, Colonia residents, Persons with Disabilities, victims of domestic violence, persons with HIV/AIDS, homeless populations and migrant farm workers.

~~(A) persons with disabilities, persons with alcohol or other drug addictions, persons with HIV/AIDS and their families, the elderly, victims of domestic violence, persons living in Colonias, and migrant farm workers, any of whom also meets the income guidelines of a person of low, very low or extremely low income.~~

(B) Housing Trust Funds may also be awarded through persons legally responsible for caring for an individual described by subparagraph (A.) of this paragraph, pursuant to §2306.511 of the Texas Government Code.

(21) Predevelopment Costs--Reimbursable costs related to a specific eligible housing project including:

(A) Predevelopment housing project costs that the Department determines to be customary and reasonable, including but not limited to consulting fees, ~~costs of preliminary financial applications, legal fees,~~ architectural fees, engineering fees, engagement of a development team, site control, and title clearance;

(B) Pre-construction housing project costs that the Department determines to be customary and reasonable, including but not limited to, the costs of obtaining ~~firm construction loan commitments,~~ architectural plans and specifications, zoning approvals, engineering studies and legal fees; and

(C) Predevelopment costs do not include general operational or administrative costs.

(22) Public Agency--A unit of government created by a branch of National, State or Local Government.

(23) Public Housing Authority--A housing authority established under the Texas Local Government Code, Chapter 392.

(24) Received Date--The date and time at which an Application is actually received by the Department.

~~(25) (24) Recipient--~~Community housing development organization, nonprofit organization, for-profit entity, local unit of government, or public housing authority that is approved by the Department to receive and administer housing trust funds in accordance with these rules.

~~(e) (25) **Reconstruction**--The rebuilding of a structure on the same lot where housing is standing at the time of project commitment. During reconstruction, the number of rooms per unit may change, but the number of units may not.~~

~~(f) (26) **Rehabilitation**--The alteration, improvement or modification of an existing structure. It also includes moving an existing structure to a newly constructed foundation. Rehabilitation may include adding rooms outside the existing walls of a structure, but adding a housing unit is considered new construction.~~

~~(26) (27) **Rental Housing Development**--A project for the acquisition, new construction, reconstruction or rehabilitation of multi-family or single family rental housing, or conversion of commercial property to rental housing.~~

~~(27) (28) **Rural Development**-- A proposed Development located in an area that is :~~

~~(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;~~

~~(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or~~

~~(C) in an Area that is eligible for New Construction funding by TX-USDA-RHS; or~~

~~(D) on a specific Development Site eligible for Rehabilitation funding by TX-USDA-RHS as evidenced by an executed TX-USDA-RHS letter indicating TX-USDA-RHS has received a Consent Request, also referred to as a Preliminary Submittal, as described in 7 CFR 3560.406.~~

~~(A) outside the boundaries of a Primary Metropolitan Statistical Area (PMSA) or Metropolitan Statistical Area (MSA); or~~

~~(B) within the boundaries of a PMSA or MSA area, if the statistical area has a population of 20,000, or less and does not share a boundary with an urban area; or~~

~~(C) in an area that is eligible for new construction or rehabilitation funding by TX-USDA-RHS.~~

~~(28) (29) **State**--The State of Texas.~~

~~(29) (30) **Statute**--Texas Government Code [chapter](#) 2306.~~

~~(30) (30) **Very Low-Income Persons and Families**--Families whose annual incomes do not exceed 60% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.~~

51.3. Allocation of Housing Trust Funds.

(a) Pursuant to §2306.201 of the Texas Government Code, the Housing Trust Fund is a fund administered by the Department, and placed with the Texas Treasury Safekeeping Trust Company.

(b) The fund consists of:

- (1) appropriations or transfers made to the fund;
- (2) unencumbered fund balances;
- (3) public or private gifts or grants;
- (4) investment income, including all interest, dividends, capital gains, or other income from the investment of any portion of the fund;
- (5) repayments received on loans made from the fund; and
- (6) funds from any other source

(c) Each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations. The remaining portion shall be competed for by nonprofit organizations, for-profit organizations, and other eligible entities, pursuant to §2306.202 of the Texas Government Code.

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

(e) The Department shall require that applicants target at least 50% of those units served by housing trust funds to individuals and families earning less than 60% of median family income.

(f) Bond indenture requirements governing expenditure of bond proceeds deposited in the housing trust fund shall govern and prevail over all other allocation requirements established in this section. However, the Department shall distribute these funds in accordance with the requirements of this section to the extent possible.

(g) Housing Trust Funds may also be allocated to the Texas Bootstrap Loan Program and will be awarded in accordance with §2306.753 of the Texas Government Code.

§51.4. Basic Eligible Activities.

(a) The department, through the housing finance division, shall use the housing trust fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, for profit entities, nonprofit organizations, and income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. In each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing. The remaining portion shall be competed for by nonprofit organizations, for-profit organizations, and other eligible entities. Notwithstanding any other section of this chapter, but subject to the limitations in Section 2306.251(c), the department may also use the fund to acquire property to endow the fund.

(b) Use of the fund is limited to providing:

(1) assistance for individuals and families of low and very low income;

(2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income; and

(3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income.

~~The Department shall make grants and loans from the Housing Trust Fund to Eligible Applicants for purposes consistent with §51.2 of this title and §2306.202 of the Texas Government Code. Eligible program activities for the Housing Trust Fund include, but are not limited to:~~

~~(1)the acquisition, rehabilitation, and new construction of affordable rental housing. Refinancing or rehabilitation of properties constructed within the past 5 years and previously funded by the Department are not eligible;~~

~~(2)the acquisition, rehabilitation, new construction of affordable homeownership developments. Developments may be completed by a contracted developer or through Self-Help Construction.~~

~~Housing that is newly constructed or rehabilitated must meet all applicable local and state codes, rehabilitation standards, ordinances, zoning ordinances, §2306.514 of the Texas Government Code, and all additional standards or codes as specified in the application guide;~~

~~(3) tenant-based rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant-based rental assistance also includes security and utility deposits for rental of dwelling units;~~

~~(4) predevelopment loans to nonprofit housing development organizations for eligible reimbursable costs associated with the planning and implementation of affordable housing activities;~~

~~(5) credit enhancements or security for repayment of revenue bonds issued to finance affordable housing; and~~

~~(6) technical assistance or other forms of capacity building to nonprofit housing developers.~~

§51.5. Ineligible Activities and Restrictions.

(a) Ineligible Applicants: The following violations will cause an Applicant, and any applications they have submitted, to be ineligible:

(1) Previously funded recipient(s) whose Housing Trust Funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to the current funding cycle;

(2) Applicants, or persons affiliated with the Applicant that have been barred, suspended, or terminated from procurement in a state or federal program and listed in the List of Parties Excluded from Federal Procurement of Non-procurement Programs;

(3) Applicants or persons affiliated with the Applicant that are subject of enforcement action under state or federal securities law, or is the subject of an enforcement proceeding with a state or federal agency or another governmental entity;

(4) Applicants or persons affiliated with the Applicant that have unresolved audit findings related to previous or current funding agreements with the Department;

(5) Applicants or persons affiliated with the Applicant that have delinquent loans, fees or other commitments with the Department, until payment is made;

(6) Applicants who have not satisfied all threshold requirements described in this title, and the NOFA to which they are responding, and for which Administrative Deficiencies were unresolved;

(7) Refinancing or rehabilitation of properties constructed within the past 5 years and previously funded by the Department are not eligible;

(8) Applicants who have submitted incomplete Applications;

(9) Applicants or persons affiliated with the Applicant that have been otherwise barred by the Department;

(10) Applicants are subject to §1.13 of this title;

(11) Applicants or persons affiliated with the Applicant that have breached a contract with a public agency; or

(12) The acquisition, rehabilitation, reconstruction or refinancing of affordable rental housing constructed within the past 5 years or previously funded by the Department.

(b) ~~(a)~~ Displacement of Existing Affordable Housing. Pursuant to §2306.203(a)(4) of the Texas Government Code, Housing Trust Funds shall not be utilized on a development that has the effect of permanently displacing low, very low, and extremely low income persons and families. Low-Income persons who may be temporarily displaced by the rehabilitation of affordable housing may be eligible

for compensation of moving and relocation expenses. If a Housing Trust Fund recipient violates the permanent dislocation provision of this subsection, that recipient risks loss of Housing Trust Funds and the landlord/developer must pay the affected tenant's costs and all moving expenses.

