

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**TDHCA Governing Board Approved Draft of**  
**10 TAC Chapter 25, Colonia Self-Help Center Rule**

## **Disclaimer**

Attached is a draft of the proposed 10 TAC Chapter 25, Colonia Self-Help Center Rule that was approved by the TDHCA Governing Board on September 2, 2021. This action includes repeal of the current rule, and adoption of a new rule in its place. However, the document attached reflects all changes proposed in tracked changes to facilitate review. This document, including its preamble, is scheduled to be published in the September 17, 2021 edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment. The version herein is informational only and should not be relied upon as the basis for public comment.

## **Public Comment**

**Public Comment Period:** Starts: 8:00 a.m. Austin local time on September 17, 2021  
Ends: 5:00 pm. Austin local time on October 18, 2021

Comments received after 5:00 p.m. Austin local time on October 18, 2021 will not be accepted.

Written comments may be submitted, in hard copy/fax or electronic formats to:

Texas Department of Housing and Community Affairs  
Attn: Abigail Versyp  
Colonia SHC Rule Public Comment  
P.O. Box 13941  
Austin, Texas 78711-3941  
Email: abigail.versyp@tdhca.state.tx.us

Written comments may be submitted in hard copy, fax, or email formats within the designated public comment period. Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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**Attachment A: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 25, Colonia Self-Help Center Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 25, Colonia Self-Help Center Rule. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, administration of the Colonia Self-Help Center Program.

2. The proposed repeal does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The proposed repeal does not require additional future legislative appropriations.

4. The proposed repeal does not result in an increase in fees paid to the Department, nor a decrease in fees paid to the Department.

5. The proposed repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The proposed action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the administration of the Colonia Self-Help Center Program.

7. The proposed repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The proposed repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this proposed repeal and determined that the proposed repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has also determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 17, 2021, to October 18, 2021, to receive input on the proposed repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email HOME@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, October 18, 2021.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed repealed sections affect no other code, article, or statute.

## **10 TAC Chapter 25, Colonia Self-Help Center Rule**

§25.1 Purpose and Services

§25.2 Definitions

§25.3 Eligible and Ineligible Activities

§25.4 Colonia Self-Help Centers Establishment

§25.5 Allocation, Deobligation and Termination, and Reobligation

§25.6 Colonia Self-Help Center Application Requirements

§25.7 Colonia Residents Advisory Committee Duties and Award of Contracts

§25.8 Colonia Self-Help Center Contract Operation and Implementation

§25.9 Administrative Thresholds

§25.10 Expenditure Thresholds and Closeout Requirements

## **Attachment B: Preamble for proposed new 10 TAC Chapter 25, Colonia Self-Help Center Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 25, Colonia Self-Help Center Rule. The purpose of the proposed new sections is to include Nueces County and new public service activities as required by statutory changes to Tex. Gov't Code 2306 adopted by the 87<sup>th</sup> Texas legislature, to implement a more germane rule, and better align administration to federal and state requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

### **a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed new rule would be in effect:

1. The proposed rule does not create or eliminate a government program, but it does extend eligibility of an existing program and call for the establishment of a Self-Help Center in Nueces County.
2. The proposed new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed rule changes do not require additional future legislative appropriations.
4. The proposed rule changes will not result in an increase in fees paid to the Department nor a decrease in fees paid to the Department.
5. The proposed rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The proposed rule can be considered to "expand" the existing regulations because the proposed rule requires the establishment of a Colonia Self-Help Center in Nueces County. However, this addition to the rule is necessary to ensure compliance with updates to Tex. Gov't Code 2306 adopted by the 87<sup>th</sup> Texas legislature.
7. The proposed rule will increase the number of individuals subject to the rule's applicability because the rule requires the establishment of a Colonia Self-Help Center in Nueces County, which adds individuals in that county's service area as possible beneficiaries of assistance that is subject to the regulations.
8. The proposed rule will not negatively affect the state's economy, and may be considered to have a positive effect on the state's economy because the establishment of an additional Colonia Self-Help Center will provide public benefit to residents of the county that were previously unserved by the Program.

### **b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.** The Department, in drafting this proposed rule, has

attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code §2306.111.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
  2. There are approximately 8 rural communities currently participating in construction activities under the Colonia Self-Help Center that are subject to the proposed rule for which there is no economic impact of the rule during the first year the rule is in effect. Although a new Colonia Self-Help Center is being established which would provide public benefit to additional persons, the total amount of funding available to all Colonia Self-Help Centers is unchanged, and the total number of housing units expected to be constructed is unchanged.
  3. The Department has determined that because a public benefit to residents of Nueces County will be made available through the establishment of a Colonia Self-Help Center, there may be a possible positive economic effect on small or micro-businesses or rural communities, although the specific impact is not able to be quantified.
- c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.
- d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed rule may provide a possible positive economic effect on local employment because job training is a possible activity and because increased funding limitations for construction activities may create employment opportunities in the construction sector and supportive businesses; however, because the total amount of funding available for the Colonia Self-Help Center Program is not increased, there is no way to determine during rulemaking where the positive effects may occur. The impact is not able to be quantified for any given community.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that participation in the Single Family HOME Program is at the discretion of the local government or other eligible subrecipients, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section includes adding Nueces County as required by updates to Tex. Gov't Code ch. 2306 adopted by the 87th Texas legislature, implementation of a more germane rule, and better alignment to federal and state requirements. There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the Colonia

