

BOARD MEETING OF NOVEMBER 12, 2004

Beth Anderson, Chair
C. Kent Conine, Vice-Chair



Patrick R. Gordon, Member
Vidal Gonzalez, Member
Shadrick Bogany, Member
Norberto Salinas, Member

MISSION

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

***TO HELP TEXANS ACHIEVE AN IMPROVED QUALITY OF
LIFE THROUGH THE DEVELOPMENT OF BETTER
COMMUNITIES***

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

NOVEMBER 12, 2004

ROLL CALL

	Present	Absent
Anderson, Beth, Chair	_____	_____
Conine, C. Kent, Vice-Chair	_____	_____
Bogany, Shadrick, Member	_____	_____
Gonzalez, Vidal, Member	_____	_____
Gordon, Patrick, Member	_____	_____
Salinas, Norberto, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Senate Finance Committee Room E1.038, State Capitol Extension, 1100 Congress
Austin, Texas 78701
Friday, November 12, 2004 10:00 am

A G E N D A

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

Elizabeth Anderson
Chair of Board

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by the department staff and motions made by the Board.

The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

ACTION ITEMS

Item 1 Presentation, Discussion and Possible Approval of Minutes of Board Meeting of October 14, 2004 Elizabeth Anderson

Item 2 Presentation, Discussion and Possible Approval of Department Rules: Elizabeth Anderson

- a) Final Adoption of Housing Tax Credit Program Rules: Proposed Repeal of Title 10, Part 1, Chapter 49, Tex. Admin. Code – 2003 Low Income Housing Tax Credit Program Qualified Allocation Plan and Rules; and Proposed New Title 10, Part 1, Chapter 49. Tex. Admin. Code – 2005 Housing Tax Credit Program Qualified Allocation Plan and Rules
- b) Final Adoption of Home Investment Partnerships Program (HOME) Rules: Proposed Amendment to Title 10, Part 1, Chapter 53, Tex. Admin. Code – Home Investment Partnerships Program
- c) Final Adoption of Housing Trust Fund Rules: Proposed Amendment to Title 10, Part 1, Chapter 51, Tex. Admin. Code – Housing Trust Fund Rules
- d) Final Adoption of Real Estate Analysis Rules: Proposed Amendment to Title 10, Part 1, Chapter 1, Subchapter B, Tex. Admin. Code - Underwriting, Market Analysis, Appraisal, Environmental Site Assessment and Property Condition Assessment Rules and Guidelines and Proposed New § 1.37 Reserve for Replacement Rules and Guidelines
- e) Final Adoption of Compliance Monitoring and Asset Management Rules: Proposed Repeal of Title 10, Part 1, Chapter 60, Subchapter A, Tex. Admin. Code – Compliance Monitoring and Asset Management, Section 60.1 Compliance Monitoring Policies and Procedures and Proposed New Title 10, Part 1, Chapter 60, Subchapter A, Tex. Admin. Code, Compliance Monitoring, Section 60.1 Compliance Monitoring Policies And Procedures

- Item 3 Presentation, Discussion and Possible Approval of Application Submission Procedures Manual for Housing Tax Credits Elizabeth Anderson
- Item 4 Presentation, Discussion and Possible Approval of: Elizabeth Anderson
- a) 2005 Regional Allocation Formula
 - b) 2005 Affordable Housing Need Score
 - c) 2005 State of Texas Low Income Housing Plan and Annual Report
 - d) 2005-2009 State of Texas Consolidated Plan
- Item 5 Presentation, Discussion and Possible Approval of Programmatic Items: C. Kent Conine
- a) HOME Award to Community Action Council of South Texas in the Amount of \$500,000
 - b) Increase in the Contract Amount of Preservation Incentives Program Funds in the Amount of \$250,000 for Cedar Ridge Apartments, No. 2002-0050, Dayton, Texas for a Total Contract Amount of \$1,250,000
- Item 6 Presentation, Discussion and Possible Approval of Recommendations From the Programs Committee C. Kent Conine
- a) Approval to Rescind General Policy Issuance #04-3.3, Regarding Documentation of Income for 90 days Prior to the Application and Allow Annualization of Income for 30 Days Prior To Application with Regards To the Community Services Block Grant (CSBG), Comprehensive Energy Assistance Program (CEAP) and Weatherization Assistance Program (WAP)
 - b) Approval of Resolution Concerning Section 8 Payment Standards
 - c) Discussion on Section 8 Housing Assistance Program as Administered by the Texas Department of Housing and Community Affairs
- Item 7 Presentation, Discussion and Possible Approval of Multifamily Bond Program Inducement Resolutions for: Vidal Gonzales
- a) Inducement Resolution Declaring Intent to Issue Multifamily Housing Mortgage Revenue Bonds for Developments Throughout the State of Texas and Authorizing the Filing of Related Applications for the Allocation of Private Activity Bonds with the Texas Bond Review Board For Program Year 2004 **(2004 Waiting List)**

2004-063 Arlington Place Apartments, Houston, Texas
 - b) Inducement Resolution Declaring Intent to Issue Multifamily Housing Mortgage Revenue Bonds for Developments Throughout the State of Texas and Authorizing the Filing of

Related Applications for the Allocation of Private Activity Bonds with the Texas Bond Review Board For Program Year **2004 Traditional Carry Forward** and Request for Approval From The Governor

- 2004-059 Sphink at Chenault, Dallas, Texas
- 2004-060 Waxahachie Senior Apartments. Waxahachie, Texas
- 2004-061 Pleasant Village Apartments, Dallas, Texas
- 2004-062 Grove Village Apartments, Dallas, Texas
- 2004-064 Lafayette Chase Apartments, Houston, Texas
- 2004-065 Glenn Heights Villas, San Antonio, Texas
- 2004-066 Alta Cullen Apartments, Harris County, Texas

c) Inducement Resolution Declaring Intent to Issue Multifamily Housing Mortgage Revenue Bonds for Developments Throughout the State of Texas and Authorizing the Filing of Related Applications for the Allocation of Private Activity Bonds with the Texas Bond Review Board For Program Year 2005 **(2005 Waiting List)**

- 2005-014 Willow Creek Apartments, Tomball, Texas
- 2005-021 Meadow Oaks Estates, Corinth, Texas
- 2005-022 Woodland Park Estates, Garland, Texas
- 2005-023 Rosemont at Frisco, Frisco, Texas
- 2005-026 Malloy Meadows, Seagoville, Texas

Item 8 Presentation, Discussion and Possible Approval of Housing Tax Credit Items:

Elizabeth Anderson

- a) Waiver of Carryover Requirement to Close on Land for Acquisition/Rehab 2004 Awardees
- b) Appeals to Board from Housing Tax Credit Applicants on Underwriting Matters:
04074 Las Palmas, San Antonio, Texas
- c) Issuance of Determination Notices on Tax Exempt Bond Transactions with Other Issuers:

04457 Evergreen at Lewisville Senior Apartments, Lewisville, Texas, Denton County Housing Finance Corporation is The Issuer (Requested Amount of \$496,596 and Recommended Amount of \$496,596)

04463 Lakeside Manor Senior Community, Little Elm, Texas Denton County Housing Finance Corporation is The Issuer (Requested Amount of \$438,218 and Recommended Amount of \$428,143)

04452 Seville Place Apartments, La Porte, Texas Southeast Texas Housing Finance Corporation is The Issuer (Requested Amount of \$568,648 and Recommended Amount of \$564,828)

04459 Bayview Apartments, Baytown, Texas Harris County Housing Finance Corporation is the

Issuer (Requested Amount of \$586,896 and Recommended Amount of \$574,895)

04492 Artisan on the Bluff, San Antonio, Texas
San Antonio Housing Finance Corporation is
The Issuer (Requested Amount of \$911,857 and Recommended Amount of \$911,857)

- d) Request for Additional Credits for:
Primrose at Shadow Creek (fka Arbors at Creekside), Austin, Texas (Requested Amount of \$92,244 and Recommended Amount of \$91,982) for a Total Housing Tax Credit Award of \$617,344
- e) Requests for Housing Tax Credit Extensions for:
#03004, Arbor Woods Apartments, Dallas, Texas
#03140, Park Meadows Village, Lubbock, Texas
#03145, Sterling Springs Villas, Midland, Texas
#03159, Summit Senior Village, Gainesville, Texas
#03162, Pinnacle Pointe Apartments, Victoria, Texas
#03182, The Manor at Jersey Village, Jersey Village, Texas
#03186, Tigon Villages, San Antonio, Texas
#03053, Millpoint Townhomes Apts., Henderson, Texas
- f) Proposed Housing Tax Credit Amendments for:
04120 Sedona Springs Village Apartments, Odessa, Texas

EXECUTIVE SESSION

Elizabeth Anderson

If permitted by law, the Board may discuss any item listed on This agenda in Executive Session
Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning the Proposed 2005 Housing Tax Credit Program Qualified Allocation Plan And Rules
Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning Pending or Contemplated Litigation

OPEN SESSION

Elizabeth Anderson

Action in Open Session on Items Discussed in Executive Session

REPORT ITEMS

Executive Directors Report

1. NCSHA – Conference and Election of Board Member
2. Houser Award
3. NCSHB – Election of Board Member
4. Affordable Housing Partnership with the Texas Association of Realtors
5. Department Outreach Activities – Meetings, Trainings, Conferences, Workshops for September and October, 2004
6. Award Recognition of Community Affairs Staff Member by the US Department of Energy (Central Region)

ADJOURN

Elizabeth Anderson

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Delores Groneck, 512-475-3934 at least three days before the meeting so that appropriate arrangements can be made.

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

EXECUTIVE OFFICE
BOARD ACTION REQUEST
NOVEMBER 12, 2004

Action Item

Board Minutes of October 14, 2004.

Required Action

Review of the minutes of the Board Meeting and make any necessary corrections.

Background

The Board is required to keep minutes of each of their meetings. Staff recommends approval of the minutes.

Recommendation

Approve the minutes with any requested corrections.

BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
507 Sabine, TDHCA Boardroom, Austin, Texas 78701
Thursday, October 14, 2004 10:30 am

Summary of Minutes

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

The Board Meeting of the Texas Department of Housing and Community Affairs of October 14, 2004 was called to order by the Chair of the Board Elizabeth Anderson at 10:45 a.m. It was held at the Boardroom of the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas 78701. Roll call certified a quorum was present. C. Kent Conine and Vidal Gonzalez were absent.

Members present:

Elizabeth Anderson – Chair
Shad Bogany – Member
Patrick Gordon – Member
Norberto Salinas – Member

Staff of the Texas Department of Housing and Community Affairs was also present.

Ms. Anderson welcomed Scott Sims of the Speakers Office; Jason Smith from the House Urban Affairs Committee and Jerry Romero, Board Chair of TSAHC, to the meeting.

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Board.

Ms. Anderson called for public comment and the following either gave comments at this time or preferred to wait until the agenda item was presented.

Jim Shearer, Capital Consultants, Austin, Texas

Mr. Shearer stated that Capital Consultants has been involved with the department with regards to affordable housing as they have represented developers (for-profit and non-profit), local housing authorities, local governments and financial communities. He recommended initial changes to the proposed 2005 QAP and stated that Capital Consultants and their housing clients have been very active in the QAP working group. They had 16 recommended changes and believed these recommendations are intended in good faith to bring balance and fairness to the Tax Credit Program. These recommendations were: Income levels of tenants; rent levels of the units; mixed income units; unit mix dictated by market forces; nonprofit set-aside; quantifiable community participation; affordable housing needs score; urban / exurban; compliance period; HUBs; energy efficiency; threshold requirements; notification requirements; fee increases; development size in rural areas; and 504 language. He asked the Board to give every consideration to these recommended changes.

Ms. Anderson had questions on the nonprofit set-aside where it was proposed to allocate this set-aside at a regional level rather than statewide.

Mike Dunn, Capitol Consultants, Austin, Texas

Mr. Dunn stated that they were recommending taking the 10% for this set-aside from each region's allocation and award that to nonprofit applicants in the region instead of statewide.

Ms. Anderson asked if there wasn't any nonprofit transaction in a particular region would the department still have to meet the nonprofit set-aside on a statewide basis.

Mr. Dunn stated if there is a region that does not have any nonprofits, that there will be others who will be providing affordable housing. He also stated that he would be happy to educate himself on what the ramifications of what this would be and get back to the Board on this question of not having a nonprofit in a region..

Ms. Anderson stated that in her reading of the proposed recommendations that the rent levels of 100% of the units in the development restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit is required in Section 42. All applicants are going to get the 12 points and she asked Mr. Dunn if this is the policy outcome that they are recommending.

Mr. Dunn stated that on the rent level of the units they felt the proposed QAP is requiring 10% below the rent and it was going to hurt areas outside of the regions with MSAs over a million. They would be looking for the top tier to be 12 points and the next tier down would be 10 points for 95% of the units that were reserved. He also stated concerns that he has heard that there are levels of need in the state that are not reflected in the AFNS in terms of needs that a community might need.

Ms. Anderson encouraged Mr. Dunn to ask his clients to be real specific with their comments as the AHNS has its own set of public comments. She also stated the purpose of the AHNS is to spread the housing in a region. It is not intended to say that where one does not have a high affordable housing needs score that there is no need. She asked Mr. Dunn to be very specific about what specific proposals they have for strengthening the formula.

Mr. Bogany asked questions on the unit mixed dictated by market forces and on the urban / exurban.

Mr. Dunn stated the development community was feeling pushed into doing single bedroom units and in regions that have a MSA larger than a million is roughly how this is breaking out. In those areas there should be a third allocation, the exurban - in terms of allocating that money and much more effective dispersion method, rather than doing the one mile rule in terms of the qualified census tracts having that 130% boost on the basic funds.

Mr. Bogany also had questions on the energy efficiency suggestion.

Mr. Dunn stated he would be getting an answer for this question for Mr. Bogany.

Ms. Anderson asked if they would be open to an alternative or a restoration of the exurban points to try to give the exurban deals additional preference.

Mr. Dunn stated this would be welcome but the main problem is still what exurban is and what is urban.

John Garvin, Exec. Director, TAAHP, Austin, Texas

Mr. Garvin stated they provided comments for the QAP and he thanked staff for doing such a good job in streamlining the QAP. He asked the board to consider where there are no neighborhood organizations, if possibly allowing up to six points for community or civic organization support to give more parity to areas that are not around MSAs or areas with neighborhood organizations. The next comment was on the income level of the tenants and he asked the Board to consider putting in one more option where they would get 20 points if 60% of the units are set aside for those below 50% median income. The next suggestion is to clarify the definition of local political subdivisions.

The next comment was the 10% rent reduction – the rent levels of the tenants. They agreed that this is going to be problematic when it comes to compliance and recommended taking this out for rural areas that have lower rents anyway.

On development location they realize the code targets families with children but the clause of getting applications with areas with no greater than 10% poverty population, they asked that seniors should be included and to find another way to give family selection. On the tie-breakers, they recommended also using such factors as higher needs score; census tract without all other tax credit developments; and the suggestion on the lowest amounts of credits as requested by net rentable square footage. They would like to see the reinstatement of ex urban points up to 6 points.

Mr. Bogany asked if exurban should be a separate category and Mr. Garvin stated he did not see the need for this.

Mr. Bogany also asked for his comments on previous suggestions and Mr. Garvin stated he felt that on the unit mix that the one bedroom units are very leasable.

Mr. Garvin also stated he is a Board member of the UCP of Texas and he asked to that the HOYO program be reinstated for \$1 million.

Ms. Anderson asked for Mr. Garvin's thoughts on using the Affordable Housing Needs Score in the context of using it as a tie-breaker and was advised by Mr. Garvin that he would like to give that more thought and he would get back to the Board on that question.

Darrel Jack, Apartment Market Data, Austin, Texas

Mr. Jack stated they write a fair amount of market study reports on the 9% and the 4% tax credits. They do not see any significant difference between the occupancy of one-bedrooms, twos or threes in the affordable units around the state. He felt the QAP gives an unfair advantage to family projects in rural areas over senior projects. The QAP gives advantage to projects that have one, two and three bedrooms over those that might have one or two. The senior projects in many rural communities are not going to work with the current proposed QAP. He further stated that on the income levels a family project is able to go after those points but a senior project is not. He felt the market study reports should not be placed on the web for anyone to look at. He stated the neighborhoods are being more vocal and more outspoken against affordable housing and the market analysts seem to be the target of much of this fury.

He stated there is a problem with changing the population limits from 250,000 in the trade area down to 100,000 unless they provide supporting data. The problems are that there are not any clear-cut rules as to what qualified supporting data would be. He stated several things have been in the past guidelines and have not been adhered to and one is the statement about economic occupancy of comparable; the second is the turnover rates for comparable properties; and the third is the absorption rates of comparables and properties by class.

Mr. Bogany asked if Mr. Jack was recommending the removal of these items and was advised that the items should be removed.

Allan Greenlee, One Economy Corporation, Washington, D.C.

Mr. Greenlee spoke on the provisions of the QAP that deal with internet access. They are a national organization headquartered in Washington, D.C. and are a mission driven organization to work to maximize the power of technology. Their proposal is to have computers and internets available so that low income people have access to information and resources that will help them join the economic mainstream. They operate the *Bring It Home Campaign* which is a national campaign. In the QAP there was a provision that essentially said to have computers or internets access in units. The weakness of this language is that developers can get threshold benefit, for doing nothing more than including telephone wire into their units. Their proposal is to bring in one high-speed internet access and share that internet access among the residents. The benefit of what is instead of residents paying \$29-\$59 a month, they can provide high-speed internet access to each of the units for as low as \$5 a month. Internet access in a complex gives market appeal, reduces churn, and provides for down the road the capacity to bring management efficiency. They provide free consulting service to affordable housing developers. It costs about \$275 on average per unit to do the installation at time of construction and is a cheap and easy way

to deliver high speed internet access to residents. He stated the service provider fee would be about \$300 a month and they recommend about \$1 a unit a month per unit as a maintenance fee.

Craig Young, O'Conner & Associates, Houston, Texas

Mr. Young stated they are a market analyst and appraisal firm in Houston. He stated he did not have a problem providing the Department electronic delivery of the market analysis report but felt that if it is posted to the web that it would create quite a bit of challenges for them. Posting to the internet was a bad idea in his opinion.

Bob Voelkler, Developer, Houston.

Mr. Voelkler stated he felt it was a good for everyone to have high-speed internet access to their residents. He did not necessarily want to have a wire for every possible application. He asked that the wording be changed to state that there needs to be access and availability of high speed internet access service, phone service and cable TV/satellite TY type service available. He asked the Board to reinstate the points for market rate units. He also felt that mixed income communities are good projects to do.

John Wright, Houston, Texas

Mr. Wright stated on a project that he worked with the cost was \$100,000 for 150 units for the networking and wires for internet service. He also stated the owner has to maintain a server, etc. and he felt that the residents should do the connecting, etc. He stated that the \$100,000 was for rehabilitated units to be rewired and this means tearing up walls and more.

Tony Sisk, Developer, Dallas, Texas

Mr. Sisk stated they did not receive staff approval for inducement on 3 of their projects because they did not send in the notification to the county and city clerk on time and it was a few days late. They did receive information and filed it on a timely basis that there are no neighborhood organizations on record with the city or county. He asked that these applications be induced since there are no neighborhood organizations on record.

Ray Oconas, Executive Director, TACDC, Austin, Texas

Mr. Ocanas stated they are asking the Department to consider reinstating in the program rules of the Trust Fund the Predevelopment Loan Program. It is in the strategic plan now but it is not directly written into the program rules.

Ms. Anderson welcomed several visitors to the meeting who were Michael Gerber, the new Housing Policy Lead for Governor Perry's Office; Jason Smith from the Urban Affairs Committee; Jerry Romero, Chair of the TSAHC Board and Scott Sims from the Speakers Office.

ACTION ITEMS

(1) Presentation, Discussion and Possible Approval of Minutes of Board Meetings of August 19, 2004 and September 9, 2004

Motion made by Shad Bogany and seconded by Norberto Salinas to approve the Minutes of the Board Meetings of August 19, 2004 and September 9, 2004. Ms. Anderson noted that there were several typos in the minutes and she furnished them to the Secretary for change in the minutes.
Passed Unanimously

**(2) Presentation, Discussion and Possible Approval of Housing Tax Credit Items:
a) Issuance of Determination Notices on Tax Exempt Bond Transactions with Other Issuers:
04444 TownParc at Bastrop, Bastrop Texas, Capital Area Housing Finance Corporation is the Issuer, (Requested Amount of \$420,500 and Recommended Amount of \$411,039)**

Ms. Carrington stated the tax exempt finance bond developments for consideration are with other issuers and not the Department.

TownParc at Bastrop, in Bastrop, Texas is new construction and will be family units. The issuer is the Capital Area Housing Finance Corporation. The Department is recommending tax credit allocation in the amount of \$411,039.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the tax credit allocation in the amount of \$411,039 for TownParc at Bastrop.
Passed Unanimously

04446 Villas at Costa Biscaya, San Antonio, Texas, San Antonio Housing Finance Corporation is the Issuer, (Requested Amount of \$862,911 and Recommended Amount of \$862,911)

Ms. Carrington Villas at Costa Biscaya is located in San Antonio, Texas and San Antonio Housing Finance Corporation is the issuer. Staff is recommending an allocation of tax credits in the amount of \$862,911.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the tax credit allocation in the amount of \$862,911 for Villas at Costa Biscaya.
Passed Unanimously

- b) **Proposed Housing Tax Credit Amendments for:**
02045 Paris Retirement Village Apartments, Paris, Texas
03145 Sterling Spring Villas Apartments, Midland, Texas
03140 Park Meadows Villas Apartments, Lubbock, Texas
04120 Sedona Springs Village Apartments, Odessa, Texas
04004 (fka 03168) Kingsland Village, Kingsland, Texas
04101 Pleasant Hill Apartments, Austin, Texas
04107 Whitefield Place Apartments, San Antonio, Texas
04108 Tamarac Pines Apartments, The Woodlands, Texas

Ms. Carrington there are eight housing tax credit amendments for the Boards consideration. Paris Retirement Village is located in Paris, Texas and is new construction for the elderly. They are requesting a change in the number of bedrooms from 8 one-bedroom units to 7 one-bedrooms and 1 two bedroom unit. Staff is recommending the approval of this requested change.

Motion made by Norberto Salinas and seconded by Shad Bogany to approve the amendment request from the Paris Retirement Village to change the unit mix of the bedroom units.
Passed Unanimously

Ms. Carrington stated Sterling Spring Villas Apartments is a 2003 tax credit allocation award and they are requesting four changes to the project. Staff is recommending the approval of three of the changes and to deny #4. They changes they are requesting are: 1) change from gas to electric heating and water heating; 2) upgrade from vinyl flooring to ceramic tile; 3) upgrade from fiberglass tub/shower enclosure to ceramic tile; and 4) install a microwave oven in lieu of a range oven in the club house kitchen. Staff is not recommending that a microwave oven be included in the clubhouse as opposed to a range over.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the recommendation of three of the items but to deny the request for a microwave oven be installed as opposed to a range oven.

Cynthia Bast, Attorney, Locke Liddell & Sapp, Austin, Texas

Ms. Bast stated their firm represented the Sterling Springs Villas and Park Meadows Villas. Each amendment requests has four items and each amendment request is identical so she spoke on these properties at the same time. She stated their client agrees with staff's recommendation on the three

amendment items but not on the fourth item on the requirement for a range oven in the club house kitchen. She stated in the QAP there is no reference to club house kitchens and this was not part of the threshold criteria requirement. Their client received no points with regards to the kitchen. They did plan to have a stove in the kitchen but due to city code requirements the installation of a range oven will cost between \$12,000 and \$15,000. Upon learning of the cost, their client has requested that the range oven be omitted. The kitchen will have a microwave and plenty of plugs to plug in crock pots and toaster ovens and other items which should be sufficient for club house use.

Motion was withdrawn by Mr. Bogany and the seconded was withdrawn by Mr. Gordon.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve all four criteria for Sterling Springs Villas Apartments.
Passed Unanimously

Motion made by Shad Bogany and seconded by Patrick Gordon to approve all four criteria for Park Meadows Apartments.
Passed Unanimously

Mr. Gouris asked that Park Meadows be approved subject to reunderwriting.

Mr. Bogany and Mr. Gordon accepted that for the motion.
Passed Unanimously

Ms. Carrington stated that on Sedona Springs they have three requests on this allocation. Staff is recommending the approval of all three requests of 1) changing the gas to electric heating and water heating; 2) upgrade from vinyl flooring to ceramic tile; and 3) upgrade all two-bedroom/one bath units to be two-bedroom/two bath units.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the three amendments.

Bert Magill, Developer, Houston, Texas

Mr. Magill stated Sedona Springs should have to use what they provided in the application. There is a significant cost to providing gas to the construction cost. They did not use the published utility allowances from the Housing Authority as others did.

Aubrea Hance, Sedona Springs Village, Austin, Texas

Ms. Hance stated they requested a change to all electric because in the upstairs unit's the engineering is such that they are having to use an aqua herm gas heating unit which is not as good as far as providing the heating.

Motion withdrawn by Shad Bogany and the second was withdrawn by Patrick Gordon.

Motion made by Patrick Gordon and seconded by Norberto Salinas to table the Sedona Springs request until all information is furnished on the underwriting report.
Passed Unanimously

Ms. Carrington stated the Kingsland Trails Apartments is located in Llano and is a rural new construction family development. In 2003 the development was located in a difficult to develop area but in 2004 it was no longer in the DDA. Due to this, the development lost the 30% boost in credits that is allowed if a development is located in a difficult to develop area. They are no longer are going to be able to get the boost in credits and they are proposing that 100% of the units would be at 60% of area median family income. Staff is recommending approval.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the amendment request for Kingsland Trails Apartments.

Passed Unanimously'

Ms. Carrington stated Pleasant Hill Apartments is located in Austin and there are three transactions included. Pleasant Hills is an at-risk transaction. They are requesting to have insulated windows instead of storm windows. Staff is recommending this amendment be approved. The second item they are requesting is that the 504 requirements for the 5% modification for mobility impaired and 2% for the vision and hearing impaired not be applicable to this particular development. Staff is not recommending approval of this part.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve staffs recommendation.

Cynthia Bast stated her firm represents AIMCO with respect to the rehab and ownership of Pleasant Hill Apartments and the Tamarac Pines and Whitefield Place Apartments. This impacts all three properties as they have accessible units by having accessibility for mobility impairment. She stated there is new construction and substantial alteration in one part and the other alteration properties that are defined as those that are not spending 75% or more of the replacement cost of the property on the alteration. Those properties are not required to meet the new construction standards except to the extent feasible. She stated these properties should be considered as other alterations and not required to meet the new construction accessibility standards except to the extent feasible.

John Wright stated these properties are a part of the set-aside for preservation and are rehab of those projects. He stated that staff feels Sec. 823 alterations to existing housing addresses preservation and rehab of housing facilities and he feels that it does not.

Frank Pollacio, Austin, Texas

Mr. Pollacio stated the language on 504 in the QAP has appeared in previous QAPS since 2002 and he asked that the language remain for consistent review and repair of preservation projects.

Mr. Bogany withdrew his motion and Mr. Salinas withdrew his second.

Motion made by Patrick Gordon and seconded by Shad Bogany to approve the use of insulated windows instead of storm windows and to hold off on the second request until the next meeting.

Amendment made to the motion by Beth Anderson to grant the request based on the stipulation that they comply with Section 504 and to not support staffs recommendation on item 2.

Amendment accepted by Mr. Gordon and Mr. Bogany.
Amendment and Motion Passed Unanimously

Ms. Carrington stated Whitefield Place Apartments has the same set of circumstances that Pleasant Hill Apartments had.

Motion made by Patrick Gordon and seconded by Shad Bogany to grant the complete request based on the stipulation that they comply with Section 504 and to not support staffs recommendation on item 2.
Passed Unanimously

Ms. Carrington stated Tamarac Pines Apartments has the same set of circumstances that Pleasant Hill Apartments and Whitefield Place Apartments had.

Motion made by Patrick Gordon and seconded by Shad Bogany to grant the complete request based on the stipulation that they comply with Section 504 and to not support staffs recommendation on item 2.
Passed Unanimously

c) **Rural Rescue Award:
Issuance of Commitment Notice for 2005 Housing Tax Credits for 05-001, Mountainview Apartments, Alpine, Texas, (Requested Amount of \$62,874 and Recommended Amount of \$62,316)**

Ms. Carrington stated the Board approved this Rural Rescue Policy in May of 2004 and this is the first application received under the policy. Mountainview Apartments is located in Alpine, Texas and staff is recommending an award of \$62,316 in tax credits as 2005 Forward Commitment.

Motion made by Norberto Salinas and seconded by Shad Bogany to approve the issuance of \$62,316 in tax credits from the as a 2005 Forward Commitment for Mountainview Apartments, Alpine, Texas.

Passed Unanimously

d) **Interagency Contract Between the Texas Department of Housing and Community Affairs and the Office of Rural Community Affairs Concerning The Housing Tax Credit Program**

Ms. Carrington stated this is the contract between the Department and ORCA on the tax credit program. The major change in the contract is that staff is recommending a 3 year contact as opposed to the past contracts with ORCA that have only been for 1 year.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve the contract between TDHCA and ORCA.

Passed Unanimously

e) **Outside Counsel Contracts for Tax Credit Counsel**

Ms. Carrington stated the outside counsel contracts are subject to approval by the Attorney General and they require that outside counsel services be advertised at least every two years through a request for proposal. Staff issued the RFP and staff is recommending Hawkins Delafield and Wood and Kutak Rock as tax counsels for the Department. This would be a one year contract with the option that the Executive Director could extend the contract for an additional year.

Passed Unanimously

(3) **Presentation, Discussion and Possible Approval of Multifamily Bond Program Inducement Resolutions for:**

a) **Inducement Resolutions Declaring Intent to Issue Multifamily Housing Mortgage Revenue Bonds for Developments Throughout the State Of Texas and Authorizing the Filing of Related Applications for the Allocation of Private Activity Bonds with the Texas Bond Review Board for Program Year 2005**

2005-001	Aventine at Mesquite
2005-002	Friendship Place*
2005-003	Villas at Henderson Place
2005-004	Lafayette Oaks Apartments
2005-005	Lakecrest Apartments
2005-006	Lafayette Village Apartments
2005-007	Fred L Lander Senior Community
2005-008	Webber Gardens Apartments
2005-009	Portland Contessa Apartments
2005-010	Falfurrias Village
2005-011	Donna Village
2005-012	Church Village Apartments
2005-013	Providence at UT Southwestern
2005-014	Willow Creek Apartments
2005-015	Evergreen at Pecan Hollow Senior Apartment Community

2005-016	Evergreen at Rowlett Senior Apartment Community
2005-017	Evergreen at Murphy Senior Apartment Community
2005-018	Providence Place Apartments
2005-019	Town Square Apartments
2005-020	Arbor Bend Villas*
2005-021	Meadow Oaks Estates
2005-022	Woodland Park Estates
2005-023	Rosemont at Frisco
2005-024	Rosemont at Fossil Creek
2005-025	Rosemont at Lasater
2005-026	Malloy Meadows

* **Withdrawn**

Ms. Carrington stated staff is recommending approval of the inducement resolutions for the above projects with the exception of the ones that have been withdrawn (Friendship Place and Arbor Bend Villas) and four others which are Willow Creek Apartments, Evergreen at Pecan Hollow Senior Apartment Community, Evergreen at Rowlett Senior Apartment Community and Evergreen at Murphy Senior Apartment Community.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve staff recommendations but to not approve the withdrawn applications and not approve Willow Creek Apartments, Evergreen at Pecan Hollow Senior Apartment Community, Evergreen at Rowlett Senior Apartment Community and Evergreen at Murphy Senior Apartment Community.
Passed Unanimously

b) Inducement Resolutions Declaring Intent to Issue Multifamily Housing Mortgage Revenue Bonds for Developments Throughout the State Of Texas and Authorizing the Filing of Related Applications for the Allocation of Private Activity Bonds with the Texas Bond Review Board for Program Year 2004

2004-047	Willow Creek Apartments
2004-048	Tower Ridge Apartments
2004-049	Providence at UT Southwestern
2004-050	Kingwood Pines Apartment Homes
2004-051	Flushing Meadows Apartments
2004-052	Rolling Creek Apartments
2004-053	Alta Northgate Apartments
2004-054	Alta Copperfield Apartments
2004-055	Atascocita Pines
2004-056	Canal Street Apartments
2004-057	Creekside Manor Senior Community
2004-058	Langwick Senior Apartments
2004-059	Sphinx at Chenault

Ms. Carrington stated staff is recommending the approval of these applications for any remaining bond authority in 2004.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the recommendations of staff for any remaining bond authority in 2004.
Passed Unanimously

(4) Presentation, Discussion and Possible Approval of Single Family Residential Mortgage Revenue Bond Program Master Servicer

Ms. Carrington stated staff is recommending Countrywide Home Loans be selected the Master Servicer for the single family programs of the department for a period of two years.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve Countrywide Home Loans as Master Service for TDHCA with a two year contract.
Passed Unanimously

(5) Presentation, Discussion and Possible Approval of the Fourth Quarter Investment Report

Mr. Dally stated the Department has \$1.38 billion in the portfolio with five new multifamily issues for about \$64 million.

Motion made by Shad Bogany and seconded by Patrick Gordon to approve the Fourth Quarter Investment Report.
Passed Unanimously

(6) Presentation, Discussion and Possible Approval of Programmatic Items:

HOME Appeals

- | | | | |
|----|-----------|--------------------|----------------------|
| 1) | 2004-0205 | Futuro Communities | Uvalde, Texas |
| 2) | 2004-0119 | Zavala County | Zavala County, Texas |
| 3) | 2004-0165 | City of Lorenzo | Lorenzo, Texas |
| 4) | 2004-0151 | City of Ralls | Ralls, Texas |

Ms. Carrington stated there have been four appeals submitted to the Department on the HOME Program Awards made by the Board in July 2004.

Futuro Communities of Uvalde, Texas is requesting an additional 25 points for eligible match. Staff determined that there was no letter of commitment for any match and staff is not recommending approval.

Phyllis Vernon, Economic Development Director, Futuro Communities, Uvalde, Texas

Ms. Vernon stated there was a letter furnished from IBC Bank reflecting the match from their holding company.

Motion made by Shad Bogany and seconded by Patrick Gordon to deny the appeal and uphold staffs recommendation.
Passed Unanimously

Zavala County submitted two letters from contractors that met the requirements of the Department but they did not submit a qualified third letter.

Judge Luna, Zavala County, Texas

Judge Luna stated on the third letter in question, the contractor wrote the letter in the Commissioners Courtroom and the contractor did not have his letterhead with him but he is a contractor from Zavala County and the contractor complied with the rules.

Motion made by Norberto Salinas and seconded by Shad Bogany to grant the appeal for Zavala County and award them the requested five points.
Passed with 3 ayes and 1 no (Ms. Anderson voted no)

City of Lorenzo, Lorenzo, Texas had one contractor letter that did not satisfy the requirements as there was no address on the letterhead and they did not state they were headquartered in this region.

Tres Davis, Vice President of Grant Works, Austin, Texas

Mr. Davis stated they are the consulting company that wrote the grant for the City. On both Lorenzo and Ralls the cities submitted three contractor letters which all were on letterhead. One of the contractors does not have his address on his letterhead but it does have the contract full name and address as required by TDHCA.

Ms. Anderson stated she felt the Board by approving this item will have awarded over \$1 million in deobligated HOME funds. There is not an unlimited amount of these funds and she felt the precedence that is being set is ill advised.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve the appeal.
Passed with 3 ayes and 1 no (Ms. Anderson voted no)

The City of Ralls had the same set of circumstances that the City of Lorenzo had.