~~(b) If a Housing Trust Fund recipient violates the permanent dislocation provision of this subsection, that recipient risks loss of Housing Trust Funds and the landlord/developer must pay the affected tenant's costs and all moving expenses.~~

~~(c) Communication with Department Employees. Communication with Department staff by Applicants that submit a Pre-Application or Application must follow the following requirements. During the period beginning on the date a Development Pre-Application or Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person that is active in the construction, rehabilitation, ownership or Control of the proposed Development including a General Partner or contractor and a Principal or Affiliate of a General Partner or contractor, or individual employed as a lobbyist by the Applicant or a Related Party, may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet, so long as that communication satisfies the conditions established under paragraphs (1) - (3) of this subsection. Section 49.5(b)(6) of this title applies to all communication with Board members. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.~~

~~(1) The communication must be restricted to technical or administrative matters directly affecting the Application;~~

~~(2) The communication must occur or be received on the premises of the Department during established business hours (emails may be sent and received after business hours);~~

~~(3) a record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication. (2306.1113)~~

~~(c) Communication with Department Employees. Communication with Department staff by Applicants that submit a Pre-Application or Application must follow the following requirements. During the period beginning on the date a Development Pre-Application or Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person that is active in the construction, rehabilitation, ownership or Control of the proposed Development including a General Partner or contractor and a Principal or Affiliate of a General Partner or contractor, or individual employed as a lobbyist by the Applicant or a Related Party, may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet, so long as that communication satisfies the conditions established under paragraphs (1) through (3) of this subsection. Section 49.5(b)(7) of this title applies to all communication with Board members. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.~~

~~(1)The communication must be restricted to technical or administrative matters directly affecting the Application;~~

~~(2)The communication must occur or be received on the premises of the Department during established business hours;~~

~~(3)A record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if~~

~~applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication (§2306.1113).~~

~~(d) Ineligible Applicants: The following violations will cause an Applicant, and any applications they have submitted, to be ineligible:~~

~~(1) Previously funded recipient(s) whose Housing Trust Funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to the current funding cycle;~~

~~(2) Applicants who have not satisfied all threshold requirements described in this title, and the NOFA to which they are responding, and for which Administrative Deficiencies were unresolved;~~

~~(3) Applicants who have submitted incomplete applications;~~

~~(4) Applicants that have been otherwise barred by the Department;~~

~~(5) Applicant or Developer, or their staff, who violate the state revolving door policy, Chapter 572 of the Texas Government Code; or~~

~~(e) Any applicant who would otherwise be considered ineligible under §50.5 of this title, excluding those requirements at §§50.5(a)(5)–(8), (10) and (11) of this Title.~~

~~The Department will not recommend an application for funding if it includes a principal who is or has been:~~

~~(1) Barred, suspended, or terminated from procurement in a state or federal program and listed in the List of Parties Excluded from Federal Procurement of Non-procurement Programs;~~

~~(2) The subject of enforcement action under state or federal securities law, or is the subject of an enforcement proceeding with a state or federal agency or another governmental entity;~~

~~(3) If the applicant has unresolved audit findings related to previous or current funding agreements with the Department; or~~

~~(4) Has breached a contract with a public agency.~~

~~(d) (f) Material Noncompliance. Each Application will be reviewed for its compliance history by the Department, consistent with Chapter 60 of this title. Applicants, or persons affiliated with an Application, found to have a Development or Contract in Material Noncompliance with the Department, will have their Applications terminated. Applications found to be in Material Noncompliance, will be terminated.~~

~~(e) (g) Rental Housing Development Site and Development Restrictions. Restrictions include all those items referred to in Chapter 2306 of the Texas Government Code and any additional items included in the NOFA for rental housing developments.~~

~~(f) (h) Limitations on the Size of Developments. Developments involving new construction will be limited to 252 units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum Unit-unit restrictions. The minimum number of units shall be 4 units.~~

§51.6. Application Procedure and Requirements.

(a) In distributing funds, the Department will release a NOFA and/or request for proposals that identifies the uses of the available funds and the specific criteria that will be utilized in evaluating applicants.

(b) Applicants must submit a complete application to be considered for funding, along with an application fee determined by the Department and outlined in the NOFA. Applications containing false information will be disqualified. Applications submitted under a Competitive Application Cycle

must be received by the application deadline or they will be disqualified. Disqualified Applicants will be notified in writing. All applications must be received by the Department by 5:00 p.m. regardless of method of delivery.

(c) Applications received by the Department in response to a Competitive Application Cycle NOFA for housing development activities will be handled in the following manner:

(1) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to meet the Threshold Criteria defined by the NOFA and any Threshold Criteria that may be applicable to the Housing Trust Fund as defined by this rule and Chapter 2306 of the Texas Government Code.

(2) Scoring Evaluation. For an Application to be scored, the Application must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then be scored and ranked according to the Scoring Criteria identified in the NOFA.

(3) Financial Feasibility Evaluation. After the Application is scored, the Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate funding amount and terms. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title.

(d) ~~(e)~~ Applications received by the Department in response to an Open Application Cycle NOFA for housing development activities will be handled in the following manner:

(1) The Department will accept applications on an ongoing basis, until such date when the Department makes notice to the public that the Open Application Cycle has been closed. All applications must be received during business hours and no later than 5:00 p.m. on any business day. The Department may limit the eligibility of applications in the NOFA.

(2) Each application will be handled on a first-come, first-served basis as further described in this section. Each application will be assigned a "received date" based on the date and time it is physically received by the Department. Then each application will be reviewed on its own merits in three review phases. Applications will continue to be prioritized for funding based on their "received date" unless they do not proceed into the next phase(s) of review. Applications proceeding in a timely fashion through a phase will take priority over applications that may have an earlier "received date" but that did not timely complete a phase of review.

(A) Phase One will begin as of the received date. Applications not being considered as CHDOs will be passed through to Phase Two upon receipt. Phase One will only entail the review of the CHDO Certification package. The Department will ensure review of these materials and issue notice of any deficiencies on the CHDO Certification package within 30 days of the received date. Applicants who are able to resolve their deficiencies within ~~five~~~~seven~~ business days will be forwarded into Phase Two and will continue to be prioritized by their received date. Applications which do not resolve all deficiencies ~~five~~~~seven~~ business days will be retained in Phase One until all deficiencies have been addressed or resolved by the Applicant to the Department's satisfaction. Only upon satisfaction of all deficiencies will the Application be forwarded to Phase Two. Applications that have not proceeded out of Phase One within 50 days of the received date will be terminated and must reapply for consideration of funds.

(B) Phase Two will include a review of all application requirements. The Department will ensure review of all application materials required under the NOFA and issue notice of any deficiencies on the application's satisfaction of threshold and eligibility within 45 days of the date it enters Phase Two. Applicants who are able to resolve their deficiencies within ~~five~~~~seven~~ business days will be forwarded into Phase Three and will continue to be prioritized by their received date. Applications which do not resolve all deficiencies within ~~five~~~~seven~~ business days, will be retained in Phase Two

until all deficiencies have been addressed or resolved by the Applicant to the Department's satisfaction. Only upon resolution of all deficiencies will the Application be forwarded to Phase Three. Applications that have not left Phase Two within 65 days of the date it entered Phase Two will be terminated and must reapply for consideration of funds.

(C) Phase Three will include a comprehensive review for material noncompliance and financial feasibility by the Department. Financial feasibility reviews will be conducted by the Department's Real Estate Analysis (REA) Division consistent with 10 TAC §1.32, Underwriting Rules and Guidelines. REA will draft an underwriting report that will identify staff's recommended loan terms, the loan or grant amount and any conditions to be placed on the development. The Department will ensure financial feasibility review and issue notice of any required deficiencies for that feasibility review within 45 days of the date it enters Phase Three. Applicants who are able to resolve their deficiencies within ~~five seven~~ business days will be forwarded into "Recommended Status" and will continue to be prioritized by their received date. Applications with deficiencies not satisfied within ~~five seven~~ business days, will be retained in Phase Three until Applicant resolves all deficiencies to the Department's satisfaction. Only upon satisfaction of all deficiencies will the Application be forwarded to the Department's Executive Award Review and Advisory Committee for final approval before recommendation to the Board. Any application that has not left Phase Three after 65 days of the date it entered Phase Three will be terminated and must reapply for consideration of funds.

(D) Upon completion of Phase Three, applications will be presented to the Executive Awards Review and Advisory Committee (the Committee). If satisfactory, the Committee will then recommend the award of funds to the Board, as long as funds are still available for this activity under the applicable NOFA. If Phase Three is completed at least ~~14-21~~ days prior to the next Board meeting, it will be placed on the next Board meeting's agenda. If Phase Three is completed with less than ~~14-21~~ days before the next Board meeting, the recommendation will be placed on the following month's Board meeting agenda.

(E) Because applications are prioritized by "received date," it is possible that the Department will expend all available funds before an application has been completely reviewed. If all funds are committed before an application has completed all phases of the review process, the Department will notify the applicant that their application will remain active for 90 days in its current phase. If new funds become available applications already under review will continue with their review without losing their received date status. If new funds do not become available within 90 days of the notification, the applicant will be notified that their application is no longer under consideration and in the event of future funding, they would be required to reapply. If on the date an application is received by the Department, no funds are available under ~~thethis~~ NOFA, the applicant will be notified that no funds remain under the NOFA and that the application will not be processed.

(F) The Department may decline to consider any application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. Beyond the use of the "received date", staff will make selections based upon the need for housing in the community where the development is located, the effectiveness with which the proposed use of funds would aid in continuing to provide affordable housing, the general feasibility of the proposed transaction, and the credibility of the applicant. The Department is not obligated to proceed with any action pertaining to any applications which are received, and may decide it is in the Department's best interest to refrain from funding any application. The Department strives, through its terms, to maximize the return on its funds while ensuring the financial feasibility of a development. The Department reserves the right to negotiate individual elements of any application.

(e) Layered Applications. If an Application is submitted to the Department for a Development that requests funds from two separate housing finance programs, and only one of the housing finance programs is operated as a competitive cycle, then the Application will be handled in accordance with the competitive cycle guidelines for that program. If an Application is submitted for two separate

housing finance programs where both programs are either open cycle, or competitive, the Application will be handled in accordance with the most restrictive program rules with the approval of the Department's Executive Director.