Self-Help Center Program is a federally funded program, and no increase in the requirement to match federal funds is proposed in the rule.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 17, 2021, to October 18, 2021, to receive input on the new proposed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 8711-3941, by fax to (512) 475-0220, or email abigail.versyp@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, October 18, 2021.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

## **CHAPTER 25 COLONIA SELF-HELP CENTER PROGRAM RULE**

### **§25.1 Purpose and Services**

The purpose of this Chapter is to establish the requirements governing the Colonia Self-Help Centers, created pursuant to Subchapter Z of Chapter 2306 of the Tex. Gov't Code, Chapter 1 of this TitlePart (relating to Administration), Chapter 2 of this TitlePart (relating to Enforcement), Chapter 20 of this TitlePart (relating to Single Family Programs Umbrella Rule), Chapter 21 of this TitlePart (relating to Minimum Energy Efficiency Requirements), and including the use and administration of all funds provided to the Texas Department of Housing and Community Affairs (the Department) by the legislature of the annual Texas Community Development Block Grant (CDBG) allocation from the U.S. Department of Housing and Urban Development (HUD). Colonia Self-Help Centers are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home and otherwise improve living conditions in the designated Colonia service areas or in another area the Department has determined is suitable.

### **§25.2 Definitions**

The following words and terms, when used in this Chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Other definitions may be found in Chapter 2306 of the Tex. Gov't Code, Chapter 1 of this TitlePart (relating to Administration), Chapter 2 of this TitlePart (relating to Enforcement), Chapter 20 of this TitlePart (relating to Single Family Programs Umbrella Rule), and Chapter 21 of this TitlePart (relating to Minimum Energy Efficiency Requirements). Common definitions used under the CDBG Program are incorporated herein by reference.

(1) Beneficiary--A person or family benefiting from the Activities of a Colonia Self-Help Center Contract.

(2) Colonia Resident Advisory Committee (C-RAC)--As established by Tex. Gov't Code §2306.584, advises the Department's Governing Board regarding the needs of Colonia residents, appropriate and effective programs that are proposed or operated through the CSHCs, and activities that may be undertaken through the CSHCs to better serve the needs of Colonia residents.

(3) Colonia Self-Help Center (CSHC)--Those centers established by the Department through its authority under Tex. Gov't Code §2306.582.

(4) Colonia Self-Help Center Provider--An organization with which the Administrator has an executed Contract to administer Colonia Self-Help Center Activities.

(5) Community Action Agency--A political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. §9902.

(6) Contract Budget--An exhibit in the Contract which specifies in detail the Contract funds by budget category, which is used in the Draw process. The budget also includes all other funds involved that are necessary to complete the Performance Statement specifics of the Contract.

(7) Direct Delivery Costs--Soft costs related to and identified with a specific housing unit. Eligible Direct Delivery Costs include:

- (A) Preparation of work write-ups, work specifications, and cost estimates;
- (B) Legal fees, recording fees, architectural, engineering, or professional services required to prepare plans, drawings or specifications directly attributable to a particular housing unit;
- (C) Home inspections, inspections for lead-based paint, asbestos, termites, and interim inspections; and
- (D) Other costs as approved in writing by the Department.

(8) Housing Assistance Guidelines (HAG)--The guidelines provided by the Unit of General Local Government that outline the process and procedures used to administer and implement the Colonia Self-Help Center Program. These guidelines cannot conflict with state statute, program rules, regulations and/or contract requirements.

(9) Implementation Manual--A set of guidelines designed by the Department as an implementation tool for the Administrator and/or Colonia Self-Help Center Subawardee that have been awarded Community Development Block Grant Funds, which provides terms, regulations, procedures, forms, and attachments.

(10) Income Eligible Household--

(A) Low—Household income households—households whose annual incomes do not exceed 80% of the median income of the area as determined by HUD Fair Market Rent Limits; does not exceed the limits established below:

(B) Very low income households—households whose annual incomes do not exceed 60% of the median family income for the area, as determined by HUD Fair Market Rent Limits; and

A) Extremely low income households—households Low Income--Households whose annual incomes do not exceed 30% of the median family income for the area Area Median Family Income in accordance with the current CDBG Program Income Limits, as defined by HUD;

(B) Low Income--Households whose annual incomes do not exceed 50% of the Area Median Family Income in accordance with the current CDBG Program Income Limits, as defined by HUD; and

(C) Moderate Income--Households whose annual incomes do not exceed 80% of the Area Median Family Income in accordance with the current CDBG Program Income Limits, as determineddefined by HUD Fair Market Rent Limits..