It was noted that it was very important for the City of Ralls to get these funds and the HOME program really does assist small cities.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve the appeal.
Passed with 3 ayes and 1 no (Ms. Anderson voted no)

- (7) Presentation, Discussion and Possible Approval of Report from Audit Committee:**
- a) FY 2005 Internal Audit Plan**
- b) Discussion of the FY 2004 Annual Internal Audit Report**
- c) Discussion of Report to the Office of the Governor Regarding Executive Order RP36**
- d) Discussion of Risk Assessment Methodology to Implement RP36**

Mr. David Gaines asked the Board to approve the FY 2005 Internal Audit Plan that was being recommended by the Audit Committee for approval.

Motion made by Shad Bogany and seconded by Norberto Salinas to approve the FY 2005 Internal Audit Plan.
Passed Unanimously

Mr. Bogany thanked the Internal Audit Division for the good work they did on the RP36.

EXECUTIVE SESSION

If permitted by law, the Board may discuss any item listed on this agenda in Executive Session Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning the Proposed 2005 Housing Tax Credit Program Qualified Allocation Plan And Rules Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning Pending or Contemplated Litigation

Ms. Anderson stated: "On this day, October 14, 2004, in a regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session. The Board will begin its executive session today, October 14, 2004 at 2:25 p.m.

Subject matter of this executive session and deliberation is consultation with attorney, pursuant to 551.071 Texas Government Code concerning proposed 2005 Housing Tax Credit program, QAP, and rules, consultation with attorney pursuant to 551.071 Texas government code concerning pending or contemplated litigation."

The Board went into executive session at 2:25 p.m.

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

Ms. Anderson stated the agenda of the executive session of governing board of the TDHCA was properly authorized and posted at the Secretary of State's Office, seven days prior to meeting. All members of the Board were present, with the exception of Kent Conine and Vidal Gonzales. Action taken, none and this is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act."

REPORT ITEMS

Executive Directors Report

1. Affordable Housing Partnership with the Texas Association of Realtors
2. Department Outreach Activities – Meetings, Trainings, Conferences, Workshops for September, 2004
3. Senate Finance Committee Hearing on October 5, 2004
4. Senate Committee on International Relations and Trade Meeting on October 6, 2004

There was no Executive Directors Report given.

ADJOURN

Motion made by Shad Bogany and seconded by Patrick Gordon to adjourn the meeting.

The meeting adjourned at 2:37 p.m.

Respectfully submitted,

Delores Groneck
Board Secretary

badminoct

MULTIFAMILY FINANCE PRODUCTION

**BOARD ACTION REQUEST
November 12, 2004**

Action Items

Final Housing Tax Credit Program Qualified Allocation Plan and Rules.

Required Action

1. Adoption of Repeal of Title 10, Part 1, Chapter 49- 2003 Low Income Housing Tax Credit Program Qualified Allocation Plan and Rules
2. Adoption of New Title 10, Part 1, Chapter 49 – 2005 Housing Tax Credit Program Qualified Allocation Plan and Rules

Background

At the September 9, 2004 Board Meeting, the Board approved the Proposed New Title 10, Part 1, Chapter 49 – 2005 Draft Housing Tax Credit Program Qualified Allocation Plan and the proposed repeal of the Title 10, Part 1, Chapter 49- 2003 Low Income Housing Tax Credit Program Qualified Allocation Plan and Rules for public comment. The proposals were published in the *Texas Register* on September 24, 2004 for the public to provide comments. In order to receive additional comments on all proposed rules, Texas Department of Housing and Community Affairs staff held public hearings in the cities of Harlingen, Austin, Amarillo, Waco, Tyler, Wichita Falls, Dallas, Lufkin, San Angelo, Victoria, San Antonio, Houston and El Paso. Approximately 200 people attended these hearings.

There was no comment on the proposed repeal.

Reasoned Response to Public Comment on the 2005 Draft Qualified Allocation Plan (QAP)

The Department received the majority of comments in writing by email, fax and mail. This document provides the Department's response to all comments received. The comments and responses are divided into the following two sections:

I. Substantive comments on the QAP and Departmental response. (Comment and responses are presented in the order they appear in the QAP. After each comment title, numbers are shown in parentheses. These numbers refer to the person or entity that made the comment as reflected in the Addendum).

II. Administrative clarifications and corrections. These changes include administrative changes made to the QAP by staff.

I. SUBSTANTIVE COMMENTS ON THE QAP AND DEPARTMENTAL RESPONSE

§49 – General – (35,18,39)

Comment:

Comment suggests that more emphasis be placed on using tax credits for single-family projects, including providing training and seminars for interested parties. Many of the larger cities are declining multi-family projects due to oversaturation and their desire to increase homeownership rates. Comment proposes a special set-aside for single-family projects (35). Further comment suggests that all general contractors and developers should be required to be registered builders (18). Further comment generally supports TDHCA's proposed QAP and recommends that priority be given to applications that propose to construct or rehabilitate housing for farm workers (39).

Department Response:

Federal requirements for the Tax Credit Program only allow rental developments. However, over the past several years, the Department has begun permitting single-family design rental developments. The HTC program cannot be used to increase home ownership. Regarding registration for builders, staff thinks this idea warrants further public comment and will be considered for the draft 2006 QAP. Regarding housing for farm workers, while the Department is not targeting farm workers, the QAP has more points for rehabilitation this year which can include farm worker housing.

§49.3 – Definitions - Urban/Exurban Area – (27)(3)

Comment:

Comment suggests that the language defining Exurban Areas be changed to: "An ex-urban area is an area outside of the urban city. An ex-urban community can be located in either, (1) a rural area, (2), a non-urban city or, (3) an unincorporated area within an urban region. An ex-urban allocation is a separate funding allocation and does not impact the rural allocation. The allocation of funds between urban and ex-urban shall be based on the population ratio that urban bears to ex-urban within that region. Urban regions are high-growth regions with populations in excess of 1 million people. An urban city is a city with a population equal to or greater than 250,000" (27). The commenter indicated that this was the recommendation of the working group and reflects the wishes of that group. Comment also supported the definitions as is and concurred that the allocations should be geographic as opposed to unit based (3). This commenter also wants to assure that the rural allocation is not depleted by any revisions to this section (3).

Department Response:

Staff does not recommend adding new definitions for Urban or Exurban; staff believes that the legislation as drafted, with urban and exurban combined with a slash, confirms that the Urban and Exurban allocations are combined and not two separate allocations. Therefore, no definition or change is necessary. The Urban/Exurban allocation will continue to be defined as all areas not satisfying the Rural Area definition. Staff does not recommend any revisions to the definition for a Rural Area since that definition is legislated.

§49.3(21) – Definitions - Compliance Period – (4,9,12)

Comment:

Comments suggest that the “Compliance Period” definition should remain 15 years (4) distinct from LURA agreements (12). Further comment states that under Section 42 of the Code, the phrase “Compliance Period” is a term of art in that it has effects on other sections of the Code. More importantly, a property is not eligible for an allocation of tax credits during its “Compliance Period.” By the proposed definition, properties receiving an allocation in 2005 will not be eligible for acquisition credits for 30 years. Realistically, in order to preserve the quality of the property as well as provide for an exit strategy, the possibility of obtaining acquisition credits should be preserved (9).

Department Response:

Staff concurs with the deletion of the proposed language to allow for the possibility of acquisition credits during the Compliance Period.

(21) **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).

The clause being deleted, which had been proposed in the draft was, “...unless the LURA has been extended consistent with §49.9(g)(16)”.

§49.3(47) – Definitions - Ineligible Building Types - (12,20,25,33)

Comment:

Comment suggests that developers should be allowed to adjust unit mix based on market demands as opposed to being restricted by current language (20). Comment also suggests that the ability to include a limited number of 3-bedroom units be reinstated in senior communities. Experience with senior communities demonstrates the popularity of 3-bedroom units and suggests that they should comprise 15% of units (33). Further comment explains that the definition of Ineligible Building Types does not fit the market needs for family development in many market areas and proposes to delete sections (E) and (G), which are the restrictions on 4 bedroom units and percentage restrictions on unit types. Comment also provides the following examples of possible problems with the proposed language:

1. HUD will not allow a single parent with a child age 5 or greater of the opposite sex to live in a 1-bedroom apartment. There must be a separate bedroom for the child.
2. HUD will not allow two children of opposite sex age 5 or greater to inhabit the same bedroom. Therefore, most families with two or more children need a third bedroom.
3. In most cities, less than 5% of rental units contain more than two bedrooms. This often forces multi-child families to live in cramped, substandard quarters.

Comment asserts that there are two current developments on the TDHCA inventory that could not have been built under the proposed definition as they are comprised of three- and four-bedroom units. Comment asserts that the developments leased in just a few months and have remained stabilized at high occupancy since their completion. The general partner who is providing a fifteen-year operating deficit guarantee to the tax credit buyer and is therefore at risk for the long-term viability of the

development must be able to determine the needs of that particular market as verified by a third-party market analyst (12,25).

Department Response:

While Staff appreciates the arguments for revisions to this section, the Department's Board has indicated that this policy provides for appropriate unit mixes and will continue.

§49.3(70) - Definitions - Rural Area – (3)

Comment:

Comment suggests that the definition should remain as proposed by TDHCA and used to both allocate funds within each region and to place applicants into the proper competitive pool (3).

Department Response:

Staff agrees and recommends no change.

§49.5(a)(7)(C) and (D) – Ineligibility – (1)

Comment:

Comment suggests that the date by which local resolutions must be received for developments with more than two times the state average of credits per capita, should be later than April 1 in order to allow time to properly approach the municipality. Often, the municipality does not want to act unless they know the application is in serious contention (1).

Department Response:

The Department does not recommend change to this section. All Applicants know where their sites will be located by at least December, giving them five months to properly approach a municipality. The current date of April 1 allows a reasonable time for staff's review of the application, any required deficiencies to be issued, any subsequent terminations issued and any subsequent appeals to be processed prior to the late June Board meeting when initial recommendations are made.

§49.5(a)(8)(A) - Ineligibility – (5)

Comment:

Comment suggests that the language be clarified by the insertion of the word "AND" after the semi-colon following paragraph (A) in order to ensure that the reader knows to include parts (B), (C), and (D) of the section (5).

Department Response:

While the Departments appreciates other grammatical preferences, the format is not incorrect; is consistent throughout the Qualified Allocation Plan as drafted; and is clear in its requirement for all of (A), (B) and (C). Paragraph (B) includes "and" at the end of the clause.

§49.5(a)(8)(D)(iv) - Ineligibility – (20)

Comment:

Comment suggests the substitution of "supported" for "allowed" so that the section shall read: "the local government where the development is to be located has by vote specifically supported the construction of a new development" (20).

Department Response:

Staff does not recommend the proposed change. This language is written as legislated in §2306.6703(b)(3).

§49.5(b)(6) - Disqualification and Debarment – (18)

Comment:

Comment states that the new criterion for communication with TDHCA Board members prohibits any communication at all between board members and applicants or parties related to applicants. Comment questions the practicality of this due to the likelihood of housing issues commanding attention in the upcoming legislative session and suggests that the language be changed to prohibit communication between board members and applicants or parties related to applicants specifically “about any tax credit application” during the time that projects are under review (18).

Department Response:

Staff does not recommend changes to this section. The 2005 draft language revisions were made consistent with legislation (§2306.1113). Other revisions also now make it permissible to communicate with senior Department staff directly.

§49.6(a) - Site and Development Restrictions, Floodplain – (5)

Comment:

Comment suggests that the one-foot floodplain clearance rule should be abolished for rehabilitation properties. In the example given, a 10-building rehabilitation property was ineligible for credits due to the fact that one building was only 6 inches above the floodplain instead of the required foot. (5).

Department Response:

Staff does not recommend change to this section. While the Department appreciates that some rehabilitations will be ineligible because of this restriction, the Department does not think that it would be prudent to use tax credits to rehabilitate any developments in a floodplain.

§49.6(d) - Site and Development Restrictions, Credit Amount – (6)

Comment:

Comment questions whether the tax credit allocation limit is not applied to a combination of Housing Tax Credits and Tax-Exempt Bond Developments as it is specifically not applied to Tax-Exempt Bond Developments (6).

Department Response:

Staff does not recommend change to the current language. Staff believes that the current language as drafted is explicit that it is not applied to a combination of Housing Tax Credits and Tax-Exempt Bond Developments as it is specifically not applied to Tax-Exempt Bond Developments.

§49.6(e)(2) - Site and Development Restrictions, Limitations on the Size of Developments – (9,4)

Comment:

Comment suggests that the size of rural developments be limited to 76 units instead of 96 as larger projects defeat the intent of the program to help those most in need. The 96 unit change had been proposed in the draft based on the recommendation of the working group. For example, a 96-unit project can support point-scoring amenities that a 30-unit project cannot. Thus, a small community that only needs 30 units will not be able to compete on points with larger communities that can accommodate a 96-unit project. The larger size hurts rather than helps small communities (4). Further comment suggests that the 76-unit cap be maintained until HTC funding is increased for rural areas and there is greater utilization of At-Risk set-aside in rural areas. The comment also suggests that the unit increase was a result of the 2005 Working Group’s original recommendation to utilize a separate “Urban” and “Exurban” definition. Since the Department does not recognize the two as separate, comment suggests that the Department use the 76 unit maximum from 2004 (9).

Department Response:

The Department recommends the requested 76 unit maximum, rather than the drafted 96. Staff recommends the following change:

(2) Rural Developments involving new construction will be limited to 76 Units, ~~unless the Market Analysis clearly documents that larger developments are consistent with the comparables in the community and that there is significant demand for additional Units.~~ Rural Developments involving only rehabilitation do not have a size limitation.

§49.6(f) - Site and Development Restrictions, Limitations on the Location of Developments – (34,6)

Comment:

Comment suggests that the language of the 1-mile one year rule be clarified to indicate that Tax Exempt Bond Developments (with 4% credits) already in the TDHCA inventory not be considered when applying the 1-mile rule to 9% housing tax credit applications. Since the statutory language of the Government Code does not apply to 4% transactions (except as specified in 2306.6703), 4% projects should not eliminate 9% projects from competition as a result of the 1-mile rule. The possibility of pending 4% projects that are on the lottery waiting list obtaining TDHCA Board approval prior to a 9% project attaining priority slows the expensive 9% application process (34). Further comment approves of the restriction not applying to Bond deals but requests clarification on the way that Bond deals are exempted: “(i) an awarded 9% deal will not prohibit a Bond deal within 1 linear mile during the same calendar year; and (ii) a reserved Bond deal will not prohibit a subsequent 9% project within 1 linear mile during the same calendar year” (6).

Department Response:

The Department concurs with the comment that there is a need for additional clarifying language. The following language is recommended to the end of the subsection:

(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 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 ~~2004-2005~~ 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.” For Tax Exempt Bond Developments, the year of the Development is the calendar year in which the Board approves the housing tax credits for the Development. ~~In dealing with ties between two or more Developments as it relates to this rule, refer to §50.9(h). [(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)]

§49.7(a) - Regional Allocation Formula, Set Aside and Redistribution of Credit – (9,42)

Comment:

Comment suggested that the last sentence be retained instead of deleted so it would read: “Developments financed through TX-USDA-RHS’s 538 Guaranteed Rural Rental Housing Program

will not be considered under the TX-USDA-RHS Allocation but will be eligible under the Rural Regional Allocation” The TX-USDA-RHS’s 538 Guaranteed Multi-Family Rural Rental Housing Program differs from USDA section 515 Direct Loan Program. The USDA Section 515 Program is more highly leveraged with interest credit, rental assistance, etc., to serve below market tenants. The Section 538 is more competitive with market rent for conventional properties that are likely to score higher in stronger market areas for TDHCA-LIHTC utilization (9). Further comment states that TDHCA does not set forth in the QAP the “Regional Allocation Formula” that it purports to use in “distribut[ing] credits... to all urban/exurban areas and rural areas.” TDHCA states that this “formula is based on the need for housing assistance and the availability of housing resources in those urban/exurban areas and rural areas. Because the formula is not set forth in the QAP, those outside of TDHCA cannot assess the impact of that formula on housing segregation. However, because the proposal purports to be based on “need,” the commenter cautions TDHCA against defining need narrowly – e.g., by neighborhood or municipality, rather than by region. Defining need in limited, narrow geographic areas is likely to have the result of increasing segregation. Specifically, if “need for housing assistance” under TDHCA’s formula correlates with high-poverty and/or disproportionately minority neighborhoods, then allocating credits to narrowly-defined geographic areas having such “need” – rather than allocating them on a regional basis – will concentrate tax credit housing in those areas, exacerbating segregation (42).

Department Response:

Because the Regional Allocation Formula is a need-based formula applied to many Department programs and not only the QAP; it is not in the QAP. However, the formula utilized for this is updated annually and released for public comment concurrently with the QAP. Additionally, through the Regional Allocation Formula and the Affordable Housing Needs Score, the smallest area used in identifying need is the city or municipality, not neighborhoods tracts. The purpose of the formula is to support housing where it is needed. Therefore, the Department does not believe the formula supports segregation.

The Department concurs with the recommendation that the last sentence be retained instead of deleted so the section reads:

(a) **Regional Allocation Formula.** [(2306.111(d))] As required by 2306.111, 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 ~~in the Texas Register and~~ 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 or be located in a Prison Community. Approximately 5% of each region’s allocation for each calendar year shall be allocated to Developments which are financed through TX-USDA-RHS and that meet the definition of a Rural Development and do not exceed 76 Units if new construction. 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 Housing Tax Credits issued by the Board in 2004 will be applied to each Set-Aside, Rural Regional Allocation, Urban/Exurban Regional Allocation and TX-USDA-RHS Allocation for the 2005 Application Round as appropriate.

§49.7(b)(2) - Regional Allocation Formula, Set Aside and Redistribution of Credit – (37, 41)

Comment:

Comment commended TDHCA for its visionary thinking and proactive approach to preserving at-risk developments in the State of Texas' existing affordable housing stock. The proposed QAP's 15% At-Risk Development set-aside clearly demonstrates the Department's commitment to retaining the affordability of housing already serving low- to moderate-income renters within its jurisdiction (37). Further comment suggested increasing the At-Risk Development set-aside in order to help preserve and improve Texas' large stock of project-based Section 8 properties (41).

Department Response:

The Department does not recommend change. While the Department continues to promote rehabilitation with the addition of increased points items, the At-Risk Set-Aside in many regions last year was not over subscribed. Additionally, the At-Risk Developments are not the only rehabilitation Developments that are done each year.

§49.8(c) – Pre-Application Evaluation Process – (6)

Comment:

Comment notes that the section appears to state that applicants will not be notified of Pre-Application deficiencies and questions whether the only penalty for not meeting threshold criteria will be zero pre-application points (6).

Department Response:

While the Department believes the current language is sufficient, staff would like to note that, although the Department's review is limited in the pre-application stage, Applicants will be notified of all pre-application deficiencies that are identified.

§49.9(d)(3)(B) – Pre-Application Threshold Criteria and Review Notification - (42, 20)

Comment:

Comment suggests that the QAP's extensive provisions regarding notice to local government entities and other groups, combined with the scoring portions of the QAP which allocate points based on local approval, place an onerous burden on applicants (42). Comment made at the San Antonio Consolidated Hearing urges that notification go to the Planning Department directly to meet this requirement (20).

Department Response:

While staff is aware that the notification can be time consuming for applicants, the notifications are required under 2306.6704, Texas Government Code. The Department does not recommend a language change to this section regarding notification to the planning department to meet this requirement. In many communities, there is no planning department or the planning department does not keep the neighborhood organization list. Although the Department appreciates that in San Antonio there is such a department that may keep this particular list, the language drafted is required to meet the needs of all communities in Texas for this requirement.

§49.9(d)(3)(B)(i) – Pre-Application Threshold Criteria and Review Notification - (1)(34)

Comment:

Comment requests clarification regarding inquiry needing only to be made to the council members of a district in which the project is based when a municipality (such as Houston) has both district-based and at-large council members (34). Additional comment recommends reinstating the zip code requirements from the 2004 QAP. The provider of the reply letter will not have the data on whether the organization is in the boundary of the neighborhood and thus will give the entire city list which in Houston is over 1,000 organizations. Even though one can give an explanation on each organization as to why the proposed development is not within its boundaries, it would be extremely burdensome, if not nearly impossible, to prove why each such organization would not be included (1).

Department Response:

The Department concurs that clarification is needed for cities such as Houston that has both district-based and at-large council members. Staff also concurs with comment that recommends the reinstatement of the zip code limitation from 2004. The Department recommends the following for this section (staff notes that these revisions are made as noted below as well as in the section for full application):

(i) Notification to Local Elected Officials for Neighborhood Organization Input. 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 January 15, 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 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 officials, 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 letter from the local elected official whose boundaries include the proposed Development whose listed address has the same zip code as the zip code for the Development must be provided with written notification, and evidence of that 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 those 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 Development site must be provided with written notification, and evidence of that notification must be provided. If the Applicant can provide evidence that the proposed Development is not located within the boundaries of an entity on a list from the local elected officials, then such evidence in lieu of notification may be acceptable. If no reply letter is received from the local elected officials by February 25, 2005, (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. The Applicant must also certify that any organizations in a response letter

that are not notified do not contain the proposed Development site within their boundaries. In the event that local elected officials refer the Applicant to another source, the Applicant must also notify that source and request the same information. 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.

§49.8(d)(3)(B)(iv) - Pre-Application: Threshold Criteria and Review Notification – (6)

Comment:

Comment requests clarification on whether the notice should go to the City Manager or the Mayor in the instance that a city has both positions (6).

Department Response:

The Department concurs that clarification is needed and that the language should require the notification be sent to the Mayor. Staff recommends the following language:

(iv) Mayor of any municipality containing the Development;

§49.9(b) - Application: Communication with Department Employees – (20)

Comment:

Comment suggests that the parameters of the law be followed exactly and asserts that the Board did not mean to prevent communication regarding technical and policy clarifications when approving this language (20).

Department Response:

Staff does not recommend change to this section. This section has already been revised consistent with legislation and allows for more communication with senior Department staff than the 2004 QAP allowed.

§49.9(d)(1) - Application: Evaluation Process – (20)

Comment:

Comment suggests that the language be changed to read “...Administrative deficiencies will be issued to the Applicant” instead of “...may be issued” (20).

Department Response:

Staff does not recommend a change to this section. Not all Applicants will be issued a deficiency. Some deficiencies are too fundamental to permit correction. Therefore, the use of “may” is more appropriate.

§49.9(d)(4) - Application: Evaluation Process – (1)

Comment:

Comment suggests that there needs to be a means to notify the Department if someone is on vacation so a deficiency does not arrive during the vacation period. A reasonable delay period would be two weeks as the single week is not enough. Since the review period is lengthy, no one should be hostage to the application round (1).

Department Response:

Staff does not recommend a change to this section. The current language which allows a 10 day deficiency period is sufficient time for an applicant to be notified of a deficiency and respond. In the application workshops staff encourages applicants to provide a phone and fax number that will be checked regularly to avoid this type of problem.

§49.9(d)(5) - Application: Evaluation Process – (12), (25)

Comment:

Comment suggests that the Non-profit Set-aside not be applied statewide and first, but instead be applied after regional allocation occurs based on points only. Only if the 10% non-profit set aside has not been met, will staff then allocate the next highest scoring non-profit application until the set aside is reached. According to the commenter, under the 2004 QAP, which is unchanged in 2005, approximately 22% of the State Credit Ceiling was allocated to Nonprofit Developments in 2004. Therefore, the current system of giving 10% of the Credits to Nonprofit Developments off the top gives Nonprofit Developments an unfair advantage compared to For-profit Developments and the statewide allocation off the top should be eliminated.

Instead, the language should let the Nonprofit Developments compete with the other Applicants. Once the approved application list is finalized at the July Board Meeting (but before the adoption vote), the Department should determine if the successful Applications meet the requirement that 10% of the Credit Ceiling be allocated to Nonprofit Developments. If the requirement is not met, move up the next-highest scoring Nonprofit Development not otherwise funded, regardless of region, and displace the lowest scoring For-profit Development in that region. Repeat the process until the 10% requirement has been met. In this way, all Applicants will have the same chance for success. Based upon the fact that 22% of the Credits in 2004 were awarded to Nonprofit Developments, it stands to reason that at least 12% of the winning Applications would have been Nonprofit Developments even without taking 10% of the Credits off the top (12)(25).

Department Response:

The Department concurs with the argument made in comment and recommends change in the language of the QAP that allows the Nonprofit Developments to compete regionally, rather than statewide. If the 10% set-aside is not met after a regional ranking of priority, then priority would be given to the next highest scoring Nonprofit Development. It should be noted, however, that the review of whether the 10% Nonprofit Set-Aside is being met will occur periodically during the application review process, and not only in July. Staff recommends the following language:

(5)(4)–Subsequent Evaluation of Prioritized Applications. ~~After the Application is scored under the Selection Criteria,~~ 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. Assignments will be determined by first selecting the Applications with the highest scores in the Nonprofit Set-Aside statewide. Then selection will be made for the Applications with the highest scores in the At-Risk Set-Aside and TX-USDA-RHS Allocation Set-Asides within each Uniform State Service Region. Remaining funds within each Uniform State Service Region will then be selected based on the highest scoring Developments, regardless of Set-Aside, in accordance with the requirements under §50.49.7(a) of this title for a Rural Regional Allocation and Urban/Exurban Regional Allocation. 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 §49.7(c)

~~Redistribution of Credits will go to the Urban/Exurban Regional Allocation for that region and will not be shifted to Rural Developments in another region.~~ 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)}~~

§49.9(e)(1) - Application: Pre-Certification and Acknowledgement Procedures – (1,22)

Comment:

Comment approves of the experience requirement for developers and appreciates the fact that someone on the development team must qualify for an experience certificate. The language should be changed, however, to state that if a developer is already qualified and has an experience certificate that meets this year's QAP standards then the developer does not need to reapply (22). Further comment suggests that the Department develop a database to help those with experience to avoid the additional paperwork requirement each year (1).

Department Response:

The Staff does not recommend a change to this section as the comments are of an administrative nature and no change in language is necessary to implement a change. The Department will establish a tracking system for experience to reduce paperwork and repetition of experience submission.

§49.9(e)(3) - Application: Required Pre-Certification and Acknowledgement Procedures - (1)

Comment:

Comment recommends a ten-year time limit for requiring the Previous Participation and Background Certification form for prior involvement in the ownership of the property believing it to be a waste of time for property owned in the more distant past.

Department Response:

It should be noted that the Department does review the entire compliance history disclosed on the Compliance History Forms. The Department currently does not review compliance history after the ownership has ended. Listing all Developments is necessary to ensure an accurate reflection of all previous participation of affordable housing in Texas. Staff does not recommend a change to the language, but will research the idea further for 2006.

§49.9(f)(4)(A) - Threshold Criteria - Certifications – (7,11)

Comment:

Comment suggests specific language relating to threshold amenity features to make scattered site applications more competitive. This will make it possible to do smaller scattered site applications, which allow for more dispersion of housing within a single community or within contiguous rural counties. A small complex of 8 to 12 units simply is not able to support a laundry room or playground, nor is it always an appropriate amenity for an infill property in an established neighborhood (7). Further comment suggests that the use of the term "points" in this section is

confusing, possibly implying a relationship with selection criteria and requires revision and clarification (11).

Department Response:

The Department concurs with all comments in this section and recommends the following language for this section:

(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 this title. ~~The Applicant must certify that they will satisfy at least the minimum point threshold for amenities as further described in §50.9(g)(7)(D).~~ 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 complete this exhibit. ~~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.~~ 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 double points for each item. Applications for scattered site housing, including new construction, rehabilitation, and single-family design, will have the threshold test applied based on the number of Units per individual site. ~~Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §49.17(c) 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.~~

§49.9(f)(4)(A)(i) - Threshold Criteria - Certifications – (7)

Comment:

Comment suggests that new categories be added to state: “Total units are less than 13, 0 points are required to meet threshold for rehabilitation and 1 point is required for new construction; total units are between 13 and 24, 1 point is required to meet threshold; total units are between 25 and 40, 3 points are required to meet threshold”. Support for the comments is in the comment previous to this section (7).

Department Response:

The Department concurs with the suggested language and recommends the addition to this section as follows:

(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 rehabilitation and 1 point is required 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 40 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 more than 200, 18 points are required to meet Threshold.

§49.9(f)(4)(B)(iii) - Threshold Criteria – Amenities (Dishwashers) – (12)

Comment:

Comment suggests that the required dishwasher amenity be excluded for elderly rehabilitation developments since they are more likely to be 1-bedroom units with small existing kitchens and should be encouraged, not penalized (12).

Department Response:

Staff does not recommend a change to this section. All populations, regardless of age or rehabilitation of property, value dishwashers as an amenity.

§49.9(f)(4)(B)(i) - Threshold Criteria - Amenities (Networks)– (8,9,20,40)

Comment:

Comment suggests that the new requirement for certification for 3 networks (cable, phone and DSL) only be required for new construction due to the extra cost (\$1,200 for a 1-bedroom unit, \$1,450 for a 2-bedroom unit and \$1,700 for a 3-bedroom unit) in older buildings (9). Further comment stated that in rehabilitated buildings, the installation of required wiring would necessitate many holes in walls and possible additional abatement. In the past, requirements were made as to where devices had to be located but that is apparently no longer the case. Most providers use a daisy chain design and the central location is often off-site. Clarification is needed for situations that arise when the developer installs the required wiring but local providers only provide lower levels of service (8). Other comment suggests that there is no need for another data line (20). Another comment commends TDHCA for this section as it provides residences with high-speed Internet access at lower costs, as opposed to the 2004 QAP (40).

Department Response:

Staff does not recommend changed language regarding the central location network because it allows the Applicant to create a system that is best for the specific Development. Staff does recommend the change that would require this item only for new construction. Staff recommends the following language:

(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, networked from the Unit back to a central location; and a third network for TV services using COAX cable. ~~Computer line/phone jack available in all bedrooms (only one phone line needed);~~

§49.9(f)(4)(B)(iii) - Threshold Criteria – Amenities (Disposals)– (22)

Comment:

Comment requested that garbage disposal be removed from the list of required amenities due to the high maintenance cost (22).

Department Response:

The Department does not recommend this change because it values this item as an amenity for tenants.

§49.9(f)(4)(B)(viii) - Threshold Criteria – Amenities– (8)

Comment:

Comment notes that the requirement that the “design be in accordance with International Building Code” does not seem to be an amenity. Also, it seems to be in conflict with §49.9(f)(4)(c) which requires that the development adhere to local building codes or if no local building codes are in place to the most recent version of the International Building Code.

Department Response:

The Department concurs with comment and recommends the deletion of this clause. Staff recommends the following change to this section:

- (vi) Exhaust/vent fans in bathrooms; and
- (vii) Ceiling fans in living areas and bedrooms; and
- ~~(viii) be designed in accordance with International Building Code.~~

§49.9(f)(4)(C) - Threshold Criteria - Amenities – (7)

Comment:

Comment suggests that there may be an increase in costs for small developments because of the 2003 International Building Codes.

Department Response:

All Developments should adhere to the most current International Building Code.

§49.9(f)(4)(F) - Threshold Criteria – Certifications for 504 – (37,29,12,8)

Comment:

Comment suggests that the requirement to add an extra bedroom may render the preservation of properties financially unfeasible or unaffordable to current residents. It is suggested that the Department establish a financial and physical infeasibility exception to any ADA requirements it may have that would be applicable to At-Risk developments as defined in the proposed QAP. Additionally or alternatively, TDHCA could modify its requirements for those properties whose existing design features are substantially consonant with the Department’s modern ADA expectations. For example, a property that includes townhouse units as well as bungalows/flats could be allowed to count those units towards the ADA requirement (37). Additional comment requests clarification of the phrase “for all developments,” wondering whether additional requirements in excess of 504 are implied and whether all developments include rehabilitations. It would seem as though there are three categories of developments: new construction, alterations, and rehabilitations (8). Further comment suggests that the standard of 5% accessible units is inadequate for current and future populations, partly due to the Baby Boomers and partly due to the fact that people would prefer to age in place (29). More comment recommends that the QAP not exceed the Section 504 accessibility standards or any state statute for rehabilitation projects that do not propose structural alterations. This is because Section 504 accessibility standards are established by federal law and corresponding regulations in the case of new construction or alteration of existing property. By definition, “alteration” requires a change in structural elements or means of egress and does not include “normal maintenance, repair, re-roofing, interior decoration or changes to mechanical or electrical systems.” If the rehabilitation plan for an existing property does not constitute “alteration,” the development would not be subject to Section 504 requirements (12).

Department Response:

The Department concurs that preservation and rehabilitation of existing housing should be encouraged, and should not have undue requirements applied to it; however, the Department is obligated under Sections 2306.6722 and 2306.6730, Texas Government Code to ensure that "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." Therefore, staff is recommending revisions to this section of the QAP that clarify the Department's policy on this issue. The language does reflect, however, that the Department is involved in that determination as further described in the QAP language below.

(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 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. Additionally, in Developments involving new construction 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 in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. For Developments involving rehabilitation, the Applicant's architect must determine if, consistent with 24 C.F.R. § 8.23(a) concerning "Substantial alteration," the Development is required to adhere to 24 C.F.R. § 8.22 concerning new construction. If the Applicant's architect determines that the Development's rehabilitation will involve "Other alterations," within the meaning of 24 C.F.R. §8.23(b), the Applicant must provide the Department with a written explanation of why the Development does not come within 24 C.F.R. §8.23(a) on "Substantial alteration." Further, if the Applicant's architect determines that the rehabilitation is not "Substantial alteration" the Applicant must provide the Department with documentation of costs (consistent with paragraph (6) of this section) under two scenarios: one in which 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 and an additional two percent of the total dwelling Units, or at least one Unit, whichever is greater, shall be made accessible for individuals with hearing or vision impairments; and one which does not provide this level of rehabilitation. The Department will determine if this level of rehabilitation places an undue financial burden on the Applicant. No such burden shall exist if, after including the costs of rehabilitation, the Department finds the development to be financially feasible under established rules. If the Department determines that this level of rehabilitation does not place an undue financial burden on the Applicant, the Applicant will be required to provide these Units. At the time the 10% Test Documentation is submitted, ~~construction loan closing~~, a certification from an accredited architect or Department-approved third party accessibility specialist, will be required stating that the

Development was designed in conformance with these standards and that all features have been or will be installed to make the Unit accessible for individuals with mobility impairments **and** of individuals with hearing or vision impairments. A similar certification will also be required after the Development is completed. Any Developments designed as single family structures must also satisfy the requirements of 2306.514, Texas Government Code. {(2306.6722 and 2306.6730)}

§49.9(f)(4)(G) - Threshold Criteria – Energy Certifications – (8,21)

Comment:

Comment points out the contradiction between the requirement for air conditioners and language on pages 36 and 37 that allows evaporative coolers (8). Further comment suggests retaining certain clauses, specifically (ii) which requires high heating and cooling efficiencies, the section of (iv) which pertains to 1.5 gallon/minute faucet aerators (since 2.5 gallon/minute is allowed by law), and (v) which addresses ceiling fan installation and is not covered by the 2003 International Energy Conservation Code (21).

Department Response:

Staff does not recommend changes to section (ii), (iv) and (v) as suggested above. Over the years there has been discussion requesting the Department to change this section. However, the Department is not an “energy conservation” specialist. Therefore, staff believes it is most prudent to defer to the 2003 IECC as a rule. However, staff does agree the current draft contradicts itself when disallowing evaporative coolers in this section. Therefore, staff recommends that evaporative coolers be added to this section. Staff recommends the following language:

(G) A certification that the Development will adhere to the ~~2003~~2000 International Energy Conservation Code (IECC) ~~and the Department’s Minimum Standard Energy Saving Devices~~ in the construction of each tax credit Unit, unless historic preservation codes permit otherwise for a Development involving historic preservation. ~~notwithstanding. Minimum Standard Energy Saving Measures are identified in clauses (i) through (v) of this subparagraph.~~ All Units must be air-conditioned **or utilize evaporative coolers**. The measures must be certified by the Development architect as being included in the design of each tax credit Unit ~~prior to~~ at the time the 10% Test Documentation is submitted closing of the construction loan and in actual construction upon Cost Certification. {(2306.6725(b)}

§49.9(f)(6)(E) - Threshold Criteria - Certifications, Property Conditions Assessment - (39)

Comment:

Comment supports provisions in the QAP that provide for cost and physical condition assessments and monitoring of Section 504 units as provided by state statute (39).