(f) ~~(d)~~—Administrative Deficiencies. If an application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the application, the Department staff may request clarification or correction of such Administrative Deficiencies including both threshold and/or scoring documentation. The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. Administrative Deficiencies given to Applications submitted under an Open Application Cycle NOFA will be handled in the manner described under Part B of this Section. Applications submitted under a Competitive Application Cycle NOFA will be treated in the following manner. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within three five-business days of the deficiency notice date, then five points shall be deducted from the application score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within five seven-business days from the deficiency notice date, then the application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement an application in any manner after the filing deadline, except in response to a direct request from the Department.

~~(e) Applications received by the Department in response to a Competitive Application Cycle NOFA for housing development activities will be handled in the following manner:~~

~~(1) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to meet the Threshold Criteria defined by the NOFA and any Threshold Criteria that may be applicable to the Housing Trust Fund as defined by Chapter 2306 of the Texas Government Code.~~

~~(2) Scoring Evaluation. For an Application to be scored, the Application must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then be scored and ranked according to the Scoring Criteria identified in the NOFA.~~

~~(3) Financial Feasibility Evaluation. After the Application is scored, the Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate funding amount and terms. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title.~~

~~(f)(g)~~ All applications for housing development activities will be reviewed in the following manner:

(1) A site visit will be conducted. Applicants must receive recommendation for approval from the Department to be considered for funding by the Board.

(2) Board approval for the award of Development activity funds is conditioned upon a completed loan closing and any other conditions deemed necessary by the Department.

~~(g)(h)~~ Applications other than Rental Housing Developments will be reviewed and evaluated in accordance with the NOFA for that activity.

~~(h)(i)~~ Applicants may appeal staff's decisions regarding their applications consistent with §1.7 of this title.

~~(i)(j)~~ Alternative Dispute Resolution Policy. Applicant's may utilize the Department's Alternative Dispute Resolution process as defined by §1.17 of this title. In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative

~~dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17.~~

~~(j)(k)~~ **Public Notification.** Applicants for Rental Development activities will be required to provide written notification to each of the following persons or entities 14 days prior to the submission of any application package. Failure to provide written notifications 14 days prior to the submission of an application package at a minimum will cause an application to lose its "received by date" under open application cycles, or be terminated under competitive application cycles. Applicants must provide notifications to:

- (1) the executive officer and elected members of the governing board of the community where the development will be located. This includes municipal governing boards, city councils, and County governing boards;
- (2) all neighborhood organizations whose defined boundaries include the location of the Development;
- (3) executive officer and Board President of the school district that covers the location of the Development;
- (4) residents of occupied housing units that may be rehabilitated, reconstructed or demolished; and
- (5) the State Representative and State Senator whose district covers the location of the Development.
- (6) The notification letter must include, but not be limited to, the address of the development site, the number of units to be built or rehabilitated, the proposed rent and income levels to be served, and all other details required of the NOFA and Application Manual.

§51.7. Criteria for Funding.

(a) In considering applications for funding, the Department considers the following requirements under § 2306.203, Texas Government Code, and such others as may be enumerated during the funding cycle:

(1) **Minimum Eligibility Criteria.** To be considered for funding, an Applicant must first demonstrate that it meets each of the following threshold criteria:

- (A) the application is consistent with the requirements established in this rule and the NOFA;
- (B) the applicant provides evidence of its ability to carry out the proposal in the areas of financing, acquiring, rehabilitating, developing or managing an affordable housing development; ~~and~~
- (C) the proposal addresses and identifies a housing need. This assessment will be based on statistical data, surveys and other indicators of need as appropriate; ~~and~~

(D) any outstanding Housing Trust Fund Pre-Development loans for the same proposed Development site must be paid in full at the time of loan closing for the current requested funds.

(2) Evaluation Factors. Pursuant to §2306.203(c) of the Texas Government Code, the criteria used to evaluate applications, as more fully reflected in the NOFA, will include at a minimum the:

(A) leveraging of federal funds including the extent to which the project will leverage State funds with other resources, including federal resources, and private sector funds;

(B) cost-effectiveness of a proposed development; and

(C) extent to which individuals and families of very low income and extremely low income are served by the development.

(b) The Board has final approval on all recommendations for funding.

(c) Eligible Applicants that have been approved for funding and that require a material change in the project description must provide a written request for the material change to the Department prior to implementing the change.

(1) A material change may include, but is not limited to, the following:

(A) Change in project site;

(B) Change in the number of units or set asides; and

(C) An increase in funding that is not permitted under subsection (d) of this section.

(2) Failure to comply with this subsection may result in the termination of funding to Applicant.

(d) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any Housing Trust Fund development proposal or written agreement provided that:

(1) in the case of a modification or amendment to the dollar amount of the request or award, such modification or amendment does not increase the dollar amount by more than 25% of the original request or award, or \$50,000, whichever is greater;

(2) in the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award; and

(3) Modifications and/or amendments that increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; or significantly decrease the benefits to be received by the Department, in the estimation of the Executive Director, will be presented to the Board for approval.

§51.8. Other Program Requirements.

(a) Employment opportunities. In connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment shall be given to low, very low, and extremely low-income persons who meet position requirements residing within the area in which the project is located.

(b) Conflict of Interest.

(1) Conflict Prohibited. No person described in paragraph (2) of this subsection who exercises or has exercised any functions or responsibilities with respect to Housing Trust Fund activities under the Statute or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a Housing Trust Fund assisted activity, or have an interest in any Housing Trust Fund contract, subcontract or agreement or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(2) Persons Covered. The conflict of interest provisions of paragraph (1) of this subsection apply to any person who is an employee, agent, consultant, officer, elected official or appointed official of the Recipient.

(c) Right to Inspect and Monitor.

(1) The Department may, at any time, inspect and monitor the records and the work of the project so as to ascertain the level of project completion, quality of work performed, inventory levels of stored material, compliance with the approval plans and specifications, property standards, and program rules and requirements.

(2) Any unsatisfactory findings in the inspection may result in a reduction in the amount of funds requested or termination of funding.

(3) Within 45 days of completion of any construction, and before the release of any retainage funds, Recipients are required to notify the Department of the completion by submitting a certificate of completion and any other documents required by program guidelines, including, but not limited to, the following:

(A) Architect's Certification of Substantial Compliance;

(B) Recipient's Certificate of Substantial Completion; and

(C) Recipient's and Supplier's Release of Lien and warrantee.

(4) The Department performs a final close-out visit and assists owners in preparing for long-term compliance requirements upon completion of project development.

(d) Compliance.

(1) Recipient must maintain compliance with each of its written agreements with the Department.

(2) Restrictions are stated and enforced through a regulatory agreement.

(3) These restrictions include, but are not limited to the following:

(A) Rent restrictions;

(B) Record keeping and reporting; and

(C) Income targeting of tenants.

(4) The Department monitors compliance with project restrictions and any other covenants by Recipient in any Housing Trust Fund agreement. An annual per unit compliance fee of \$25.00 may be charged for this review.

~~(5) Prior to the leasing of any units, project owners are provided guidance and training by the Department to assist project owners in adhering to restrictions and reporting requirements.~~

(e) For funds being used for multifamily rental properties, the Recipient must establish a reserve account consistent with §2306.186, Texas Government Code, and as further described in §1.37 of this title.

(f) Accounting Requirements. Within 60 days following the conclusion of a contract issued by the Department the Recipient shall provide a full accounting of funds expended under the terms of the contract. Failure of a recipient to provide full accounting of funds expended under the terms of a contract shall be sufficient reason to terminate the contract and for the Department to deny any future contract to the recipient.

§51.9. Citizen Participation.

(a) The Department holds at least one public hearing annually, and additional public hearings prior to consideration of any proposed significant changes to these rules, to solicit comments from the public, eligible applicants, and Recipients on the Department's rules, guidelines, and procedures for the Housing Trust Fund.

(b) The Department considers the comments it receives at public hearings. The Board annually reviews the performance, administration, and implementation of the Housing Trust Fund in light of the comments it receives. The Board also reviews funding goals and set-asides relating to Allocation of Housing Trust Funds.

(c) Unless the request is made during a competitive application cycle, Applications for Housing Trust Funds are public information and the Department shall afford the public an opportunity to comment on proposed housing applications prior to making awards.

(d) Complaints will be handled in accordance with the Department's complaint procedures of §1.2 of this title.

§51.10. Records to be Maintained.

(a) Recipients are required, at least on an annual basis, to submit to the Department information required under Chapter 1 of this title, which may include, but is not limited to:

(1) such information as may be necessary to determine whether a project is benefiting low, very low, and extremely low-income persons and families;

(2) the monthly rent or mortgage payment for each dwelling unit in each structure assisted;

(3) such information as may be necessary to determine whether Recipients have carried out their housing activities in accordance with the requirements and primary objectives of the Housing Trust Fund and implementing regulations;

(4) the size and income of the household for each unit occupied by a low, very low, or extremely low-income person or family;

(5) data on the extent to which each racial and ethnic group and households have applied for and benefited from any project or activity funded in whole or in part with funds made available under the Statute. This data shall be updated annually; and

(6) A final statement of accounting upon completion of the project.

(b) Recipients shall maintain records pertinent to the tenant's files for a period of at least three years.

(c) Recipients shall maintain records pertinent to funding awards including but not limited to project costs and certification work papers for a period of at least five years.