(11) M Number--a several digit identification number, preceded by the letter "M" and assigned by the Texas Water Development Board to colonias that have been identified by the Office of the Attorney General of Texas.

(12) New Construction--A Single Family Housing Unit that is newly built by certified Community Housing Development Organizations (CHDOs) or Community Based Development Organizations (CBDOs) on a previously vacant lot that will be occupied by an Income Eligible Household.

(13) Performance Statement--An exhibit in the Contract which specifies in detail the scope of work to be performed.

(14) Public Service Activities--Activities other than New Construction, Reconstruction, and Rehabilitation activities that are provided by a Colonia Self-Help Center to benefit Colonia residents. These include, but are not limited to, construction skills classes, solid waste removal, tool lending library, technology classes, home ownership classes and technology access.

(15) ~~Qualified Inspector~~ An individual that has been certified by the Administrator as having professional certifications, relevant education or a minimum of three years' experience in a field directly related to home inspection, which may include but is not limited to installing, servicing, repairing or maintaining the structural, mechanical, plumbing or electrical systems found in Single Family Housing Units, as evidenced by inspection logs, certifications, training courses or other documentation.

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(15) Reconstruction--The demolition and rebuilding of a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased or decreased; however, the number of rooms may be increased or decreased dependent on the number of Household members living in the Single Family Housing Unit at the time of Application. Reconstruction of residential structures also permits replacing an existing substandard Manufactured Housing Unit with a new, site-built housing unit or a new ENERGY STAR Certified Manufactured Housing Unit.

(17) ~~16~~ Rehabilitation--The improvement or modification of an existing Single Family Housing Unit that is not a Manufactured Housing Unit through an alteration, addition, or enhancement on the same lot.

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(17) Unit of General Local Government (UGLG)--A city, town, county, or other general purpose political subdivision of the state.

### **§25.3 Eligible and Ineligible Activities**

(a) A CSHC may only serve Income Eligible Households in the targeted Colonias by:

- (1) Providing assistance in obtaining Loans or grants to build a home;
- (2) Teaching construction skills necessary to repair or build a home;
- (3) Providing model home plans;

- (4) Operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in Colonias who are building or repairing a residence or installing necessary residential infrastructure;
- (5) Assisting to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a Colonia, including potable water, wastewater disposal, drainage, streets, and utilities;
- (6) Surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;
- (7) Providing Housing Counseling related to all applicable single family activities that take place on or after August 1, 2020, and that satisfies HUD Counseling Requirements in 24 CFR Part 214;
- (8) Applying for Grants and Loans to provide housing and other needed community improvements;
- (9) Providing other services that the CSHC, with the approval of the Department, determines are necessary to assist Colonia residents in improving their physical living conditions such as Rehabilitation, Reconstruction, and New Construction, including help in obtaining suitable alternative housing outside of a Colonia area;
- (10) Providing assistance in obtaining Loans or grants to enable an Income Eligible Household to acquire fee simple title to property that originally was purchased under a Contract for Deed, contract for sale, or other executory contract;
- (11) ~~Provide~~Providing title-related services for unrecorded Contracts for Deed, clouded titles, property transfers, intestate estates, and other title ownership matters;
- (12) Providing access to computers, the internet and computer training; ~~and~~
- (13) Providing monthly programs to educate Income Eligible Households on their rights and responsibilities as property owners;.
- (14) Assisting with measures to secure employment;
- (15) Assisting with establishment or expansion of a small business;
- (16) Assisting with development of professional skills; and
- (17) Education in management of personal finances and achieving financial literacy.

(b) Ineligible Activities-include:

- (1) Rehabilitation (excluding Reconstruction) of an MHU; and
- (2) Any Activity not allowed by the Housing and Community Development Act of 1974 (42 U.S.C. §§5301, et seq.) is ineligible for funding..).

(c) A CSHC will only provide grants, financing, or Mortgage Loan services for New Construction, Reconstruction, and Rehabilitation of a home in a Colonia that is connected to a Department-approved source of potable water and wastewater disposal.

#### **§25.4 Colonia Self-Help Centers Establishment**

(a) Pursuant to Section 2306.582 of the Tex. Gov't Code, the Department has established CSHCs in ~~El Paso, Hidalgo, Starr, Webb, Cameron (also serves Willacy), El Paso, Hidalgo, Maverick, and Nueces, Starr, Val Verde, and Webb~~ Counties.