Department Response:

Staff concurs and recommends no change.

§49.9(f)(6)(G) - Threshold Criteria - Certifications, Site Work Cost Breakdown - (25)

Comment:

Comment suggests raising the \$7,500 work site limit to \$12,500 due to the fact that with sites needing more work and average density decreasing, costs per unit are rising (25).

Department Response:

Staff is opposed to raising this safe harbor limit further as \$7,500 per unit is intended to account for more than the average site work cost. Anything over that amount is acceptable as long as

substantiation from engineering is provided. Relatively few deals exceed this guideline which has been incrementally raised over the last few years (roughly 50% over four years). We have no evidence to support that site work costs have risen an additional 66% across the board in the last year. Staff does not recommend a change.

§49.9(f)(7)(B) - Threshold Criteria - Certifications, Evidence of Zoning – (25,26,42)

Comment:

Comment notes that the provision calls for the submission of one letter from a city/county official stating that there is no zoning ordinance and that the proposed project is consistent with a local consolidated plan. In the example given, a city has no zoning ordinance so the zoning letter comes from one department while the Consolidated Plan letter comes from another. It is suggested that the TDHCA should make it clear that the required information can be contained in more than one letter (26). Additional comment suggests that such rigid and broad notice requirements are unwarranted under the statutes governing the QAP and that such provisions, regardless of intent, will serve to limit, restrict and discourage the development of properties outside of areas with disproportionate concentrations of minorities and poverty instead of promoting integration (42). Further comment suggests that all application items (including zoning, evidence of federal, state or local funding, etc.) that were moved back to the date of the Commitment Notice should be moved forward to April 15, 2005 to prevent developments that receive an award at the July Board meeting from dropping out at Commitment Notice time. Staff would drop down to the next unfunded deal in that region but by the time the Board approves new awards in September, the commenter is concerned that some deals would have lost site control (25).

Department Response:

§2306.6705 requires the zoning letter and specific notices of the filing at the time of application. Therefore, staff does not recommend a change. Staff does not recommend a change to the deadline for zoning; the Department believes it is appropriate to allow more time to meet this requirement. Staff does recommend clarification that two separate documents may be used to satisfy this section. Staff recommends the following language:

(B) Evidence from the appropriate local municipal authority that satisfies one of clauses (i) through (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(a)(5)}

§49.9(f)(7)(C)(iii) - Threshold Criteria – Certifications, Evidence of Funding – (20,25)

Comment:

Comment recommends that there be greater communication between the state and local municipalities in all sections that deal with local participation and leveraging, citing instances in which the developers have used the state to leverage city funds outside the normal local process. This rushes the local communities and prevents the opportunity to conduct due diligence (20). Additional comment suggests that all application items (including evidence of federal, state or local funding, etc.) that were moved back to the date of the Commitment Notice should be moved forward to April 15, 2005. This is to prevent developments that receive an award at the July Board meeting from dropping out at the time of the Commitment Notice. Staff would drop down to the next unfunded deal in that region but by the time the Board approves new awards in September, the comment is concerned that some applicants would have lost site control (25).

Department Response:

The Department strives to work with local officials when necessary for financial review and by allowing the deadline for financing to be at commitment, it better accommodates local funding cycles. Staff does not recommend changes to this section.

§49.9(f)(8)(A) - Threshold Criteria – Evidence of Notifications – (42,26,12,5)

Comment:

Comment suggested that TDHCA should require re-notification only in the event that an increase of greater than 15% in the number of units or a change in the type of tenants served is contemplated since unit reduction is never met with disfavor and applicants should be spared the administrative costs of new notices (26). Another comment proposes to require the Department to properly fulfill its pre-application notification responsibilities (as per §2306.1114 TX Government Code) and allow applicants to fulfill their Pre-Application notification responsibilities (as per §2306.6704) in their own manner consistent with their own marketing modes. The reasoning behind this comment is that the Department is statutorily responsible for relaying relevant facts about a development to the affected community and its officials. The Department is in the best position to accurately interpret the applications and relay the proper information to those notified and applicants should not be held accountable or penalized for items that are solely the Department's responsibility (12). Additional comment requests clarification as to whether one still has to notify county clerks or whether it is now sufficient to notify the city council or county commissioner for the district if the property is located in a single member district and the mayor or county judge if they are elected at large (5). Additional comment suggests that such rigid and broad notice requirements are unwarranted under the statutes governing the QAP and that such provisions, regardless of intent, will serve to limit, restrict and discourage the development of properties outside of areas with disproportionate concentrations of minorities and poverty instead of promoting integration (42).

Department Response:

The current draft of the QAP follows legislative requirements which include both the Department making required notifications as well as the applicants making required notifications. Extensive notifications are required by §§2306.1114, 2306.6704 and 2306.6705. No change is recommended. Staff does concur with the comment that suggests that only in the event that the unit total increases does an applicant need to re-notify. Staff also notes that this may occur at any time during pre-application or application review. Staff recommends the following language for this section:

(A) Evidence of notification meeting the requirements identified in clause (i) of this subparagraph to all of the individuals and entities identified in clause (ii) of this subparagraph. Evidence of such 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 required notifications prior to the deadlines and a copy of the entire mailing list (which includes the names and addresses) of all of the recipients, and proof of delivery in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. Proof of notification must not be older than three months from the first day of the Application Acceptance Period. (2306.6704) 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%, an increase of greater than 10% for any given level of AMGI, or a change to the population being served (elderly, family or transitional). 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.), notification and proof thereof must not be older than 30 days prior to the date the Application is submitted.

§49.9(f)(8)(A)(ii) - Threshold Criteria – Evidence of Notifications – (1,6,20,34)

Comment:

Comment was received on §49.9(d)(3)(B)(i) which requests clarification regarding inquiry needing only to be made to the council members of a district in which the project is based when a municipality (such as Houston) has both district-based and at-large council members (34). Additional comment recommends reinstating the zip code limitation from the 2004 QAP. The provider of the reply letter will not have the data on whether the organization is in the boundary of the neighborhood and thus will give the entire city list which in Houston is over 1,000 organizations. Even though one can give an explanation on each organization as to why the proposed development is not within its boundaries, it would be extremely burdensome, if not nearly impossible, to prove why each such organization would not be included (1). Comment also requests clarification on whether the notice should go to the City Manager or the Mayor in the instance that a city has both positions (6). These comments are also pertinent to this section Other comment suggests that clarification be made as to what type of certification be made that a development is not within the boundaries of a neighborhood organization (20).

Department Response:

Comment for §49.9(d)(3)(B)(i) should also be considered for this section because the language is mirrored. Staff does not agree that there needs to be further clarification regarding certifications in the QAP. A general statement that indicates compliance with this section and an applicant signature will suffice. The Department concurs that clarification is needed for cities such as which has both district-based and at-large council members. Staff also concurs with comment that recommends the re-instatement of the zip code requirements from 2004. The Department concurs that clarification is needed and that the language should require the notification be sent to the Mayor. The Department recommends the following for this section:

(I) Notification to Local Elected Officials for Neighborhood Organization Input. ~~City and County Clerks and Neighborhood Organizations.~~ 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 Clerk Notification” as outlined in the Application was sent no later than January 15, 2004–2005 to the local elected official ~~city clerk and county clerk~~ for the city or if located outside of a city, then the ~~and~~ 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 officials, 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 ~~city and county clerks~~ must be provided. **For urban/exurban areas, entities identified in the letters from the local elected official whose boundaries include the proposed Development city and ~~county clerks~~ whose listed address has the same zip code as the zip code for the Development must be provided with written**

notification, and evidence of that 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 ~~from the city and county clerks~~ with those 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 ~~from the city and county clerks~~ whose listed address is within a half mile of the Development site must be provided with written notification, and evidence of that notification must be provided. If the Applicant can provide evidence that the proposed Development is not located within the boundaries of an entity on a list from the local elected officials ~~clerk(s)~~, then such evidence in lieu of notification may be acceptable. If no reply letter is received from the local elected officials ~~city or county clerk~~ by February 25, 2005⁴, (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. The Applicant must also certify that any organizations in a response letter that are not notified do not contain the proposed Development site within their boundaries. In the event that local elected officials refer the Applicant to another source, the Applicant must also notify that source and request the same information. 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 ~~Presiding officer~~ 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.

§49.9(f)(14)(B) – Threshold Criteria – Market Analysis – (42)

Comment:

Comment suggests that TDHCA should require a market study of proposed projects under §49.8(c) (Pre-Application Evaluation Process) that includes racial/ethnic demographics of the market area and the census tract in which the project is located, as well as the projected demographics of the proposed project.

Department Response:

The purpose of a Market Study is to determine the income eligible demand and market rents for a specific development. Adding a requirement to provide racial and ethnic demographics would place an undue burden on the Market Analysts and increase the cost of Market Studies. Also, the

information is currently being collected in the annual Fair Housing Sponsor Report. Staff does not recommend a change.

§49.9(g) - Selection Criteria – General (Mixed Income) – (12)

Comment:

One comment suggests that Mixed Income developments comprised of both market rate units and qualified tax credit units be awarded points with a unit based applicable fraction that is no greater than 85% (7 points); or 90% (5 points); or 95% (3 points) in order to comply with TX Government Code §2306.111(g)(3)(E), the intent of which is to “provide integrated, affordable housing for individuals and families with different levels of income” (12).

Department Response:

Staff does not recommend the change relating to mixed income because the proposed language of §49.9(g)(7) regarding Rent Levels achieves mixed tenancy as required by §2306.111(g)(3)(E). As drafted, (g)(7) gives more points for 95%, 90% and 85% mixed income developments than the 2004 QAP. Additionally, the commenter’s recommended change makes mixed income/ rent tenancy higher than the lowest of the nine items required by §2306.6710(b). Adding this separate Mixed Income section would award points for mixed income in this section as well as (g)(7) as proposed.

§49.9(g) - Selection Criteria – General (Transitional Preference) – (23)

Comment:

One comment suggests that for every scoring category add additional points to transitional housing scores in order to give preference to the lowest income tenants (23).

Department Response:

Staff does not recommend this change because there are already sufficient incentives for transitional housing within the QAP and the Income Targeting section already targets the lowest incomes, as required by legislation.

§49.9(g) - Selection Criteria – General (Development Size) – (12)

Comment:

Comment suggests that the department reinstate a 5-point incentive for up to 36 units in rural areas. Comment states that this encourages smaller developments in rural areas because most all areas of rural Texas can support developments up to 36 units. However, the majority of small rural Texas towns cannot support developments larger than 36 units, so they effectively cannot compete with areas that can support more units. Additionally comment suggests that the rental levels in rural Texas towns cannot support the leveraging of rents to gain points from scoring in the QAP. The 5-point incentive is needed to help rural applications in small cities compete with larger rural cities where larger developments are financially feasible and more likely to support more than 36 units (12).

Department Response:

Staff concurs with the recommendation to the extent of adding 3 points and recommends the following language as §49.9(g)(17) in the QAP (note that this will result in the renumbering of the remaining items in selection:

(17) The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger Development (3 points).

§49.9(g)(1) - Selection Criteria - Financial Feasibility – (33,21)

Comment:

Comment suggests that there are too many points associated with market feasibility and that more of these points should be used to differentiate applications. Although the concept is critical, it is expected that all applications would be able to meet the current test (33). Additional comment states that a 1.10 debt coverage ratio be maintained in the development pro-forma throughout the initial 30 years. Typically, supportive housing developments and SROs are financed so as to avoid third party, hard debt. It is suggested that the underlined language be added to the QAP so that the section will read “The pro-forma must indicate that the development pro-forma maintains a 1.10 debt coverage ratio throughout the initial 30 years proposed for all third party lenders that require scheduled repayment” (21).

Department Response:

Staff does not recommend a change in points for this item because it is legislated to be the highest point scoring item. Staff does concur with the comment recommending the change for all third party lenders that require scheduled repayment.

(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))] Applications may qualify to receive 28 points for this item. Evidence will include the documentation required for this exhibit in addition to the commitment letter required under subsection (f)(7)(C) of this section. The supporting financial data shall include a thirty year pro forma prepared by the permanent or construction lender specifically identifying each of the first ten years and every fifth year thereafter. The pro forma must indicate that the development pro forma maintains a 1.10 debt coverage ratio throughout the initial thirty years proposed for all third party lenders that require scheduled repayment. In addition, the commitment letter must state that the lender’s assessment finds that the Development will be feasible for thirty years. 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.

§49.9(g)(2) - Selection Criteria - Quantifiable Community Participation – (1,6,12,16,33,37)

Comment:

Comment proposes to restrict the QCP to requiring show of support and site identification only. Comment further calls for the abolition of scoring on a sliding scale and for restricting comment to neighborhood associations whose boundaries contain the development site. If it is verified by January 1, 2005, that a development site is not encompassed by any neighborhood organization, then full points should be awarded. It is suggested that the Department’s overly technical reading of SB 264 has had the effect of nullifying much of the community support. The commenter believes that allowing full points for the “no neighborhood association” scenario is in keeping with SB 264 and verifying the neighborhood association certification by January 1 prevents “NIMBY” organizations from being formed strictly in order to adversely affect a tax credit application (12). Further comment suggests that due to the difficulty of getting neighborhood support, if a neighborhood is willing to annex an adjoining site and support that site, the site should qualify for points. A condition would exist that by the November 1 carryover deadline that the site must be annexed as it may take until after the applicant has acquired the site from its present ownership. This would allow public input

from those who reside in the vicinity of the site and would be affected by its development (1). Further comment proposes the inclusion of language that the commenter believes offers greater parity for applicants in areas without neighborhood organizations by allowing for up to 6 points for support from community or civic organizations (16). Additional comment proposes to drop the requirement for neighborhood organization letters of support, at least for areas away from major metro markets, given that most groups outside metro areas are grassroots and do not have the required organizational structure and documentation. Also, smaller communities are less likely to have neighborhood organizations. Thus it would seem that the new notification procedures will only generate opposition and that strong opposition will reflect negatively in the QAP scoring (33). Comment urges the Department to be clear regarding expectations and criteria for awarding community support points to applicant projects (37). Additional comment commends the Department for allowing the ability to file with TDHCA to meet the requirement of being on file with the state but requests clarification as to whether filing an assumed name certificate with the county would mean that an entity was on record with the county (6).

Department Response:

The proposed rule follows and is constrained by §2306.6710(b)(1)(B). Staff does not concur with comments suggesting full points for support and site identification only nor for abolishing of scoring on a sliding scale. The statute requires “quantifiable” participation and is not limited to support. The QAP already limits comments to neighborhood organizations within the boundaries that contain the proposed Development site, so no changes are required. Staff does not concur with requiring neighborhood certification by January 1 to prevent formation of “NIMBY” organizations. The requirement to be “on record” as of March 1 fairly follows the intent of the statute to allow time for neighborhood input. Staff does not concur that full points should be given if there is no neighborhood organization. To do so would dilute the statutorily required points and possibly support selection of potentially lesser quality sites with no neighborhood organizations. Staff also does not recommend allowing annexation as late as November into a development for points for this item. Legislation requires that the proposed development site must be within the boundaries, so to meet the requirements the site would need to be annexed by the “on record” date. Community or civic organizations cannot be added to the QAP because of the language of the legislation. The Department has made the requirements for this section much more specific regarding expectations and criteria for awarding points. The QAP as drafted does allow for being on record with the county by filing an assumed name certificate, if all other requirements are met.

§49.9(g)(2)(B) - Selection Criteria - QCP – Scoring of Letters – (1, 4, 11, 42)

Comment:

Comment notes that while unlawful reasons of opposition are discounted, the high points available for letters of support facilitates the failure of developments to be sited in non-minority areas as these areas would more strongly resist these projects (42). Comment also notes a need to clarify any neighborhood “fulfilling department’s definition” and suggests specifically defining “neighborhood organization” (1). Additional comment suggests that QCP would be better if based upon a percentage of letters received related to the number of qualified organizations on record. For example, if there were three organizations on record and the applicant only submits a support letter from one, then the applicant would be awarded 33% of the available points. Opposition letters would carry the same weight and in areas without any organizations on file, the applicant would automatically get full points (11). Comment notes that though the actual level of community support may be the same, communities with no neighborhood organizations to provide letters of support can only get a maximum of 12 points while communities with neighborhood organizations to write letters

can get up to 24 points. This penalizes smaller communities which are less likely to have neighborhood organizations (4).

Department Response:

The proposed rule follows and is constrained by §2306.6710(b)(1)(B). Staff does not recommend changes to this section. Statute requires that this item be given the second highest number of points in the QAP. The current draft gives sufficient definition for this item. Staff does not recommend scoring based on the percentage of letters received in relation to the number of organizations on record. Administratively, the Department probably would not know the number of organizations on record unless it receives a letter from the organizations. Also, §2306.6710(b)(1)(B) requires that the input be “quantifiable.” If an organization opposes a proposed development for no reason, or based on incorrect facts, or the input evidences unlawful discrimination, the input is not “quantifiable” and receives the neutral score of “+12”. Following the comment’s suggestion, if the neighborhood organization that opposes the development is the only one on record, this letter would receive the strongest score for opposition of “0.” This result is not based on “quantifiable” input and could result in meritorious applications being denied credits for no reason, or based on incorrect facts, or based on unlawful discrimination. Because rural developments are competing only against other rural developments, the competition and opportunity for points is fairly equalized.

§49.9(g)(2)(C) - Selection Criteria – QCP – Basic Submission Deficiencies – (20)

Comment:

Comment requests that a copy of all deficiency notices issued to neighborhood organizations be sent to the applicant as well (20).

Department Response:

This request increases the administrative difficulty of an already difficult process, so staff does not recommend any change. However, an applicant does have the right to request public records from the department at any time in the application process.

§49.9(g)(3) - Selection Criteria - Income Levels of Tenants – (1,12,16,22,42)

Comment:

One comment proposes the integration of leveraging into this section for developments utilizing a USDA 5 year rental assistance contract and/or Section 8, and/or HUD contract for project-based Section 8 assistance or similar long-term (at least 5 year) federal or state project-based rental assistance programs. The comment further suggests, as a separate subsection, language for seven separate payment options at various percentages of low income units at 50% levels. This commenter believes that this is a response to their confusion regarding the Department’s proposal which appears to require rents at 30% AMI even if one selects income levels of the tenants at 50% AMI. The proposed language would allow for units that serve the 50% AMI to charge rents at the 50% level. Under the staff’s recommendation, all applicants will receive the maximum possible points by merely providing 10% of the units to households at or below 30% of median income (12). Further comment supports the new exhibit but proposes to add one more option of “20 points for 60% at 50% AMGI” (16,1). Other comment proposes to lower the percentage of units at 50% AMI from 80% to 60%, thereby making the developments more financially feasible (22). Additional comment suggests that to fully satisfy its affirmative fair housing obligations, the provision should encourage mixed-income developments in low-income areas by rewarding affordable housing developments that include a reasonable mix of market rate housing and subsidized units (42).

Department Response:

Staff does not recommend adding incentives for leveraging into the income level exhibit because adding leveraging dilutes the impact of income levels for this item, especially considering that §49.9(g)(21) provides point incentives for leveraging already. Staff also does not concur with comment that provides seven different point scoring possibilities that only target households at 50% AMGI as adding many more categories all at 50% does not give broad enough choices. Staff also believes that the existing language is clear regarding income levels versus the federal minimum set-aside. The Department, however, encourages a diverse array of options for applicants while encouraging incentives for low AMGIs for tenants. Therefore, the Department recommends a partial incorporation of the recommendations into the current language as follows (note that staff has added an administrative clarification regarding rounding and to clarify that income levels require corresponding rent levels.):

(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) through (F) of this paragraph. To qualify for these points, the tenant incomes must not be higher than permitted by the AMGI level. 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 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). [(2306.6710(b)(1)(C); 2306.111(g)(3)(B); 2306.6710(e); 42(m)(1)(B)(ii)(I); 2306.111(g)(3)(E))] Use normal rounding for this exhibit.

(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 a combination of 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

(E) 16 points if at least 40% of the total number of low income units (including Units at 60% of AMGI) are designated for tenants at or below 50% of the AMGI; or

(F) 14 points if at least 35% of the total number of low income units (including Units at 60% of AMGI) are designated for tenants at or below 50% of the AMGI.

§49.9(g)(4)(B)(viii) and (ix) - Selection Criteria – Development Characteristics – (31)

Comment:

Comment suggests the inclusion of “concrete brick and mortarless concrete masonry” into this section because it will save the developers money, installs faster, is an engineered system which dries the wall cavity and has a higher than normal windload rating.

Department Response:

The Department concurs with the comment and recommends the following change to the current language for this section:

xiii) 100% masonry on exterior, which can include stucco, cementitious board products, concrete brick and mortarless concrete masonry but not EFIS(3 points);

(xiv) Greater than 75% masonry on exterior, which can include stucco, cementitious board products, concrete brick and mortarless concrete masonry but not EFIS (1 points);

§49.9(g)(4)(B)(xvii) - Selection Criteria - Development Characteristics – (9,12)

Comment:

Comment suggests that providing points for 14 SEER HVAC is cost prohibitive for rehabilitation properties and proposes to amend the section to read as follows: “14 SEER HVAC or evaporative coolers in dry climates for new construction or radiant barrier in the attic for rehabilitation (3 points)” (9). Comment also suggests that the language replace the 14 SEER energy efficiency rating scoring option with 13 SEER for HVAC units and add a radiant barrier option as another 3-point incentive (12).

Department Response:

The Department does not concur with language that would replace 14 SEER with 13 SEER, however, it does concur with the comment for an evaporative cooler and recommends the following language:

(xvii) 14 SEER HVAC or evaporative coolers in dry climates for new construction or radiant barrier in the attic (3 points);{(WG)}

§49.9(g)(5) - Selection Criteria – Commitment of Local Funding – (16,22,33,42)

Comment:

Comment recommends that paragraphs (A) and (B) not be mutually exclusive in order to encourage greater leverage. Applicants should be allowed to score under both options (mixing up their leveraging options) with the maximum score still remaining at 18 points (16). Additional comment suggests that applicants only be required to specify the funding for which they are planning to apply but not have submitted the application. The application having to be submitted by March 1 eliminates leveraging points in communities whose applications are not available before March 1. Comment also asks to define local political subdivision (22). Further comment opines that there should not be a 17 point difference (18 points for city grants and loans vs. 1 point for other sources) based on the source of outside funding. Also, local funding does not always provide a true source of outside funding as do traditional grant sources. It is also noted that the available points for project-based assistance gives an unintended advantage to At-Risk HUD deals and Public Housing Authority applications (33). Additional comment points out that the 18 points awarded for local funding essentially provides de facto veto power to local governments and even neighborhood organizations. Not only will the scoring criteria undermine the ability of developers to win tax credit allocation from TDHCA, but the number of points here combined with the extensive local notice requirements substantially chill and undermine the incentive for developers to even propose affordable family housing outside of areas with higher percentages of residents who are in poverty and/or who are minorities. This, therefore, does not affirmatively further fair housing (42).

Department Response:

Regarding the 17 point difference between item 5 and items 20/21, staff notes that by legislation local funding is required to be the fifth highest scoring item and therefore cannot be handled equally. The relative scoring weight for local funding is required by §2306.6710(b)(1). Statute also requires the extensive notices. The phrase “local political subdivision” is not easily and comprehensively defined. The Department will consider sources of funding on a case-by-case basis. Regarding the suggestion that vouchers give an advantage to At-Risk HUD applications, these applications may have less opportunities for points in other areas and staff believes that any limited advantage promotes the Department’s mission. The department does not want to limit the communities where leveraging can be achieved so it concurs with the recommendation of an “intent to apply” certification to allow for

the timing of various funding cycles. Staff recommends the following language be added to this section

(5) The Commitment of Development Funding by Local Political Subdivisions.
Applications may qualify to receive up to 18 points for qualifying under either or both (A) or (B) of this paragraph. [(2306.6710(b)(1)(E))]

(A) Evidence that the proposed Development has received an allocation of funds for on-site development costs from a local political subdivision. 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 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. 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, 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. At the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment 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. Use normal rounding. 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.

§49.9(g)(5)(B) - Selection Criteria – Commitment of Local Funding (Vouchers)– (6,34)

Comment:

Two comments note that points are available for development-based rental assistance in the form of Housing Choice or rental assistance vouchers but would like to expand that to also include the federal rental assistance subsidy provided through the Annual Contributions Contract (ACC) between a public housing authority and HUD (34,6).

Department Response:

Staff concurs with the comments and makes the following language recommendation:

(B) Evidence that the proposed Development will receive development-based Housing Choice, rental assistance vouchers, or rental assistance subsidy approved by the Annual Contributions Contract (ACC) between a public housing authority and HUD, all being from a local political subdivision for a minimum of five years. Evidence at the time the Application is submitted 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 for the vouchers 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 the Department's HOME (with the exception of Developments located in non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category. Use normal rounding. HUD must approve the vouchers no later than the time the 10% Test Documentation is submitted to the Department or the Commitment will be rescinded.

§49.9(g)(6) - Selection Criteria – Level of Community Support – (33)

Comment:

Comment suggests that a support resolution from the local City Council should be scored equally with State elected official points as the local government is usually more interested and knowledgeable than State officials (33).

Department Response:

Staff does not recommend a change to this section because legislation requires a specific selection criteria for State elected officials and that it be the sixth highest scoring item. Additionally, points for support or opposition from local officials was amended out of statute in SB264.

§49.9(g)(7) - Selection Criteria - Development Characteristics - Rent Levels - (5,12,16,18, 20,33)

Comment:

One comment was made prior to the September Board meeting and it requests that the language in the QAP allow applicants to choose between the statewide AMGI and the local AMGI for 30% rents. The Board did vote to add the language to the draft QAP in September and the language is currently in the draft. For the purposes of recording public comment, staff considers the comment as support for the language as currently written. Multiple comments indicated concern with this exhibit as proposed. Comments noted that the policy as drafted will create a compliance dilemma and only help urban area applicants to the detriment of exurban and rural areas. In order to combat this, it is recommended that the 10% rent reduction option be removed from the 2005 QAP (16). Further comment recommends the deletion of the section as it discriminates against South Texas by allowing the reduction of rent levels and not allowing projects in that region to fairly compete (20). More comment suggests that this rent reduction will be hard to achieve in many markets and may discourage high quality private developers from participating (33). Additional comment recommends that points be awarded on a scale of percentage of the units which are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent. If 100% of the units are rent restricted, the development would get 12 points; 95% = 10 points; 90% = 9 points; 85% = 8 points. This is essentially encouraging “mixed rent” tenancy similar to mixed income exhibits in the past. This change would prevent the penalization of rural and lower income areas which cannot afford “rents 10% lower than allowed.” Further, it would be difficult to monitor compliance and

annually calculate the 10% reduction in permissible rents in the original proposal. Also, developments will almost certainly be required to request waivers over time. Comment also recommends points for mixed-income developments to comply with Government Code, Chap. 2306.111, “to provide integrated, affordable housing for individuals and families with different levels of income.” This also helps boost the financial feasibility of the application, the highest scoring priority (12). Comment requests clarification of whether a developer can set rents at the 30% level but then take a Section 8 tenant and collect full fair market rent on the unit (5).

Department Response:

The Department generally concurs with the recommendations. The recommendations will be easier for the Department to monitor and would prevent the penalization of rural and lower income areas which cannot afford “rents 10% lower than allowed.” However, staff does not concur with giving points for 100% of the units being rent restricted because that will discourage market rate Units. Staff recommends the following language:

(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 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. If 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 10 points. If 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 9 points. If 80% 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.

§49.9(g)(8) - Selection Criteria - Development Characteristics - Cost of the Development - (7,21,42)

Comment:

Comment notes that in the First Tier Counties (generally along the Gulf Coast), the new hurricane wind requirements require that you either 1) install impact glass for each window, 2) install hurricane shutters, or 3) have plywood stored onsite for each and every window, along with the bolts to anchor the plywood. This combines with the structural engineering to elevate the costs of building in a First Tier County 2% higher than in a non-hurricane-prone area. It is proposed to revise the final sentence of the section to allow higher costs per square foot for the First Tier counties (7). Further comment suggests that because Single Room Occupancies (SROs) with small unit sizes often have higher development costs they should be comparative to elderly and transitional housing (21). Additional comment notes that the QAP provides significant incentives for low-cost developments, benefiting developments in high-poverty areas and therefore does not affirmatively further fair housing (42).

Department Response:

Regarding the incentive of points for low cost Developments, this scoring item is legislated to be the eighth highest scoring items in the QAP. Staff concurs with the comments on the First Tier counties and SRO’s and recommends the following language:

- **(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)] For this exhibit, costs shall be defined as construction costs, including site work, 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 \$75 per square foot for Qualified Elderly, Transitional, and Single Room Occupancy Developments, unless located in a “First Tier County” in which case their costs do not exceed \$77 per square foot; and \$65 per square foot for all other Developments, unless located in a “First Tier County” in which case their costs do not exceed \$67 per square foot. For 2005, the First Tier Counties are Aransas, Calhoun, Chambers, Jefferson, Kleberg, Nueces, San Patricio, Brazoria, Cameron, Galveston, Kennedy, Matagorda, Refugio and Willacy (10 points).

§49.9(g)(10) - Selection Criteria - Housing Needs Characteristics – (12,33)

Comment:

Comment notes that in previous years, the large differential in points was effective in directing new development to specific areas deemed worthy of additional development and points out that this result will be substantially altered with the proposed point structure (33). Conversely, another comment proposes that the Affordable Housing Needs Score (AHNS) be dropped in favor of the market analysis since the AHNS is not statutorily required and does not fairly allow for fair and effective regional allocation (12).

Department Response:

§42m(1)(c)(ii) of the Internal Revenue Code requires a selection criteria for “housing needs characteristics.” Therefore staff does not recommend the deletion of the AHNS score: no alternative for the housing needs characteristics was recommended during the comment period. It should be noted that the Department believes that the AHNS has been successful in encouraging housing development throughout areas of need. Staff does not recommend a point increase for this item because it must be below the nine highest items required by statute.

§49.9(g)(11) – Selection Criteria – Use of Existing Housing for Revitalization – (6,34, 37)

Comment:

Comment commends the Department for giving scoring incentives for preservation (37). Two other comments suggest that the section be clarified to include developments where the existing residential development is deemed too substandard to retain and is thus demolished and reconstructed on the same site (6,34).

Department Response:

Staff concurs with comment and recommends the following language:

(11) **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 rehabilitation or demolition and reconstruction is part of a community revitalization plan.

**§49.9(g)(13) - Selection Criteria – Development Location (“Exurban Points”) – (27,34,33,12,16)
Comment:**

Comment states that the removal of points for exurban development makes it unlikely that smaller communities will be able to compete effectively and urges the reinstatement of exurban location as a qualification for points (34,33,12,16). Other comment notes that exurban points should only have been deleted if exurban were only competing within an exurban pool and not an “Urban/exurban” pool that includes larger areas. Comment also suggests that if points are reinstated that the 100 unit cap from last year be deleted (27).

Department Response:

Staff recommends that the exurban points be reinstated for 2005 with a value of 7 points under this section but without the 100 unit cap that existed in the past (see final QAP recommendation for the section below).

**§49.9(g)(13)(G) - Selection Criteria – Development Location – (32,16,42,29,30,38,39)
Comment:**

Comment approves of the concept of linking developments to school ratings but notes that school ratings may fluctuate (32). Comment also urges the QAP to use the HTC program to actively promote racial and ethnic integration by giving a larger incentive to encourage developments in non-minority areas and to award tax credits with consideration of positive integrative effects. In addition, it is suggested that a substantial portion of the annual HTC family rental allocation be set aside for use in low poverty neighborhoods outside areas of minority concentration. It is also proposed that TDHCA increase the award for family housing projects to 15 or more points due to the fact that the bulk of demand for affordable housing likely comes from minority households with children (42). The Department’s allocation of points to specific criteria, even under the constraints of the Attorney General’s Opinion, almost guarantees that successful developments will likely be located in areas that do not give low income minority families with children access to the opportunities that are available in predominately non-minority, higher income, less distressed, and more fiscally healthy communities. Specifically, of the 195 points an applicant may be awarded in the competition for tax credits, approximately 40% of the points encourage development in lower income, predominately minority areas compared to only about 2% which can be said to encourage development in higher income, non-predominately minority areas. Even that 2% is submerged in a menu of options that make it unlikely they will be selected given the lack of other criteria supporting such development (38). Further comment supports the new items in the QAP that give points for applicants that affirmatively promote fair housing opportunities (29,30). Other comment recommends that the QAP actively promote racial and ethnic integration by giving a larger incentive to development in non-minority areas (38,39). Comment also suggests that the section is biased to family deals and proposes to add elderly to this option (16).

Department Response:

The proposed rule follows and is constrained by §2306.6710(b)(1) and §42 IRC. The Department is aware that school ratings may fluctuate which is why the draft has the language “or comparable rating” and specifies relevant dates. Staff does not recommend a language change to add elderly to the option. This section is utilized to meet the requirements of §42 IRC to give preference to families.

Staff concurs with the comment to increase points (although not to 15 points which would be higher than the legislatively required highest nine) for this item to affirmatively further fair housing and

recommends the following language for this item. Staff also recommends 7 points for ex-urban areas. An administrative change is also made to avoid the problem encountered last year when the list of exurban areas generated by the Housing Center did not match the Qualified Allocation Plan. Staff recommends the following language:

(13) Development Location. [(2306.6725(a)(4) and (b)(2); 2306.127; 42(m)(1)(C)(i); 42 U.S.C. 3608(d) and (e)(5)) Applications may qualify to receive either 4 or 7 points. Evidence, not more than 6 months old from the date of the close of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) through (I) of this paragraph. Areas qualifying under any one of the subparagraphs (A) through (F) of this paragraph will receive 4 points. Areas qualifying under any one of the subparagraphs (G) through (I) of this paragraph will receive 7 points. An Application may only receive points under one of the subparagraphs (A) through (I) 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.

(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.

(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 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.

(D) the Development is located in a county that has received an award as of November 15, 2004, 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.

(E) 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))]

(F) 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.

(G) the proposed Development will serve families with children (at least 70% of the Units must have 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))

(H) 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 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))

(I) the Development is located in an incorporated place or census designated place that is not a Rural Area but has a population no greater 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.

§49.9(g)(14)(C) - Selection Criteria – Special Housing Needs – (33)

Comment:

Comment suggests that it is necessary to provide the previous large point incentive to create transitional housing. This niche requires long lead times and intense predevelopment activities and the proposed point structure is not sufficient to justify the predevelopment risk (33).

Department Response:

The proposed rule follows and is constrained by §2306.6710(b)(1) and §42 I.R.C.. Staff does not recommend change because this item is not one of the nine legislated items and this point item cannot have more points than the nine. Additionally, a shift in points for this item would warrant additional public comment.

§49.9(g)(16)(A) – Selection Criteria – Site Characteristics – (1)

Comment:

Comment questions whether a family development that has on-demand bus service (which is also part of the LURA) should not be handled the same as the elderly specified transportation service and wonders why such a development would be penalized (1).