(d) Recipient shall maintain records in an accessible location.

§51.11. Waiver.

The Board may, in its discretion, waive any one or more of the rules set forth in this chapter to accomplish its legislative mandates or for other compelling circumstances.

TITLE 10 COMMUNITY DEVELOPMENT
PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 60. COMPLIANCE MONITORING RULES ADMINISTRATION
SUBCHAPTER A. COMPLIANCE MONITORING

§60.2. Definitions.

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

(1) Affordability Period—the affordability period commences as specified in the Land Use Restriction Agreement (LURA), or federal regulation or commences on the first day of the compliance period as defined by §42(i)(1) of the Internal Revenue Code (IRC) and continues through the appropriate program’s affordability requirements or termination of the LURA, whichever is later. The term of the affordability period shall be imposed by LURA or other deed restriction and may be terminated upon foreclosure. During this period the Department shall monitor to ensure compliance with programmatic rules, regulations and application representations.

(2) Application--an application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material. (2306.6702)

(3) Board—the governing board of the Texas Department of Housing and Community Affairs.

(4) Code--the U.S. Internal Revenue Code of 1986, as amended from time-to-time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued by the United States Department of the Treasury or the Internal Revenue Service.

(5)(3) Department—the Texas Department of Housing and Community Affairs, an official and public agency of the State of Texas pursuant to Chapter 2306, Texas Government Code.

(6)(4) Development—a property or work or a project, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the Department and that is financed under the provisions of Chapter 2306, Texas Government Code, ~~for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by individuals and families of low and very low income and families of moderate income in need of housing.~~ The term includes:

~~(A) buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other non-~~

~~housing facilities, such as administrative, community, and recreational facilities the Department determines to be necessary, convenient, or desirable appurtenances;~~

~~(B) single and multifamily dwellings in rural, urban/exurban areas; and
(C) a proposed qualified low income housing project, as defined by §42(g), of the IRC 1986 (26 U.S.C. §42(g)), that consists of one or more buildings containing multiple units, that is financed under a common plan, and that is owned by the same person(s) for federal tax purposes, including a project consisting of multiple buildings that are located on scattered sites and contain only rent-restricted units.~~

(7) Housing sponsor:

(A) an individual, including an individual or family of low and very low income or family of moderate income, joint venture, partnership, limited partnership, trust, firm, corporation, or cooperative that is approved by the department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing Development, subject to the regulatory powers of the department and other laws; or

(B) in an economically depressed or blighted area, or in a federally assisted new community located within a home-rule municipality, the term may include an individual or family whose income exceeds the moderate income level if at least 90 percent of the total mortgage amount available under a mortgage revenue bond issue is designed for individuals and families of low income or families of moderate income.

(8) HTC Development—A Development using Housing Tax Credits allocated by the Department.

(9) ~~(5)~~ Low Income Unit—a unit that is intended for occupancy by an income eligible household, as defined by the Department or the Code.

(10) ~~(6)~~ Land Use Restriction Agreement (LURA) —an agreement between the Department and the Development Owner which is a binding covenant upon the Development Owner's successors in interest, that encumbers the Development with respect to the requirements of this chapter, Chapter 2306, Texas Government Code; the Code§42 of the IRC; and the requirements of the various programs administered or funded by the Department.

(11) ~~(7)~~ Material Noncompliance:

(A) a Housing Tax Credit HTC Ddevelopment located within the state of Texas will be classified by the Department as being in material noncompliance status if the noncompliance score for such Ddevelopment is equal to or exceeds a threshold of 30 points in accordance with the material noncompliance provisions, methodology, and point system of this title ~~or, if the HTC development is located outside the state of Texas, and noncompliance is reported to the Department that would be equal to or exceed a noncompliance threshold score of 30 points if measured in accordance with the methodology and point system set forth in this subsection.~~

(B) Non HTC Developments monitored by the Department with 1 to 50 low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds a threshold of 30 points. Non HTC Developments monitored by the Department with 51 to 200 low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds a threshold of 120 points. Non HTC Developments monitored by the Department with 201 or more low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds a threshold of 150 points.

(C) For all programs, a Development will be in material noncompliance if the noncompliance is stated in §60.18 of this chapter to be material noncompliance.

(12) Non HTC—any Development not utilizing Housing Tax Credits.

(13) (8) Unit—any residential rental unit in a Development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.

§60.3. Development Inspections.

The Department, ~~through PMC,~~ shall conduct or may contract for inspections during the construction and rehabilitation process and at final construction completion to monitor for compliance with all program requirements, including construction threshold criteria and application Development characteristics associated with any Development funded or administered by the Department. Development inspections will be conducted by the Department or by an independent third party inspector acceptable to the Department and will include a construction quality evaluation. (§2306.081, Texas Government Code)

(1) Inspection procedures for HTC Developments include:

(A) A review of the evidence of commencement of substantial construction. The minimum activity necessary to meet the requirement of substantial construction for new Developments will be defined as having expended 10% of the construction contract amount for the Development, adjusted for any change orders, and as documented by both the most recent Application and Certification for Payment (or equivalent) and the inspecting architect. The minimum activity necessary to meet the requirement of substantial construction for rehabilitation Developments will be defined as having expended 10% of the construction budget as documented by the inspecting architect. Evidence of such activity shall be provided in a format prescribed by the Department.

(B) An initial ~~interim d~~Development inspection to be conducted between 45 to 90 days after the earlier of the submittal or the due date of commencement of substantial construction, within two years of the award.

(C) A final Development inspection performed at construction completion. Evidence of construction completion must be submitted within thirty days of completion and shall be provided in a format prescribed by the Department.

(2) Development inspection procedures for non-HTC multifamily Developments include:

(A) An initial ~~D~~development inspection to be conducted between 45 to 90 days from issuance of notice to proceed. ~~within two years from award.~~

(B) A final Development inspection performed at construction completion. Evidence of completion must be submitted within thirty days of completion and shall be provided in a format prescribed by the Department. The inspection is required by the Department in order to release retainage.

(3) The Department may require a copy of all reports from all construction inspections performed on behalf of the Applicant as needed. Those reports must indicate that the Department may rely on the information provided in the reports and the inspector is properly credentialed.

(4) Additional inspections may be conducted by the Department or by an independent third party Inspector acceptable to the Department during the construction process, if necessary, based on the level of risk associated with the Development, as determined by the ~~Department Real Estate Analysis Division or PMC.~~ The Department ~~PMC~~ identifies HTC Developments to be at high risk if inspections identify issues with construction threshold criteria, and Development characteristics identified at application or past performance problems. ~~The Department~~ PMC identifies non-HTC Developments to be at high risk if inspections conducted during the construction process identify issues with program requirements or Development characteristics identified at application.

~~(5) Developments having financing from the United States Department of Agriculture Rural Development (TX-USDA-RHS) will be exempt from these inspections, provided that the Development Owner provides to the Department copies of all inspections made by TX-USDA-RHS throughout the construction of the Development.~~

(5) Applicable Laws. An applicant may not receive funds or other assistance from the Department until the Department receives a properly completed certification from the applicant that the housing development is, or will be upon completion of construction, in compliance with the following housing laws:

(A) state and federal fair housing laws, including Chapter 301, Property Code, the Texas Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601, et seq.), and the Fair Housing Amendments of 1988 (42 U.S.C. Section 3601, et seq.);

(B) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a, et seq.);

(C) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.); and

(D) Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 701, et seq.). (§2306.257)

§60.4. Monitoring During the Affordability Period.

(a) The Department will monitor **for** compliance with representations made by the Development Owner in the Application and in the LURA, whether required by the applicable program rules, regulations, including HOME Final Rule, ~~the Code, §42 of the IRC, §142(d) of the IRC, Treasury Regulations or other rulings of the IRS~~, the U. S. Department of Housing and Urban Development (HUD) Community Planning and Development (CPD) Notices, ~~the Texas Government Code §2306.001 et. Seq., or and~~ Chapters 51 and 53 of this title.

(b) The Department periodically monitors Developments for compliance with the fair housing requirements specified in **Section 60.3(5)** of this Chapter. **Monitoring may occur during construction or during the affordability period.**

(1) The monitoring level for each housing Development is based on the amount of risk of noncompliance with the requirements specified in **Section 60.3(a)(6)** of this Chapter associated with the Development.

(2) The Department shall notify the recipient in writing of an apparent violation of fair housing laws and shall afford the recipient a reasonable amount of time, as determined by the Department, to correct the identified violation, if possible, prior to the imposition of any sanction.

(3) The Department shall notify the Texas **Workforce Commission, Civil Rights Division** as required in the Texas Government Code §2306.257(d), **with a copy to the Development owner** in the event:

(A) no response to the Department's notice of apparent violation is received during the response period;

(B) the owner concurs with the Department's assessment and indicates they are unable or unwilling to correct the violation(s); **or**

(C) the owner and the Department are unable to agree if the identified issue is a violation.

(4) **If fair housing violations** are identified prior to the issuance of forms 8609 (For HTC Developments) or release of final retainage, no forms 8609 will be issued or retainage will not be released until the violations are corrected to the Department's satisfaction.

(c) **Sanctions.** The Department may impose one or more of the following sanctions depending on the severity of the violation of a law specified in **Section 60.3(6)** of this Chapter, and as further described in §60.4(b) and §60.4(c), by a recipient of housing tax credits, housing funds or other assistance from the Department:

(1) termination of assistance,

(2) deobligation of funds, if available, and

(3) a bar on future eligibility for assistance through a housing program administered by the Department. A bar shall be in place for at least one calendar year from the date of imposition by the Department and may not last for more than three calendar years from the date of correction.