(b) The Department has designated:

- (1) Appropriate staff in the Department who are designated to assist the CSHCs in understanding the requirements of the Program, provide training, and access CDBG funding to enable the CSHCs to carry out Programs;
- (2) Five Colonias in each service area are to be identified by the UGLG to receive concentrated attention from the CSHCs in consultation with the C-RAC; and
- (3) A geographic area for the services provided by each CSHC.

(c) The Department shall make a reasonable effort to secure:

- (1) Contributions, services, facilities, or operating support from the county commissioner's court of the county in which a CSHC is located which it serves to support the operation of that CSHC; and
- (2) An adequate level of CDBG funds to provide each CSHC with funds for low interest Mortgage financing, Grants for Self-Help Programs, a revolving loan fund for septic tanks, a tool lending program, and other Activities the Department determines are necessary.

(d) Consistent with federal rules and regulations, as provided for in the General Appropriations Act, the CSHC in El Paso shall provide technology and computer access to residents of targeted colonias. Any CSHC may establish a technology center to provide internet access to Colonia residents.

## **§25.5 Allocation, Deobligation and Termination, and Reobligation**

(a) Allocation.

- (1) The Department distributes CSHC funds to UGLGs from the 2.5% set-aside appropriated to the Department from the annual CDBG allocation to the state of Texas.
- (2) The Department shall allocate no more than \$1 million per CSHC award except as provided by this Chapterchapter. If there are insufficient funds available from any specific program year to fully fund an Application, the awarded Administrator may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the CDBG set-aside allocation from the next program year.
- (3) A baseline award will first be calculated for a CSHC beginning at \$500,000 (or a lesser amount as provided for in paragraph (2) of this subsection). The Department will add to the baseline award up to an additional \$100,000 for each Expenditure Threshold that has been met on the current CSHC Contract, as defined in §25.10 of this Chapterchapter (relating to Expenditure Thresholds and Closeout Requirements). An additional amount up to \$100,000 may be added for an accepted Application submitted by the deadline. An Administrator may request that the Board add additional funds to a baseline award, despite the failure to meet one or more Expenditure Thresholds. To add funds to a CSHC Contract being considered for award, the Board must find that the failure to meet each Expenditure Threshold requirement was principally related to factors beyond the control of the Administrator. If the Board decides to award these additional funds in whole or in part, it must also determine that the award of these funds to the Administrator does not create a substantial risk to the State of recapture of CDBG funds by HUD.

(b) Deobligation and Termination.

- (1) At any point in which an Administrator has missed one of the Expenditure Thresholds required in §25.10 of this Chapterchapter, the Department will send a notification of possible deobligation. An Administrator will have

the opportunity to submit a mitigation plan that outlines how it will bring the Contract back into compliance, and how it will ensure that subsequent Expenditure Thresholds can be achieved. If the Department approves the mitigation plan, it will take no further action on deobligation at that time. If the Department receives no response, or if the mitigation plan is insufficient to be approved by the Department, the Department will send notice to the Administrator and the UGLG official to announce the initiation of deobligation proceedings and to identify the Administrator's rights under Tex. Gov't Code, Chapter 2105 and 10 TAC §1.411 (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code). Approval of such action will be presented to the Department's Board.

(2) At any point in which the Department has determined that a Contract should be terminated for violation of program requirements, the Department will send a notification of possible termination of Contract. A Subrecipient will have the opportunity to submit a mitigation plan that outlines how it will bring the Contract back into compliance. If the Department approves the mitigation plan, it will take no further action on termination at that time. If the Department receives no response, or if the mitigation plan is insufficient to be approved by the Department, the Department will send notice to the Administrator and the UGLG official to announce the initiation of deobligation proceedings and to identify the Administrator's rights under Tex. Gov't Code, Chapter 2105 and 10 TAC §1.411 (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code). Approval of such action will be presented to the Department's Board.

(3) During the time that a deobligation or termination process is pending, the Department may reduce an Administrator's Contract by up to 24.99% of the Contract and may publish a Request for Administrators (RFA) to identify another UGLG to implement the CSHC Program in the affected service area. No award to a respondent of an RFA will be made in an amount greater than 24.99% of the original Administrator's Contract until the process provided by Tex. Gov't Code, Chapter 2105 has been completed. Once that process is completed, an Administrator awarded a Contract through the RFA may receive up to the maximum award available, subject to funding availability.

(c) Reobligation.

(1) When funds become available from the proceedings of subsection (b) of this section, they will be held for a period of at least 90 days while an RFA for the service area is initiated. Unless debarred by HUD or the Department, a prior Administrator is not precluded from applying under an RFA for this service area.

(2) In all cases, funds for a given service area will continue to be allocated to that service area unless no acceptable respondents are identified. Only in such cases that no qualified provider can be identified for a given service area will funds available for that area be reissued to other CSHC Contracts for other service areas.

## **§25.6 Colonia Self-Help Center Application Requirements**

(a) At least three months prior to the expiration of its current Contract, or when 90% of the funds under the current Contract have been expended, whichever comes first, the current Administrator may submit its Application to the Department.