Department Response:

Staff notes that the QAP already indicates developments with “on demand” transportation will be treated in the same manner. However, the clarification to the LURA is required. Staff concurs that a family project can have on-demand van service in addition to the already drafted points for elderly on-demand van service for this section. Staff recommends that the following language be inserted:

(A) Proximity of site to amenities. Developments 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 or located within a community that has “on demand” transportation, 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, as well as written directions from the site to each service. The services must be identified by name on the map and in the written directions. 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)

**§49.9(g)(18) - Selection Criteria – Sponsor Characteristics –
(26,28,20,15,13,18,34,17,12,11,19,10,2)**

Comment:

A majority of comment suggests that the requirement that the HUB be in existence for five years be removed from the QAP because it eliminates new HUBs that need the assistance the most. It also continues to give credits to the experienced HUBs that have already mastered the program (26,28,20,13,18,17,12,19,10,2,12). Additional comment notes that if a HUB has to wait five years to be eligible for tax credit points, no one will bother to mentor one (10). Substantial comment suggests that since older HUBs are established and well-capitalized, a “graduation” be used with a maximum of 5 years to give a fair chance to newer HUBs (19,26,28,13). Further comment suggests that instead of a 5-year minimum, a maximum unit number be used to read: “The HUB will be disqualified from receiving these points if any principal of the HUB has developed more than 500 units of housing involving tax credits” (19). Additional comment commended TDHCA’s 51% ownership requirement as a method of eliminating abuse of the use of HUBs (13,26). However, one commenter noted that the commenter thought it unrealistic for an inexperienced HUB to have 51% ownership interest (10). Additional comment requests clarification on the 51% ownership rule as it seems to prevent the sale of the majority of the housing tax credits to an investor (34). Other comment recommends the reinsertion of the 2004 QAP’s §50.9(g)(8) as selection criteria but would like to amend it to require 100% ownership by a “qualified person” in order to prevent abuse (11). Comment also suggests that this section include out-of-state HUBs because the current language unnecessarily penalizes valid HUBs (12).

Other comment proposed the deletion of HUB ownership as an award category stating that the use of race in law is subjective and difficult to apply fairly. Before applying race as a criteria, the government needs to find constitutional or statutory violations by the agency imposing the racial preferences and this has not been done in regards to TDHCA. Comment also fails to see a permissible compelling governmental purpose for applying racial preferences in this instance as it would not serve to rectify any particular societal discrimination. Further, the HUB definition used by TDHCA is not “narrowly tailored,” but instead focuses simply on race and gender. The comment argues and cites cases that the HUB points are unconstitutional racial discrimination. (15).

Department Response:

Staff does not agree that the Department should accept out-of-state HUB certificates because the Department cannot monitor the requirements of another state as meeting the requirements of the QAP. If a HUB chooses to do business in Texas, the entity should go through the proper channels in Texas to register itself as a HUB. Staff does concur with comment that suggests that the 5-year minimum will limit HUB participation and staff further concurs with the proposal for the 500 unit maximum for a “graduation” of HUB status. Staff also adds clarification regarding the 51% interest. Staff recommends the following language:

(18) **Sponsor Characteristics.** Applications may qualify to receive 2 points for this item. (42(m)(1)(C)(iv)) Evidence that a HUB, 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. The HUB will be disqualified from receiving these points if any principal of the HUB has developed more than 500 units of housing involving tax credits.

Staff interviewed representatives from several states at the National Coalition of State Housing Agencies (NCSHA) regarding whether or not HUBs are awarded points in selection criteria. Staff found that Virginia, Missouri, Michigan, Oklahoma, Idaho, North Carolina and Minnesota, do not award points for HUBs in selection criteria. Both California and Washington prohibit points. Staff found no state that awards points for HUBs.

Whether to award points for HUBs in the QAP in light of current case law on racial classifications and equal protection is a decision for the Board.

§49.9(g)(19) - Selection Criteria - Right of First Refusal – (33)

Comment:

Comment suggests that while “rent-to-own” can be an effective strategy, the QAP exit strategy is too complicated to implement. Also, one point is not sufficient incentive to encourage the added complexity of this structure (33).

Department Response:

Staff does not recommend a change to this section at this time but does encourage communication with the department for this item for 2006.

§49.9(g)(20) and (21) - Selection Criteria – Leveraging of Resources – (20,16)

Comment:

Comment requests clarification as to whether or not the 2% of development cost an applicant may receive under paragraph 20 for leveraging is mutually exclusive from paragraph 21 for leveraging or if the applicant can also receive another point if the applicant is outside a Qualified Census Tract (16). Other comment notes that paragraphs 20 and 21 seem to be redundant (20).

Department Response:

Both items 20 and 20 are legislated and are not mutually exclusive, if all requirements are met.

§49.9(g)(21) - Selection Criteria – 3rd Party Funding Outside of QCT – (5)

Comment:

Comment requests clarification on what constitutes third-party financing and suggests that “commitment” needs to be defined and that language needs to specify whether the funds need to be committed or the loan or grant needs to be funded (5).

Department Response:

The Department concurs that clarification regarding the third party and application for funds is needed. Staff also recommends an administrative change that clarifies that third party financing does not include a commercial lender. Staff recommends the following language:

(21) 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 (not Related Party to the Applicant or Developer) funding sources and the Development is located outside of a Qualified Census Tract. 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. Use normal rounding. 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.

§49.9(g)(22) - Selection Criteria –Scoring Criteria Imposing Penalties – (1)

Comment:

Comment suggests that a penalty needs to be limited to deals that are five years old or less from allocation with two years to build and then three years of guarantees. Once developments are older they may be more affected by market conditions which then, once developer has met its guarantee obligations, shouldn’t penalize one on future transactions. The penalty should be geared to those who do not fulfill their primary requirements (1).

Department Response:

Under §2306.6710 of Texas Government Code this penalty is legislated. Therefore, it can not be limited to five years by the QAP.

§49.9(h)(1) - Selection Criteria – Tie Breaker Factors – (1,13,39,42,16)

Comment:

Comment recommends that TDCHA require as threshold, not just a tie-breaker, that all developers participating in the program give priority to income-eligible families on public housing waiting lists as such families represent those most in need of housing in the state of Texas (39,42). Additional comment recommends adding two more tie breaker factors that consider highest Affordable Housing Needs Score (AHNS) and applications in census tracts that have no other HTC developments. The recommended order of priority from that commenter is as follows: 1) cooperation with PHAs; 2) higher AHNS; 3) census tracts with no other HTC developments; and 4) lowest amount of credits requested by net rentable square footage. This order better addresses need and geographic dispersion, lessening the importance of option 4 which is biased against applications seeking to serve senior populations (16). Additionally, comment suggests that the Department include a TEXAS FIRST provision as a tie-breaker that would state that entities that are controlled by Texas residents be given priority (13). Additional comment requests clarification regarding whether the reward for large units would drive down the credits per net rentable foot and encourage large per unit allocations. It is suggested that the tie breaker be the least credits per unit (1).

Department Response:

The Department does not recommend language that requires that Applicants give priority to income-eligible families on public housing waiting lists or to Texas applicants because the change is too significant to make without an opportunity for further public comment. The Department will consider this item in 2006. Staff also does not recommend the change to include the AHNS and applications in census tracts as a tie-breaker because these items already have appropriate weight as selection criteria. Regarding whether the reward for large units would drive down the credits per net rentable foot and encourage large per unit allocations, staff believes that the change proposed by comment would penalize a larger Development with family units. Therefore, staff does not recommend the proposed change.

§49.9(h)(2) - Selection Criteria – Tie Breaker Factors – (1,20,36)

Comment:

Comment suggests that the capture rate for multiple developments pending approval for credits would yield an over saturation of the market, and that the development(s) with the smallest capture rates should take funding precedence (36). Comment also requests clarification as to what tie breaker issues have to do with capture rate calculation. Also, it is recommended that the third sentence be amended to read, “When a Tax Exempt Bond Development and a competitive Housing Tax Credit Application in the Application round with the same score would violate a restriction, the following determination will be used...” (1). Additional comment suggests that paragraphs (A) through (C) should be deleted because it penalizes South Texas due to the fact that the region is Priority 2 and does not receive its reservations until June (20).

Department Response:

In response to the question regarding development(s) with the smallest capture rates and the recommendation that they take funding precedence, the Department staff believes that the current draft addresses the issue most appropriately. Also regarding capture rate, if two Applications are in the same area and are being reviewed and would jointly violate the capture rate, a tie is handled as drafted in this section. While the Department notes the comment regarding South Texas, there must be a point in the application cycle where 9% applications can proceed within the cycle’s processing. Staff does concur that “with the same score” should be added to this section, and recommends the following language:

(2) This clause identifies how ties will be handled when dealing with the restrictions on location identified in ~~§50.49.5(a)(8)~~, ~~and §50.6(f)~~, 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 lot number issued during the Bond Review Board lottery 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 (h)(1) of this subsection. When a Tax Exempt Bond Development and a competitive Housing Tax Credit Application in the Application Round with the same score would both violate ~~one of these~~ a restriction, the following determination will be used:

§49.10(a)(2)(C) – Board Decisions – (1)

Comment:

Comment suggests the addition of “and/or any management company or contractor” to the compliance history of the developer (1).

Department Response:

Staff does not recommend because the ultimate responsibility lies with the Developer, not the management company or contractor.

§49.13(C)(2) – Commitment and Determination Notices – (1,25)

Comment:

Comment suggests that this should be a construction loan requirement rather than a Commitment Notice requirement since at closing all partners will be identified whereas at Commitment Notice, there are usually some straw partners (1). Further comment suggests that all application items (including organizational documents, etc.) that were moved back to the date of the Commitment Notice should be moved forward to April 15, 2005. This is to prevent developments that receive an award at the July Board meeting from dropping out at Commitment Notice time. Staff would then drop down to the next unfunded application in that region but by the time the Board approves new awards in September, the commenter believes some applications will have lost site control (25).

Department Response:

Staff believes that this should be a commitment requirement rather than a construction loan requirement because it has historically been due at application and has been moved back to accommodate the application process. Staff recommends no change to this section.

§49.14(a) – Carryover – (36)

Comment:

Comment notes that it is practically impossible for acquisition/rehabilitation properties 1) seeking decoupling approval for HUD 236 insured mortgages, 2) seeking new 221(d)(3) or (d)(4) insurance, or 3) seeking Transfer of Physical Asset (TPA) approval from HUD to be purchased by December 1 of the year in which the Commitment Notice is issued. This requirement is not a Section 42 requirement and can be changed. Otherwise, all developments of these types will seek extensions to the December 1 deadline for the purchase of the property. If no extensions are allowed, these developments will not be completed. If extensions are permitted on a case-by-case basis, questions are raised as to whether the penalties of §49.9(g)(22)(A) will be applied to future requests. Due to the costs to initiate HUD approvals for the above types of properties, the length of time required for decoupling, and the fact that “purchase of the property” requires closing on both the land and the improvements, it is unfair to require development owners of acquisition/rehabilitation properties to close their transactions a full seven months prior to the deadline for development owners of new construction properties. Thus, it is recommended that submission of carryover documentation be required for all property types by November 1 of the year in which the Commitment Notice is issued and to exempt developments involving acquisition/rehabilitation from the property purchase requirement of this section (36).

Department Response:

Staff concurs with this comment and recommends the following language:

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. ~~Developments involving acquisition/rehabilitation must submit the Carryover documentation to the Department no later than December 1 of the year in which the Commitment Notice is issued, however they will be ineligible for extensions beyond that date.~~ 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.

§49.14(B) – 10% Test – (42)

Comment:

Comment suggests the requirement of affirmative marketing efforts (42).

Department Response:

Historically, the requirement for a management plan and an Affirmative Marketing plan has been submitted with the closing of the construction loan documentation. It should be noted that both a management plan and an affirmative marketing plan must be maintained throughout the Affordability Period pursuant to Texas Administrative Code, Title 10, Part 1, Chapter 1, Subchapter A Rule 1.14. This requirement is monitored by the Portfolio Management and Compliance section of the Department. An administrative change was made to clarify the dates surrounding the 10% test. Staff recommends that the documentation now be submitted with the 10% Test documentation and recommends the following language:

(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.**

§49.16(g) – Housing Credit Allocations – (16)

Comment:

Comment recommends that the reference to inspections identify the actual areas TDHCA is reviewing during the construction process, specifically the inclusion of threshold requirements and development characteristics identified at application for additional points. A reference to the Compliance Rules is also encouraged to identify the construction inspection process. It is proposed that the language be changed to read: “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...” Further, it is proposed to add a sentence

to the end of the paragraph to read as follows: “Details regarding the construction inspection process are set forth in Department Rule §60.1 of this title” (16).

Department Response:

Staff concurs with the comment and makes the following language recommendation:

(g) Development inspections shall be required to show that the Development is built or rehabilitated according to ~~required plans and specifications~~ construction threshold criteria and Development characteristics identified at application. At a minimum, all Developments inspections must include an inspection for quality during the construction process while defects can be reasonably 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 by the Department. The Development Owner shall pay all fees and costs of said inspections as described §49.20 of this title. For properties receiving financing through TX-USDA-RHS, the Department shall accept the inspections performed TX-USDA-RHS in lieu of having other Third Party Inspections. Details regarding the construction inspection process are set forth in Department Rule §60.1 of this title ~~{(2306.081)}~~.

§49.17(c)(8) – Board Reevaluation, Appeals – (34)

Comment:

Comment notes that a provision was added to address the procedure to be used when applying for a release from a commitment to serve a specified income level. Comment recommends the addition of language clarifying that if the commitment was made for the purpose of obtaining points and points were not awarded, the project is not obligated to fulfill the proffered commitment (34).

Department Response:

Staff appreciates the comment but considers it too substantial to recommend a language change without further consideration and public comment. The Department will consider it for 2006.

§49.20 – Program Fees – (9,12,27)

Comment:

Comment notes that fees for pre-application, application, and compliance are being raised at a rate that is not in line with the consumer price index and development costs. It recommends that fee increases reflect the inflation that developers are facing (27). Comment received also stated that the at-risk cost to all applicants to participate in the program has become exorbitant and should not be increased (12). Comment also stated that since fees are required to be based on cost, either the fees are unjustified or the Department is admitting to major errors in calculating fees for 2004 (9).

Department Response:

The Department has increased the fees as a necessity to administer the program and its growing requirements and agrees that the fees for 2004 should have been higher. The fees that are being increased are as follows:

Proposed: Application Fee from \$20 to \$30 per Unit. For those applicants that participate in Pre-Application, their Pre-Application fee is part of (not in addition to) the application fee. The Pre-Application fee is proposed to be increased from \$5 to \$10 per Unit. Justification: The Department does not receive General Revenue to operate the Housing Tax Credit program; therefore the Program must support itself. The current fee structure does not enable that to occur. For FY2004, the Department tracked every hour that employees worked on HTC Applications attributed to each employee at their given salary level; this includes not only Multifamily Production employees, but also employees in the Real Estate Analysis, Portfolio Management and Compliance, and Legal

divisions. The total salaries in FY2004 attributed to time spent on HTC Applications was \$582,435. However, the total revenue generated from Application fees in FY 2004 was \$438,595. In addition to the application fees not sufficiently covering salaries, the application fees must also cover the multitude of operating expenses associated with the HTC Application cycle. Therefore, staff is recommending that to ensure sufficient funds to administer the program, the fee be increased.

Proposed: Commitment Fee increasing from 4% of annual allocation to 5% of annual allocation. Justification: The Commitment Fee is the fee that covers all activity on HTC awards from the time the commitment is made until the applicant pays its first year's Compliance fee: this is generally a 2 year window that covers activities such as carryover, 10% test, construction loan closing, commencement, cost certification review, plan review, amendments and transfers. At this time, staff has not identified the exact salary figures for all HTC related work for these stages, but it is quite clear that the administrative burden and responsibilities of the program have increased over time. However, the commitment fee has not increased above the 4% fee since 1995 or earlier. The work required in operating the program since 1995 has increased dramatically. Additionally, staff researched the Commitment fee structure in 17 other states which included other large states and states with programs operated similarly to the program in Texas. The new increased fee of 5% is the average of those states reviewed – It is common for others states to have commitment fees in the 7% range, and in one state the commitment fee is 2.5% of the 10 year credit allocation. Based on the program changes over time, the history of not having increased this fee and the indication that other states require higher fees to operate, the fee increase is justified.

Proposed: Compliance Fee increasing from \$25 per Unit per year to \$40 per Unit per year. Justification: The compliance fee increase will cover the cost of outsourcing Uniform Physical Condition Standards (UPCS). In 2001, the IRS strengthened the required compliance monitoring focus on habitability by amending the Code to require increased physical inspections on Tax Credit properties and by requiring agencies to choose between two methodologies to conduct the physical inspection: the comprehensive UPCS physical inspection methodology developed by HUD, or inspections based on local code. TDHCA has attempted to implement the requirement by relying on local code inspection if a Housing Quality Standard (HQS) inspection indicates that an in-depth inspection is warranted. However, TDHCA has found that some localities are unwilling to inspect properties based on a TDHCA request, and that other localities in the state do not have local code inspectors. In order to ensure the health, quality and safety of Tax Credit properties under the administration of TDHCA and in order to ensure compliance with IRS Code Section 42, TDHCA would like to outsource the UPCS inspection. In order to fund the out sourcing of this important function, the compliance monitoring fee must be increased.

Proposed: Addition of a new fee called the Tax Exempt Bond Credit Increase Request Fee which is a fee on Tax Exempt Bond developments that request an increase in their credits. The proposed fee is 1% of the first year's credit amount. This type of credit increase was historically prohibited and therefore no additional work was associated with this stage. Over the past several years, via the QAP, this type of credit increase has become permissible; however, the cost of the extra work to process these requests was not accounted for. The proposed fee is charged only to those applicants that make a request and is intended to cover the expense and time of reviewing and acting on the request.

II. ADMINISTRATIVE CLARIFICATIONS AND CORRECTIONS

§49.3(82)- Definition of Urban/ Exurban

An administrative change was made to clarify the definition of Urban/ Exurban so that the geographical descriptions are more clear.

- (82) Urban/Exurban Area- An incorporated place or census designated place with:
 - A) a population greater than 20,000; or
 - B) of any population size that shares a boundary with an incorporated place or census designated place with a population greater than 20,000 in an MSA;
 - and
 - C) that does not meet the qualifications for a Rural Area as defined in paragraph 70(C) of this section.

§49.8(d)(3)(B)(iv) - Pre-Application Evaluation Process

An administrative change was made to correct the February 25, 2004, date to February 25, 2005.

§49.9(c), (d), and (e) – Threshold Criteria

An administrative change was made to the phrase “at least seven days” in these sections. It was changed to “at least 14 days” to make this language consistent with §49.9(e)(1).

§49.9(f)(14)(D)(ii) – Threshold Criteria

An administrative change was made to dates so that “2005” replaces “2004”.

ADDENDUM

Barry Khan..... 1

Kelly O'Brien Holden, Sole Member, O'Brien Companies, LLC 2

Donna Chatham, Executive Director, Association of Rural Communities in Texas 3

Richard L. (Rick) Brown, Hunsicker Appraisal Company 4

Jeff Crozier, Novogradac & Company, LLP Certified Public Accountants..... 5

Claire Palmer 6

Diana McIver, DMA Development Company, LLC..... 7

John F. Wright, John F. Wright, Incorporated 8

Sox Johnson, Executive Vice President, Rural Rental Housing Association for Texas 9

Ronni Hodges, Alsace Developers, Inc..... 10

Cari Garcia, CG Consulting 11

James F. Shearer, Principal, Capital Consultants..... 12

Margie Bingham, President, M.L. Bingham, Inc..... 13

N/A..... 14

Bob Voelker, NuRock Companies..... 15

John Garvin, Executive Director, Texas Affiliation of Affordable Housing Providers 16

Demetrio Jimenez, President, Tropicana Properties..... 17

R. L. "Bobby" Bowling IV, President, Tropicana Building Corporation..... 18

Jeff Spicer, Principal, State's Rehousing Advisors 19

Debra Guerrero, NRP Group..... 20

Walter Moreau, Executive Director, Foundation Communities 21

Kelly Hunt 22

Rick Sims 23

Paul Holden, Wilhoit Properties, Inc. 24

Michael Hartman..... 25

Cherno M. Njie, President, Songhai Ventures, Inc..... 26

Brian Cogburn 27

Paul Inameti, President, Inameti Realty Group, Inc..... 28

Judy Telge..... 29

Peggy Cosner, Executive Director, Heart of Central Texas Independent Living Center 30

Keith Davis, Southwest Concrete Products, L.P..... 31

Susan Maxwell..... 32

J. Anthony Sisk, Principal, Churchill Residential, Inc..... 33

Tamea A. Dula..... 34

Norman Henry, Builders of Hope Community Development Corporation 35

George Schmidt, Director, Edgewater Affordable Housing, L.P..... 36

O. Angie Nwaniodi, Director of Policy, National Housing Development Corporation 37

Elizabeth K. Julian 38

John Henneberger, Co-Director, Texas Low Income Housing Information Services..... 39

Alan Greenlee, Director of Partnerships, 1 Economy Group..... 40

Michael Bodaken, Executive Director, National Housing Trust 41

Jonathan P. Hooks, Housing and Community Development Project Lawyers' Committee for Civil Rights Under Law 42



Multifamily Finance Production Division

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

§49.1. PURPOSE, PROGRAM STATEMENT, ALLOCATION GOALS.....	2
§49.2. COORDINATION WITH RURAL AGENCIES.....	2
§49.3. DEFINITIONS.....	2
§49.4. STATE HOUSING CREDIT CEILING.....	10
§49.5. INELIGIBILITY, DISQUALIFICATION AND DEBARMENT, APPLICANT STANDARDS, REPRESENTATION BY FORMER BOARD MEMBER OR OTHER PERSON.....	10
§49.6. SITE AND DEVELOPMENT RESTRICTIONS: FLOODPLAIN, INELIGIBLE BUILDING TYPES, SCATTERED SITE LIMITATIONS, CREDIT AMOUNT, LIMITATIONS ON THE SIZE OF DEVELOPMENTS, REHABILITATION COSTS.	13
§49.7. REGIONAL ALLOCATION FORMULA, SET-ASIDES, REDISTRIBUTION OF CREDITS.	<u>15</u> 14
§49.8. PRE-APPLICATION: SUBMISSION, EVALUATION PROCESS, THRESHOLD CRITERIA AND REVIEW, RESULTS. (2306.6704).....	15
§49.9. APPLICATION: SUBMISSION, ADHERENCE TO OBLIGATIONS, EVALUATION PROCESS, REQUIRED PRE-CERTIFICATION AND ACKNOWLEDGEMENT, THRESHOLD CRITERIA, SELECTION CRITERIA, EVALUATION FACTORS, STAFF RECOMMENDATIONS.	<u>18</u> 17
§49.10 BOARD DECISIONS; WAITING LIST; FORWARD COMMITMENTS.....	<u>55</u> 54
§49.11. REQUIRED APPLICATION NOTIFICATIONS, RECEIPT OF PUBLIC COMMENT, AND MEETINGS WITH APPLICANTS; VIEWING OF PRE-APPLICATIONS AND APPLICATIONS; CONFIDENTIAL INFORMATION.	<u>57</u> 56
§49.12. TAX EXEMPT BOND DEVELOPMENTS: FILING OF APPLICATIONS, APPLICABILITY OF RULES, SUPPORTIVE SERVICES, FINANCIAL FEASIBILITY EVALUATION, SATISFACTION OF REQUIREMENTS.....	<u>58</u> 57
§49.13 COMMITMENT AND DETERMINATION NOTICES; AGREEMENT AND ELECTION STATEMENT.	<u>60</u> 59
§49.14. CARRYOVER, 10% TEST, COMMENCEMENT OF SUBSTANTIAL CONSTRUCTION.....	<u>61</u> 60
§49.15. COST CERTIFICATION, LURA.....	<u>63</u> 62
§49.16. HOUSING CREDIT ALLOCATIONS.	<u>63</u> 62
§49.17 BOARD REEVALUATION, APPEALS; AMENDMENTS, HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS, SALE OF TAX CREDIT PROPERTIES, WITHDRAWALS, CANCELLATIONS.	<u>65</u> 64
§49.18. COMPLIANCE MONITORING AND MATERIAL NON-COMPLIANCE.....	<u>68</u> 67
§49.19. DEPARTMENT RECORDS, APPLICATION LOG, IRS FILINGS.....	<u>71</u> 70
§49.20. PROGRAM FEES, REFUNDS, PUBLIC INFORMATION REQUESTS, AMENDMENTS OF FEES AND NOTIFICATION OF FEES, EXTENSIONS.	<u>72</u> 71
§49.21. MANNER AND PLACE OF FILING ALL REQUIRED DOCUMENTATION.	<u>73</u> 72
§49.22. WAIVER AND AMENDMENT OF RULES.	<u>74</u> 72
§49.23. DEADLINES FOR ALLOCATION OF HOUSING TAX CREDITS. (2306.6724).....	<u>74</u> 73

§50.49.1. Purpose, Program Statement, Allocation Goals.

(a) **Purpose.** 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 Executive Order AWR-92-3 (March 4, 1992), the Department was 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 through 50.49.2324~~ 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, and to promote maximum utilization of the available tax credit amount. 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.

§50.49.2. Coordination with Rural Agencies.

To assure maximum utilization and optimum geographic distribution of tax credits in rural areas, and to achieve increased sharing of information, reduction of processing procedures, and fulfillment of Development compliance requirements in rural areas, the Department has entered into a Memorandum of Understanding (MOU) with the TX-USDA-RHS to coordinate on existing, rehabilitated, 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). 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 which is important to a review and scoring of the Application ~~as and~~ is required under ~~§§50.49.8(d) and 50.49.9(e), (f) and (g)~~ of this title.

(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 at least a 10% ownership interest.

(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.

(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, as defined more fully in the Code, §42(b).

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

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

(i) the current applicable percentage for the month in which the Application is submitted to the Department, or

(ii) 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 50.49.2122~~ of this title. For Tax Exempt Bond Developments this period is that period of time prior to the deadline stated in ~~§50.49.12~~ of this title.

(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 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.

(12) **At-Risk Development** - a Development that:

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

(i) Sections 221(d)(3), (4) and (5), National Housing Act (12 U.S.C. Section 171514);

(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) any project-based assistance authority pursuant to Section 8 of the U.S. Housing Act of 1937;

(vi) Sections 514, 515, 516, and 538 Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); and

(vii) 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, except that a Housing Authority proposing reconstruction of public housing, supplemented with HOPE VI funding or funding from their capital grant fund, will be qualified as an At-Risk Development if it meets the requirements described in ~~§50.49.7(b)(2)(3)~~ of this title. ~~Redevelopment of any type must include the same site as the original development to qualify in this set-aside.~~

(D) With the exception of Housing Authorities proposing reconstruction of public housing, supplemented with HOPE VI funding or funding from their capital grant fund, Developments must be at risk of

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

losing all affordability 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. ~~[(2306.6702)]~~

(13) **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.

(14) **Board** - The governing Board of the Department. ~~[(2306.004)]~~

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

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

(17) **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.

(18) **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.

(19) **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.

(20) **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."

(21) **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).

(22) **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.

(23) **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.

(24) **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).

(25) **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)]~~

(26) **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.

(27) **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 exceed 15% of the Eligible Basis) and any other Person receiving any portion of such fee, whether by subcontract or otherwise.

(28) **Development** - A proposed qualified low income housing project, for new construction or rehabilitation, as defined by the Code, §42(g), 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

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

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

(29) **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.

(30) **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)}~~

(31) **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.

(32) **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.

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

(34) **Executive Award and Review Advisory Committee** ("The Committee") - A Departmental committee that will make funding and commitment 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. ~~{(2306.6702)}~~

(35) **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.

(36) **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."

(37) **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.

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

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

(40) **Historic Development** - A residential Development that has received a historic property designation by a federal, state or local government entity.

(41) **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.

(42) **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.

(43) **Housing Credit Allocation** - An allocation by the Department to a Development Owner of Housing Tax Credit in accordance with the provisions of this title.

(44) **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.

(45) **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)}~~

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

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

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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.

(B) Any Qualified Elderly Development 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 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 new construction, other than a Development (new construction or rehabilitation) composed entirely of single-family dwellings, having any Units with four or more bedrooms.

(F) Any Development that violates the Integrated Housing Policy of the Department.

(G) Any Development involving any new construction of additional Units (other than a Qualified Elderly Development, a single family development or a transitional housing development) in which any of the designs in clauses (i) through (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. 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 60% of the total Units are one bedroom Units; or

(ii) more than 45% of the total Units are two bedroom Units; or

(iii) more than 35% of the total Units are three bedroom Units.

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

(49) **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)]~~

~~(50) **Material Non-Compliance** - As defined in 10 TAC Section 60.1. A property located within the state of Texas will be classified by the Department as being in material non-compliance status if the non-compliance score for such property is equal to or exceeds 30 points in accordance with the provisions of §50.5(b)(3) of this title and under the methodology and point system set forth in Chapter 60 of this title, to be proposed. A property located outside the state of Texas will be classified by the Department as being in Material Non-compliance status if the non-compliance score for such property is equal to or exceeds 30 points in accordance with the provisions of §50.5(b)(4) of this title and under the methodology and point system set forth in Chapter 60 of this title, to be proposed.~~

(51) **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)]~~

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

(53) **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.

(54) **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.

(55) **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 ~~§§50-49.8 and 50-49.2122~~ of this title.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

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

(57) **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 and Special LP and Principals with at least 10% 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.

(58) **Prison Community** - A city or town which is located outside of a Metropolitan Statistical Area (MSA) or Primary Metropolitan Statistical Area (PMSA) and was awarded a state prison within the past five years.

(59) **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.

(60) 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 Section 2306.6702, Texas Government Code: A plan adopted by the board under this subchapter 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 Section 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.

~~(60) Qualified Allocation Plan (QAP) — [(2306.6702)] A plan adopted by the Board, and approved by the Governor, under this title, and as provided in the Code, § 42(m)(1) and as further provided in §§50.49.1 through 50.49.24 of this title, that:~~

~~(A) provides the threshold and scoring, and underwriting process based on housing priorities of the Department that are appropriate to local conditions; and~~

~~(B) consistent with 2306.6710(e), Texas Government Code, gives preference in Housing Credit Allocations to Developments that, as compared to 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 Housing Tax Credit Program; and~~

~~(C) provides a procedure for the Department, the Department's agent, or private contractor of the Department to use in monitoring compliance with the Qualified Allocation Plan, notifying the IRS of noncompliance, and monitoring for noncompliance with habitability standards through regular site visits.~~

(61) **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).

(62) **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).

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(63) **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)).

(64) **Qualified Market Analyst** - A real estate appraiser certified or licensed by the Texas Appraiser or Licensing and Certification Board or 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.

(65) **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~~ ~~Set-Aside~~.

(66) **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)}~~

(67) **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.

(68) **Related Party** - As defined,

(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;

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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.

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.

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

(70) **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 area that is eligible for new construction or rehabilitation funding by TX-USDA-RHS. ~~[(2306.6702)]~~

(71) **Rural Development** - A Development located within a Rural Area and for which the Applicant applies for tax credits under the Rural Regional Allocation.

(72) **Selection Criteria** - Criteria used to determine housing priorities of the State under the Housing Tax Credit Program as specifically defined in ~~§50-49.9(g)~~ of this title.

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

(74) **State Housing Credit Ceiling** - The limitation imposed by the Code, §42(h), 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).

(75) **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."

(76) **Tax Exempt Bond Development** - A Development 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.

(77) **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.

(78) **Threshold Criteria** - Criteria used to determine whether the Development satisfies the minimum level of acceptability for consideration as specifically defined in ~~§50-49.9(f)~~ of this title. ~~[(2306.6702)]~~

(79) **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.

(80) **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.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(81) **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. ~~[(2306.6702)]~~

(82) **Urban/Exurban Area**- An incorporated place or census designated place with:

- (A) a population greater than 20,000; or
- (B) of any population size that shares a boundary with an incorporated place or census designated place with a population greater than 20,000 in an MSA; and
- (C) that does not meet the qualifications for a Rural Area as defined in paragraph 70(C) of this section.

~~§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. 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, Applicant Standards, Representation by Former Board Member or Other Person.**

(a) **Ineligibility.** An Application will be 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,

(2) The Applicant, Development Owner, Developer or Guarantor has been convicted of a state or federal crime involving fraud, bribery, theft, misrepresentations of material facts, 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 on or before the close of the Application Acceptance Period. 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 is unresolved as of the date the Application is submitted; or

(5) ~~[(2306.6703 as amended)]~~ 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)]~~ 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, if located outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax Exempt Bond Developments at the time the reservation is made by the Texas Bond Review Board) unless the Applicant:

(A) has obtained prior approval of the Development from the governing body of the appropriate municipality or county containing the Development in the form of a resolution; and

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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) must be received by the Department no later than April 1, 2005 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be considered); or

(8) The Applicant proposes to construct a new Development that is located one linear mile (measured by a straight line on a map) or less from a Development that:

(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;

(B) has received an allocation of Housing Tax Credits (including Tax Exempt Bond Developments) for 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) through (C) of this paragraph. For purposes of this clause, evidence of the local government vote must be received by the Department no later than April 1, 2005 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed). ~~{(2306.6703)}~~

(E) In determining the age of an existing development as it relates to the application of the three-year period, the development will be considered from the date the Board took action on approving the allocation of tax credits. For example, a Development whose credits were approved by the Board on March 15, 2002, could not have a new Development located within one mile until March 16, 2005. In dealing with ties between two or more Developments as it relates to this rule, refer to ~~§50.49.9(h)~~.

(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.

(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~~ these issues identified in ~~the paragraphs (1) through (6)~~ of this subsection exist. The Department shall debar a Person for no shorter period than the longer of, one year from the date of debarment, or until the violation causing the debarment has been remedied. If the Department determines the facts warrant it, a Person may be debarred for up to fifteen years. Causes for disqualification and debarment include: {(2306.6721)}

(1) The provision of fraudulent information, knowingly false 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) 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, the deputy executive director for programs, the deputy executive director for housing operations, the director of multifamily finance production, the director of portfolio management and compliance or the director of real estate analysis employed by the Department.~~

~~(23) The Applicant, Development Owner, Developer or Guarantor or anyone that has 10% or more 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/funded by the Department is in Material Non-Compliance 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 10 TAC Section 60.1; or on the date the Application Round closes or upon the date of filing Volume I of the Application for a Tax Exempt Bond Development, and such Material Noncompliance is not corrected as provided herein. Any~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~corrective action documentation affecting the Material Non-Compliance status score for Applicants competing in the 2004 Application Round must be received by the Department no later than 30 days prior to the close of the Application Acceptance Period, and any corrective action documentation affecting the Material Non-Compliance status score for Applicants with a Tax Exempt Bond Development must be received by the Department no later than 30 days prior to the submission of Volumes I and II. The Department may take into consideration the representations of the Applicant regarding compliance violations described in §50.9(f)(9)(C) and (D) of this title; however, the records of the Department are Controlling; or,~~

~~(34) The Applicant, Development Owner, Developer or Guarantor or anyone that has 10% or more 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 Non-Compliance with the LURA or the program rules in effect for such tax credit property as further described in 10 TAC Section 60.1; or as reported on the Uniform Application Previous Participation Certification and/or as determined by the state regulatory authority for such state and such non-compliance is determined to be Material Non-Compliance by the Department using methodology as set forth in Chapter 60 of this title, to be proposed; 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 after the due date has passed, as further described in ~~§50.49.2024~~ 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, the Development Owner, or the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of the Development, or 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, or in another capacity on behalf of the Development, communicates with any Board member with respect to the Development during the period of time starting with the time beginning on the date an Application is filed submitted until the and ending on the date time 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 Section 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 §49.17(c)(8) of this title.~~

~~(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~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(6) the Development will be undertaken outside the authority granted by this chapter to the Department and the Development Owner. (See 2306.223, Texas Government Code).

(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 an offense if the Person violates this section. An offense under this section is a Class A misdemeanor. (See 2306.6733, Texas Government Code).