§60.6. Section 8 Voucher Holders and Tenant Selection.

(a) The Department will monitor to ensure Development owners comply with §2306.269 and §2306.6728, Texas Government Code regarding residents receiving rental assistance under Section 8, United States Housing Act of 1937 (42 U.S.C. §1437F).

(b) Applicability. The policies, standards, and sanctions established by this section apply only to:

(1) multifamily housing Developments that receive the following assistance from the Department on or after January 1, 2002: (§2306.185)

(A) a loan or grant in an amount greater than 33 percent of the market value of the Development on the date the recipient took legal possession of the Development; or

(B) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the Development on the date the recipient took legal title to the Development;

(2) multifamily rental housing Developments that applied for and were awarded housing tax credits after 1992.

(3) housing Developments that benefit from the incentive program under §2306.805 of the Texas Government Code.

(c) Housing sponsors of multifamily rental housing Developments described in subsection (a) of this section are prohibited from:

(1) excluding an individual or family from admission to the Development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f); and

(2) using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than 2.5 times the individual's or family's share of the total monthly rent payable to the owner of the Development. However, if an individual or family participating in the voucher program is required to pay only minimal rent (\$0-\$25), a reasonable minimum income, not to exceed \$2500 per year, may be required.

(d) To demonstrate compliance with §60.6 of this chapter housing sponsors shall:

(1) State in their leasing criteria that Section 8 voucher or certificate holders are welcome to apply and will be provided the same consideration for occupancy as any other prospective tenant;

(2) State in their leasing criteria that the Development will comply with state and federal fair housing and antidiscrimination laws;-

(3) Apply all other screening criteria, including employment policies or procedures and other leasing criteria (such as rental history, credit history, criminal history, etc.) uniformly and in a manner consistent with the Texas and Federal Fair Housing Acts, program guidelines, and the Department's rules;

(4) Approve and distribute an Affirmative Marketing Plan. The Affirmative Marketing plan must be provided to the property management and onsite staff. Housing Sponsors are encouraged to use HUD form 935.2 or successors as applicable. The Affirmative Marketing Plan must identify methods to market the property to persons with disabilities. Additionally, the Affirmative Marketing plan must be displayed in the leasing office and available to the public on request.

§60.7. Monitoring ~~for~~ of Compliance.

(a) Monitoring after the Compliance Period: Housing Tax Credit properties allocated credit in 1990 and after are required -under the Code (§42(h)(6)) to record an Extended Use Agreement as part of the LURA restricting the property for 30 years. Section 42(i)(1) defines the Compliance Period as the first 15 years of the extended use period. Various sections of the Code specify monitoring ~~rules~~ ~~procedures~~ State Housing Finance Agencies must implement during the Compliance Period.

(b) After the first 15 years of the extended use period, the Department will continue to monitor Housing Tax Credit Developments using the ~~-rules~~ ~~procedures~~ detailed in paragraphs 1- 15 of this subsection.

(1) On site monitoring visits will continue to be conducted approximately every three years, unless the Department determines that a more frequent schedule is necessary;

(2) In general, the Department will review 10% of the low-income files. No less than 5 files and no more than 20 files will be reviewed;

(3) A minimum of five units will be inspected. Additional units may be inspected if warranted by conditions discovered in the initial units inspected;

(4) A physical inspection of each unit shall be conducted by the owner each year using criteria set forth in the Department of Housing and Urban Development's Housing Quality Standards (HQS). Any deficiencies must be corrected and copies of the inspections and verification of repairs shall be maintained in the unit file;

(5) An inspection of all common spaces, grounds, building exteriors and building systems will be performed annually using HUD's HQS. Deficiencies must be corrected and records of the corrections must be maintained for review by Department staff;

(6) Each Development shall submit an annual report in the format prescribed by the Department;

(7) Reports to the Department must be submitted electronically as required in §60.9 of this Chapter;

(8) Compliance monitoring fees will continue to be submitted to the Department annually in the amount stated in the LURA;

(9) All households must be income qualified upon initial occupancy of any low- income unit. Proper verifications of income are required, and the Department's Income Certification form must be completed unless the Development participates in the Rural Rental Housing Program or a project based HUD program;

(10) Rents will remain restricted for all low-income units. The tenant paid portion of the rent plus the applicable utility allowance must not exceed the applicable limit.

(11) Owners and managers must continue to screen households for income, assets and household size on an annual basis. In addition, an Income Certification form must be completed on an annual basis;

(12) All additional income and rent restrictions defined in the LURA remain in effect.

(13) Other requirements defined in the LURA, such as the provision of social services or serving special needs households, will remain in effect unless specifically waived by the Department; and

(14) No tenant may be evicted nor be refused the opportunity to renew a lease except for good cause.

(15) The total number of required low income units must be maintained Development wide.

(c) After the first 15 years of the extended use period, certain requirements will not be monitored as detailed in paragraphs 1-5 of this subsection.

(1) At recertification verification of income and assets will not be required.

(2) The student restrictions found in §42(i)(3)(D). An income qualified household consisting entirely of full time students may occupy a low-income unit;

(3) The requirement to treat transfers from building to building as a new move in. Transfers within the Development will not require household requalification;

(4) The Available Unit Rule found in Treasury Regulation §1.42-15; and

(5) The building applicable fraction found in the Development's Cost Certification and/or the LURA. Low income occupancy requirements will be monitored Development wide, not building by building;

(d) Unless specifically noted in this Section, all requirements of this Chapter 60 and Section 42 of the Internal Revenue Code remain in effect for the Extended Use Period. These Post Year 15 Monitoring Rules Procedures apply only to the Housing Tax Credit Developments administered by the Department. Participation in other programs administered by the Department may require additional monitoring to ensure compliance with the requirements of those programs.

(e) The Department may contract with an independent third party to monitor a Development during construction or rehabilitation and during operation for compliance with any conditions imposed by the Department in connection with funding or other Department oversight and appropriate state and federal laws, as required by other state law or by the Board. (§2306.6719, Texas Government Code).

§60.8. Recordkeeping.

All Development Owners must comply with program recordkeeping requirements. Records must include sufficient information to comply with the Reporting requirements of §60.9 of this Chapter and any additional programmatic requirements. Records ~~In addition, records including items listed in paragraphs (1)–(12) of this section~~ must be kept for each qualified low income rental unit and building in the Development, commencing with lease up activities and continuing on a monthly basis until the end of the affordability period. Housing Tax Credit owners should refer to Treasury Regulation 1.42-5 for more information about record keeping requirements. The Department requires any reports to be submitted electronically and in the format prescribed by the Department. Records must include:

- (1) the total number of residential rental units in the Development, including the number of bedrooms;
- (2) the move in and move out date for each residential rental unit in the Development;
- (3) which residential rental units are low income units and the income level of the residents broken into 30, 40, 50, 60 or 80 percent of the area median income;
- (4) the rent charged for each residential rental unit including, with respect to low income units, documentation to support the utility allowance applicable to such unit and any rental assistance received;
- (5) the number of occupants in each low income unit;
- (6) the low income rental unit vacancies and information that shows when and to whom all available units were rented;
- (7) the annual income certification of each tenant of a low income unit, in the form designated by the Department, as may be modified from time to time;

- ~~–(8) documentation to support each low income tenant's income certification, consistent with the determination of annual income and verification procedures under Section 8 of the United States Housing Act of 1937 (Section 8);~~
- ~~–(9) the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually;~~
- ~~–(10) the race and ethnicity of the residents of each Development;~~
- ~~–(11) the number of units occupied by households receiving government-supported housing assistance and the type of assistance received; and~~
- ~~–(12) any additional information as required by the Department.~~

§60.9. Reporting.

(a) Each Development shall submit reports as required by the Department. Each Development that receives financial assistance or is administered by the Department, including the FDIC's Affordable Housing Program (AHP), shall submit the information required under this Section which describes the Annual Owner's Compliance Report (AOCR) required by §2306.0724, Texas Government Code. The Department requires this information be submitted electronically and in the format prescribed by the Department. Section 60.10 1.11 of this title contains rules procedures regarding filing and penalties for failure to file reports. The first AOCR is due the year following award.

(b)(4) Part A, the "Owner's Certification of Program Compliance"; Part B, the "Unit Status Report"; and Part C, "Tenant Services Provided Report" of the AOCR, must be provided to the Department no later than March 1st of each year, reporting data current as of December 31 January 1 of the previous year each (the reporting year). Part D, "Owner's Financial Certification", which includes the current audited financial statements and income and expenses of the Development for the prior year, shall be delivered to the Department no later than the last day in April each year. A full description of the AOCR is contained in §60.10 of this chapter.

(c)(2) The Department maintains the information reported by the AOCR pursuant to §2306.0724(c), Texas Government Code in electronic and hard-copy formats available at no charge to the public.

(d)(3) Rental Developments funded or administered by the Department, including HOME, Housing Trust Fund (HTF), the FDIC's AHP, and any other rental programs funded or administered throughby the Department shall provide tenant information provided on Part B, "Unit Status Report," at least quarterly during lease up and until occupancy requirements are achieved. Once the Department has determined that all occupancy requirements are satisfied, the Development shall submit the Unit Status Report at least annually and as required by this section.