~~(b) If an Application is received from a CSHC, The Department will prioritize funding to CSHCs whose Contracts are reaching expiration before funding CSHCs that are requesting additional funds, at approximately the same time that an application is received from a CSHC whose funding for an existing Contract is reaching expiration, the~~

~~Department will prioritize funds first to ensure continuity to a CSHC whose Contract is reaching that is not nearing expiration.~~ Among all other non-expiring Applications, the Department shall review Applications on a first-come, first-served basis. Recommendations for award will be made until all CSHC funds for the current program year and deobligated CSHC funds are committed.

- (c) Each Application must utilize the Department's forms and documents where applicable, and include:
  - (1) Evidence of the submission of the Administrator's current Single Audit, if applicable;
  - (2) A Colonia identification form and the M number assigned by the Texas Water Development Board for each Colonia to be served, including all required documentation as identified on the form;
  - (3) A boundary map for each of the five designated Colonias;
  - (4) A description of the method of implementation. For each Colonia to be served by the CSHC, the Administrator shall describe the services and Activities to be delivered.
  - (5) A proposed Performance Statement which must include the number of Colonia residents estimated to be assisted from each Activity, the Activities to be performed (including all Sub-Activities under each budget line item), and the corresponding budget;
  - (6) A proposed Contract Budget which must adhere to the following limitations:
    - (A) The Administration line item may not exceed 15% of the total Contract;
    - (B) At ~~The Public Services Activities~~ line item must be at least 8% but not more than 10% of the total Contract ~~must be used for the Public Service Activities~~;
    - (C) For UGLGs self-administering the Program, Direct Delivery Costs for all New Construction and Reconstruction Activities cannot exceed 10% per unit provided by the CSHC Program. Direct Delivery Costs for Rehabilitation are limited to 15% per unit provided by the CSHC Program.
  - (7) The CSHC's Proposed Housing Assistance Guidelines, which must include an Affirmative Fair Housing Marketing Plan as described under Chapter 20 of this ~~title~~Part and all program parameters for Rehabilitation, Reconstruction, or New Construction;
  - (8) Evidence of model subdivision rules adopted by the County;
  - (9) Written policies and procedures, as applicable, for:
    - (A) Solid waste removal;
    - (B) Construction skill classes;
    - (C) Homeownership classes;
    - (D) Technology access, including any technology hardware inventory purchased with CSHC funds;
    - (E) Homeownership assistance; and/or
  - (F) Tool lending library, including any library inventory purchased with CSHC funds. All CSHCs are required to operate a tool lending library;
  - (10) Authorized signatory form and direct deposit authorization;
  - (11) UGLG resolution authorizing the submission of the Application and appointing the primary signatory for all Contract documents;
  - (12) Acquisition report (even if there is no acquisition activity);
  - (13) Certification of exemption for HUD funded projects;
  - (14) Initial disclosure report for the Texas Department of Agriculture;
  - (15) All ~~forms required forms needed~~ for a Previous Participation Review under §1.302 of this ~~title~~Part (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter); and

(16) All required forms required by §20.98 of this titlePart (relating to Fair Housing, Affirmative Marketing and Reasonable Accommodations).

(d) Upon receipt of the Application, the Department will perform an initial review to determine whether the Application is complete and that each Activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)).

(e) The Department may reduce the funding amount requested in the Application in accordance with subsection §25.5(a) of this chapter. Should this occur, the Department shall notify the appropriate Administrator before the Application is submitted to C-RAC for review, comments and approval. The Department and the Administrator will work together to jointly agree on the performance measures and proposed funding amounts for each Activity.

{f) The Department shall execute a four-year Contract with the Administrator, unless the award is for more than the Administrator's proportional allocation. If the Administrator requirements are completed prior to the end of the four-year Contract period, the Administrator may submit a new Application. Contract extensions may be granted for up to six months by the Department.

(g) The Department may decline to fund any Application if the Activities do not, in the Department's sole determination, represent a prudent use of CSHC funds. The Department is not obligated to proceed with any action pertaining to any Application which is received, and may decide it is in the Department's best interest to refrain from pursuing any selection process.

## **§25.7 Colonia Residents Resident Advisory Committee Duties and Award of Contracts**

(a) The Board shall appoint one committee member to represent each of the counties in which a CSHC is located to serve on the C-RAC. The members of the C-RAC shall be selected from lists of candidates submitted to the Department by local nonprofit organizations and the Commissioners Court of the county in which a CSHC is located. Each committee member:

- (1) Must be a resident of a Colonia in the county the member represents;
- (2) May not be a board member, contractor, or employee of the Administrator;
- (3) May not have any ownership interest in an entity that is awarded a Contract under this Chapter; and
- (4) Must undergo May not be listed on the Department's previous participation review federal- or state suspended or debarment list and cannot must not be in default on any Department obligation.