(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) through ~~(e)(4)~~ of this section will ~~first~~ be notified in accordance with the Administrative Deficiency process described in ~~§50-49.9(d)(4)(3)~~ of this title. They may also utilize the appeals process described in ~~§50-49.1748(b)~~ of this title.

§50-49.6. Site and Development Restrictions: Floodplain, Ineligible Building Types, Scattered Site Limitations, Credit Amount, Limitations on the Size of Developments, Rehabilitation Costs.

(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/developments that are part of a Development proposing rehabilitation, with the exception of 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(47)~~ of this title will not be considered for allocation of tax credits.

(c) **Scattered Site Limitations.** Consistent with ~~§50-49.3(28)~~ 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 2005 calendar year, including commitments from the 2005 Credit Ceiling and forward commitments from the 2006

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

Credit Ceiling, are applied to the credit cap limitation for the 2005 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 ~~9676~~ Units or less. 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 new construction will be limited to 76 Units, unless the Market Analysis clearly documents that larger developments are consistent with the comparables in the community and that there is significant demand for additional Units.~~ Rural Developments involving only rehabilitation do not have a size limitation.

(3) Developments involving new construction, that are not Tax Exempt Bond Developments, will be limited to ~~252~~ 250 Total Units, wherein the maximum ~~Department administered/rent restricted~~ Units will be limited to 200 Units. Tax Exempt Bond Developments will be limited to ~~252~~ 250 Total 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 restrictions. For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is 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 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 ~~2004-2005~~ 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." ~~For Tax Exempt Bond Developments, the year of the Development is the calendar year in which the Board approves the housing tax credits for the Development. In dealing with ties between two or more Developments as it relates to this rule, refer to §50.9(h). {(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)}

(g) Rehabilitation Costs. Rehabilitation Developments must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least \$6,000 per Unit in direct hard costs.

(h) Unacceptable Sites. Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.

§50-49.7. Regional Allocation Formula, Set-Asides, Redistribution of Credits.

(a) **Regional Allocation Formula.** ~~{(2306.111(d))}~~ As required by 2306.111, 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 ~~in the Texas Register and~~ 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 or be located in a Prison Community. Approximately 5% of each region's allocation for each calendar year shall be allocated to Developments which are financed through TX-USDA-RHS and that meet the definition of a Rural Development and do not exceed 76 Units if new construction. 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 Housing Tax Credits issued by the Board in 2004 will be applied to each Set-Aside, Rural Regional Allocation, Urban/Exurban Regional Allocation and TX-USDA-RHS Allocation for the 2005 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(12) of this title, ~~and in both urban/exurban and rural communities in approximate proportion to the housing needs of each Uniform State Service Region.~~ ~~{(2306.6714)}~~. A Housing Authority proposing reconstruction of public housing supplemented with HOPE VI funding or capital grant funds will be eligible to participate in this set-aside. In order to qualify for this set-aside, the housing authority providing the HOPE VI funding must provide evidence that it received a HOPE VI grant from HUD and made a commitment that HOPE VI funds will be provided to the Development. To qualify as an At-Risk Development, the Applicant (with the exception of housing authorities with HOPE VI or capital grant funds) 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(12)(A) of this title, or provide evidence that it will renew, retain or preserve the financial benefit described in §50-49.3(12)(A) of this title.

(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)(e)~~ of this title and 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-Application: Submission, Evaluation Process, Threshold Criteria and Review, Results. (2306.6704)

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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 ~~§50.49.2021~~ 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, ~~and if requested by the Applicant, evaluated in regard to the inclusive capture rate as restricted under §1.32(g)(2) of this title.~~ Any Application from a TX-USDA-RHS 515 Development (including new construction and only for rehabilitation) is exempted from the Pre-Application Evaluation Process and will automatically receive the Pre-Application points further outlined in Section 49.9(g) of this title. ~~is not eligible to receive points for submission of a Pre-Application.~~ 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 §49.9(g) 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)(43)~~ 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 Total Self-Scoring Form," and

(2) Evidence of site control through March 1, 2005 as evidenced by the documentation required under ~~§50.49.9(f)(7)(A)~~ of this title.

~~(3) Consistent with §50.49.9(f)(8)(B) of this title, e~~Evidence that all of the notifications required under this paragraph that section have been made. Notifications under clause (B)(i) must be made by the deadlines described in that clause; notifications under clauses (B)(ii) through (ix) 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 (A) of this paragraph to all of the individuals and entities identified in subparagraph (B) of this paragraph. Evidence of such notifications shall include a copy of the exact letter and other materials that were sent to the individual or entity, a sworn certified affidavit stating that they made the notifications prior to the deadlines and a copy of the entire mailing list (which includes the names and addresses) of all of the recipients. (2306.6705) (2306.6704)

(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, transitional, elderly) ;

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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.

(B) 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) Notification to Local Elected Officials for Neighborhood Organization Input. 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 January 15, 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 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 officials, 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 letter from the local elected official whose boundaries include the proposed Development whose listed address has the same zip code as the zip code for the Development must be provided with written notification, and evidence of that 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 those 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 Development site must be provided with written notification, and evidence of that notification must be provided. If the Applicant can provide evidence that the proposed Development is not located within the boundaries of an entity on a list from the local elected officials, then such evidence in lieu of notification may be acceptable. If no reply letter is received from the local elected officials by February 25, 2005, (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. The Applicant must also certify that any organizations in a response letter that are not notified do not contain the proposed Development site within their boundaries. In the event that local elected officials refer the Applicant to another source, the Applicant must also notify that source and request the same information. 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.

(e) Pre-Application Results. Only Pre-Applications which have satisfied all of the Pre-Application Threshold Criteria requirements set forth in subsection (ed) of this section and ~~§50-49.9(g)(10-17)~~ 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, Adherence to Obligations, Evaluation Process, Required Pre-Certification and Acknowledgement, Threshold Criteria, Selection Criteria, Evaluation 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 §50.49.2024 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. A complete Application may be submitted at any time during the Application Acceptance Period, and is not limited to submission after the close of the Pre-Application Cycle. 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 both 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 to the by amendment of an Application after a commitment or allocation of tax credits as further described in §50.49.1748 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) through (3) of this subsection. §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)

~~(b) Communication with the Department.~~ Applicants that submit a Pre-Application or Application are restricted from communication with Department staff as described in this subsection. The Applicant or a Related Party, the Development Owner, or the General Contractor, or any Affiliate of the General Contractor, that is active in the ownership or Control of the Development, or individual employed as a lobbyist or in another capacity on behalf of the Development, may communicate with an employee of the Department with respect to the Development so long as that communication satisfies the conditions established under paragraphs (1) through (5) of this subsection. §50.5(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;~~

~~(3) Communication with the Executive Director, the Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Single Family Finance Production, the Director of Portfolio~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

Management and Compliance, and the Director of Real Estate Analysis of the Department must only be in written form which includes electronic communication through the Internet; and

~~(4) Communication with other Department staff may be oral or in written form which includes electronic communication through the Internet; and~~

~~(5) 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)] 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, in accordance with the LURA. To protect the integrity of the Department's processes and decisions, evidence of false statements or misrepresentations from applicant representatives, neighborhood representatives, or other persons will be considered for appropriate action, including terminating the Application, rejecting neighborhood organization letters for scoring, and possible referral to local district and county attorneys.

(d) **Evaluation Process.** Applications 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 §49.5(b)(2); Applicants will be promptly notified in these instances.

~~(1) **Threshold Criteria Review.** Applications will be initially evaluated against the Threshold Criteria. Applications not meeting Threshold Criteria will be terminated, unless the Department determines that the failure to meet the Threshold Criteria is the result of Administrative Deficiencies, in which event the Applicant may be given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria will be rejected and the Applicant will be provided a written notice to the effect that the Threshold Criteria have not been met. 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.~~

~~(2) **Eligibility and Selection Criteria Review.** All Applications will first be reviewed as described in this paragraph. Applications will be confirmed for eligibility under §§49.5 and 49.6 of this chapter and Set-Aside eligibility will be confirmed. For an Application to be considered under the Selection Criteria, the Applicant must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then~~ Then, each Application will be preliminarily scored and ranked according to the Selection Criteria listed in subsection (g) of this section. ~~When~~ re 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. Applications not scored by the Department's staff shall be deemed to have the points allocated through self-scoring by the Applicants until actually scored. This shall apply only for purposes of releasing the Submission Log in ranked order by score.

~~(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 Threshold Criteria during the Application Round.~~

~~(3) **Threshold Criteria Review.** Applications that are designated as "priority" from the Priority Review Assessment will be evaluated in detail against the Threshold Criteria. Applications not meeting Threshold Criteria will be terminated, unless the Department determines that the failure to meet the Threshold Criteria is the result of Administrative Deficiencies, in which event the Applicant may be given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria 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)(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. Because the review for Eligibility and Selection, and Threshold Criteria may occur separately, Administrative Deficiency requests may be made several times. 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. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within eight business days of the deficiency notice date, then 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 ten 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.

~~(5)(4)~~ Subsequent Evaluation of Prioritized Applications. After the Application is scored under the Selection Criteria, 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. Assignments will be determined by first selecting the Applications with the highest scores in the ~~Nonprofit Set-Aside statewide. Then selection will be made for the Applications with the highest scores in the At-Risk Set-Aside and TX-USDA-RHS Allocation Set-Asides~~ within each Uniform State Service Region. Remaining funds within each Uniform State Service Region will then be selected based on the highest scoring Developments, regardless of Set-Aside, in accordance with the requirements under ~~§50-49.7(a)~~ of this title for a Rural Regional Allocation and Urban/Exurban Regional Allocation. 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 §49.7(c) Redistribution of Credits. ~~will go to the Urban/Exurban Regional Allocation for that region and will not be shifted to Rural Developments in another region.~~ 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. Receipt of feasibility points under ~~§50-49.9(g)(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(g)(1)~~ of this title. ~~{2306.6711(b); 2306.6710(d)}~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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. 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.

~~(76)~~ Compliance Evaluation. 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 ~~of all members of the ownership structure~~ by the Department's Portfolio Management and Compliance Division, in accordance with Chapter 60 of this title.

~~(87)~~ 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) ~~Required~~ Pre-Certification and Acknowledgement Procedures. No later than 147 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 and acknowledgement. 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 documents in this section must be submitted with the Application.

(1) Experience Certificate. Upon receipt of the evidence required under this paragraph, 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.

(A) The term "successfully" is defined as acting in a capacity as the owner, General Partner, or Developer of:

- (i) at least 100 residential units; or
- (ii) at least 36 residential units if the Development applying for credits is a Rural Development;

or

(iii) at least 25 residential units if the Development applying for credits has 36 or fewer total Units.

(B) One 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, 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:

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(i) that the Development has been completed (i.e. Development Agreements, Partnership Agreements, etc. must be accompanied by certificates of completion.);

(ii) 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

(iii) the number of units completed or substantially completed.

(2) Financial Statement and Authorization to Release Credit Information. At the option of the Applicant, financial statements may be pre-submitted and a Department acknowledgement of receipt substituted for the financials in the subsequent Application. Upon receipt of the evidence required under this paragraph, an acknowledgement from the Department will be provided to the Applicant for inclusion in their Application(s). The acknowledgement will not constitute acceptance by the Department that financial statements provided are acceptable in any manner but only acknowledge their receipt. Applicants that do not opt to pre-submit financial statements and authorization to release credit information must provide a full submission in accordance with this paragraph at the time of application. 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 10% or more 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) The Financial statements for an individual must not be older than 90 days from the date of Application submission.

(B) Financial statements for If submitting partnerships or corporate entities should be financials in addition to the statements of individuals, the certified financial statements, or audited financial statements, if available, should be for the most recent fiscal year ended 90 days prior to the date of Application submission. day the documentation is submitted. An audited financial statement should be provided, if available, and all partnership or corporate financials must be certified. This document is 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.

(3) Previous Participation. Upon receipt of the evidence required under this paragraph, an acknowledgement from the Portfolio Management and Compliance Division will be provided to the Applicant for inclusion in their Application(s). A completed and executed "Previous Participation and Background Certification Form" as provided in the Application must be provided for the Applicant, Development Owner, Developer and Guarantor and each entity shown on an organizational chart as described in subsection (f)(9)(A) of this section that has 10% or more ownership interest in the Development Owner, 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. Any Person receiving more than 10% of the Developer fee will also be required to submit documents for this exhibit. The 2004-2005 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.

(4) National Previous Participation. Upon receipt of the evidence required under this paragraph, an acknowledgement from the Portfolio Management and Compliance Division will be provided to the Applicant for inclusion in their Application(s). If the Applicant, Development Owner or any of its Affiliates, Developer and Guarantor or any entity shown on the organizational chart described in subsection (f)(9)(A) of this section that have 10% or more ownership interest in the Development Owner have, or have 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, then evidence must be submitted that such Persons have sent the "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. Evidence of such notification shall be a copy of the form sent to

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

the agency and proof of delivery in the form of a certified mail receipt, overnight mail receipt, or confirmation letter from the agency.

(f) **Threshold Criteria.** The following Threshold Criteria listed in ~~paragraphs (1) through (15)~~ of 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 ~~(Volume 2)~~ 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 this title. The Applicant must certify that they will satisfy at least the minimum point threshold for amenities as further described in §50.9(g)(7)(D). 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 complete this exhibit. ~~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.~~ 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 double points for each item. Applications for scattered site housing, including new construction, rehabilitation, and single-family design, will have the threshold test applied based on the number of Units per individual site. Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §49.17(c) 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 rehabilitation and 1 point is required 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 40 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 more than 200, 18 points are required to meet Threshold.

(ii) Amenities for selection include those items listed in subclauses (I) through (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 §49.9(f)(4)(D) 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 with controlled gate access (3 points);

(II) Full perimeter fencing without controlled gate access (2 points);

(III) Gazebo w/sitting area (1 point);

(IV) Accessible walking path (1 point);

(V) Community gardens (1 point);

(VI) Community laundry room (1 point);

(VII) Public telephone(s) available to tenants 24 hours a day (2 points);

(VIII) Barbecue grills and picnic tables - at least one for every 50 Units (1 point);

(IX) Covered pavilion that includes barbecue grills and tables (2 points);

(X) Swimming pool (3 points);

(XI) Furnished fitness center (2 points);

(XII) Equipped Business Center (computer and fax machine) or Equipped Computer Learning Center (2 points);

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

- (XIII) Furnished Community room (1 point);
- (XIV) Library (separate from the community room) (1 point);
- (XV) Enclosed sun porch or covered community porch/patio (2 points);
- (XVI) Service coordinator office in addition to leasing offices (1 point);
- (XVII) Senior Activity Room (Arts and Crafts, etc.) - Only Qualified Elderly Developments

Eligible (2 points):

- (XVIII) Health Screening Room (1 point);
- (XIX) Secured Entry (elevator buildings only) - (1 point);
- (XX) Horseshoe, Putting Green or Shuffleboard Court - Only Qualified Elderly Developments

Eligible (1 point):

- (XXI) Community Dining Room w/full or warming kitchen - Only Qualified Elderly

Developments Eligible (3 points):

(XXII) Two Children's Playgrounds 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 complete this exhibit. 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/rehabilitated with three networks: One network installed for phone using CAT5e or better wiring; a second network for data installed using CAT5e or better wiring, networked from the Unit back to a central location; and a third network for TV services using COAX cable. Computer line/phone jack available in all bedrooms (only one phone line needed);

(ii) Mini 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; and

(viii) be designed in accordance with International Building Code.

(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 at a minimum to the most recent version of the International Building Code, s or other locally adopted building codes.

(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.); and 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(a)(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 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 A certification that the Development will comply with the accessibility standards that are described ~~in required under~~ Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8,

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

Subpart C. 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. Additionally, in Developments involving new construction 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 in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. For Developments involving rehabilitation, the Applicant's architect must determine if, consistent with 24 C.F.R. § 8.23(a) concerning "Substantial alteration," the Development is required to adhere to 24 C.F.R. § 8.22 concerning new construction. If the Applicant's architect determines that the Development's rehabilitation will involve "Other alterations," within the meaning of 24 C.F.R. §8.23(b), the Applicant must provide the Department with a written explanation of why the Development does not come within 24 C.F.R. §8.23(a) on "Substantial alteration." Further, if the Applicant's architect determines that the rehabilitation is not "Substantial alteration" the Applicant must provide the Department with documentation of costs (consistent with paragraph (6) of this section) under two scenarios: one in which 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 and an additional two percent of the total dwelling Units, or at least one Unit, whichever is greater, shall be made accessible for individuals with hearing or vision impairments; and one which does not provide this level of rehabilitation. The Department will determine if this level of rehabilitation places an undue financial burden on the Applicant. No such burden shall exist if, after including the costs of rehabilitation, the Department finds the development to be financially feasible under established rules. If the Department determines that this level of rehabilitation does not place an undue financial burden on the Applicant, the Applicant will be required to provide these Units. At the time the 10% Test Documentation is submitted, construction loan closing, a certification from an accredited architect or Department-approved third party accessibility specialist, will be required stating that the Development was designed in conformance with these standards and that all features have been or will be installed to make the Unit accessible for individuals with mobility impairments ~~and~~ individuals with hearing or vision impairments. A similar certification will also be required after the Development is completed. ~~This requirement applies to all Developments including new construction and rehabilitation.~~ Any Developments designed as single family structures must also satisfy the requirements of 2306.514, Texas Government Code. ~~{(2306.6722 and 2306.6730)}~~

(G) A certification that the Development will adhere to the ~~20032000~~ International Energy Conservation Code (IECC) ~~and the Department's Minimum Standard Energy Saving Devices~~ in the construction of each tax credit Unit, unless historic preservation codes permit otherwise for a Development involving historic preservation, notwithstanding. Minimum Standard Energy Saving Measures are identified in clauses (i) through (v) of this subparagraph. All Units must be air-conditioned or utilize evaporative coolers. The measures must be certified by the Development architect as being included in the design of each tax credit Unit ~~prior to~~ at the time the 10% Test Documentation is submitted closing of the construction loan and in actual construction upon Cost Certification. ~~{(2306.6725(b))}~~

~~(i) Insulation values must meet the 2000 International Energy Conservation Code (IECC) for the region in which the development is located. Developments must also include soffit and ridge vents and insulated windows;~~

~~(ii) If newly installed, Energy Star or equivalently rated air handler and condenser; or heating and cooling systems with minimum SEER 12 A/C and 90% AFUE furnace if using gas; or in dry climates an evaporative cooling system may replace the Energy Star cooling system;~~

~~(iii) Water heaters to have an energy factor no less than .93 for electric or greater than .62 for gas;~~

~~(iv) Maximum 2.5 gallon/minute showerheads and maximum 1.5 gallon/minute faucet aerators;~~
and

~~(v) Installation of ceiling fans in living room and each sleeping room.~~

(H) A certification that the Development will be built by a General Contractor that satisfies the requirements of the General Appropriation Act, Article VII, Rider 7(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.

(I) A certification that the Development Owner agrees to establish a reserve account consistent with 2306.186 Texas Government Code and as further described in ~~Chapter Section 1.3760~~ of this title. ~~{(Section 2306.186)}~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(5) Design Items. This exhibit will provide:

(A) All of the architectural drawings identified in clauses (i) through (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) through (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;

~~(ii) floor plans for each type of residential building and each type of common area building;~~

(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. For purposes of completing the Rent Schedule for loft or studio type Units (which still must meet the definition of Bedroom), a Unit with 650 square feet or less is considered not more than a one-bedroom Unit, a Unit with 651 to 900 square feet is considered not more than a two-bedroom Unit and a Unit with greater than 900 square feet is considered not more than a three-bedroom Unit; 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.

~~(C) Rehabilitation Developments must submit photographs of the existing signage, typical building elevations and interiors, existing Development amenities, and site work. These photos should clearly document the typical areas and building components which exemplify the need for rehabilitation.~~

(6) Evidence of the Development's development costs and corresponding credit request and syndication information as described in subparagraphs (A) through (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), 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 performed in accordance with §1.36 of this title, Property Condition Assessment Guidelines. For Developments receiving financing from TX-USDA-RHS, a copy of the ~~Housing Quality Standards Checklist~~ prepared by TX-USDA-RHS may be submitted in lieu of the Property Condition Assessment. The Property Condition Assessment may be submitted as a Supplemental Threshold Report consistent with the timelines and submission documentation requirements identified in paragraph (14)(D) of this subsection.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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) through (D) of this paragraph:

(A) Evidence of site control in the name of 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 individual Persons who are members of the ownership entity of the seller of the proposed site must be identified at the time of Application (not required at Pre-Application). One of the following items described in clauses (i) through (iii) of this subparagraph must be provided:

(i) a recorded warranty deed; or

(ii) a contract for sale or 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 or at least 90 days, whichever is greater; or~~

(iii) 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; ~~or at least 90 days, whichever is greater.~~

(iv) As described in clauses (ii) and (iii), site 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) through (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(a)(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. ~~No later than April 1, 2004 (or for Tax Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed), 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 it will recommend approval of appropriate zoning to the entity responsible for final approval of zoning decisions (city council or county commission). If this evidence is not provided on or before April 1, 2004, the Application will be terminated.~~ 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) through (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.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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. 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) through (iv) of this subparagraph:

(i) bona fide financing in place as evidenced by a valid and binding loan agreement and a deed(s) of trust in the name of the Development Owner and/or expressly allows the transfer to the Development Owner; 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. At a minimum, evidence from the lending agency that an application for funding has been made and 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. 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. If the commitment from the other funding source 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 will be rescinded. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will be reevaluated for financial feasibility; if determined to be feasible the Department may proceed with an allocation recommendation; or

(iv) if the Development will be financed through 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) of this subparagraph and either of the documents described in clauses (ii) and (iii) of this subparagraph, and satisfying the requirements of clause (iv) of this subparagraph, if applicable:

(i) a copy of the full legal description

(ii) a copy of 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

(iii) a copy of a current title commitment with the proposed insured matching exactly the name of the Development Owner and the title of the land/Development vested in the exact name of the seller or lessor as indicated on the sales contract or lease.

(iv) if the title policy or title 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 of all of the notifications described in ~~the~~ subparagraphs (A) through (E) of this paragraph. Such notices must be prepared in accordance with the "Public Notifications" statement provided in the Application.

~~(A) A copy of the public notice published in the most widely circulated newspaper in the area in which the proposed Development will be located. The newspaper must be intended for the general population and may not be a business newspaper or other specialized publication. Such notice must run at least twice within a thirty day period. Such notice must be published prior to the submission of the Application to the Department and can not be older than three months from the first day of the Application Acceptance Period. In communities located within a Metropolitan Statistical Area the notice must be published in the newspapers of both the~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~Development community and the Metropolitan Statistical Area, unless the local newspaper of the Development community is published at least five times a week in which case the notice need only be published in the local newspaper of the Development community. Developments that involve rehabilitation and which are already serving low income residents are not required to publish this notice or provide this exhibit.~~

~~(AB) Evidence of notification meeting the requirements identified in clause (i) of this subparagraph to all of the individuals and entities identified in clause (ii) of this subparagraph. Evidence of such 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 required notifications prior to the deadlines and a copy of the entire mailing list (which includes the names and addresses) of all of the recipients. ~~and proof of delivery in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. Proof of notification must not be older than three months from the first day of the Application Acceptance Period.~~ ~~[(2306.6704)] 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 as a result of a deficiency that reflects a total Unit increase of greater than 10%, an increase of greater than 10% for any given level of AMGI, or a change to the population being served (elderly, family or transitional). 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.), notification and proof thereof must not be older than 30 days prior to the date the Application is submitted.~~~~

(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, transitional, 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.

(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) Notification to Local Elected Officials for Neighborhood Organization Input. City and County Clerks and Neighborhood Organizations.~~ 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-Clerk Notification" as outlined in the Application was sent no later than January 15, ~~2004-2005~~ to the local elected official city clerk and county clerk for the city or if located outside of a city, then the and 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 officials, 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 city and county clerks must be provided. For urban/exurban areas, ~~all~~ entities identified in the letters from the local elected official whose boundaries include the proposed Development city and county clerks whose listed address has the same zip code as the zip code for the Development must be provided with written notification, and evidence of that 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 ~~from the city and county clerks~~ with those 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 ~~from the city and county clerks~~ whose listed address is within a half mile of the Development site must be provided with written notification, and evidence of that notification must be provided. If the Applicant can provide evidence that the

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

proposed Development is not located within the boundaries of an entity on a list from the local elected officials clerk(s), then such evidence in lieu of notification may be acceptable. If no reply letter is received from the local elected officials city or county clerk by February 25, 2004, (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. The Applicant must also certify that any organizations in a response letter that are not notified do not contain the proposed Development site within their boundaries. In the event that local elected officials refer the Applicant to another source, the Applicant must also notify that source and request the same information. 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;

Development;

(III) Presiding officer of the board of trustees of the school district containing the

Development;

(IV) ~~Mayor Presiding officer~~ of the governing body of any municipality containing the

Development;

(V) All elected members of the governing body of any municipality containing the

(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.

(BC) Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development site prior to the date the Application is submitted. For Tax Exempt Bond Developments the sign must be installed no later than 14 days after the Department's receipt of Volumes I and II. 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, the Applicant must ensure that the date, time and location of the TEFRA hearing are indicated on the sign. 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. 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.

(CD) 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 post a copy of the public notice in a prominent location at the Development throughout the period of time the Application is under review by the Department. A photograph of this posted notice must be provided with this exhibit. When the and let the tenants know of the Department's public hearing schedule for comment on submitted Applications, becomes available, a copy of the schedule must also be posted until such hearings are completed. Compliance with these requirements shall be confirmed during the Department's site inspection.

(E) ~~The Development Owner shall certify to the Department that it shall consider as potential tenants holders of Section 8 vouchers or certificates or other tenants based rental assistance programs.~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(9) Evidence of the Development's proposed ownership structure and the Applicant's previous experience as described in subparagraphs (A) through (E) 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.

(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 10% or more 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:-

~~(I) a certificate of reservation of the entity name from the Texas Secretary of State or from the state in which the entity is to be formed if different from Texas; and~~

~~(II) executed letter(s) of intent to organize signed by a representative of each organization that is a party to the proposal or a copy of the draft organizational documents for the entity to be formed including Articles of Incorporation, Articles of Organization or Partnership Agreement with a signed notation from a representative of each organization acknowledging intent to organize.~~

(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.-

~~(I) 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; and~~

~~(II) for entities formed in a state other than Texas a certificate of authority to do business in Texas or an application for a certificate of authority,~~

~~(III) 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.~~

~~(iii) the Applicant must provide 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. A cover sheet must be placed before the copy of the organizational documents, identifying the relevant document(s) where the evidence of authority to sign is to be found and specifying exactly where the applicable information exists within all relevant documents by page number or by section and subsection if the pages are not numbered.~~

(C) Evidence that each entity shown on an the organizational chart described in subparagraph (A) of this paragraph that has 10% or more 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. Evidence must be a certification from the Department for each of those Persons required to submit these documents as further described under ~~§50.49.9~~(e)(3) of this title. Applicants must request this certification at least ~~seven~~fourteen days prior to the close of the Application Acceptance Period. Applicants must ensure that the Person whose name is on the certification is the appropriate Person appearing in the organizational chart provided in subparagraph (A) of this paragraph.

(D) Evidence that, if the Development Owner or any of its Affiliates shown on the organizational chart described in subparagraph (A) of this paragraph that have 10% or more ownership interest in the Development Owner have, or have 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 Department. Evidence must be a certification from the Department for each of those Persons required to submit these documents as further described under ~~§50.49.9~~(e)(4) of this title. Applicants must request this certification at least ~~seven~~fourteen days prior to the close of the Application Acceptance Period. Applicants must ensure that the Person whose name is on the certification is the appropriate Person appearing in the organizational chart provided in subparagraph (A) of this paragraph.

(E) 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 (e)(1) of this section. Applicants must request this certification at least ~~seven~~fourteen days prior to the close of the Application

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

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) through (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 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) through (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) 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; 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) through (vi) 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

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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 being the sole General Partner; and otherwise meet the requirements of the Code, §42(h)(5);

(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.

(vi) 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 area; or

(II) not more than 90 miles from the Development, if the Development is not located in a rural area.

(12) Applicants applying for acquisition credits, or Applicants and Development Team members affiliated with the seller that are asking for the land value to be an amount greater than the acquisition cost indicated in the original purchase contract, that will be evaluated in accordance with §1.32(e)(4) of this title, and must provide all of the documentation described in subparagraphs (A) through (C) of this paragraph. Applicants applying for acquisition credits must also provide the items described in subparagraph (D) of this paragraph and as provided in the Application.

(A) an appraisal, not more than 6 months old as of the first day of the Application Acceptance Period, which complies with the Uniform Standards of Professional Appraisal Practice and §1.34 of this title, the Department's Market Analysis and Appraisal Policy. For Developments which require an appraisal from TX-USDA-RHS, the appraisal may be more than 6 months old, but not more than 12 months old as of the day the Application Acceptance Period closes and may be provided from as long as TX-USDA-RHS has confirmed in writing that the existing appraisal is still acceptable. The appraisal may be submitted as a Supplemental Threshold Report consistent with the timelines and submission documentation requirements identified in paragraph (14)(D) of this subsection. This appraisal of the property must separately state the as-is, pre-acquisition or transfer value of the land and the improvements where applicable;

(B) a current valuation report from the county tax appraisal district;

(C) clear identification of the selling Persons, and any owner of the property within the last 36 months prior to the first day of the Application Acceptance Period, and details of any relationship between the sellersaid selling Persons and owners and the Applicant, Developer, Property Manager, General Contractor, or any Affiliation with the Applicant or the Development Owner, Qualified Market Analyst, or any other professional or other consultant performing services with respect to the Development. If any such relationship exists, complete disclosure and documentation of the seller's original acquisition and holding and improvement costs since acquisition, and any and all exit taxes, to justify the proposed sales price must also the following documents must be provided:-

(i) documentation of the original acquisition cost, such as a settlement statement;

(ii) any other verifiable costs of owning, holding, or improving the property that when added to the value from clause (i) of this subparagraph justifies the Applicant's proposed acquisition amount:

(I) 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;

(II) 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 the cost of exit taxes not to exceed an amount necessary to allow the sellers to be indifferent to foreclosure or breakeven transfer; and

(D) "Acquisition of Existing Buildings Form."

(13) Evidence of an "Acknowledgement of Receipt of Financial Statement and Authorization to Release Credit Information" must be provided for any Person that has 10% or more ownership interest in the Development Owner or General Partner, the Developer, or Guarantor, as required under §50.49.9(e)(2) of this title. 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 in lieu of submitting the Acknowledgement.

(14) Supplemental Threshold Reports. Documents under subparagraph (A) and (B) of this paragraph must be submitted as further stated in subparagraph (C) and (D) of this paragraph and in accordance with the Market

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

Analysis Rules and Guidelines and Environmental Site Assessment Rules and Guidelines, §§1.33 and 1.35 of this title.

(A) A Phase I Environmental Site Assessment (ESA) on the subject Property, 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 no older than at least 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; The ESA must be prepared in accordance with the Department Environmental Site Assessment Rules and Guidelines. 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 prepared at the Applicant's expense by a disinterested 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. In addition to the document submitted in paper form, an electronic version must also be submitted. The Market Analysis must be prepared in accordance with the methodology prescribed in the Market Analysis Rules and Guidelines, §1.33 of this title. In the event that a Market Analysis on the Development is older than 6 months as of 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. The Market Analysis should be prepared for and addressed to the Department. For Applications in the TX-USDA-RHS Set-Aside, the appraisal, required under paragraph (12)(A) of this subsection, will satisfy the requirement for a Market Analysis; no additional Market Analysis is required; however the Department may request additional information as needed. ~~{(2306.67055 as added Section 21 of 2306)}~~ ~~{(\$42(m)(1))}~~

(i) The Department may determine from time to time that information not required in the Department Market Analysis and Appraisal 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 Qualified Market Analyst to meet this need.

(ii) All Applicants acknowledge by virtue of filing an Application that the Department is not bound by any opinion expressed in the Market Analysis and may substitute its own analysis and underwriting conclusions for those submitted by the Qualified Market Analyst.

(C) 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.

(D) The requirements for each of the reports identified in subparagraphs (A) and (B) of this paragraph can be satisfied in either of the methods identified in clauses (i) or (ii) of this subparagraph.

(i) Upon Application submission, the documentation for each of these exhibits may be submitted in its entirety as described in subparagraphs (A) and (B) of this paragraph; 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 ~~March 31~~April 1, 20045. 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, ~~March 31~~April 1, 20045. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration.

(15) Self-Scoring. Applicant's self-score must be completed on the "Application Self-Scoring Form."

(g) Selection Criteria. All Applications will be scored and ranked using the point system identified in this subsection. Maximum Total Points: 195.

(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))}~~ Applications may qualify to receive 28 points for this item. Evidence will include the documentation required for this exhibit in addition to the commitment letter required under subsection (f)(7)(C) of this section. The supporting financial data shall include a thirty year pro forma prepared by the permanent or construction lender specifically identifying each of the first ten years and every fifth year thereafter. The pro forma must indicate that the development pro forma maintains a 1.10 debt coverage ratio throughout the initial thirty years proposed for all third party lenders that require scheduled

repayment. In addition, the commitment letter must state that the lender's assessment finds that the Development will be feasible for thirty years. 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); §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 (f)(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 by the Department no later than April 1, 2005, directly from the neighborhood organization or with the Application. Letters should be addressed to the Texas Department of Housing and Community Affairs, "Attention: Executive Director (Neighborhood Input)." Letters received after April 1, 2005 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 desires to provide input on additional Developments, each Development must be addressed in a separate letter;

(ii) be signed by the chairman of the board, chief executive officer, or comparable head of the organization, and provide the signer's mailing address, phone number, and an e-mail address or facsimile number for the organization;

(iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed 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 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 public housing resident councils (for the property 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." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."

(v) include documentation showing that the organization is on record as of March 1, 2005 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 at any time during the Application Round is shown as "forfeited," "dissolved," or any similar status, the organization will not be considered on record with the state. 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. As an option to be considered on record with the state, a letter 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, 2005 to place the organization on record with the state. The letter should be addressed to the Texas Department of Housing and Community Affairs, "Attention: Executive Director (Recording of Neighborhood Organization)". Acceptance of this documentation by

the Department 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.

(vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2005 tax credit Application Round and 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.

(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. 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.

(B) Scoring of Letters (and Enclosures). To be scored, the letter (and enclosures) must provide "quantifiable" input. The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) The score 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 recommended by the Executive Award and Review Advisory Committee based on the factual basis of 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 possible errors in the Department's analysis and 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 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 scored as neutral (+12 points).

(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 ten 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 April 1, 2005 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) through (F) of this paragraph. To qualify for these points, the tenant incomes must not be higher than permitted by the AMGI level. The Development Owner, upon

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

making selections for this exhibit, will set aside Units at the levels of AMGI and will maintain the percentage of such Units 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). ~~{(2306.6710(b)(1)(C); 2306.111(g)(3)(B); 2306.6710(e); 42(m)(1)(B)(ii)(I); 2306.111(g)(3)(E)}~~ Use normal rounding for this exhibit.

(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 a combination of 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

(E) 16 points if at least 40% of the total number of low income units (including Units at 60% of AMGI) are designated for tenants at or below 50% of the AMGI; or

(F) 14 points if at least 35% of the total number of low income units (including Units at 60% of AMGI) are designated for tenants at or below 50% of the 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); 2306.6725(b)(1); 42(m)(1)(C)}~~

(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. 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) through (xix) of this subparagraph, not to exceed 14 points in total. Applications involving rehabilitation or single room occupancy may double the points listed for each item, not to exceed 14 points in total.

(i) Covered entries (1 point);

(ii) Nine foot ceilings (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 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 (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 EFIS (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 EFIS (1 points);

(xv) Use of energy efficient alternative construction materials (structurally insulated panels) with wall insulation at a minimum of R-20 (3 points).