(e)(4) Developments financed by tax exempt bonds issued by the Department shall report quarterly throughout the Qualified Project Period unless notified by the Department of a change in the reporting frequency.

~~(f)(6)~~ Information regarding housing for persons with disabilities: Owners of state or federally assisted housing Developments with 20 or more housing units must report information regarding housing units designed for persons with disabilities pursuant to §2306.078, Texas Government Code. This information will be reported on the Department's website and will include the following:

~~(1A)~~ the name, if any, of the Development;

~~(2B)~~ the street address of the Development;

~~(3C)~~ the number of housing units in the development that are designed for persons with disabilities and that are available for lease;

~~(4D)~~ the number of bedrooms in each housing units designed for a person with a disability;

~~(5E)~~ the special features that characterize each housing unit's suitability for a person with a disability;

~~(6F)~~ the rent for each housing unit designed for a person with a disability; and

~~(7G)~~ the telephone number and name of the Development manager or agent to whom inquiries by prospective tenants may be made.

~~(g)(5)~~ The Department requires all Owners of properties administered by the Department to submit the Unit Status Report in the electronic format developed by the Department. The Electronic Compliance Reporting Filing Agreement and the Owner's Designation of Administrator of Accounts forms must be filed no later than January 31st of the year following the award. The Department will provide general instruction regarding the electronic transfer of data. The Department may, at its discretion, waive the online reporting requirements. In the absence of a written waiver, all Developments are required to submit Reports ~~the Unit Status Report~~ online.

(h) Data submitted to the Department by the owner of a Development that contains relevant information pursuant to §2306.072(c)(6) and §2306.0724 of the Texas Government Code shall at a minimum include:

(1) the street address and municipality or county in which the property is located;

(2) the telephone number of the property management or leasing agent;

(3) the total number of units, reported by bedroom size;

(4) the move in and move out date for each residential rental unit in the Development;

(5) the number of occupants in each low income unit;

(6) the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually;

(7) the rent for each type of rental unit, reported by bedroom size;

(8) the race or ethnic makeup of the residents of each project;

(9) the number of units occupied by individuals receiving government-supported housing assistance and the type of assistance received;

(10) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income, reported as 30, 40, 50, 60 or 80 percent of the area median income;

(11) a statement as to whether the property has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Civil Rights Division of the Texas Workforce Commission ~~Commission on Human Rights~~, or the United States Department of Justice;

(12) a statement as to whether the Development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the normal monitoring activities that include meeting occupancy requirements or rent restrictions imposed by deed restriction or finance agreements; and

(13) the annual number of low income unit vacancies and information that shows when and to whom available units were rented.

§60.10. Annual Owner's Compliance Report Certification and Review.

(a) On or before February 1st of each year of the Affordability Period ~~affordability period~~, the Department will send a reminder that the Report required by §2306.0724 of the Texas Government Code (to be titled the Annual Owner's Compliance Report--AOCR) must be completed by the Owner and submitted to the Department on or before the applicable deadline. This reminder may be sent via email or by posting on the Department's website. The AOCR shall consist of:

(1) Part A, "Owner's Certification of Program Compliance";

(2) Part B, "Unit Status Report";

(3) Part C, "Tenant Services Provided Report"; and

(4) Part D, "Owner's Financial Certification".

~~(b) Penalties and sanctions are assessed in accordance with §1.11(d) of this title for failure to provide the AOCR in part or entirety, including administrative penalties and denial of future requests for Department funding.~~

(be) Any Development for which the AOCR, Part A, “Owner Certification of Program Compliance,” is not received or is received past the due date will be considered not in compliance with these rules. If Part A is incomplete, improperly completed or not signed by the Development Owner, it will be considered not received and not in compliance with these rules. The Department will report to the IRS via form 8823, Low-Income Housing Credit Agencies Report of noncompliance or Building Disposition, any HTC ~~De~~velopment that fails to comply with this section. The AOCR Part A shall include at a minimum the following statements by the Development Owner:

- (1) the Development met the minimum set aside test which was applicable to the Development;
- (2) there was no change in the Applicable Fraction or low income set aside of any building, or if there was such a change, the actual Applicable Fraction is reported to the Department (HTC only);
- (3) the Development Owner has received an annual income certification from each low income resident and documentation to support that certification, in the manner and form required by the Department’s Compliance Manual(s), as may be amended from time to time;
- (4) documentation is maintained to support each low income tenant’s income certification, consistent with the determination of annual income and verification procedures under Section 8 of the United States Housing Act of 1937 (Section 8), notwithstanding any rules to the contrary for the determination of gross income for federal income tax purposes. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement is satisfied if the public housing authority provides a statement to the Development Owner declaring that the tenant’s income does not exceed the applicable income limit under §42(g) of the IRC as described in the Compliance Manual(s);
- (5) each low income unit in the Development was rent-restricted under the LURA and applicable program regulations, including §42(g)(2) of the IRC, or 24 CFR Part 92, and the owner maintained documentation to support the utility allowance applicable to such unit;
- (6) all low income units in the Development are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under §42(i)(3)(B)(iii) of the IRC (HTC and BOND only));
- (7) no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for this Development. A finding of discrimination includes an adverse final

decision by the Secretary of HUD, 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court;

(8) each unit or building in the Development is, and has been, suitable for occupancy, taking into account Uniform Physical Condition Standards (UPCS) (24 CFR 5.703) or local health, safety, and building codes, and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the Development during this reporting period. If a violation report or notice was issued by the governmental unit during this reporting period, the Development Owner must provide the Department with a copy of the violation report or notice. In addition, the Development Owner must state whether the violation has been corrected;

(9) each unit has been inspected annually and each unit meets conditions set by HUD Housing Quality Standards (HOME only);

(10) there has been no change in the Eligible Basis (as defined by ~~the Code §42(d) of the IRC~~) for any building in the Development since the last certification or, if change(s), the nature of the change (HTC only);

(11) all tenant facilities included in the original application, such as swimming pools, other recreational facilities, washer/dryer hook ups, appliances and parking areas, were provided on a comparable basis to any tenants in the Development;

(12) Residents have not been charged for the use of any nonresidential portion of the building that was included in the building's Eligible Basis under ~~the Code §42(d) of the IRC~~ (HTC only);

(13) if a low income unit in the Development became vacant during the year, reasonable attempts were made, or are made, to rent that unit or the next available unit of comparable or smaller size to a qualifying low income household before any other units in the Development were, or will be, rented to non low income households (HTC and BOND only);

(14) if the income of tenants of a low income unit in the Development increased above the appropriate limit allowed, the next available unit of comparable or smaller size was, or will be, rented to residents having a qualifying income;

(15) a LURA including an Extended Low Income Housing Commitment as described in §42(h)(6) of the ~~Code IRC~~ was in effect for buildings subject to §7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989, 103 Stat. 2106, 2308 - 2311, including the requirement under §42(h)(6)(B)(iv) of the ~~IRC Code~~, that a Development Owner cannot refuse to lease a unit in the Development to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of

1937, 42 U.S.C. 1437f (for buildings subject to §1314c(b)(4) of the Omnibus Budget Reconciliation Act of 1993, 107 Stat. 312, 438 - 439) (HTC only);

(16) the Development Owner has not been notified by the IRS that the Development is no longer “a qualified low income housing Development” within the meaning of [the Code §42 of the IRC](#) (HTC only);

(17) if the Development Owner is required to be a Qualified Nonprofit Organization under §42(h)(5) [of the Code IRC](#), that a Qualified Nonprofit Organization owned an interest in and materially participated in the operation of the Development within the meaning under §469(h) of the [Code IRC](#) (HTC only);

(18) no low income units in the Development were occupied by ineligible full time student households (HTC and BOND only);

(19) no change in the ownership of the Development has occurred during the reporting period or changes and transfers were or are reported;

(20) the Development met all representations of the Development Owner in the Application and complied with all terms and conditions which were recorded in the LURA;

(21) the Development has made all required lender deposits, including annual reserve deposits;

(22) the street address and municipality or county in which the Development is located;

(23) the name, address, contact person, and telephone number of the property management or leasing agent;

(24) that no tenants in low-income units were evicted or had their tenancies terminated, including non-renewal of a lease, other than for good cause and that no tenants had an increase in the gross rent with respect to a low-income unit not otherwise permitted under [the Code §42 of the IRC](#) (HTC and HOME only);

(25) [The name and mailing address of the syndicator and lender \(HTC only\);](#)

(~~26~~) any additional information as required by the Department.

(~~cd~~) Review. Department staff will review Part A of the AOCR for compliance with the requirements of the appropriate program including [§42 of the IRC](#) [the Code](#).

(d) [Sanctions](#).

(1) If the report is not received on or before March 1, a notice of noncompliance will be sent to the owner specifying a reasonable amount of time, as determined by the Department, to submit the report prior to the imposition of any sanction.

(2) If the report is not received on or before the corrective action deadline the Department shall:

(A) For all HTC properties, issue form 8823 notifying the Internal Revenue Service of the violation

(B) For all properties, score the noncompliance in accordance with Section 60.18 of this Chapter.

(3) In addition, in accordance with the provisions of §2306.0724 of the Texas Government Code, the Executive Director of the Department may assess and enforce the following sanctions against a housing sponsor who fails to submit the AOCR on or before March 1 of each year. These sanctions will only be assessed for multiple, consistent and/or repeated violations of failure to submit the AOCR by March 1 of each year.