(b) The C-RAC members' terms will expire every four years. C-RAC members may be reappointed by the Board; however, the Board shall review and reappoint members at least once every four years. In the event that a C-RAC member is unable to complete the four-year term Contract Term, Counties may propose an eligible candidate to be appointed by the Board to fulfill the remainder of the term.

(c) The Department may also select to have an alternate member from the list for each county in the event that the primary member is unable to attend meetings.

(d) The C-RAC shall advise the Board regarding:

- (1) The housing needs of Colonia residents;
- (2) Appropriate and effective programs that are proposed or are operated through the CSHCs; and
- (3) Activities that might be undertaken through the CSHCs to serve the needs of Colonia residents.

(e) The C-RAC shall advise the Office of Colonia initiatives coordinatorInitiatives as provided by §775.005 of the Tex. Gov't Code.

(f) Award of Contracts.

- (1) The Department will schedule C-RAC meetings for the review of satisfactorily completed CSHC applications from Administrators. The C-RAC shall meet no less than 30 days prior to the board meeting at which the Board is scheduled to award a CSHC Contract, and may meet at other times as needed.
- (2) Any Administrator whose Application is being considered at the C-RAC meeting must be present to answer questions that C-RAC may have.
- (3) After the C-RAC makes a recommendation on an Application, the recommendation will then proceed through the Department's award process.

(g) Reimbursement to C-RAC members for their reasonable travel expenses in the manner provided by §25.9(1) of this Chapterchapter (relating to Administrative Thresholds)~~is allowable and~~ shall be paid by the Administrator or Administrators whose Applications were considered at the meeting.

## **§25.8 Colonia Self-Help Center Contract Operation and Implementation**

(a) The Department shall contract with an UGLG for the operation of a CSHC. The UGLG may subaward the activity to a Nonprofit Organization, Community Action Agency, or Housing Authority that has demonstrated the ability to carry out all or part of the functions of a CSHC.—The UGLG must perform the requirements of a pass-through entity, as further described in 2 CFR §200.332 and TxGMS.

(b) The Administrator is required to complete an environmental review in accordance with 24 CFR Part 58, and receive the Authority to Use Grant Funds from the Department before:

- (1) Any commitment of CDBG funds (i.e., execution of a legally binding Agreement and expenditure of CDBG funds) for Activities other than those that are specifically exempt from environmental review; and
- (2) Any commitment of non-CDBG funds associated with the scope of work in the Contract that would have an adverse environmental impact (i.e., demolition, excavating, etc.) or limit the choice of alternatives (i.e., acquisition of real property, Rehabilitation of buildings or structures, etc.).

(c) Request for Payments. The Administrator shall submit a properly completed request for reimbursement, as specified by the Department, at a minimum on a quarterly basis; however, the Department reserves the right to request more frequent reimbursement requests as it deems appropriate. The Department shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment request until the Department has reviewed and approved such request. Payments under the Contract are contingent upon the

Administrator's full and satisfactory performance of its obligations under the Contract. The Department may reduce a request for payment if documentation is insufficient or the performance is unsatisfactory.

(1) \$2,500 is the minimum amount for a Draw to be processed, unless it is the final Draw request. If an Administrator fails to submit a draw for 12 consecutive months the Contract may be subject to termination for failure to meet the Contract obligations.

(2) Draw requests will be reviewed to comply with all applicable laws, rules and regulations. The Administrator is responsible for maintaining a complete record of all costs incurred in carrying out the Activities of the Contract.

(3) Draw requests for all housing Activities will only be reimbursed upon satisfactory completion of types of Activities (e.g., all plumbing completed, entire roof is completed, etc.), consistent with the construction contract.

(4) The Administrator will be the principal contact responsible for reporting to the Department and submitting Draw requests.

(d) Reporting. The Administrator shall submit to the Department reports on the operation and performance of the Contract on forms as prescribed by the Department. Quarterly Reports shall be due no later than the tenth calendar day of the month after the end of each calendar quarter. The Administrator shall maintain and submit to the Department up-to-date accomplishments in quarterly reports identifying quantity and cumulative data including the expended funds, Activities completed and total number of Beneficiaries. Processing of draws may be suspended until the Administrator's quarterly reports are submitted and approved by the Department. If an Administrator fails to submit Activity data within a 24-consecutive-month period, the Contract may be subject to termination for failure to meet the Contract obligations.

(e) Amendments. The Department's executive director or its designee, may authorize, execute, and deliver amendments to any Contract.

(1) One Contract Extension of no more than six months may be granted beyond the four-year Contract period.

(2) Changes in ~~beneficiaries~~Beneficiaries. Any changes ~~into~~ increase contractual deliverables and ~~beneficiaries~~Beneficiaries shall require a Contract amendment.