(xvi) R-15 Walls / R-30 Ceilings (rating of wall system) (3 points);

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(xvii) 14 SEER HVAC or evaporative coolers in dry climates for new construction or radiant barrier in the attic (3 points);{(WG)}

(xviii) Energy Star or equivalently rated kitchen appliances (2 points) ; or

(xix) High Speed Internet service to all Units at no cost to residents (2 points).

(5) The Commitment of Development Funding by Local Political Subdivisions. Applications may qualify to receive up to 18 points for qualifying under only one of subparagraphs under either or both (A) or (B) of this paragraph. {(2306.6710(b)(1)(E)}

(A) Evidence that the proposed Development has received an allocation of funds for on-site development costs from a local political subdivision. 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 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. 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, or a certification of intent to apply for funding that indicates the funding entity and program entity to which the application will be submitted, the loan amount to be applied for and the specific proposed terms. At the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment 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. Use normal rounding. 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.

(i) A contribution of \$500 to \$1,000 per Low Income Unit receives 6 points; or

(ii) A contribution of \$1,001 to \$3,500 per Low Income Unit receives 12 points; or

(iii) A contribution of \$3,501 or more per Low Income Unit receives 18 points; or

(B) Evidence that the proposed Development will receive development-based Housing Choice, rental assistance vouchers, or rental assistance subsidy approved by the Annual Contributions Contract (ACC) between a public housing authority and HUD, all being from a local political subdivision for a minimum of five years. Evidence at the time the Application is submitted 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 for the vouchers 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 the Department's HOME (with the exception of Developments located in non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category. Use normal rounding. HUD must approve the vouchers no later than the time the 10% Test Documentation is submitted to the Department or the Commitment will be rescinded.

(i) Development-Based Vouchers for 3% to 5% of the total Units receives 6 points; or

(ii) Development-Based Vouchers for 6% to 8% of the total Units receives 12 points; or

(iii) Development-Based Vouchers for 9% or more of the total Units receives 18 points.

(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); 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, 2005. 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 12 points for qualifying under this exhibit. [(2306.6710(b)(1)(G))] If 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. If 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 10 points. If 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 9 points. If 80% 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.

(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)] For this exhibit, costs shall be defined as construction costs, including site work, 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 \$75 per square foot for Qualified Elderly, Transitional, and Single Room Occupancy Developments and \$65 per square foot for all other Developments, unless located in a "First Tier County" in which case their costs do not exceed \$77 per square foot; and \$65 for all other Developments, unless located in a "First Tier County" in which case their costs do not exceed \$67 per square foot. For 2005, the First Tier Counties are Aransas, Calhoun, Chambers, Jefferson, Kleberg, Nueces, San Patricio, Brazoria, Cameron, Galveston, Kennedy, Matagorda, Refugio and Willacy. (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); Rider 6 of Appropriations)]

(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 one of the services; or

(II) Four points will be awarded for providing two of the services; or

(III) Six points will be awarded for providing three 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) Housing Needs Characteristics. (42(m)(1)(C)(ii)) Applications may qualify to receive up to 7 points. Each Application, based on the place or county where the Development is located, will receive a score based on the Uniform Housing Needs Scoring Component. If a Development is in a place, the place 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 place and county will be published in the Reference Manual.

(11) 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 rehabilitation or demolition and new construction is part of a community revitalization plan.

(12) 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 site as the proposed Development in the Pre-Application;

(B) have met the Pre-Application Threshold Criteria;

(C) be serving the same target population (family, elderly, and transitional) 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 (g)(2) and (g)(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.

(13) Development Location. [(2306.6725(a)(4) and (b)(2); 2306.127; 42(m)(1)(C)(i); 42 U.S.C. 3608(d) and (e)(5)) Applications may qualify to receive either 4 or 7 points. Evidence, not more than 6 months old from the date of the close of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) through (I) of this paragraph. Areas qualifying under any one of the subparagraphs (A) through (F) of this paragraph will receive 4 points. Areas qualifying under any one of the subparagraphs (G) through (I) of this paragraph will receive 7 points. An Application may only receive points under one of the subparagraphs (A) through (I) 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.

(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.

(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 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.

(D) the Development is located in a county that has received an award as of November 15, 2004, 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.

(E) 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))]

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(F) 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.

(G) the proposed Development will serve families with children (at least 70% of the Units must have 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))

(H) 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 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))

(I) the Development is located in an incorporated place or census designated place that is not a Rural Area but has a population no greater 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.

(14) Tenant Populations with Special Housing Needs. Applications may qualify to receive 4 points for this item. ~~{(42(m)(1)(C)(v))}~~ Evidence that the Development is designated for transitional housing for homeless persons on a non-transient basis, with supportive services designed to assist the homeless tenants in locating and retaining permanent housing. For the purpose of this exhibit, homeless persons are individuals or families that lack a fixed, regular, and adequate nighttime residence as more fully defined in 24 Code of Federal Regulations, §91.5, as may be amended from time to time. All of the items described in subparagraphs (A) through (E) of this paragraph must be submitted. If all Units in the Development are designed solely for transitional housing for homeless persons, 4 points will be awarded.

(A) a detailed narrative describing the type of proposed housing;

(B) a referral agreement, not more than 12 months old from the first day of the Application Acceptance Period, with an established organization which provides services to the homeless;

(C) a marketing plan designed to attract qualified tenants and housing providers;

(D) a list of supportive services; and

(E) adequate additional income source to supplement any anticipated operating and funding gaps.

(15) 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); 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)

(16) Site Characteristics. 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 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 or located within a community that has "on demand" transportation, 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, as well as written directions from the site to each service. The services must be identified by name on the map and in the written directions. If the services

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

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. 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. Applicants must indicate on a map the location of any negative site feature, with the exception of slope which must be documented with an engineer's certificate to ensure that points are not deducted. 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. (-6 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 an Interstate Highway including frontage and service roads will have 1 point deducted from their score.

(iv) Developments located adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants will have 1 point deducted from their score.

(v) Developments located adjacent to or within 300 feet of a solid waste or sanitary landfills will have 1 point deducted from their score.

(vi) Developments located adjacent to or within 100 feet of high voltage transmission power lines will have 1 point deducted from their score.

(17) Development Size. The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger Development (5 points).

(18) Qualified Census Tracts with Revitalization. Applications may qualify to receive 2 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 must be provided.

(19) Sponsor Characteristics. Applications may qualify to receive 2 points for this item. (42(m)(1)(C)(iv)) Evidence that a HUB, 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 and has been a HUB for at least five years from the date the Application Cycle opens. The HUB will be disqualified from receiving these points if any principal of the HUB has developed more than 500 units of housing involving tax credits.

(20) Projects 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) through (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) through (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.

(21) 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 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 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 NOFA out for available funds and the Applicant is eligible under that NOFA.

(22) 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 (not a Related Party to the Applicant or Developer) funding sources and the Development is located outside of a Qualified Census Tract. 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. Use normal rounding. 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.

(23) 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 developments receiving a housing tax credit commitment made in the application round preceding the current round. The extension that will receive a penalty is an extension related to the submission of the carryover. For each extension request made, the Applicant will receive a 5 point deduction for not meeting the Carryover deadline. Subsequent extension requests after the first extension request made for each 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.

~~-(g) Selection Criteria. All Applications will be evaluated and ranking points will be assigned according to the Selection Criteria listed in paragraphs (1) through (18) of this subsection.-~~

~~(1) Development Financial Feasibility. Applications will receive points based on the supporting financial data provided behind this exhibit in addition to the commitment letter required under subsection (f)(7)(C) of this section. The supporting financial data shall include a thirty year pro forma prepared by the permanent or construction lender specifically identifying each of the first ten years and every fifth year thereafter. The commitment letter must include the anticipated total operating expenses, net operating income and debt service for the first year of stabilized operation as reflected in the pro forma. The pro forma must indicate, and the commitment letter must confirm, that the development pro forma maintains a 1.10 debt coverage ratio throughout the initial thirty years proposed. In addition, the commitment letter must state that the lenders assessment finds that the Development will be feasible for thirty years. 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" shall meet the requirements of this section. (28 points). ~~{(2306.6710(b)(1)}~~~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(2) Quantifiable Community Participation from Neighborhood Organizations. [(2306.6710(b)(1); 2306.6725(a)(2))] 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.~~

~~(A) Receipt of Input. Letters must be received by the Department no later than April 30, 2004, and only, for scoring purposes, directly from neighborhood organizations or with the Application. Letters must be addressed to the Texas Department of Housing and Community Affairs, "Attention: Director of Multifamily Finance Production Division (Neighborhood Input)". Letters received after April 30, 2004 will be summarized and provided for the Board's information and consideration, but will not affect the score for the Application. Separate from scoring, the Department urges all persons and organizations that wish to provide input to the Department to do so well before (and, preferably earlier than ten days before) the day of a Board meeting when a final decision must be made so the input may be carefully considered. Board decisions often cannot be delayed and late input is difficult for the Board and Department to fully consider.~~

~~(B) Neighborhood Organizations. For the purposes of the scoring of this exhibit, neighborhood organizations are organizations that are on record with the county or state in which the development is proposed to be located as of March 1 of the application year and that have a primary purpose of working to affect matters related to the welfare of the neighborhood that contains the proposed development site, not including governmental entities.~~

~~(C) Scoring of Input. For scoring purposes, each neighborhood organization may submit one letter that represents the organization's input. The letter must identify the specific Development and be signed by the chairman of the board, chief executive office or comparable head of the organization and include the signer's address and phone number. The letter must state and provide documentation which shows that it is from a neighborhood organization; that it is on record with the state or county in which the Development is proposed to be located; and that the organization's boundaries contain the proposed Development site. The letter must also provide the total number of members of the organization and a brief description of the process used to determine the members' position. To be accurately scored, the letter must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development and provide specific evidence supporting that input. It is possible for points to be awarded or deducted based on written statements from organizations that were not identified by the city and county clerks under subsection (f)(8)(B)(ii)(I) of this section, if the organization provides evidence that the proposed Development site is within the organization's boundaries and that it is on record with the county or state. 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.~~

~~(i) Applicants that accurately certify that they do not know of any neighborhood organizations that are on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development, and for which no letters were received, will be awarded the higher of zero points or the average number of points received by all Applications for this exhibit.~~

~~(ii) The score for this exhibit will range from a maximum of +12 points to -12 points and the number of points to be allocated to each organization's letter will be determined by the Executive Award and Review Advisory Committee based on the factual basis of the written statements and evidence from the neighborhood organizations. The Department may investigate a matter and contact the Applicant and neighborhood organizations for more information.~~

~~(D) Evaluation of Basis of Input. The Department highly values quality public input addressed to the merits of a Development. Input that points out possible errors in the Department's analysis and 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 that evidences unlawful discrimination against classes of persons protected by Fair Housing law will not be considered. To protect the integrity of the Department's processes and decisions, evidence of false statements or misrepresentations from applicant representatives, neighborhood representatives, or other persons will be considered for appropriate action, including possible referral to local district and county attorneys. 2306.6725(a)(2)~~

~~(3) Development Location Characteristics. [(2306.6725(a)(4))] Evidence, not more than 6 months old from the date of the close of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) through (F) of this paragraph. Areas qualifying under any one of the subparagraphs (A) through (F) of this paragraph will receive 5 points. An Application may only receive points under one of the subparagraphs (A) through (F) of this paragraph. An Application may receive an additional ten points pursuant to subparagraph (G) of this paragraph in addition to any points awarded in subparagraphs (A) through (F) of this paragraph.~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(A) A geographical area which is:~~

~~(i) an Economically Distressed Area; or~~

~~(ii) a Colonia; or~~

~~(iii) a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD.~~

~~(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.~~

~~(C) a city 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 the proposed Development is located within the city 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:~~

~~(i) created by the local city council/county commission, and~~

~~(ii) targets a specific geographic area which was not created solely for the benefit of the Applicant.~~
~~(D) the Development is located in a census tract in 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 MFI for the county in which the census tract is located, as established by HUD. This comparison shall be made using the most recent data available from both sources as of as of October 1 of the year preceding the applicable program year. In those years when the U.S. Census does not publish median family income information at the census tract level, the most recent U.S. Census MFI available for the tract shall be multiplied by the change between HUD's published data for the county MFI as of the year in which the Census MFI was published and the county MFI as of October 1 of 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.~~

~~(E) the Development is located in a census tract in which there are no other existing developments supported by housing tax credits. [(2306.6725)]~~

~~(F) the Development is located in a county that has received an award as of November 15, 2003, 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.~~

~~(G) the Development is located in an incorporated city that is not a Rural Area but has a population no greater 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. The Development can not exceed 100 Units to qualify for these points. (7 points)~~

~~(4) Site Location Characteristics. 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 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 five points. A site located within one quarter mile of public transportation or located within a community that has "on demand" transportation, 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 Qualified Elderly Development is providing its own specialized van 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, as well as written directions from the site to each service. The services must be identified by name on the map and in the written directions. 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. (5 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~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(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. 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. Applicants must indicate on a map the location of any negative site feature, with the exception of slope which must be documented with an engineer's certificate to ensure that points are not deducted. 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. (7 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 an Interstate Highway including frontage and service roads will have 1 point deducted from their score.~~

~~(iv) Developments located adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants will have 1 point deducted from their score.~~

~~(v) Developments located adjacent to or within 300 feet of a solid waste or sanitary landfills will have 1 point deducted from their score.~~

~~(vi) Developments located adjacent to or within 100 feet of high voltage transmission power lines will have 1 point deducted from their score.~~

~~(5) Housing Needs Characteristics. Each Application, dependent on the city or county where the Development is located, will yield a score based on the Uniform Housing Needs Scoring Component. If a Development is in an incorporated city, the city score will be used. If a Development is outside the boundaries of an incorporated city, then the county score will be used. The Uniform Housing Needs Scoring Component scores for each city and county will be published in the Reference Manual. (7 points maximum). [(2306.6725(a)(4))]~~

~~(6) Support and Consistency with Local Planning. All documents must not be older than 6 months from the first day of the Application Acceptance Period. Points may be received under any of subparagraphs (A) through (C) of this paragraph.~~

~~(A) Evidence from the local municipal authority stating 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 a letter from the local municipal authority stating that there is no local plan and that the city supports the Development (3 points).~~

~~(B) Evidence that the Applicant has hosted a public meeting to which the neighborhood and other interested persons have been invited. Evidence must include copies of the method of notification used and a transcript of the meeting, as well as a list of meeting attendees. (6 points).~~

~~(C) Community Support from Elected Officials. Points will be awarded based on the written statements of support or opposition from local and 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 or opposition of the specific Development at the proposed location. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or official no later than May 31, 2004. Letters received after May 31, 2004 will be summarized for the Board in the board summary provided by staff, but will not affect the score of the Application. 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. Points can be awarded for letters of support or opposition as identified in clauses (i) through (iii) of this subparagraph, not to exceed a total of 9 points. Neutral letters, or letters that do not specifically refer to the Development, will receive neither positive nor negative points. The Governing Board has directed the Department to request an opinion from the Attorney General on whether recent legislation permits scoring for input from officials other than state officials. If the Attorney General renders an opinion that only input from state officials may be scored, then city and county input will not be scored." [(2306.6710(b)(1)); [(2306.6725(a)(2))]. (i) from State of Texas Representative or Senator (support letters are 3 points each, maximum of 6 points; opposition letters are 3 points each, maximum of 6 points); and~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(ii) from the Mayor, City Council member for the area, County Judge, County Commissioner for the area, or a resolution from the City Council or County Commission (support letters or resolutions are 3 points each, maximum of 3 points; opposition letters or resolutions are 3 points each, maximum of 3 points).~~

~~(7) Development Characteristics. Applications may receive points under as many of the following subparagraphs as are applicable; however to qualify for points under this paragraph, the Development must first meet the minimum requirements identified under subparagraph (A) of this paragraph, unless otherwise provided in the particular subparagraph. This minimum requirement does not apply to Applications involving rehabilitation, Developments receiving funding from TX-USDA-RHS, or Developments proposing single room occupancy.~~

~~(A) Unit Size. [(2306.6710(b)(1))] The square feet of all of the Units in the Development, for each type of Unit, must be at minimum:~~

~~(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 two bedroom unit; 750 square feet for an elderly two bedroom unit; and~~

~~(iv) 1,000 square feet for a three bedroom unit.~~

~~(B) Cost per Square Foot. For this exhibit, costs shall be defined as construction costs, including site work, 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 do not exceed \$73 per square foot for Qualified Elderly and Transitional Developments, and \$62 for all other Developments. (9 points). [(2306.6710(b)(1))]~~

~~(C) Unit Amenities and Quality. [(2306.111(g)(3)(A) and 2306.6710(b)(1))] 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) through (xviii) of this subparagraph, not to exceed 12 points in total. Applications involving rehabilitation or proposing single room occupancy will double the points listed for each item, not to exceed 12 points in total.~~

~~(i) Covered entries (1 point);~~

~~(ii) Nine foot ceilings (1 point);~~

~~(iii) Microwave ovens (1 point);~~

~~(iv) Self cleaning or continuous cleaning ovens (1 point);~~

~~(v) Ceiling fixtures in all rooms (globe with ceiling fan in all bedrooms) (1 point);~~

~~(vi) Refrigerator with icemaker (1 point);~~

~~(vii) Laundry connections (1 point);~~

~~(viii) Storage room or closet, of approximately 9 square feet or greater, which does not include bedroom, entryway or linen closets (1 point);~~

~~(ix) Laundry equipment (washers and dryers) in 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 and cementitious board products, excluding efis (3 points);~~

~~(xiv) Greater than 75% masonry on exterior, which can include stucco and cementitious board products, excluding efis (1 point);~~

~~(xv) Use of energy efficient alternative construction materials (structurally insulated panels) 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) 12 SEER HVAC or evaporative coolers in dry climates (3 points);~~

~~(xviii) Energy Star or equivalently rated Kitchen Appliances (2 points)~~

~~(D) Common Amenities. All Developments, must meet at least the minimum threshold of points to satisfy the Threshold requirement under §50.9(f)(4)(A). To receive additional points for this exhibit, Developments must first provide a minimum number of common amenities in relation to the Development size being proposed. The amenities selected must be selected from clause (iii) of this subparagraph and made available for the benefit of all tenants. If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to complete this exhibit. [(2306.111(g)(3)(A) and 2306.6710(b)(1))(i) Applications must meet a minimum threshold of points (based on the total number of Units in the Development) prior to accruing actual points for this exhibit, as follows:~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

- ~~(I) Total Units are less than 40, 3 points are required to meet Threshold;~~
- ~~(II) Total Units are between 40 and 76, 6 points are required to meet Threshold;~~
- ~~(III) Total Units are between 77 and 99, 9 points are required to meet Threshold;~~
- ~~(IV) Total Units are between 100 and 149, 12 points are required to meet Threshold;~~
- ~~(V) Total Units are between 150 and 199, 15 points are required to meet Threshold;~~
- ~~(VI) Total Units are more than 200, 18 points are required to meet Threshold.~~

~~(ii) Points for additional amenities. Developments providing additional amenities beyond the threshold identified in clause (i) of this subparagraph will be awarded points based on the point structure below, not to exceed 6 points. The Applicant will total its points for amenities and then subtract the threshold requirement in order to come up with the point total. (For example, a 200-unit Development would have to accumulate 24 points in Common Amenities in order to net a score of 6, but a 36-Unit Development would only have to accumulate 9 points in order to net a score of 6.) Developments proposing rehabilitation or proposing Single Room Occupancy will receive double points for each item. Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §50.18(c) 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.~~

~~(iii) Amenities for selection include those items listed in subclauses (I) through (XXIII) 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 §50.9(f)(4)(D) 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 with controlled gate access (3 points)~~
- ~~(II) Gazebo w/sitting area (1 point)~~
- ~~(III) Accessible walking path (1 point)~~
- ~~(IV) Community gardens (1 point)~~
- ~~(V) Community laundry room and/or laundry hook ups in Units (no hook up fees of any kind may be charged to a tenant for use of the hook ups) (1 point);~~
- ~~(VI) Public telephone(s) available to tenants 24 hours a day (2 points);~~
- ~~(VII) A service coordinator office (1 point);~~
- ~~(VIII) Barbecue grills and picnic tables—at least one for every 50 Units (1 point)~~
- ~~(IX) Covered pavilion w/barbecue grills and tables (2 points)~~
- ~~(X) Swimming pool (3 points)~~
- ~~(XI) Furnished fitness center (2 points)~~
- ~~(XII) Equipped Business Center (computer and fax machine) (2 points)~~
- ~~(XIII) Game/TV/Community room (1 point)~~
- ~~(XIV) Library (separate from the community room) (1 point)~~
- ~~(XV) Enclosed sun porch or covered community porch/patio (2 points)~~
- ~~(XVI) Service coordinator office in addition to leasing offices (1 point)~~
- ~~(XVII) Senior Activity Room (Arts and Crafts, Health Screening, etc.)—Only Qualified Elderly Developments Eligible (2 points)~~
- ~~(XVIII) Secured Entry (elevator buildings only) (1 point)~~
- ~~(XIX) Horseshoe or Shuffleboard 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) Two Children's Playgrounds Equipped for 5 to 12 year olds, two Tot Lots, or one of each—Only Family Developments Eligible (2 points)~~
- ~~(XXII) Sport Court (Tennis, Basketball or Volleyball)—Only Family Developments Eligible (2 points)~~
- ~~(XXIII) Furnished and staffed Children's Activity Center—Only Family Developments Eligible (3 points)~~

~~(E) The Development is an existing Residential Development without maximum rent limitations or set-asides for affordable housing and the proposed rehabilitation is part of a community revitalization plan. If maximum rent limitations had existed previously, then the restrictions must have expired at least one year prior to the first day of the Application Acceptance Period (4 points).~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(F) The Development is a mixed income Development comprised of both market rate Units and qualified tax credit Units. Points will be awarded to Developments with a Unit based Applicable Fraction which is no greater than: [(2306.6710(b)(1)(C); 2306.111(g)(3)(E))]~~

- ~~(i) 80% (7 points); or,~~
- ~~(ii) 85% (6 points); or,~~
- ~~(iii) 90% (4 points); or~~
- ~~(iv) 95% (2 points).~~

~~(G) The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger Development (5 points).~~

~~(8) Sponsor Characteristics. Evidence that a HUB, as certified by the Texas Building and Procurement Commission, has an ownership interest in 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. Evidence will need to be supplemented, either at the time the Application is submitted or at the time a HUB certification renewal is received by the Applicant, confirming that the certification is valid through July 31, 2004 and renewable after that date. (3 points)~~

~~(9) Developments Targeting Tenant Populations of Individuals with Children. The Rent Schedule of the Application must show that 30% or more of the Units in the Development have more than 2 bedrooms (1 point).~~

~~(10) Development Provides Supportive Services to Tenants. Points may be received under both subparagraphs (A) and (B) of this paragraph. [(2306.254 and 2306.6725(a)(1) and 2306.6710(b)(1) and Rider 6 of Appropriations)]~~

~~(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 one of the services; or~~
- ~~(II) Four points will be awarded for providing two of the services; or~~
- ~~(III) Six points will be awarded for providing three 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, youth programs; scholastic tutoring; social events and activities; senior meal program; home-delivered meal program; community gardens or computer facilities; 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; or any other services approved in writing by the Department.~~

~~(11) Tenant Characteristics — Populations with Special Needs. Evidence that the Development is designed for transitional housing for homeless persons on a non-transient basis, with supportive services designed to assist the homeless tenants in locating and retaining permanent housing. For the purpose of this exhibit, homeless persons are individuals or families that lack a fixed, regular, and adequate nighttime residence as more fully defined in 24 Code of Federal Regulations, §91.5, as may be amended from time to time. All of the items described in subparagraphs (A) through (E) of this paragraph must be submitted. Points will be awarded consistent with subparagraph (F) of this paragraph:~~

- ~~(A) a detailed narrative describing the type of proposed housing;~~
- ~~(B) a referral agreement, not more than 12 months old from the first day of the Application Acceptance Period, with an established organization which provides services to the homeless;~~
- ~~(C) a marketing plan designed to attract qualified tenants and housing providers;~~
- ~~(D) a list of supportive services; and~~
- ~~(E) adequate additional income source to supplement any anticipated operating and funding gaps~~
- ~~(F) Points will be awarded as follows:~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(i) If all Units in the Development are designed solely for transitional housing for homeless persons, 7 points will be awarded; or~~

~~(ii) If at least 25% of the Units in the Development are designed for transitional housing for homeless persons, 5 points will be awarded.~~

~~(12) Low Income Targeting Points for Serving Residents at 40% and 50% of AMGI (up to 8 points). An Application may qualify for points under subparagraph (C) of this paragraph. To qualify for these points, the rents for the rent restricted Units must not be higher than the allowable tax credit rents at the rent restricted AMGI level. For Section 8 residents, or other rental assistance tenants, the tenant paid rent plus the utility allowance is compared to the rent limit to determine compliance. The Development Owner, upon making selections for this exhibit will set aside Units at the rent restricted levels of AMGI and will maintain the percentage of such Units continuously over the compliance and extended use period as specified in the LURA. [(2306.6725(a)(3); 2306.111(g)(2)and (3)(B); 2306.6710(b)(1)(C) and (G); 2306.6710(e)](A) No more than 40% of the total number of low income units (including Units at 60% and 30% of AMGI) will be counted as designated for tenants at or below 50% of the AMGI for purposes of determining the points in the 50% and 40% AMGI categories. No more than 15% of the total number of low income targeted units will be counted as designated for tenants at 40% of the AMGI for purposes of determining the points in the 40% AMGI categories. For purposes of calculating "Total Low Income Targeted Units" for this exhibit, Units at 30% and 60% of AMGI are also included.~~

~~(B) In the table below no Unit may be counted twice in determining point eligibility. Use normal rounding to the hundredth to calculate the percentages, points and "Total Points" for 40% and 50% Units. In calculating the percentages, the denominator includes every low income Unit in the Development, not just the 40% and 50% Units. Normal rounding disregards all digits that are more than one decimal place past the digit rounded; therefore, the thousandths place must not be rounded prior to rounding to the hundredth, e.g. 35.0449% equals 35.04%, not 35.05%. To calculate "Rounded Total Points" disregard the hundredth place in "Total Points" and round normally, eg. 7.50 equals 8 and 7.49 equals 7. The final total points requested must be a whole number consistent with this rounding methodology.~~

~~(C) Developments should be scored based on the structure in the table below. Only Developments located in counties whose AMGI is below the statewide AMGI, may use Weight Factor B. All other Applicants are required to use Weight Factor A.~~

% of AMGI	# of Rent Restricted Units (a)	Percentage of Rent Restricted Units (a/b)	Weight A	Q R	Weight B	Points
50%	(a)	X	10		15	
40%	(a)	X	20		30	
				TOTAL POINTS=		
TOTAL LI TARGETED UNITS* (b)				ROUNDED TOTAL POINTS=		
*Includes all Low Income Units						

~~(D) Rent Levels of the Units. Applications will receive up to maximum of 10 additional points for restricting the rent levels of the Units under paragraphs (12) and (13) of this subsection. The total points available for paragraphs (12)(A) through (C) and (13) are 20 points. The percentage of points awarded under those sections will be calculated and that percentage applied to a maximum of 10 additional points to determine the number of points to be awarded. All calculations will be rounded using basic mathematical principles. (Example: If an application receives 16 of the 20 points for items (12)(A) through (C) and (13), which is 80% of the possible points, then the application will receive 8 additional points under this subparagraph (D), which is 80% of the possible points. A half point will be rounded up to the nearest whole number).~~

~~(13) Low Income Targeting Points for Serving Residents at 30% of AMGI (up to 12 points). Applications that propose Units with rents set at 30% AMGI and reserved for occupancy by extremely low income (those earning annual gross incomes of 30% or less of the AGMI) will be awarded up to 12 points. Developments must have a source of financing for the 30% units. Applicant must submit evidence that the proposed Development has~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~either received development based rental assistance from a governmental or non-governmental entity, which does not have an identity of interest with the Applicant (with the exception of Applications involving Public Housing Authorities); or received an allocation of funds for on-site Development costs from a local unit of government or a nonprofit organization, which is not related to the Applicant. Such funds can include Community Development Block Grant funds, HOPE VI, local HOME (not funded from the Department), a local housing trust, Affordable Housing Program from the Federal Home Loan Bank or Tax Increment Financing, HUD Section 202, HUD Section 811 and HUD Section 8, and must be in the form of a grant or a forgivable loan (with the exception of Applications involving Public Housing Authorities). Points will be determined on a sliding scale based on the percentage of 30% units. The Development must have already applied for funding from the funding entity. Evidence at the application stage shall include a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will have the points for this item deducted from its final score and will be reevaluated for financial feasibility. No funds from TDHCA's HOME (with the exception of non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category. In order to qualify for these points, the Applicant must provide a 5 year rental assistance contract for development based vouchers for each 30% Unit or grant funds of \$12,500 per 30% Unit. Use normal rounding.~~

~~(A) 3% to 5% of total Development Units at 30% AMGI receives 8 points; or~~

~~(B) 6% to 8% of total Development Units at 30% AMGI receives 10 points; or~~

~~(C) 9% to 10% of total Development Units at 30% AMGI receives 12 points~~

~~[(2306.6725(a)(3); 2306.111(g)(2) and (3)(B)/(D); 2306.6710(b)(1) (C) and (G); 2306.6710(e))]~~

~~(14) Leveraging from local and private resources. An Application may qualify for points under only one of subparagraphs (A) or (B) of this paragraph. However, if an Applicant has requested points under paragraph (13) of this section, the Application is not eligible to receive points under this paragraph. (maximum of 14 points) [(2306.6710(b)(1)(E))]~~

~~(A) Evidence that the proposed Development has received an allocation of funds for on-site development costs from a local unit of government or a nonprofit organization, which is not related to the Applicant. Such funds can include Community Development Block Grant funds, HOPE VI, local HOME (not funded from the Department), a local housing trust, Affordable Housing Program from the Federal Home Loan Bank or Tax Increment Financing, HUD Section 202, HUD Section 811 and HUD Section 8 and must be in the form of a grant or a forgivable loan. 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 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 from outside sources. 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. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will have the points for this item deducted from its final score and will be reevaluated for financial feasibility. No funds from the Department's HOME or Housing Trust Fund sources will qualify under this category. Use normal rounding. No funds from TDHCA's HOME (with the exception of non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category. (up to 14 points).~~

~~(i) A contribution of \$500 to \$1,000 per Low Income Unit receives 4 points; or~~

~~(ii) A contribution of \$1,001 to \$3,500 per Low Income Unit receives 8 points; or~~

~~(iii) A contribution of \$3,501 to \$6,000 per Low Income Unit receives 14 points; or~~

~~(B) Evidence that the proposed Development is partially funded by development based Housing Choice or rental assistance vouchers from a governmental or non-governmental entity for a minimum of five years. Such entity cannot have an identity of interest with the Applicant with the exception of Applications involving Public Housing Authorities. Evidence at the time the Application is submitted 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. No later than 14 days before the date of the Board meeting at which staff will make their initial recommendations for credit allocation to the Board, the Applicant or Development Owner must either provide evidence of a commitment for the required financing to the Department or notify the Department that no commitment was received. If the required financing commitment has not been received by that date, the Application will have the points for this item deducted from its final~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~score and will be reevaluated for financial feasibility. No funds from the Department's HOME or Housing Trust Fund sources will qualify under this category. Use normal rounding. (up to 14 points).~~

- ~~(i) Development Based Vouchers for 3% to 5% of the total Units receives 4 points; or~~
- ~~(ii) Development Based Vouchers for 6% to 8% of the total Units receives 8 points; or~~
- ~~(iii) Development Based Vouchers for 9% to 10% of the total Units receives 14 points.~~

~~(15) Length of Affordability Period. [(2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1); and § 22 of 2306.6710(e)] 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 (3 points); or~~

~~(B) Add 10 years of affordability after the extended use period for a total affordability period of 40 years (6 points)~~

~~(16) 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 (5 points). [(2306.6725(b))]~~

~~(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) through (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) through (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,~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~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.~~

~~(17) Pre-Application Points. [(2306.6704)] Applications which submitted a Pre-Application during the Pre-Application Acceptance Period and meet the requirements of this paragraph shall receive 7 points. To be eligible for these points, the Application must:~~

~~(A) be for the identical site as the proposed Development in the Pre-Application;~~

~~(B) have met the Pre-Application Threshold Criteria;~~

~~(C) be serving the same target population (family or elderly) as in the Pre-Application in the same Set-Asides; and~~

~~(D) 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 (g)(2) and (g)(6)(C) 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 changing 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.~~

~~(18) Point Reductions.~~

~~(A) [(2306.6710(b)(2))] Penalties will be imposed on an Application if the Applicant has requested extensions of Department deadlines, and did not meet the original submission deadlines, relating to developments receiving a housing tax credit commitment made in the application round preceding the current round. Extensions that will receive penalties are those extensions related to the submission of the carryover and the closing of the construction loan as identified in §50.21 of this title. For each extension request made, the Applicant will be required to pay a \$2,500 extension fee as provided in §50.21(k) of this title and will receive a 2 point deduction for not meeting the Carryover deadline and a 5 point deduction for not meeting the closing of the construction loan deadline. Subsequent extension requests after the first extension request made for each development from the preceding round for these two deadlines will not result in a further point reduction than already described. No penalty points will be deducted for extensions that were requested on developments that involved rehabilitation or in which the Department is the primary lender.~~

~~(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 its 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.~~

~~(h) Tie Breaker Factors. [(2306.185(a)(1) and (b))]~~

~~(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,s-(4)~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

through (5) of this subsection, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit commitment.

~~(A) The number of points awarded for amenities under subsection (g)(7)(C) of this section;~~

~~(B) The number of points awarded for amenities under subsection (g)(7)(D) of this section;~~

(A) An Application will have preference if the Development Owner certifies that it will cooperate with the local public housing authority in accepting tenants from their waiting lists.

~~(B) The amount of requested tax credits number of per net rentable square foot requested set per credit amount requested (the lower credits per square foot has preference); and~~

~~(D) The length of time the Development will be kept affordable.~~

~~(E) to give preference to a Development which is located in a OCT as specifically designated by the Secretary of HUD, and which also contributes to a concerted community revitalization plan; and~~

(2) This clause identifies how ties will be handled when dealing with the restrictions on location identified in ~~§50.49.5(a)(8), and §50.6(f)~~, 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 lot number issued during the Bond Review Board lottery 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 (h)(1) of this subsection. When a Tax Exempt Bond Development and a competitive Housing Tax Credit Application in the Application Round with the same score would both violate ~~one of these~~ restrictions, the following determination will be used:

(A) Tax Exempt Bond Developments that ~~have~~ received their reservation from the Bond Review Board prior to April 30, ~~2004-2005~~ will take precedence over the Housing Tax Credit Applications in the ~~2004-2005~~ Application Round; and

(B) Housing Tax Credit Applications approved by the Board for tax credits in July 2005 in the ~~2004 Application Round~~ will take precedence over the Tax Exempt Bond Developments that ~~have~~ received their reservation from the Bond Review Board on or between May 1, 2004-2005 and July 31, 2005 ~~2004~~; and

(C) After July 31, 2004, a Tax Exempt Bond Development with a reservation from the Bond Review Board will take precedence over any Housing Tax Credit Application from the ~~2004-2005~~ 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 2005 Application Round or a forward commitment, then the Waiting List Application or forward commitment will be eligible for its allocation. ~~first.~~

(i) **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 evaluation factors provided in subsection (g) 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); and 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))}~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

- (A) the developer market study;
- (B) the ~~proposed location~~ of the Development, including supporting broad geographic dispersion;
- (C) the compliance history of the Applicant and/or Developer;
- (D) the Applicant and/or Developer's efforts to engage the neighborhood;
- (E) the financial feasibility of the Development;
- (F) the appropriateness of the Development's proposed 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 in which the Development will be located~~ and the needs of the community, area, region and state;
- (H) the Development's proximity to other low income ~~restricted housing~~ developments; ~~including avoiding overconcentration~~
- (I) the availability of adequate public ~~and private~~ facilities and services;
- (J) the anticipated impact on local school districts; ~~giving due consideration to the authorized land use~~;
- (K) 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;
- (~~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
- (~~T~~) other good cause as determined by the Board.