(A) Impose a late processing fee in an amount equal to \$1,000;

(B) Subject the Housing Sponsor to 10 TAC §1.13; or

(C) A HTC Development that three years in a row fails to submit required information to the Department may be reported to the Internal Revenue Service as no longer in compliance and never expected to comply.

§60.11. Record Retention Provisions.

(a) Each Development that is administered by the Department including the FDIC's AHP is required to retain the records as required by the specific funding program rules and regulations. In general, retention schedules include but are not limited to the provision of subsectionsparagraphs (a1)–(d4) of this section.

(b1)—HTC records, as described in §60.8 of this chapter, must be retained for at least six years after the due date (with extensions) for filing the federal income tax return for that year; however, the records for the first year of the Credit Period must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the Compliance Period of the building.

(c2) Retention of records for HOME rental Developments must comply with the provisions of 24 CFR 92.508(c); which generally requires retention of rental housing records for five years after the affordability period terminates.

(d3) Housing Trust Fund (HTF) rental Developments must retain tenant files for at least three years beyond the date the tenant moves from the Development. Records pertinent

to the funding of the award, including but not limited to the application, development costs and documentation, must be retained for at least five years after the affordability period terminates.

(e4) Other rental Developments funded or administered in whole or in part by the Department must comply with record retention requirements as required by rule or deed restriction.

§60.12. Inspection Provision.

(a) The Department retains the right to perform an on-site inspection of any low income Development, and review and photocopy all documents and records supporting compliance with Departmental programs through the end of the Compliance Period or the end of the period covered by any Extended Low Income Housing Commitment, whichever is later.

(b1) The Department will perform on-site inspections and file reviews of each low income Development. The Department will conduct the first review of HTC Developments by the end of the second calendar year following the year the last building in the Development is placed in service. The Department will schedule the first review of all other Developments as leasing commences. Subsequent reviews will occur at least once every three years during the ~~Affordability Period~~~~compliance period~~. The Department will monitor ~~a sampling at least 15%~~ of the low income resident files in each Development, and review the income certifications, the documentation the Development Owner has received to support the certifications, the rent records and any additional information that the Department deems necessary. The Department will also conduct a physical inspection of the Development including the exterior of the ~~D~~development, development amenities, and an interior inspection of a sample of units.

(c2) The Department may, at the time and in the form designated by the Department, require the Development Owners to submit information on tenant income and rent for each low income unit and may require a Development Owner to submit copies of the tenant files, including copies of the income certification, the documentation the Development Owner has received to support that certification, and the rent record for any low income tenant.

(d3) The Department will select the low income units and tenant records that are to be inspected and reviewed. Original records are required for review. The Department will not give Development Owners advance notice that a particular unit, tenant records or a particular year will be inspected or reviewed. However, the Department will give reasonable notice to the Development Owner that an on-site inspection or a tenant record review will occur so the Development Owner may notify tenants of the inspection or assemble original tenant records for review.

(e4) The Department will conduct a limited inspection for compliance with accessibility requirements under the Fair Housing Act or Section 504 of the Rehabilitation Act of 1973. If determined necessary the Department may make referrals to appropriate federal

and state agencies or order third-party inspections to be paid for by the Development owner.

(f 5) Exception: The Department may, at its discretion, enter into a Memorandum of Understanding with the TX-USDA-RHS, whereby the TX-USDA-RHS agrees to provide to the Department information concerning the income and rent of the tenants in buildings financed under its Section 515 program. Owners of such buildings may be exempted from the inspection provisions; however, if the information provided by TX-USDA-RHS is not sufficient for the Department to make a determination that the income limitation and rent restrictions are met, the Development Owner must provide the Department with additional information or the Department will inspect according to the provisions contained herein. TX-USDA-RHS Developments satisfy the definition of Qualified Elderly Development if they meet the definition for elderly used by TX-USDA-RHS, which includes persons with disabilities.

§60.13. Inspection Standard.

(a) Developments must be maintained to be decent, safe, sanitary and in good repair throughout the affordability period. For all programs, the Department will use HUD's Uniform Physical Condition Standards (UPCS) to determine compliance with property condition. In addition, Developments must comply with all local health, safety and building codes. The Department may contract with a third party to complete UPCS inspections. HTC Developments that fail to comply with local codes or UPCS must be reported to the IRS.

To determine compliance with property condition standards the Department shall review any local health, safety, or building code violation reports , or notices in the absence of local health, safety and building code violation reports. If deemed necessary by the Department, inspections by third-party inspectors may be requested and will be relied upon to determine compliance with property condition standards. In addition to the review of any local health, safety or building code violation reports, the Department may conduct inspections of the units using HUD's Housing Quality Standards or UPCS and may use those standards to determine compliance with property condition standards. Developments must be maintained to be decent, safe, sanitary and in good repair throughout the affordability period. HTC Developments that fail to comply with local codes or UPCS must be reported to the IRS.

(b) The Department will evaluate UPCS reports in the following manner:

(1) A finding of Major Violations will be assessed if:

(A) Any life threatening health, safety, or fire safety hazards are reported on the Notification of Exigent and Fire Safety Hazards Observed form in any building exterior, building system, common area, site, or dwelling unit; or

(B) 25% or more of buildings or dwelling units inspected have the same reported health or safety deficiencies

(2) A finding of Minor Violations will be assessed if:

(A) The same deficiency (not a health or safety deficiency) is listed for 25% or more of the buildings or dwelling units inspected; or

(B) An overall UPCS score of less than 60% (59% or below) is reported.

(3) Findings of both Major and Minor Violations may be assessed if deficiencies reported meet the criteria for both.

(4) Property representatives will have an opportunity to correct deficiencies while the inspector is on site. Such corrected items will not be assessed a finding unless there is a pattern of the same violation (25% or more of dwelling units or buildings inspected with the same deficiency).

(5) Acceptable evidence of correction of deficiencies is a certification from an appropriate licensed professional that the item now complies with the inspection standard or other documentation that the violation has been corrected.

(6) For Developments with no findings of Major or Minor Violations, the review letter will state that the owner is responsible for correcting any items noted in the report. However, the letter will not require the owner to report back that the items have been cured.

§60.17. Utility Allowances.

(a) The Department will monitor to determine if HTC and BOND properties comply with published rent limits, which include an allowance for utilities. If residents are responsible for some or all utilities, Development owners must use a Utility Allowance that complies with §1.42-10 of the IRC. ~~If there is more than one entity (Section 8 administrator, public housing authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided.~~

(b) Properties within the operational area of a municipal housing authority must use the allowance issued by municipal housing authority if they select the PHA method for establishing a utility allowance. (See Local Government Code Chapter 392)

(c) The Department will monitor to determine if HOME and HTF Developments comply with published rent limits, which include an allowance for utilities. Unless otherwise approved by the Department, HOME and HTF Developments must use the utility allowance established by the applicable housing authority. Changes in utility allowances must be implemented on the published effective date.

§60.18. Material Noncompliance.

(a) For all programs, a Development will be in material noncompliance if the noncompliance is stated in this section to be material noncompliance. Developments with more than one program administered by the Department will be scored by program. The Development will be considered in material noncompliance if the score for any single program exceeds the noncompliance limit for that program. The Department may take into consideration the representations of the Applicant regarding compliance violations; however, the records of the Department are controlling.

(b+) Each Development that is funded or administered by the Department will be scored according to the type and number of noncompliance events as it relates to the HTC program or other Department programs. All Developments, regardless of status, that are or have been administered, funded, or monitored by the Department are scored even if the Development no longer actively participates in the program. Unless otherwise specified below, under the HTC program, noncompliance events issued on Form 8823 are assigned point values. For other programs administered by the Department, unless otherwise specified below, noncompliance events identified during on-site monitoring reviews are assigned point values.

(c2) Uncorrected noncompliance, if applicable to the Development, will carry the maximum number of points until the noncompliance event has been reported corrected by the Department. Once reported corrected by the Department, the score will be reduced to the “corrected value”. Corrected noncompliance will no longer be included in the Development score three years after the date the noncompliance was reported corrected by the Department.

(1A) Under the HTC program, noncompliance events that occurred and were identified by the Department through the issuance of the IRS Form 8823 prior to January 1, 1998, are assigned corrected point values to each noncompliance event. The score for these events will no longer be included in the Development’s score.

(2B) The score in effect on May 1st of the year the HTC program application is submitted, during final application for Developments applying for participation in the BOND program, HOME program or HTF program, or during application review of any other program funded or administered by the Department will determine if any ~~rental~~ Development disclosed on previous participation forms is in material noncompliance.

(3E) The Department will not execute a Carryover Allocation Agreement with any Owner in Material Noncompliance on October 1, 2006.

(4D) Any corrective action documentation affecting the compliance status score must be received by the Department thirty days prior to the application deadline for HTC applications, date the HTC program Application Round closes, thirty days prior to the submission of Volume I of the application for a BOND Development, or thirty days before the submission of an application for any other program funded or administered by the Department.

~~(d3)~~ Events of noncompliance are categorized as either “development events” or “unit/building events”. Development events of noncompliance affect some or all the buildings in the ~~De~~development; however, the ~~De~~development will receive only one score for the event rather than a score for each building. Other types of noncompliance are identified individually by unit. This type of noncompliance will receive the appropriate score for each unit cited with an event. The unit scores and the ~~De~~development scores accumulate towards the total score of the Development. Violations under the HTC program are identified by unit; however, the building is scored rather than the unit and the building will receive the noncompliance score if one or more of the units are in noncompliance.