(3) The Department, at its discretion and in coordination with an Administrator, may increase a Contract Budget amount and the number of Activities and ~~beneficiaries~~Beneficiaries to be assisted based on the availability of CSHC funds, the exemplary performance in the implementation of an Administrator's current Contract, and the time available in the four-year Contract period. Upon Board approval, the cap on the maximum Contract amount may be exceeded if the terms of this paragraph are met by the Administrator.

(f) Participating Households must provide at least 15% of the labor necessary to construct or Rehabilitate the Single Family Housing Unit by contributing the labor personally and/or through non-contract labor assistance from family, friends, or volunteers. Volunteer hours at the CSHC may also fulfill the 15% labor requirement.

(g) Program funds can be used for Rehabilitation, Reconstruction or New Construction. Assistance may be provided in the form of a grant or a forgivable loan to the household. Additional funds from other sources may be leveraged with Program funds. Program funds cannot exceed the following limits:

(1) Program funds for Rehabilitation cannot exceed \$6075,000 in Program funds per unit per Income Eligible Household.

(2) Program funds for Reconstruction or New Construction cannot exceed \$75100,000 in Program funds per unit per Income Eligible Household.

(3) An additional \$5,000 in Program funds is available for properties with non-functioning and/or unpermitted cesspools or septic tanks that need replacement with an appropriately sized on-site sewage facility, or connection to a Department-approved source of potable water and wastewater disposal.

(h) All Direct Delivery Costs must be eligible and based on actual expenses for the specific housing unit. Subawardees acting on behalf of an UGLG shall incorporate Direct Delivery Costs into its bid proposals.

(i) Prior to Department approval of CSHC construction activity, the CSHC must document that existing on-site sewage facilities (septic systems) have been inspected by a Texas Commission on Environmental Quality-authorized agent to determine if the system is in substantial compliance with Health & Safety Code, Chapter 366 and the rules adopted under that chapter. Cesspools that have not been previously permitted are unacceptable and must be replaced by an appropriately sized on-site sewage facility or the home must be connected to a Department-approved source of potable water and wastewater disposal.

(j) New Construction, Reconstruction, and Rehabilitation activities.—An Administrator under the CSHC Program must adhere to ~~TDHCA's~~the Inspection Requirements for Construction Activities under Chapter 20 of this Part and the Minimum Energy Efficiency Requirements for Single Family Construction Activities under Chapter 21 of this TitlePart.

(k) ~~Inspections. A Qualified Inspector shall conduct all inspections with respect to applicable construction standards and documentation protocol prescribed by the Department.~~

(1) New Construction Requirements.

(A) No initial inspection is required, however building construction plans must be submitted to the Department for approval.

(B) A Certificate of Occupancy is acceptable confirmation of meeting construction requirements. If the activity occurs in a jurisdiction that does not issue Certificates of Occupancy, a Qualified Inspector shall inspect the property applying all applicable construction standards and forms prescribed by the Department.

(2) Reconstruction Requirements.

(A) The initial inspection must identify all substandard conditions as described by Texas Minimum Construction Standards (TMCS) and any health or safety concerns that are beyond repair; confirm that a governmental entity has condemned the unit; or identify the unit as an MHU that will not be rehabilitated. The work write-up and cost estimate shall address all substandard conditions in sufficient detail to justify the need for reconstruction.

(B) A Certificate of Occupancy is acceptable confirmation of meeting construction requirements. If the activity occurs in a jurisdiction that does not issue Certificates of Occupancy, a Qualified Inspector shall inspect the property applying all applicable construction standards and forms prescribed by the Department.

(C) Administrator must demonstrate compliance with §2306.514 Tex. Gov't Code, "Construction Requirements for Single Family Affordable Housing".

(3) Rehabilitation Requirements.

(A) The initial inspection must identify all substandard conditions as described by TMCS and any health or safety concerns. The work write-up and cost estimate shall address all substandard conditions in sufficient detail.

(B) The final inspection shall document that all elements incorporated into the contracted work-write up have been addressed satisfactorily prior to the final draw request.

(k) Primary residences being assisted with any construction activities (Rehabilitation, Reconstruction and New Construction) must:

- (1) Comply with adopted Model Subdivision Rules for the county in which assistance is being provided; and
- (2) Have only one Single Family Housing Unit per property that is being used as living space.— If additional structures are located on the same property and utilized for living space, temporarily or otherwise, this property is not eligible.— Relocation assistance is not an eligible expense under the CSHC Program.

(l) The Administrator's initial HAG, as well as any amendments to the HAG, shall be approved by commissioners' court and the Department prior to implementation.

(m) Residents shall have access to all Public Service Activities identified in the Contract on at least one weekday each week, for a period long enough to provide access to activities after the typical workday.