(32) 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 Developments from the State Housing Credit Ceiling for the calendar year following the year of issuance (each a "forward commitment"). 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 ~~2004-2005~~ calendar year. Applications that are submitted under the 2005 QAP and granted a Forward Commitment of 2006 Housing Tax Credits are considered by the Board to comply with the 2006 QAP by having satisfied the requirements of this 2005 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. anticipated commitment rather than in the calendar year of the forward commitment.~~

(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) through (viii) of this subparagraph. ~~[(2306.6718(a) through (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. If the presiding officer of the governing body expresses opposition to the Development, the Department will give consideration to the objections raised and will visit the proposed site or Development within 30 days of notification to conduct a physical inspection of the Development site and consult with the presiding officer of the governing body before the Application is scored, if opposition is received prior to scoring being completed. The Department will obtain reimbursement from the Applicant for the necessary travel and expenses at rates consistent with the state authorized rate ~~[(Rider 4 of Appropriations Bill)]~~ ~~[(§42(m)(1))]~~;

(iii) 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;

(iv) state representative and state senator who represent the community where the Development is proposed to be located. If the state representative or senator hold a community meeting, the Department shall provide appropriate representation.

(v) United States representative who represents the community containing the Development;

(vi) Superintendent of the school district containing the Development;

(vii) Presiding officer of the board of trustees of the school district containing the Development;

(viii) 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, based on the letters

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

obtained by the Applicant ~~from the city and county clerks under §50.49.9(f) of this title or otherwise known to the Applicant or Department and on record with the state or county;~~ and

(ix) 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. ~~§(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); 2306.6732)~~

(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 or Determination Notices shall be discussed, the Department will:

(A) provide the Application scores to the Board;

(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 ~~§50.49.1929(b)~~ of this title, a scoring sheet providing details of the Application score, and any other documents relating to the processing of the Application. ~~§(2306.6711(a) and 2306.6717(a)(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:

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(1) Applicants which receive advance notice of a Program Year ~~2004-2005~~ 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 5:00 p.m. on December 30, 2004. ~~not later than 60 days after the date of the TBRB lottery.~~ Such filing must be accompanied by the Application fee described in ~~§50-49.2021~~ of this title.

(2) Applicants which receive advance notice of a Program Year ~~2004-2005~~ 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 ~~§50-49.2021~~ of this title prior to the Applicant's bond reservation date as assigned by the TBRB. Any outstanding documentation required under this section 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.

(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)(2) and (4)~~ of this title (regarding Selection Criteria Review and Prioritization), ~~§50-49.9(g)~~ 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(f)~~ 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. ~~At the time of Application, Developments must demonstrate the Development's consistency with the bond issuer's consolidated plan or other similar planning document.~~ 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. 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(a)~~ of this title. Applications that receive a reservation from the Bond Review Board on or before December 31, 2004 will be required to satisfy the requirements of the 2004 QAP; Applications that receive a reservation from the Bond Review Board on or after January 1, 2005 will be required to satisfy the requirements of the 2005 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) through (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; or

(2) any other program 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, 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, and 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).

~~§50-49.13~~ Commitment and Determination Notices; Agreement and Election Statement.

(a) **Commitment and Determination Notices.** If the Board approves an Application, 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 ~~§50-49.1617~~ 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 ~~§50-49.2024~~ 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 ~~§50-49.2024~~ of this title. 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 ~~§50-49.2024~~ 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.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(5) A Commitment or Determination Notice shall not be issued with respect to any Development in violation of the calculation relating to the inclusive capture rate as restricted under §1.32(g)(2) of this title, unless The Committee makes 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.~~

~~(56) 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 funded by administered by the Department, or outside the state of Texas, that is in Material Non-Compliance 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 Section 60.1 of this title. as of June 30 of each year (or for Tax Exempt Bond Developments as of 10 business days prior to the Board's vote to allocate credits. Any corrective action documentation affecting the Material Non-Compliance status score for Applicants must be received by the Department no later than May 15 of each year (or for Tax Exempt Bond Developments no later than 20 business days prior to the Board's vote to allocate credits).~~

(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 §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. Organizational Documents. 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. ~~Developments involving acquisition/rehabilitation must submit the Carryover documentation to the Department no later than December 1 of the year in which the Commitment Notice is issued, however they will be ineligible for extensions beyond that date.~~ 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:

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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) A review of information provided by the IRS as permitted pursuant to IRS Form 8821, Tax Information Authorization, for the release of tax information relating to non-disclosure or recapture issues. Each Development Owner, General Partner and Principal must execute and provide to the Department Form 8821 within ten business days of the issuance of a Commitment Notice or Determination Notice. Any information provided by the IRS will be evaluated by the Department and may be utilized by the Board to determine if a Carryover Allocation will be made.~~

~~(34) Attendance of the Development Owner and Development architect at eight hours of Department-approved Fair Housing training on or before the time the 10% Test Documentation is submitted closing of the construction loan.~~

(45) 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.

(56) Development Owners must provide evidence to the Department that they have notified the District office of the Texas Department of Transportation of their proposed property consistent with the template provided in the Carryover Allocation Procedures Manual.

(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 Department Owner must also submit a Management Plan and an Affirmative Marketing Plan as further described in the Carryover Allocation Procedures Manual.

(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 §49.20 of this title. The minimum activity necessary to meet the requirement of the 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 construction contract application for payment and the inspecting architect. The minimum activity necessary to meet the requirement of substantial construction for rehabilitation Development 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.

~~§50.15. Closing of the Construction Loan, Commencement of Substantial Construction.~~

~~(a) Closing of the Construction Loan.~~ ~~The Development Owner must submit evidence of having closed the construction loan. The evidence must be submitted no later than June 1 of the year after the execution of the Carryover Allocation Document, and no later than 14 days after the closing of the construction loan for Tax Exempt Bond Developments, with the possibility of an extension as described in §50.21 of this title. 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. The Carryover Allocation will automatically be terminated if the Development Owner fails to meet the aforementioned closing deadline (taking into account any extensions), and has not had an extension approved, and all credits previously allocated to that Development will be recovered and become a part of the State Housing Credit Ceiling for the~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~applicable year. Owners of Tax Exempt Bond Developments will be fined \$2,500 if this requirement is not fulfilled.~~

~~(b) 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 §50.21 of this title. 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 construction contract application for payment 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.~~

~~§50.49.1516. Cost Certification, LURA.~~

~~(a) Cost Certification. If a Carryover Allocation was not requested and received, Developments must be placed in service by December 31 of the year the Commitment Notice was issued. Developments receiving a Carryover Allocation must be placed in service by December 31 of the second year following the year the Carryover Allocation Agreement was executed. Developments requesting IRS Forms 8609 must submit the required Cost Certification documentation no later than April 1 of the year following the date the buildings were placed in service. Any Developments issued a Commitment Notice or Determination Notice that fails to submit its Cost Certification documentation by this time will be reported to the IRS, and the Owner will be required to submit a request for extension consistent with §49.20(l) of this title. The Department will perform an initial evaluation of the Cost Certification documentation within 45 days from the date of receipt of the Cost Certification documentation and notify the Owner in a deficiency letter of all additional required documentation. Once the Department has determined that all required documents have been received, the Department will issue IRS Forms 8609 no later than 90 days from the date of receipt of those final documents. Any deficiency letters issued to the Owner pertaining to the Cost Certification documentation will also be copied to the syndicator. At the time the Cost Certification documentation is provided, a title policy or 'nothing further certificate' must be provided dated on or after the date of substantial completion.~~

~~(b) 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, September 1 of the first year in which credits will be claimed. The Development Owner must date, sign and acknowledge before a notary public the LURA and send the original to the Department for execution by December 1 of the first year in which credits will be claimed. 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. In addition, the initial compliance and monitoring fee must also be submitted to the Department by December 1 of that same year. After receipt of the signed LURA from the Department, the Development Owner shall then record the said 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.~~

~~§50.49.1617. 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~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

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 Seventy-fifth Legislature. 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(f)(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 ~~§50-49.1748(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 ~~§50-49.2024~~ 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.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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 ~~required plans and specifications~~ construction threshold criteria and Development characteristics identified at application. At a minimum, all Development inspections must 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 ~~§50-49.2024~~ 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)].~~

(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 ~~§50-49.1516~~ 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. The Department may also consider an amendment to a Commitment Notice or Carryover Allocation or other requirement with respect to a Development if the revisions:

- (1) are consistent with the Code and the Housing Tax Credit Program;
- (2) do not occur while the Development is under consideration for tax credits;
- (3) do not involve a change in the number of points scored (unless the Development's ranking is adjusted because of such change);
- (4) do not involve a change in the Development's site; or
- (5) do not involve a change in the set-aside election.

~~§50-49.1748~~ Board Reevaluation, Appeals; Amendments, Housing Tax Credit and Ownership Transfers, Sale of Tax Credit Properties, Withdrawals, Cancellations.

(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 (c)(3) 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.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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) through (C) 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. ~~[(2306.67174(a)(54))]~~

(c) **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 ~~§50-49.1819~~ of this title shall also provide to the Board an analysis and written recommendation regarding the amendment.

(3) For Applications approved by the Board prior to September 1, 2001, the Executive Director will approve or deny the amendment request. For Applications approved by the Board after September 1, 2001, the Board must vote on whether to approve the 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:

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

- (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 (4% or 9%) for 24 months from the time that the amendment is approved.

(d) **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, and specifically disclose if the transfer is requested because a Person active in the Development is being, or has been, removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement. 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 §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.

(e) **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, 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:

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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 federal home investment partnership program;

(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~~(g) 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.

(f) **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.

(g) **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.

(h) **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, ~~and nonbinding arbitration.~~ 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~~ process, the person may send a proposal to the Department's ~~General Counsel and~~ 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 proposal should describe the dispute and the details of the process proposed (including proposed participants, third party, when, where, procedure, and cost). The Department will evaluate whether the proposed process would fairly, expeditiously, and efficiently assist in resolving the dispute and promptly respond to the proposal.~~

~~§50-49.1819.~~ Compliance Monitoring and Material Non-Compliance.

(a) 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, ~~to be proposed and in the Owner's Compliance Manual prepared by the Department's Compliance Division, as amended from time to time. Such procedure only addresses forms and records that may be required by the Department to enable the Department to monitor a Development for violations of the Code and the LURA and to notify the IRS of any such non-compliance. This procedure does not address forms and other records that may be required of Development Owners by the IRS more generally, whether for purposes of filing annual returns or supporting Development Owner tax positions during an IRS audit.~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(b) The Department, through the division with responsibility for compliance matters, shall monitor for compliance with all applicable requirements the entire construction or rehabilitation phase associated with any Development under this title. The Department will monitor under this requirement by requiring a copy of reports from all construction inspections performed for the lender and/or syndicator for the Development. Those reports must indicate that the Department may rely on those reports. The Department may provide those inspectors for the lender and/or syndicator with required documentation to be completed that will confirm satisfaction of the requirements of this rule. If necessary, the Department may obtain a Third Party inspection report for purposes of monitoring. The Development Owner must provide the Department with copies of all inspections made throughout the construction of the Development within fifteen days of the date the inspection occurred. The Department, or any Third Party inspector hired by the Department, shall be provided, upon request, any construction documents, plans or specifications for the Development to perform these inspections. If reports are not submitted to the Department or can not be relied upon, the Applicant will be responsible for payment of any necessary inspections. The monitoring level for each Development must be based on the amount of risk associated with the Development. The Department shall use the division responsible for credit underwriting matters and the division responsible for compliance matters to determine the amount of risk associated with each Development. After completion of a Development's construction phase, the Department shall periodically review the performance of the Development to confirm the accuracy of the Department's initial compliance evaluation during the construction phase. Developments having financing from TX-USA-RHS will be exempt from these inspections, provided that the Development Owner provides the Department with copies of all inspections made by TX-USA-RHS throughout the construction of the Development within fifteen days of the date the inspection occurred. [(2306.081(a) to (c); 2306.6719)]~~

~~(c) The Department will monitor compliance with all representations made by the Development Owner in the Application and in the LURA, whether required by the Code, Treasury Regulations or other rulings of the IRS, or undertaken by the Development Owner in response to Department requirements or criteria.~~

~~(d) The Development Owner must collect information and retain records for each qualified low income building in the Development, on a monthly basis (with respect to the first year of a building's Credit Period and on an annual basis, thereafter in accordance with IRS Regulation 1.42-5(b)(1) and (2)).~~

~~(e) The Development Owner will deliver to the Department no later than the last day in April each year, the current audited financial statements, in form and content satisfactory to the Department, itemizing the income and expenses of the Development for the prior year.~~

~~(f) Specifically, to evidence compliance with the requirements of the Code, §42(h)(6)(B)(iv) which requires that the LURA prohibit Development Owners of all tax credit Developments placed in service after August 10, 1993 from refusing to lease to persons holding Section 8 vouchers or certificates because of their status as holders of such Section 8 voucher or certificate. Development Owners must comply with Department rules under 10 TAC §1.14 of this title. [(2306.6728 and 2306.269(b)(1) and (2))]~~

~~(g) Certification and Review.~~

~~(1) On or before February 1st of each year, the Department will send each Development Owner of a completed Development the Fair Housing Sponsor Report (form provided by the Department) to be completed by the Development Owner and returned to the Department on or before the first day of March of each year in the Compliance Period. Any Development for which the certification is not received by the Department, is received past due, or is incomplete, improperly completed or not signed by the Development Owner, will be considered not in compliance with the provisions of §42 of the Code and reported to the IRS on Form 8823, Low Income Housing Credit Agencies Report of Non-Compliance. The Fair Housing Sponsor Report, Part A "Owner's Certification of Program Compliance" shall cover the preceding calendar year and shall at a minimum cover the requirements under IRS Regulation 1.42-5(c) and §60.1 of this title, to be proposed.~~

~~(2) Review.~~

~~(A) The Department staff will review the Fair Housing Sponsor Report for compliance with the requirements of the Code, §42.~~

~~(B) The Department will monitor the Development for compliance under Section 42 and §60.1 of this title, to be proposed.~~

~~(C) The Department will perform on-site inspections of all buildings in each low income Development by the end of the second calendar year following the year the last building in the Development is placed in service and, for at least 20% of the low income Units in each Development, inspect the Units and review the low income certifications, the documentation the Development Owner has received to support the certifications, the~~

~~rent records for each low income tenant in those Units, and any additional information that the Department deems necessary.~~

~~(D) At least once every three years, the Department will conduct on-site inspections of all buildings in the Development, and for at least 20% of the Development's low income Units, inspect the Units and review the low income certifications, the documentation supporting the certifications, and the rent records for the tenants in those Units.~~

~~(3) 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 by the TX-USDA-RHS under its §515 program. Owners of such buildings may be excepted from the review procedures of subparagraph (B) or (C) of paragraph (2) of this subsection or both; 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 of the Code, §42(g)(1) and (2), are met, the Development Owner must provide the Department with additional information. 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.~~

~~(h) Inspection provision. The Department retains the right to perform an on-site inspection of any low income Development including all books and records pertaining thereto through either the end of the Compliance Period or the end of the period covered by any Extended Low Income Housing Commitment, whichever is later. An inspection under this subsection may be in addition to any review under subsection (g)(2)(C) of this section.~~

~~(i) Inspection Standard. For the on-site inspections of buildings and low income Units, the Department shall review any local health, safety, or building code violations reported to, or notices of such violations provided by the Development Owner, and determine whether the Units satisfy local health, safety, and building codes or the uniform physical condition standards for public housing established by HUD (24 CFR 5.703). The HUD physical condition standards do not supersede or preempt local health, safety and building codes. Developments must continue to satisfy these codes and if the Department becomes aware of any violation of these codes, the violations must be reported to the IRS.~~

~~(j) The Department retains the right to require the Owner to submit tenant data in the electronic format as developed by the Department. The Department will provide general instruction regarding the electronic transfer of data.~~

~~(k) Notices to Owner. The Department will provide prompt written notice to the Development Owner if the Department does not receive the certification described in subsection (g)(1) of this section or discovers through audit, inspection, review or any other manner, that the Development is not in compliance with the provisions of the Code, §42 or the LURA. The notice will specify a correction period which will not exceed 90 days from the date of notice to the Development Owner, during which the Development Owner may respond to the Department's findings, bring the Development into compliance, or supply any missing certifications. The Department may extend the correction period for up to six months from the date of notice to the Development Owner if it determines there is good cause for granting an extension. If any communication to the Development Owner under this section is returned to the Department as unclaimed or undeliverable, the Development may be considered not in compliance without further notice to the Development Owner.~~

~~(l) Notice to the IRS.~~

~~(1) Regardless of whether the noncompliance is corrected, the Department is required to file IRS Form 8823 with the IRS. IRS Form 8823 will be filed not later than 45 days after the end of the correction period specified in the Notice to Owner (including any extensions permitted by the Department), but will not be filed before the end of the correction period. The Department will explain on IRS Form 8823 the nature of the noncompliance and will indicate whether the Development Owner has corrected the non-compliance or failure to certify.~~

~~(2) If a particular instance of non-compliance is not corrected within three years after the end of the permitted correction period, the Department is not required to report any subsequent correction to the IRS.~~

~~(3) The Department will retain records of noncompliance or failure to certify for six years beyond the Department's filing of the respective IRS Form 8823. In all other cases, the Department will retain the certification and records described in this section for three years from the end of the calendar year the Department receives the certifications and records.~~

~~(m) Notices to the Department. A Development Owner must comply with §50.18(d) of this title for the event listed in paragraph (1) of this subsection and must notify the division responsible for compliance within the Department in writing of the events listed in paragraphs (2) and (3) of this subsection.~~

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

~~(1) prior to any sale, transfer, exchange, or renaming of the Development or any portion of the Development. For Rural Developments that are federally assisted or purchased from HUD, the Department shall not authorize the sale of any portion of the Development;~~

~~(2) any change of address to which subsequent notices or communications shall be sent; or~~

~~(3) within thirty days of the placement in service of each building, the Department must be provided the in-service date of each building.~~

~~(n) Liability. Compliance with the requirements of the Code, §42 is the sole responsibility of the Development Owner of the building for which the credit is allowable. By monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the Development Owner including the Development Owner's noncompliance with the Code, §42.~~

~~(o) These provisions apply to all buildings for which a housing tax credit is, or has been, allowable at any time. The Department is not required to monitor whether a building or Development was in compliance with the requirements of the Code, §42, prior to January 1, 1992. However, if the Department becomes aware of noncompliance that occurred prior to January 1, 1992, the Department is required to notify the IRS in a manner consistent with subsection (j) of this section.~~

~~(p) Material Non-Compliance. [(2306.185(a))] In accordance with §50.5(b)(3) and (4) of this title, the Department will disqualify an Application for funding if the Applicant, the Development Owner, or 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 located in or outside the State of Texas is determined by the Department to be in Material Non-Compliance on the date the Application Round closes. The Department will classify a property as being in Material Non-Compliance when such property has a Non-Compliance score that is equal to or exceeds 30 points in accordance with the methodology and point system set forth in this subsection, or if in accordance with §50.5(b)(4) of this title, the Department makes a determination that the non-compliance reported would equal or exceed a non-compliance score of 30 points if measured in accordance with the methodology and point system set forth in §60.1 of this title, to be proposed.~~

~~(q) Utility Allowances utilized during affordability period. The Department will monitor to determine whether rents comply with the published tax credit rent limits using the utility allowances established by the local housing authority. 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.~~

§50.49.1920. 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) through (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;

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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 original of each completed (as to Part I) IRS Form 8609, a copy 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 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 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.

~~§50.49.2021.~~ **Program Fees, Refunds, Public Information Requests, Amendments of Fees and Notification of Fees, Extensions.**

(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 ~~\$105~~ 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.

(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 ~~\$2015~~ per Unit. For Applicants not having submitted a Pre-Application, the Application fee will be ~~\$3020~~ 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. ~~{(2306.6716(d))}~~

(d) **Refunds of Pre-Application or Application Fees.** ~~{(2306.6716(c))}~~ 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 Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 30% of the review, the site visit will constitute 45% of the review, and Threshold and Selection review will constitute 25% of the review. 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.

(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)(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.

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

(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 notice, a non-refundable commitment fee equal to ~~5%~~4% 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. Upon the Development being placed in service, the Development Owner will pay a compliance monitoring fee in the form of a check equal to \$25 per tax credit Unit per year or \$100, whichever is greater. Payment of the first year's compliance monitoring fee must be received by the Department prior to the release of the IRS Form 8609 on the Development. Subsequent anniversary dates on which compliance monitoring fee payments are due shall be determined by the date the Development was placed in service.~~

(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. 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 Section 49.12(d) of this section, 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 one percent of the first 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 Texas Building and Procurement Commission (formerly General Services Commission) determines 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 Requests.** All extension requests relating to the Commitment Notice, Carryover, ~~Closing of Construction Loan, Substantial Construction Commencement, Placed in Service or Cost Certification~~ requirements 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 at least 20 days prior to~~ the date for which an extension is being requested and will not be accepted any later than this deadline date. 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, except for the Closing of Construction Loan and Substantial Construction Commencement. The Board may grant extensions, for the Closing of Construction Loan and Substantial Construction Commencement. The Board may waive related fees for good cause.

§50.49.2122. Manner and Place of Filing All Required Documentation.

(a) All Applications, letters, documents, or other papers filed with the Department ~~must~~ will 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. Every such correspondence

2005 Housing Tax Credit Program DRAFT Qualified Allocation Plan and Rules

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.

~~§50.49.2223.~~ **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) The Department may amend this chapter and the Rules contained herein at any time in accordance with the Government Code, Chapter 2001, ~~as may be amended from time to time.~~

~~§50.49.2324.~~ **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.

(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 & SINGLE FAMILY FINANCE PRODUCTION DIVISIONS
BOARD ACTION REQUEST**

November 12, 2004

Action Items

Final HOME Investment Partnerships Program Rule.

Required Action

1. Repeal of 2004 HOME Investment Partnership Program (HOME) Rule, Title 10 Texas Administrative Code, Part 1, Chapter 53
2. Adoption of Proposed Amended HOME Rule, Title 10 Texas Administrative Code, Part 1, Chapter 53

On September 9, 2004, the proposed 2005 HOME Investment Partnership Program Rules (HOME) was published in the *Texas Register*. The comment period commenced on September 9, 2004, and ended on October 25, 2004. In addition to publishing the document in the *Texas Register*, a copy of the HOME Rule was published on the Department's web site and was made available to the public upon request. The Department held thirteen public hearings across the state to gather feedback on the proposed HOME Rule. The public was generally pleased with the draft HOME Rule and with the Department's efforts.

The Department received the majority of comments in writing by email, fax and mail. Comments were also collected during the Department's public hearings and transcripts from those meetings were used to include comments. The following summary provides the Department's response to all public comments received and administrative changes required for program consistency. The comments and responses are summarized below by topic and HOME Rule section. Each HOME Rule section has numerical references that correspond to the individual or entity that made the comment(s). The list that identifies the entity associated with each number is found in Appendix A.

The comments and responses are divided into the following two sections:

- I. Substantive Comments Departmental Response.
- II. Administrative Amendments.

I. Substantive Comments and Departmental Response.

General Comment - CHDO Developer Fees (1)

CHDO applicants should be allowed to keep and benefit from developer fees that are allowed under all of the Department's multifamily housing programs. Commenter believes that these fees currently must be repaid to the program, which they oppose.

Department Response:

Staff agrees that developer fees should not be repaid to the department, and has no such requirement. Developer fees are often deferred by applicants to meet certain underwriting conditions, but these deferrals do not constitute a repayment of loss of fees by the applicant. Furthermore, the Department has responded to the particular needs of CHDO applicants by providing Operating Support funds, which are provided to CHDO awardees as a grant with no repayment stipulations.

§53.54. Program Activities – (2, 3, 5)

General comments in support of CHDO Predevelopment and Capacity Building programs were submitted. While comment preferred that Capacity Building continue to be funded through the Housing Trust Fund, they did reflect a desire for both programs to be flexible in their application, available in all parts of the state, including local Participating Jurisdictions, and that the programs are operated by an outside administrator if they are to be funded with HOME dollars.

Department Response:

The application of CHDO funds is strictly governed by the federal HOME rules and the Department has limited flexibility in their use. While the Department agrees that there would be a benefit to providing these funds on a state wide basis, the Texas Government Code at §2306.111(c) strictly limits the use of HOME funds in local Participating Jurisdictions to development activities that benefit persons with disabilities. Staff has reviewed the idea of using an outside administrator of these programs, but has come to the conclusion that federal regulations may prohibit the use of a sub recipient for the purpose of administering CHDO funds. The Department will continue to speak with HUD and Legal staff to determine if such an arrangement could be created.

§53.54(b) - Homebuyer Education (6)

A request was made that Homebuyer Counseling remain an eligible activity under §53.54 (b) of the proposed 2005 HOME rule. It was noted that this program is important to reduce the number of mortgage defaults and protect low-income buyers from predatory lenders and to promote fair housing opportunities.

Department Response:

According to the Final Rule, 24 CFR Section 92.205, homebuyer counseling is not considered an eligible use under the Homebuyer Activity. Homebuyer activities only include down payment, closing cost, and gap financing assistance. However, if an applicant were to receive a Homebuyer Assistance award, homebuyer counseling would be considered a reimbursable administrative or project-related soft cost. The Department also awards points to those applicants that include homebuyer counseling as a component of their programs.

§53.56. Distribution of Funds (1, 5)

Comments were collected on the restriction in §2306.111(c) of the Texas Government Code on the use of HOME funds in local Participating Jurisdictions for units that are for persons with disabilities. The comments highlight that the Department has interpreted the rule to only allow for the funding of units for persons with disabilities, and not for general funding of developments that meet the Department’s Integrated Housing Rule.

Department Response:

The Department, in consultation with its legal staff, has determined that §2306.111(c) of the Texas Government Code clearly limits state HOME funds from being used in local Participating Jurisdictions for housing units that are not specifically reserved for persons with disabilities. No change is recommended.

§53.60. Process for Awards (1)

An applicant has commented on the additional due diligence requirements not specifically described in application documents or NOFAs which add additional costs to developments after the award of HOME funds. It has been noted that some due diligence requirements may add thousands of dollars to a development without additional funding from the Department. The commenter did not identify any specific cost items.

Department Response:

The Department clearly states in its rules, NOFAs and applications all relevant federal and state program requirements. Additional due diligence requirements after the award of HOME funds are clearly outlined in application materials and federal program rules. In cases where awardees have unanticipated development costs or increases in planned costs the Department has worked with them to increase awards in accordance with the Department’s program rules and is allowed under the federal HOME rule to the extent possible.

II. Administrative Amendments

To assure consistency with federal law Department staff has revised §53.63 (b)(4) of the proposed rule to be consistent with 24 CFR 92.257, the federal HOME rule, on the participation of religious organizations in the operation of Community Housing Development Organizations. The proposed text is included below.

“§53.63 (b)(4)

(4) Religious or Faith-based Organizations may sponsor a CHDO if the CHDO meets all the requirements of this section. While the governing board of a CHDO sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the faith-based organization may retain control over appointments to the board. If a CHDO is sponsored by a religious organization, the following restrictions also apply:

(A) Housing developed must be made available exclusively for the residential use of program beneficiaries and must be made available to all persons regardless of religious affiliations or beliefs.

(B) A religious organization that participates in the HOME program may not use HOME funds to support any inherently religious activities: such as worship, religious instruction, or proselytizing.

(C) HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Sanctuaries, chapels, or other rooms which a faith-based CHDO uses as its principal place of worship are always ineligible for HOME-funded improvements.

(D) Compliance with clauses (A)-(C) of this subparagraph may be evidenced by:

(i) The Organizations By-laws

(ii) Charter; or

(iii) Articles of Incorporation.”

Appendix A – Collected Public Comments on the HOME Rule

Reference #	Contact	Organization
1	Jesse Seawell	Ability Resources, Inc.
2	Reymundo Ocañas	Texas Association of Community Development Corporations
3	Delia Ponce	El Paso Collaborative for Community Economic Development
4	Woodie Johnston	Valley Association of Independent Living.
5	Eduardo Magaloni	Housing Community Services, Inc.
6	John Henneberger	Texas Low-Income Housing Information Service



Proposed 2005 HOME Rule

Title 10, Part 1, Chapter 53 Texas Administrative Code

§53.50. Scope

The rules in this chapter apply to the use and distribution of HOME Investment Partnerships Program (HOME) funds. The United States Department of Housing and Urban Development (HUD) provides HOME funds to the State pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 United States Code §§12701-12839) and HUD regulations at 24 Code of Federal Regulations (CFR) Part 92. The State's HOME Program is designed to:

- (1) expend at least 95% of the funds received for the benefit of non-participating small cities and rural areas that do not receive HOME funds directly from HUD.
- (2) focus on the areas with the greatest housing need described in the State Consolidated Plan;
- (3) provide funds for home ownership and rental housing through acquisition, new construction, rehabilitation, reconstruction, tenant-based rental assistance, and pre-development loans;
- (4) promote partnerships among all levels of government and the private sector, including non-profit and for-profit organizations; and
- (5) provide low, very low, and extremely low income Texans with affordable, decent, safe and sanitary housing.

§53.51. Definitions.

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

- (1) Activity--A form of assistance by which HOME funds are used to provide incentives to develop and support affordable housing and homeownership through acquisition, new construction, reconstruction, and rehabilitation of housing.

(2) 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.

(3) Applicant--An eligible entity which is preparing to submit or has submitted an application for HOME funds and is designated in the application to assume contractual liability and legal responsibility as the Recipient executing the written agreement with the Department.

(4) Board--The governing board of the Texas Department of Housing and Community Affairs.

(5) CFR--Code of Federal Regulations.

(6) Colonia--A geographic area located in a county some part of which is within 150 miles of the international border of this state 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.

(7) Community Housing Development Organization (CHDO)--A private nonprofit organization that satisfies the requirements of 24 CFR 92.2 and is certified as such by the Department.

(8) Community Housing Development Organization Pre-Development Loan--A form of assistance in which funds are made available as loans to cover those costs outlined in 24 CFR 92.301.

(9) Competitive Application Cycle--A Notice of Funding Availability that has a fixed deadline by which applications must be submitted. Applications will be reviewed for threshold and scoring criteria in accordance with the rules for application review published in the NOFA.

~~-(10) [-(9)]~~Consolidated Plan--The State Consolidated Plan prepared in accordance with 24 CFR Part 91, which describes the needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs and is subject to approval annually by HUD.

(11) ~~[(10)]~~ Demonstration Fund--A reserve fund for use alone or in combination and coordination with other programs administered by the Department. This Fund will be available for out of cycle applications, innovative programs brought to the Department for consideration and emergency programs. Additionally, this fund may be used with other programs administered by the Department as outlined in the Consolidated Plan, as approved by the Board.

(12) ~~[(11)]~~ Department--The Texas Department of Housing and Community Affairs.

(13) ~~[(12)]~~ Development--Projects that have a construction component, either in the form of new construction or the rehabilitation of multi-unit or single family residential housing that meet the affordability requirements.

(14) ~~[(13)]~~ Expenditure--Approved expense evidenced by documentation submitted by the Recipient to the Department for purposes of drawing funds from HUD's Integrated Disbursement and Information System (IDIS) ~~[IDIS]~~ for work completed, inspected and certified as complete, and as otherwise required by the Department.

(15) ~~[(14)]~~ Family--Includes but is not limited to the following types of families as defined in 24 CFR 5.403:

(A) A family with or without children;

(B) An elderly family;

(C) A near elderly family;

(D) A disabled family;

(E) A displaced family;

(F) The remaining member of a tenant family; and

(G) A single person who is not an elderly or displaced person or a person with disabilities or the remaining member of a tenant family.

(16) ~~[(15)]~~ Homebuyer Assistance-- Down payment, closing costs, and gap financing assistance provided to eligible homebuyers. Minor rehabilitation may be combined with Homebuyer Assistance. ~~[Down payment and closing costs assistance provided to eligible homebuyers.]~~

(17) ~~[(16)]~~ HOME--The HOME Investment Partnerships Program at 42 United States Code §§12701-12839 and the regulations promulgated thereafter at 24 CFR Part 92.

(18) [~~(17)~~] Household--One or more persons occupying a housing unit.

(19) [~~(18)~~] HUD--The United States Department of Housing and Urban Development, or its successor.

(20) [~~(19)~~] IDIS--Integrated Disbursement and Information System established by HUD.

(21) [~~(20)~~] Income Eligible Families:

(A) Low-Income 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.

(B) Very Low-Income Families--Families whose annual incomes do not exceed 50% of the median family income for the area, as determined by HUD and published by the Department, with adjustments for family size.

(C) Extremely Low Income 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.

(22) [~~(21)~~] Match--Eligible forms of non-federal contributions to a program or project in the forms specified in 24 CFR 92.220.

(23) [~~(22)~~] NOFA--Notice of Funding Availability, published in the *Texas Register*.

(24) [~~(23)~~] Nonprofit organization--A public or private 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; and

(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 nonprofit 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

~~[has a tax exemption ruling form the Internal Revenue Service under the Internal Revenue Code of 1986, §501 (c), as amended.]~~

(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.

(25) Open Application Cycle-A Notice of Funding Availability that does not have a fixed deadline by which applications must be submitted. Applications will be reviewed in accordance with the rules for application review published in the NOFA.

(26) ~~[(24)]~~Owner-Occupied Housing Assistance--A form of assistance for the purpose of rehabilitating or reconstructing existing owner-occupied housing.

(27) ~~[(25)]~~Participating Jurisdiction (PJ)--Any state or unit of general local government, including consortia as specified in 24 CFR 92.101, designated by HUD in accordance with 24 CFR 92.105.

(28) ~~[(26)]~~Program--Funds provided in the form of a contract to an eligible Applicant for the purpose of administering more than one Project or assisting more than one household.

(29) ~~[(27)]~~Program Income--Gross income received by the Department or program administrators directly generated from the use of HOME funds or matching contributions as further described in 24 CFR 92.2.

(30) ~~[(28)]~~Project--A site or an entire building (including a manufactured housing unit), or two or more buildings, together with the site or sites on which the building or buildings are located, that are under common ownership, management, and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking under 24 CFR 92.2.

(31) ~~[(29)]~~Recipient--A successful applicant that has been awarded funds by the Department to administer a HOME program, including a State Recipient, Subrecipient, for-profit entity, nonprofit entity, or CHDO.

(32) ~~[(30)]~~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.

(33) ~~[(31)]~~Rural Area--A project located within an area which:

(A) is situated outside the boundaries of a primary metropolitan statistical area (PMSA) or a metropolitan statistical area (MSA);

(B) within the boundaries of a primary metropolitan statistical area (PMSA) or a metropolitan statistical area (MSA), 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 funding by the Texas-United States Department of Agriculture-Rural Housing Service (TX-USDA-RHS).

(34) [~~(32)~~] Single Family Housing Development--A form of assistance to make funds available to HOME eligible Applicants including non-profit organizations, CHDOs, units of general local government, for-profit housing organizations, sole proprietors and public housing agencies for the purpose of constructing single family affordable housing units for homeownership.

(35) [~~(33)~~] Special Needs--Those individuals or categories of individuals determined by the Department to have unmet housing needs consistent with 42 USC §12701 et seq. and as provided in the Consolidated Plan.

(36) [~~(34)~~] State Recipient--A unit of general local government designated by the Department to receive HOME funds.

(37) [~~(35)~~] Subrecipient--A public agency or nonprofit organization selected by the Department to administer all or a portion of the Department's HOME program. A public agency or nonprofit that receives HOME funds solely as a developer or owner of housing is not a Subrecipient. The Department's selection of a Subrecipient is not subject to the procurement procedures and requirements.