~~(e4)~~ Each type of noncompliance is assigned a point value. The point value for noncompliance is reduced upon correction of the noncompliance. The scoring point system and values are as described in ~~subsections subparagraphs (fA) and (gB)~~ of this ~~section paragraph~~. The point system weighs certain types of noncompliance more heavily than others; therefore certain noncompliance events automatically place the ~~De~~development in Material Noncompliance. However, other types of noncompliance by themselves do not warrant the classification of Material Noncompliance. Multiple occurrences of these types of noncompliance events may produce enough points to cause the ~~De~~development to be in Material Noncompliance.

~~(fA)~~ Development Noncompliance items are identified in ~~paragraphs clauses (1i) - (27xviii)~~ of this ~~subsection~~ subparagraph.

~~(1)(i)~~ Major property condition violations. The property condition does not meet Uniform Physical Condition Standards as described in Section 60.13 of this chapter or displays major violations of health, safety and building codes. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(~~a7~~)(10) of this chapter. Corrected is 10 points.

~~(2)(ii)~~ Owner refused to lease to a holder of rental assistance certificate/voucher because of the status of the prospective tenant as such a holder. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(~~a7~~)(10) of this chapter. Corrected is 10 points.

~~(3)(iii)~~ Development is not available to general public. The IRS will be notified of HTC ~~De~~developments reported to the Department, according to the Memorandum of Understanding among the U.S. Department of Treasury, the Department of Housing and Urban Development, and the Department of Justice, to be under investigation of possible violations of the Fair Housing Act. No points are imposed.

~~(4)(iv)~~ Determination of a violation under the Fair Housing Act. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(~~a7~~)(10) of this chapter. Corrected is 10 points.

~~(5)(v)~~ Development is out of compliance and never expected to comply. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a7)(10) of this chapter. No correction is possible; no corrected score assigned.

~~(6)(vi)~~ Owner failed to pay fees or allow on-site monitoring review. Points will be assigned to this event after written notification to the Development owner. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a7)(10) of this chapter. Corrected is 5 points.

~~(7)(vii)~~ LURA not in effect. The LURA was not executed within the required time period. Uncorrected, this is material noncompliance. This event will be assigned points upon written notification to the owner. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a7)(10) of this chapter. Corrected is 5 points.

~~(8)(viii)~~ Developments awarded HTC January 1, 2004, or later, that are foreclosed by a lender, or the General Partner is removed by a syndicator due to reasons other than market conditions. -Points associated with a foreclosure will be assigned at the time the 8823 is sent to the IRS. Points associated with the removal of the General Partner will be assigned upon written notification to the former General Partner. 25 points. No correction is possible; no corrected score assigned.

~~(9)(ix)~~ Development failed to meet minimum low-income occupancy levels. Development failed to meet required minimum low-income occupancy levels of 20/50 (20% of the units occupied by tenants with household incomes of less than or equal to 50% of Area Median Gross Income) or 40/60. Uncorrected is 20 points. Corrected is 10 points. (HTC and BOND only)

~~(10)(x)~~ No evidence of, or failure to certify to, non-profit material participation for an Owner having received an allocation from the Nonprofit Set-Aside. Uncorrected is 10 points. Corrected is 3 points.

~~(11)(xi)~~ The Development failed to meet additional State required rent and occupancy restrictions. The LURA requires the Development to lease units to low income households at multiple income and rent tiers. This event refers to the condition when the lower tiers are not satisfied. Uncorrected is 10 points. Corrected is 3 points.

~~(12)(xii)~~ The Development failed to provide required supportive services as promised at Application. Uncorrected is 10 points. Corrected is 3 points.

~~(13)(xiii)~~ The Development failed to provide housing to the elderly as promised at Application. Uncorrected is 10 points. Corrected is 3 points.

~~(14)(xiv)~~ Failure to provide special needs housing. Development has failed to provide housing for tenants with special needs as promised at Application. Uncorrected is 10 points. Corrected is 3 points.

~~(xv) The Development Owner failed to provide required annual notification to the local administering agency for the Section 8 program. Uncorrected is 5 points. Corrected is 2 points.~~

~~(15)(xvi)~~ Changes in Eligible Basis. Changes occur when common areas become commercial, fees are charged for facilities, etc. Uncorrected is 10 points. Corrected is 3 points. (HTC only)

~~(xvii) Owner failed to post Fair Housing Logo and/or poster in leasing offices. Uncorrected is 3 points. Corrected is 1 point.~~

~~(16)(xviii)~~ Failure to submit part or all of the AOCR or failure to submit any other annual, monthly, or quarterly report required by the Department. Uncorrected is 10 points. Corrected is 3 points.

~~(xix) Owner failed to make available or maintain a management plan with required language as required under §1.14 of this title. Uncorrected is 3 points. Corrected is 1 point.~~

~~(17)(xx)~~ Owner failed to approve and distribute an Affirmative Marketing Plan as required under §60.6 §1.14 of this ~~title~~ Chapter. Uncorrected is 3 points. Corrected is 1 point.

~~(18)(xxi)~~ Pattern of minor property condition violations. Development does not meet Uniform Physical Condition Standards as described in Section 60.13 of this chapter or displays a pattern of property violations; however, those violations do not impair essential services and safeguards for tenants. Uncorrected is 10 points. Corrected is 5 points.

~~(19)(xxii)~~ Development failed to comply with requirements limiting minimum income standards for Section 8 residents. -Complaints verified by the Department regarding violations of the income standard which cause exclusion from admission of Section 8 resident(s) results in a violation. Uncorrected score 10 points. Corrected 3 points.

~~(20)(xxiii)~~ Owner defaults on payments of Department loans for a period exceeding 90 days. Uncorrected, this is material noncompliance. Points will be assigned under this event after written notice to the Development Owner. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a)(10) paragraph §60.2(7) of this chapter. Corrected is 10 points.

~~(21)(xxiv)~~ Utility Allowance not calculated properly.
Uncorrected 3 points. Corrected 1 point.

~~(22)(xxv)~~ Failure to comply with the Next Available Qualifying Unit Rule. Uncorrected 3 points. Corrected 1 point.

~~(23)(xxvi)~~ Owner failed to execute required lease provisions or exclude prohibited lease language. Uncorrected 3 points. Corrected 1 point (All programs except HTC)

~~(24)(xxvii)~~ Failure to provide annual Housing Quality Standards inspection. Uncorrected 10 points. Corrected 3 points. (HOME and post compliance period HTC properties Only)

~~(25)(xxviii)~~ Development has failed to establish and maintain a reserve account in accordance with §1.37 of this title. Points will be assigned under this event after written notice to the Development Owner. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in section § 60.2(a)(10) subparagraph §60.2(7) of this chapter. Corrected is 10 points.

(26) Development substantially changed the scope of services as presented at initial application without prior department approval. Uncorrected 4 points. Corrected 0 points.

(27) Change in ownership or General Partner without proper notification to and approval of Department. Uncorrected 4 points, corrected 0 points.

~~(gB)~~ Unit Noncompliance items are identified in clauses-paragraphs (1)- (12) of this subsectionsubparagraph.

~~(1)(i)~~ Unit not leased to Low Income Household. Development has units that are leased to households whose income was above the income limit upon initial occupancy. Uncorrected is ~~5~~3 points. Corrected is 1 point.

~~(2)(ii)~~ Low-income units occupied by nonqualified full-time students. Uncorrected is 3 points. Corrected is 1 point. (HTC Developments during the Compliance Period and BOND only)

~~(3)(iii)~~ Low income units used on transient basis. Uncorrected is 3 points. Corrected is 1 point. (HTC and BOND only)

~~(4)(iv)~~ Household income increased above the re-certification limit and an available Unit was rented to a market tenant. (HTC Developments during the Compliance Period) Uncorrected is 3 points. Corrected is 1 point.

~~(5)(v)~~ Gross rent exceeds the highest rent allowed under the LURA or other deed restriction. Uncorrected is ~~5~~3 points. Corrected is 1 point.

~~(6)(vi)~~ Failure to maintain or provide tenant income certification and documentation. Uncorrected is 3 points. Corrected is 1 point.

~~(7)(vii)~~ Casualty loss. Units not available for occupancy due to natural disaster or hazard due to no fault of the Owner. This carries no point value. Casualty losses are reported to the IRS on HTC Developments.

~~(8)(viii)~~ When a low income Unit became vacant, owner failed to lease (or make reasonable efforts to lease) to a low income household before any units were rented to tenants not having a qualifying income. Uncorrected is 3 points. Corrected is 1 point.

~~(9)(ix)~~ Unit not available for rent. Unit is used for nonresidential purposes excluding unavailable Units due to casualty and manager-occupied Units. Uncorrected is 3 points. Corrected is 1 point.

~~(10)(x)~~ Qualifying unit designation removed from household. Uncorrected is 3 points. Corrected is 1 point. (FDIC's AHP only)

~~(11)(xi)~~ Development evicted or terminated the tenancy of a low income tenant for other than good cause. Uncorrected is 10 points. Corrected is 3 points. (HTC and HOME only)

(12) Household income increased above 80% at recertification and owner failed to properly determine rent. (HOME only) Uncorrected 3 points. Corrected 1 point.