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(n) The purchase of new tools, new computers and computer equipment, if included in the approved budget, shall only occur within the first 24 months of the Contract Term. Any purchasesPurchase of these items after 24 months must be approved by the Department in writing prior to purchase.

## **§25.9 Administrative Thresholds**

Administrative Draw request. Administrative Draw requests are funded out of the portion of the Contract budget specified for administrative cost (administration line item of the Contract budget). These costs are not directly associated with an Activity. The administration line item will be disbursed as described in paragraphs (1) - (8) of this section:

(1) Threshold 1. The initial administrative Draw request allows up to 10% of the administration line item may be drawn down prior to the start of any project Activity included in the Performance Statement of the Contract (provided that all Pre-Draw requirements, as described in the Contract, for administration have been met). Subsequent administrative funds will be reimbursed in proportion to the percentage of the work that has been completed as identified in paragraphs (2) - (8) of this section.

(2) Threshold 2. Up to an additional 15% (25% of the total) of the administration line item to be drawn down after a start of project Activity has been demonstrated. For the purposes of this threshold, if Davis-Bacon labor standards are required for a given Program Activity, the "start of project Activity" is evidenced by the submission of a start of construction form. If labor standards are not required on a given project Activity that has commenced (and for which reimbursement is being sought), the submission of a Draw request that includes sufficient back-up documentation for expenses of non-administrative project Activities evidences a start of project Activity. Direct Delivery Costs charges will not constitute a start of project Activity.

(3) Threshold 3. Up to an additional 25% (50% of the total) of the administration line item may be drawn down after compliance with the 20-month threshold requirement has been demonstrated as described in §25.10 of this chapter (relating to Expenditure Thresholds and Closeout Requirements).

(4) Threshold 4. Up to an additional 25% (75% of the total) of the administration line item may be drawn down after compliance with the 32-month threshold requirement has been demonstrated as described in §25.10 of this chapter.

- (5) Threshold 5. Up to an additional 15% (90% of the total) of the administration line item may be drawn down after compliance with the 44-month threshold requirement has been demonstrated as described in §25.10 of this chapter (relating to Expenditure Thresholds and Closeout Requirements).
- (6) Threshold 6. Up to an additional 5% (95% of the total) of the administration line item may be drawn down upon receipt of all required close-out documentation.
- (7) Threshold 7. The final 5% (100% of the total), less any administrative funds reserved for audit costs as noted on the Project Completion Report of the administration line item, may be drawn down following receipt of the programmatic close-out letter issued by Department.
- (8) Threshold 8. Any funds reserved for audit costs will be released upon completion and submission of an acceptable audit. Only the portion of audit expenses reasonably attributable to the Contract is eligible.

#### **§25.10 Expenditure Thresholds and Closeout Requirements**

(a) Administrators must meet the expenditure threshold requirements described in paragraphs (1) - (4) of this subsection. If an Administrator fails to expend and submit expenditure documentation by the due date, the deobligation process outlined in §25.5 of this chapter may be initiated. A Contract may also be subject to termination for failure to meet the Contract obligations, and the Department may elect not to provide future funds to the Administrator. In such cases, the Administrator will be notified in writing of the processes described in Tex. Gov't Code, Chapter 2105 and §1.411 of this TitlePart (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code).— These thresholds will be proportionally reduced when the Contract Term is less than four years, although if reasonable for the proposed Activities the Department may allow a longer proportional period for the Environmental Assessment and the 30% reimbursement request.

- (1) Six-Month Threshold. An Environmental Assessment that meets the environmental clearance requirements of the Contract must be submitted to the Department within six months from the start date of the Contract;
- (2) Twenty-Month Threshold. The Administrator must have expended and submitted for reimbursement to the Department at least 30% of the total CSHC funds awarded within 20 months from the start date of the Contract;
- (3) Thirty-two-Month Threshold. The Administrator must have expended and submitted for reimbursement to the Department at least 60% of the total CSHC funds awarded within 32 months from the start date of the Contract; and
- (4) Forty-four-Month Threshold. The Administrator must have expended and submitted for reimbursement to the Department at least 90% of the total CSHC funds awarded within 44 months from the start date of the Contract.

(b) For purposes of meeting a threshold in this section, "expended and submitted" means that a Draw request was received by the Department, is complete, and all costs needed to meet a threshold are adequately supported. The Department will not be liable for a threshold violation if a Draw request is not received by the threshold date.

(c) The final Draw requestRequest and complete closeout documents must be submitted no later than 60 days after the end of the Contract end dateTerm. If closeout documents are not received by this deadline, the remaining Contract balance may be subject to Deobligation as the Department's liability for such costs will have expired. If an Administrator has reserved funds in the project completion report for a final Draw requestRequest, the Administrator has 90 days after the end of the Contract end dateTerm to submit the final Draw requestRequest,

with the exception of the Department's portion of audit costs which may be reimbursed upon submission of the final Single Audit., but no later than one year after the end of the Contract Term.