(38) [~~(36)~~] Tenant-Based Rental Assistance (TBRA)--A form of 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 deposits and utility deposits [~~and allowances~~] for rental of dwelling units.

(39) [~~(37)~~] Unit of General Local Government--A city, town, county, or other general purpose political subdivision of the State; a consortium of such subdivisions recognized by HUD in accordance with 24 CFR 92.101 and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction. An urban county is considered a unit of general local government under the HOME Program.

§53.52. Applicant Requirements.

(a) Eligible Applicants. The following organizations or entities are eligible to apply for HOME eligible activities:

(1) nonprofit organizations;

- (2) CHDOs;
- (3) units of general local government;
- (4) for-profit entities and sole proprietors; and
- (5) public housing agencies.

(b) Ineligible Applicants: The following violations will cause an Applicant, and any applications they have submitted, to be ineligible:

(1) Previously funded Recipient(s) whose HOME 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 eligibility requirements described in subsection (f) of this section [title] and the NOFA to which they are responding, and for which Administrative Deficiencies were unresolved (relating to Applicant Requirements);

(3) Applicants that have failed to make payment on any loans or fee commitments made with the Department; [~~Applicants who have submitted incomplete applications;~~]

(4) Applicants that have been otherwise barred by HUD and/or the Department;

(5) Applicant or developer, or their staff, that violate the state revolving door policy ; and [~~—~~]

(6) Applicants that may be ineligible in accordance with those requirements at §49.5 of this title.

(c) Restrictions on Communication.

(1) The Applicant or other person that is active in the ownership or control of the proposed Activity, or individual employed as a lobbyist or in another capacity on behalf of the application, may not communicate with any Board member with respect to the application during the period of time starting with the time an application is submitted until the time 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.

(2) Applicants are restricted from communication with Department staff as described in this subsection. The Applicant or a Related Party, the Development Owner, or the General Contractor, or any Affiliate of the General

Contractor, that is active in the ownership or control of the application, or individual employed as a lobbyist or in another capacity on behalf of the application, may communicate with an employee of the Department with respect to the application so long as that communication satisfies the conditions established under subparagraphs (A) through (E) of this paragraph. Communication with Department employees is unrestricted during any board meeting or public hearing held with respect to that application.

(A) The communication must be restricted to technical or administrative matters directly affecting the application;

(B) The communication must occur or be received on the premises of the Department during established business hours;

(C) Communication with the Executive Director, the Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Single Family Finance Production, the Director of Portfolio Management and Compliance, and the Director of Real Estate Analysis of the Department must only be in written form which includes electronic communication through the Internet; and

(D) Communication with other Department staff may be oral or in written form which includes electronic communication through the Internet; and

(E) 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.

(d) Noncompliance. Each application will be reviewed for its compliance history by the Department, consistent with Chapter 60 of this title. Applications found to be in Material Noncompliance, or otherwise violating the compliance rules of the Department, will be terminated.

(e) Rental Housing Development Site and Development Restrictions. Restrictions include all those items referred to in §49.6 of this title, 24 CFR Part 92 of the HUD HOME program rules, and any additional items included in the NOFA for rental housing developments.

[(1) 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 Developments proposing rehabilitation will be permitted in the 100 year floodplain unless they already are constructed in accordance with the policy stated in this paragraph for new construction or are able to provide evidence of flood insurance on the buildings and the contents of the units.]~~

~~[(2) Ineligible Building Types. Applications involving Ineligible Building Types will not be eligible for an award. Those buildings or facilities which are ineligible are as follows:]~~

~~[(A) Hospitals, nursing homes, trailer parks and 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) are ineligible. However, structures formerly used as hospitals, nursing homes or dormitories are eligible if the Development involves the conversion of the building to a non transient multifamily residential development.]~~

~~[(B) Any elderly development of two stories or more that does not include elevator service for any Units or living space above the first floor.]~~

~~[(C) Any elderly development 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 new construction, other than a Development (new construction or rehabilitation) composed entirely of single-family dwellings, having any Units with four or more bedrooms.]~~

~~(f) [(3)]~~Limitations on the Size of Developments. Developments involving new construction will be limited to ~~252~~ ~~[-250-]~~ 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 restrictions. The minimum number of units shall be 4 units under all Development programs.

~~[(4) Unacceptable Sites. Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.]~~

~~(g) [(f)]~~Eligibility requirements. An Applicant must satisfy each of the following requirements in order to be eligible to apply for HOME funding and as more fully described in the NOFA, when applicable:

(1) provide evidence of its ability to carry out the Program in the areas of financing, acquiring, rehabilitating, developing or managing affordable housing developments;

(2) demonstrate fiscal, programmatic, and contractual compliance on previously awarded Department contracts or loan agreements;

(3) resolve any previous audit findings, unless deemed irresolvable by the Department, and/or outstanding monetary obligations with the Department;

(4) demonstrate reasonable HOME Program expenditure and project performance on ~~[-open-]~~ contract(s), as determined through program monitoring~~[-Evidence of expenditure and project identification is submitted with the application, and is reconciled with the Department's IDIS reports during the application review process-];~~ and

(5) demonstrate satisfactory performance otherwise required by the Department and set out in the application guidelines.

~~(h) [(g)]~~ If indicated by the Department, Recipients must comply with all requirements to utilize the Department's website to provide necessary data to the Department.

~~(i) [-(h)-]~~ For funds being used for Rental Housing Developments, the Recipient must establish a reserve account consistent with §2306.186, Texas Government Code, and as further described in Section 1.37 ~~[-Chapter 60-]~~ of this title.

§53.53.Application Limitations.

An eligible Applicant may apply for several eligible activities provided that the total amount requested does not exceed the funding limits established in this section. The Department reserves the right to reduce the amount requested in an application based on program or project feasibility, underwriting analysis, or availability of funds:

(1) Award amount for Owner-Occupied Housing Assistance, Homebuyer Assistance, and Tenant-Based Rental Assistance shall not exceed \$500,000 per Activity, per NOFA, except as may be otherwise allowed by the Board.

(2) Award amount for Development activities shall not exceed \$1.5 million, except as may be recommended by staff and otherwise approved ~~[-allowed-]~~ by the Board.

(3) Award amount for CHDO Operating Expenses shall not exceed in any fiscal year 50% of the CHDO's total annual operating expenses in that fiscal year, or \$50,000, whichever is greater. ~~[-operating expenses in each fiscal year up to~~

~~[\$50,000 or 50% of the CHDO's total annual operating expenses for that year, whichever is greater.]~~

(4) Per unit subsidy for all HOME-assisted housing may not exceed the per-unit dollar limits established by HUD under §221(d)(3) of the National Housing Act which are applicable to the area in which the housing is located, and published by the Department.

(5) Award amount for Disaster Relief shall not exceed \$500,000.00 per State declared disaster, or as may be otherwise allowed by the Board. Only one application per affected unit of general local government may be submitted for each designated disaster. Public housing authorities (PHAs) and Nonprofit organizations may only act as an Applicant, in lieu of the unit of local government, if they are so designated by the affected unit of general local government. Award amount for designated Applicants may not exceed \$500,000 per State declared disaster, or as may be otherwise allowed by the Board.

(6) Award amount for CHDO Predevelopment Loans may not exceed \$50,000 per application. Applicants may submit only one application per NOFA to cover eligible costs, as defined under §53.54(f) of this title.

§53.54. Program Activities.

(a) Owner-Occupied Housing Assistance: Assisted homeowners must be income eligible and must occupy the property as their principal residence. Housing assisted with HOME funds must meet all applicable codes and standards, as specified in the application guide. In addition, housing that is reconstructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with 24 CFR 92.251(a).

(b) Homebuyer Assistance: HOME funds utilized for Homebuyer Assistance are subject to the Department's recapture provisions ~~[restrictions]~~ as approved by HUD in the Consolidated Plan and as outlined in the application guidelines. The eligible uses for Homebuyer Assistance are down-payment assistance, closing cost assistance, and gap financing ~~[and homebuyer counseling]~~. The total assistance provided per eligible homebuyer may not exceed the limits as determined or allowed by the Board.

(c) Rental Housing Development: All eligible applicants that satisfy the requirements of §53.52 of this title may develop affordable rental housing. Eligible Activities include acquisition, new construction, and rehabilitation. Owners of rental units assisted with HOME funds must comply with income and rent restrictions pursuant to 24 CFR 92.252 and keep the units affordable for a period of time, depending upon the amount of HOME assistance provided. Housing assisted with HOME funds must meet all applicable codes and

standards, as specified in the application guide. In addition, housing that is newly constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with 24 CFR 92.251(a).

(d) Tenant-Based Rental Assistance: Provides 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. Recipients must comply with 24 CFR 92.209 and 92.216.

(e) Single Family Housing Development: Newly constructed housing must meet all applicable codes and standards, as specified in the application guide. In addition, housing that is newly constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with 24 CFR 92.251(a). ~~If [-An-]eligible, an~~ Applicant that applies for Single Family Housing Development may also apply for Homebuyer Assistance.

(f) CHDO Pre-Development Loans: The Department may set-aside up to 10% of the annual CHDO 15% Set-Aside for pre-development loans in accordance with 24 CFR 92.300(c). Applicants for pre-development loans will be required to have a summary description of a proposed Development and be able to show the necessary development experience to apply, as outlined in the NOFA or application materials. Predevelopment loan funds may only be used for activities such as project-specific technical assistance, site control loans, and project-specific seed money. ~~[Funds for pre-development loans are available only when provided in conjunction with a Development application and may only be used for activities such as project-specific technical assistance, site control loans, and project-specific seed money.]~~ Pre-development loans must be repaid from construction loan proceeds or other project income. In accordance with 24 CFR 92.301, the Board [-Department-] may elect to waive pre-development loan repayment, in whole or in part, if there are impediments to project development that the Department determines are reasonably beyond the control of the CHDO.

(g) Set-Asides: other activities deemed eligible under set-asides defined by the Department and outlined in the Consolidated Plan.

§53.55.Prohibited Activities.

In accordance with 24 CFR 92.214, HOME funds may not be used to:

(1) provide a project reserve account for replacements or increases in operating costs, or operating subsidies;

- (2) provide TBRA for existing Section 8 Programs;
- (3) provide non-federal matching contributions for other programs;
- (4) provide assistance to Public Housing Agency owned or leased projects;
- (5) carry out Public Housing Modernization;
- (6) provide pre-payment of low-income housing mortgages under 24 CFR Part 248;
- (7) provide assistance to a project previously assisted with HOME funds during the period of affordability;
- (8) provide funds to reimburse an Applicant for acquisition costs for a property already owned by the Applicant, and
- (9) pay for any cost that is not eligible under 24 CFR 92.206-92.209.

(10) pay delinquent taxes, fees or charges on properties to be assisted with HOME funds.

§53.56.Distribution of Funds.

In accordance with 24 CFR 92.201(b)(1), the Department makes every effort to distribute HOME funds throughout the state according to the Department's assessment of the geographic distribution of housing needs, as identified in the Consolidated Plan. Funds shall also be allocated in accordance with §2306.111(d) and (g), Texas Government Code. The Department receives HOME funds for areas of the state which have not received Participating Jurisdiction (PJ) status from HUD. §2306.111(c) of the Texas Government Code requires the Department to award at least 95% of HOME Program funds to entities in nonparticipating jurisdictions. All funds not set aside under this section shall be used for the benefit of persons with disabilities who live in areas other than nonparticipating areas.

(1) CHDO Set-Aside. In accordance with 24 CFR 92.300, not less than 15% of the HOME allocation will be set aside by the Department for CHDO eligible activities. CHDO set-aside projects are owned, developed, or sponsored by the CHDO, and result in the development of rental units or homeownership. Development includes projects that have a construction component, either in the form of new construction or the rehabilitation of existing units. If an insufficient number of qualified applications are received by the deadline, the Department reserves the right to hold additional competitions in order to meet federal set-aside requirements.

(2) Special Needs [~~Set-Aside~~]. In accordance with the Consolidated Plan, funds will be available to eligible Applicants, as defined in §53.52(a) of this title (relating to Applicant Requirements), with a documented history of working with special needs populations and with relevant housing related experience. Applicants may submit applications for: Owner-Occupied Housing Assistance, Homebuyer Assistance, and Tenant-Based Rental Assistance. If an insufficient number of qualified applications are received, the Department reserves the right to transfer funds remaining in accordance with paragraph (6) of this subsection regarding Redistribution.

(3) Other Set-Asides. In accordance with the Consolidated Plan, funds will be available to eligible Applicants, as defined in §53.52(a) of this title (relating to Applicant Requirements), for those eligible activities outlined under Set-Asides.

(4) Administrative Funds. In accordance with 24 CFR 92.207 up to 10% of the Department's HOME [~~a PJ's HOME~~] allocation plus 10% of any program income received may be used for eligible and reasonable planning and administrative costs. Administrative and planning costs may be incurred by the Department [~~PJ~~], State Recipient, Subrecipient, nonprofit entity, or CHDO.

(5) CHDO Operating Expenses. In accordance with 24 CFR 92.208 up to 5% of the Department's [~~a PJ's~~] HOME allocation may be used for the operating expenses of CHDOs. [~~CHDO Applicants awarded funds for set-aside activities may be eligible for operating expenses.~~] The Department may award CHDO Operating Expenses in conjunction with the award of CHDO Funds, or through a separate application cycle not tied to a specific Activity.

(6) Redistribution. In an effort to commit HOME funds in a timely manner, the Department may reallocate funds set-aside in accordance with the Consolidated Plan, at its own discretion, to other regions or activities if:

(A) the Department fails to receive a sufficient number of applications from a particular region or Activity;

(B) no applications are submitted for a region; or

(C) applications for a region or Activity do not meet eligibility requirements or minimum threshold scores (when applicable), or are financially infeasible as applicable.

(7) Marginal Applications. When the remainder of the allocation within a region is insufficient to completely fund the next ranked application in the region or Activity, it is within the discretion of the Department to:

(A) fund the next ranked application for the partial amount, reducing the scope of the application proportionally;

- (B) make necessary adjustments to fully fund the application; or
- (C) transfer the remaining funds to other regions or activities.

(8) HOME Demonstration Fund. The Department, with Board approval, may reserve HOME funds to combine and coordinate with other programs administered by the Department as outlined in the Consolidated Plan, or for housing activities the Department is permitted to fund under applicable law.

§53.57. Allocation Plan.

The allocation plan created by the Department will be based on the funding allocation outlined in the Department's Consolidated Plan, after a full accounting of available funds has been determined. [will be based on the funding recommendations in the Consolidated Plan.]

§53.58. Application Process.

(a) An Applicant must submit a completed application to be considered for funding, along with an application fee determined by the Department and outlined in the NOFA. Applications containing false information and applications not received by the deadline will be disqualified. Disqualified Applicants are notified in writing. All applications must be received by the Department by 5:00 p.m. on the date identified in the NOFA, regardless of method of delivery.

(b) Applications received by the Department in response to an Open Application Cycle NOFA 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 (8:00 a.m. to 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, as applicable. 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 under the CHDO Set-Aside 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 ten business days will be forwarded into Phase Two and will continue to be prioritized by their received date. Applications with deficiencies not cured within ten business days, will be retained in Phase One until all deficiencies have been addressed/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 materials required under the NOFA and will issue notice of any deficiencies as to threshold and eligibility within 45 days of the date it enters Phase Two. Applicants who are able to resolve their deficiencies within ten business days will be forwarded into Phase Three and will continue to be prioritized by their received date. Applications with deficiencies not cured within ten business days, will be retained in Phase Two until all deficiencies have been addressed/resolved by the Applicant to the Department's satisfaction. Only upon satisfaction of all deficiencies, and of threshold and eligibility requirements will the Application be forwarded to Phase Three. An Application that has not proceeded out of Phase Two within 65 days of the date it entered Phase Two will be terminated and must reapply for consideration of funds. Application submitted for non-development Activities will not go through a Phase Three evaluation.

(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 Real Estate Analysis (REA) Division consistent with §1.32 of this title. REA will create an underwriting report identifying 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 ten business days will be forwarded into "Recommended Status" and will continue to be prioritized by their received date. Applications with deficiencies not satisfied within ten business days, will be retained in Phase Three until all deficiencies have been addressed/resolved by the Applicant to the Department's satisfaction. Only upon resolution of all deficiencies will the Application be forwarded to the Department's Executive Awards Review and Advisory Committee for final approval before recommendation to the Board. Any application that has not

finished Phase Three within 65 days of the date it entered Phase Three will be terminated and must reapply for consideration of funds.

(D) Upon completion of the applicable final review Phase, 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 HOME funds are still available for this Activity under the applicable NOFA. If the Application is recommended at least 14 days prior to the next Board meeting, it will be placed on the next Board meeting's agenda. If the Application is recommended with less than 14 days before the next Board meeting, the recommendation will be placed on the subsequent month's Board meeting agenda. Applications which are not recommended by the committee will be either returned to Department Staff or terminated.

(E) Because applications are processed in the order they are received by the Department, it is possible that the Department will expend all available HOME funds before an application has completed all phases of its review. In the case that all HOME 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 HOME funds become available, applications will continue onward with their review without losing their received date priority. If HOME funds do not become available within 90 days of the notification, the Applicant will be notified that their application is no longer under consideration. The applicant must reapply to be considered for future funding. If on the date an application is received by the Department, no funds are available under this NOFA, the applicant will be notified that no funds exist under the NOFA and the application will not be processed.

(F) The Department may decline to fund any application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any application.

~~[(b) 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. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within eight~~

~~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 ten 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.]~~

(c) 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 cured to the satisfaction of the Department within 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 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.

~~[(c) 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 and nonbinding arbitration. 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 process, the person may send a proposal to the Department's General Counsel and Dispute Resolution Coordinator. The proposal should describe the dispute and the details of the process proposed (including proposed participants, third party, when, where, procedure, and cost). The Department will evaluate whether the proposed process would fairly, expeditiously, and efficiently assist in resolving the dispute and promptly respond to the proposal.]~~

(d) Alternative Dispute Resolution Policy. 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, and 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.

§53.60.Process for Awards.

(a) The Department will publish a NOFA in the Texas Register and on the Department's website. The NOFA may be published as either an Open or Competitive Application Cycle. The NOFA will establish and define the terms and conditions for the submission of applications, and may set a deadline for receiving applications under a Competitive Application Cycle. The NOFA will also indicate the approximate amount of available funds. [The Department will publish a NOFA in the Texas Register. The NOFA will establish a deadline for receiving applications and indicate the approximate amount of available funds.]

(b) Selection Procedures for non-development Activities ~~[activities]~~, such as, Owner Occupied Housing Assistance, Homebuyer Assistance, and Tenant-Based Rental Assistance.

(1) Applications must comply with all applicable HOME requirements or regulations established in 24 CFR Part 92 and in these rules. Applications that do not comply with such requirements are disqualified. Disqualified Applicants are notified in writing.

(2) Applications are ranked from highest scores to lowest in their respective regions or Activity according to HOME Program scores. All funds not subject to the Regional Allocation Formula may be awarded on a first-come, first-serve basis.

(3) Applications must meet or exceed a minimum score determined by Department's staff for ~~[that meet or exceed a minimum score of 60% of the total HOME Program score established for-]~~ the respective activities to be ~~[-are]~~ considered for funding.

(4) In event of a tie between two or more Applicants, the Department reserves the right to determine which application will receive a recommendation for funding. This decision will be ~~[or if all tied Applicants will receive a partial recommendation for funding,-]~~ based on housing need factors and feasibility of the proposed project identified in the application. Tied Applicants may also receive a recommendation for partial funding,

(5) Applicants will be notified of their score in writing no later than seven calendar days after all applications received have been scored. Subsequently, the recommendation regarding their application will be made available on the Department's website at least seven calendar days prior to the Board meeting at which the awards may be approved.

~~[(5) Applicants will be notified at least 7 calendar days prior to the date of the Board meeting of the status of their application.]~~

(6) Applications receiving a favorable staff recommendation are then presented to the Board for approval, pending the availability of HOME funds for each Activity.

(7) Applicants may appeal staff's decision regarding their applications in accordance with §1.7 of this title.

(c) Selection Procedures for Development activities, such as, Single Family Housing Development and Rental Housing Development.

(1) Applications must comply with all applicable HOME requirements or regulations established in 24 CFR Part 92, and in these rules. Applications that do not comply with HOME requirements are disqualified. Disqualified Applicants are notified in writing.

(2) Rental Housing Developments will undergo a review in accordance with the rules set out previously in this section and as prescribed in the NOFA. [as follows:-]

~~[(A) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to comply with the threshold criteria required under §50.9(f) of this title, which are those required for the Housing Tax Credit Program.]~~

~~[(B) 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.]~~

~~[(C) 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 consistent with §53.56 of this title. 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.]~~

(3) Single Family Housing Developments will undergo a review as follows:

(A) Applicants ~~[-For applications-]~~ that meet or exceed a minimum score , as determined by Department's staff, of ~~[of 60% of]~~ the total HOME Program scoring points established for each Development Activity to be ~~[-are-]~~ considered for funding. Applicants not meeting or exceeding the minimum score established in the subparagraph of this paragraph are disqualified and are notified in writing. Development applications are ranked from highest to lowest scores according to HOME Program scores on a statewide basis.

(B) Applications meeting the HOME Program requirements established in subparagraph (A) of this paragraph must receive an underwriting analysis by the Department.

(4) A site visit will be conducted as part of the HOME Program Development feasibility review. Applicants must receive recommendation for approval from the Department to be considered for HOME funding by the Board.

(5) In event of a tie between two or more Applicants, the Department reserves the right to determine which application will receive a recommendation for funding. This decision will be based on housing need factors and feasibility of the proposed project identified in the application. Tied Applicants may also receive a partial recommendation for funding. ~~[-In event of a tie between two or more Applicants, the Department reserves the right to determine which application will receive a recommendation for funding, or if all tied Applicants will receive a partial recommendation for funding, based on housing need factors and feasibility of the proposed project identified in the application.]~~

(6) Each Development application will be notified of its score in writing no later than seven calendar days after all applications received have been scored. Subsequently, the recommendation regarding their application will be made available on the Department's web site at least seven ~~[7]~~ calendar days prior to the Board meeting at which the awards may ~~[will]~~ be approved.

(7) Applications receiving a favorable staff recommendation are then presented to the Board for approval, pending the availability of HOME funds for such Activity.

(8) Even after Board approval for the award of HOME Development Activity funds may be ~~[is]~~ conditional upon a completed loan closing and any other conditions deemed necessary by the Department.

(9) Applicants may appeal staff's decision regarding their applications in accordance with §1.7 of this title.

§53.61. General Selection Criteria.

At a minimum, the following criteria are utilized in evaluating the applications for HOME funds. The applicable criteria are further delineated in the application guidelines and NOFA, which are part of the application package.

(1) Needs Assessment--Whether the proposed project meets the demographic, economic, and special need characteristics of the population residing in the target area and the need that the HOME program is designed to address, using qualitative and quantitative information, market studies, if appropriate, and other source documentation as delineated in the application guidelines, which are part of the application.

(2) Program Design--Whether the proposed project meets the needs identified in the needs assessment, whether the design is complete [~~(including timeline for program implementation and service delivery)~~] and whether the project fits within the community setting. Information required includes, but is not limited to: community involvement; support services and resources; scope of program; income and population targeting; marketing, fair housing and relocation plans, as applicable.

(3) Capability of Applicant--Whether the Applicant has the capacity to administer and manage the proposed program/project, demonstrated through previous experience either by the Applicant, cooperating entity or key staff (including other contracted service providers), in program management, property management, acquisition, rehabilitation, construction, real estate finance counseling and training or other activities relevant to the proposed program, and the extent to which Applicant has the capability to manage

financial resources, as evidenced by previous experience, documentation of the Applicant or key staff, and existing financial control procedures.

(4) Financial Feasibility. Applications for funding will be reviewed for financial feasibility based on the Department's underwriting standards for development activities and as outlined in the NOFA or application materials for non-development activities. The review will be based on the supporting financial data provided by Applicants and third party reports submitted with the application. [~~Financial Design Whether the proposed program budget includes eligible forms of matching contributions in accordance with 24 CFR 92.220, as may be amended.~~]

§53.62. Program Administration.

(a) Agreement. Upon approval by the Board, Applicants receiving HOME funds shall enter into, execute, and deliver to the Department all written agreements between the Department and Recipient, including land use restriction agreements and compliance agreements as required by the Department.

(b) Amendments. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any HOME written agreement provided that:

(1) in the case of a modification or amendment to the dollar amount of the award, such modification or amendment does not increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; and

(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.

(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.

(c) Deobligation.

(1) The Department reserves the right to deobligate funds in the following situations:

(A) Recipient has any unresolved compliance issues on existing or prior contracts with the Department.

(B) Recipient fails to set-up programs/projects or expend funds in a timely manner.

(C) Recipient defaults on any agreement by and between Recipient and the Department.

(D) Recipient misrepresents any facts to the Department during the HOME application process, award of contracts, or administration of any HOME contract.

(E) Recipient's inability to provide adequate financial support to administer the HOME contract or withdrawal of significant financial support.

(F) Recipient is not in compliance with 24 CFR Part 92, or these rules.

(G) Recipient declines funds.

(H) Recipient fails to expend all funds awarded.

(2) The Department, with approval of the Board, may elect to reassign funds following the Deobligation Policy, adopted by the Board on January 17, 2002, in the order prioritized as follows:

(A) Successful appeals (as allowable under program rules and regulations), or

(B) Disaster Relief (disaster declarations or documented extenuating circumstances such as imminent threat to health and safety), or

(C) Special Needs, or

(D) Colonias, or

(E) Other projects/uses as determined by the Executive Director and/or Board including the next year's funding cycle for each respective program.

(d) Waiver. The Board, in its discretion and within the limits of federal and state law, 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 good cause, as determined by the Board. ~~[Upon determination of good cause, the Department, upon approval of the Board, may waive all or any part of these rules that are within the discretion of the State.]~~

(e) Additional Funds. In the event the Department receives additional funds from HUD, the Department, with Board approval, may elect to distribute funds to other Recipients.

(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.

§53.63. Community Housing Development Organization (CHDO) Certification.

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

(1) Applicant--A private nonprofit organization that has submitted a request for certification as a Community Housing Development Organization (CHDO) to the Department. An Applicant for the CHDO set aside must be a CHDO certified by the Department or as otherwise certified or designated as described in subsection (d) of this section.

(2) Articles of Incorporation--A document that sets forth the basic terms of a corporation's existence and is the official recognition of the corporation's existence. The documents must evidence that they have been filed with the Secretary of State.

(3) Bylaws--A rule or administrative provision adopted by a corporation for its internal governance. Bylaws are enacted apart from the articles of incorporation. Bylaws and amendments to bylaws must be formally adopted in the manner prescribed by the organization's articles or current bylaws by either the organization's board of directors or the organization's members, whoever has the authority to adopt and amend bylaws.

(4) Community--For urban areas, the term "community" is defined as one or several neighborhoods, a city, county, or metropolitan area. For rural areas, "community" is defined as one or several neighborhoods, a town, village, county, or multi-county area, but not the whole state.

(5) Low income--An annual income that does not exceed eighty percent (80%) of the median income for the area, with adjustments for family size, as defined by the U.S. Department of Housing and Urban Development (HUD).

(6) Memorandum of Understanding (MOU)--A written statement detailing the understanding between parties.

(7) Neighborhood--A geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass

the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.

(8) Nonprofit organization--Any private, nonprofit organization (including a State or locally chartered, 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) complies with standards of financial accountability acceptable to the Secretary of the United States Department of Housing and Urban Development, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

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

(b) Application Procedures for Certification of CHDO. An Applicant requesting certification as a CHDO must submit an application for CHDO certification in a form prescribed by the Department. The CHDO application must be submitted with an application for HOME funding under the CHDO set-aside, and be recertified on an annual basis. The application must include documentation evidencing the requirements of this subsection.

(1) Applicant must have the following required legal status at the time of application to apply for certification as a CHDO:

(A) Organized as a private nonprofit organization under the Texas Nonprofit Corporation Act or other state not-for-profit/nonprofit statute as evidenced by:

(i) Charter, or

(ii) Articles of Incorporation.

(B) The Applicant must be registered with the Secretary of State to do business in the State of Texas.

(C) No part of the private nonprofit organization's net earnings inure to the benefit of any member, founder, contributor, or individual, as evidenced by:

(i) Charter, or

(ii) Articles of Incorporation.

(D) The Applicant must have the following tax status:

(i) 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 while certified as a CHDO; or

(ii) 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

(iii) 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 under this subparagraph.

(E) The Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's:

(i) Articles of Incorporation,

(ii) Charter,

(iii) Resolutions, or

(iv) Bylaws.

(F) The Applicant must have a clearly defined service area. The Applicant may include as its service area an entire community as defined in subsection (a)(4) of this section, but not the whole state. Private nonprofit organizations serving special populations must also define the geographic boundaries of its service areas. This subparagraph does not require a private nonprofit organization to represent only a single neighborhood.

(2) An Applicant must have the following capacity and experience:

(A) Conforms to the financial accountability standards of 24 CFR 84.21, "Standards of Financial Management Systems" as evidenced by:

(i) notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department,

(ii) certification from a Certified Public Accountant, or

(iii) HUD approved audit summary.

(B) Has a demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by:

(i) resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds, or

(ii) contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with HOME funds, to train appropriate key staff of the organization.

(C) Has a history of serving the community within which housing to be assisted with HOME funds is to be located as evidenced by:

(i) statement that documents at least one year of experience in serving the community, or

(ii) for newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year of experience in serving the community; and

(iii) The CHDO or its parent organization must be able to show one year of serving the community prior to the date the participating jurisdiction provides HOME funds to the organization. In the statement, the organization must describe its history (or its parent organization's history) of serving the community by describing activities which it provided (or its parent organization provided), such as, developing new housing, rehabilitating existing stock and managing housing stock, or delivering non-housing services that have had lasting benefits for the community, such as counseling, food relief, or childcare facilities. The statement must be signed by the president or other official of the organization.

(3) An Applicant must have the following organizational structure:

(A) The Applicant must maintain at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income

community residents, or elected representatives of low-income neighborhood organizations in the Applicant's service area. Low-income neighborhoods are defined as neighborhoods where 51 percent or more of the residents are low-income. Residents of low-income neighborhoods do not have to be low income individuals themselves. If a low-income individual does not live in a low-income neighborhood as herein defined, the low-income individual must certify that he qualifies as a low-income individual. This certification is in addition to the affidavit required in clause (ii) of this subparagraph. For the purpose of this subparagraph, elected representatives of low-income neighborhood organizations include block groups, town watch organizations, civic associations, neighborhood church groups, Neighbor Works organizations and any organization composed primarily of residents of a low-income neighborhood as herein defined whose primary purpose is to serve the interest of the neighborhood residents. Compliance with this subparagraph shall be evidenced by:

(i) written provision or statement in the organizations By-laws, Charter or Articles of Incorporation,

(ii) affidavit in a form prescribed by the Department signed by the organization's Executive Director and notarized, and

(iii) current roster of all Board of Directors, including names and mailing addresses. The required one-third low-income residents or elected representatives must be marked on list as such.

(B) The Applicant must provide a formal process for low-income, program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of affordable housing projects. The formal process should include a system for community involvement in parts of the private nonprofit organization's service areas where housing will be developed, but which are not represented on its boards. Input from the low-income community is not met solely by having low-income representation on the board. The formal process must be in writing and approved or adopted by the private nonprofit organization, as evidenced by:

(i) organization's By-laws,

(ii) Resolution, or

(iii) written statement of operating procedures approved by the governing body. Statement must be original letterhead, signed by the Executive Director and evidence date of board approval.

(C) A local or state government and/or public agency cannot qualify as a CHDO, but may sponsor the creation of a CHDO. A private nonprofit organization may

be chartered by a State or local government, but the following restrictions apply:

(i) The state or local government may not appoint more than one-third of the membership of the organization's governing body.

(ii) The board members appointed by the state or local government may not, in turn, appoint the remaining two-thirds of the board members.

(iii) No more than one-third of the governing board members may be public officials. Public officials include elected officials, appointed public officials, employees of the participating jurisdiction, or employees of the sponsoring state or local government, and individuals appointed by a public official. Elected officials include, but are not limited to, state legislators or any other statewide elected officials. Appointed public officials include, but are not limited to, members of any regulatory and/or advisory boards or commissions that are appointed by a State official. [No more than one-third of the governing board members may be public officials. Public officials include elected officials, appointed public officials, public employees, and individuals appointed by a public official. Elected officials include, but are not limited to, state legislators or any other statewide elected officials. Appointed public officials include, but are not limited to, members of any regulatory and/or advisory boards or commissions that are appointed by a State official. Public employees include, but are not limited to, employees of State governmental entities or departments of State government.]

(iv) Public officials who themselves are low-income residents or representatives do not count toward the one-third minimum requirement of community representatives in subparagraph (A) of this paragraph.

(v) Compliance with clauses (i)-(iv) of this subparagraph shall be evidenced by:

(I) organization's By-laws,

(II) Charter, or

(III) Articles of Incorporation.

(D) If the Applicant is sponsored or created by a for-profit entity, the for-profit entity may not appoint more than one-third of the membership of the Applicant's governing body, and the board members appointed by the for-profit entity may not, in turn, appoint the remaining two-thirds of the board members, as evidenced by the Applicant's:

(i) By-laws,

(ii) Charter, or

(iii) Articles of Incorporation.

(E) An Applicant may be sponsored or created by a for-profit entity provided the for-profit entity's primary purpose does not include the development or management of housing, as evidenced in the for-profit organization's By-laws. If an Applicant is associated or has a relationship with a for-profit entity or entities, the Applicant must prove it is not controlled, nor receives directions from individuals, or entities seeking profit as evidenced by:

(i) organization's By-laws, or

(ii) Memorandum of Understanding (MOU).

(4) Religious or Faith-based Organizations may sponsor a CHDO if the CHDO meets all the requirements of this section. While the governing board of a CHDO sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the faith-based organization may retain control over appointments to the board. If a CHDO is sponsored by a religious organization, the following restrictions also apply:

(A) Housing developed must be made available exclusively for the residential use of program beneficiaries and must be made available to all persons regardless of religious affiliations or beliefs.

(B) A religious organization that participates in the HOME program may not use HOME funds to support any inherently religious activities: such as worship, religious instruction, or proselytizing.

(C) HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Sanctuaries, chapels, or other rooms which a faith-based CHDO uses as its principal place of worship are always ineligible for HOME-funded improvements.

(D) Compliance with clauses (A)-(C) of this subparagraph may be evidenced by:

(i) The Organizations By-laws

(ii) Charter; or

(iii) Articles of Incorporation.

~~(4) Religious organizations cannot qualify as a CHDO, but may sponsor the creation of wholly secular private nonprofit organizations. If Applicant is sponsored by a religious organization, the following restrictions apply.~~

~~(A) The Applicant must prove that it is not controlled by the religious organization.~~

~~(B) The developed housing must be used exclusively for secular purposes and the housing owned, developed or sponsored by the Applicant must be made available to all persons regardless of religious affiliations or beliefs.~~

~~(C) There are no limits on the proportion of the board that may be appointed by the religious organization.~~

~~(D) Compliance with these clauses (i)-(iii) of this subparagraph shall be evidenced by:~~

~~(i) organization's By laws,~~

~~(ii) Charter, or~~

~~(iii) Articles of Incorporation.~~

(b) [(e)] An application for Community Housing Development Organization (CHDO) Certification will only be accepted if submitted with an application to the Department for HOME funds. If all requirements under this section are met, the Applicant will be certified as a CHDO upon the award of HOME funds by the Department. A new application for CHDO certification must be submitted to the Department with each new application for HOME funds under the CHDO set aside.

(c) [(d)] If an Applicant submits an application for CHDO certification for a service area that is located in a local Participating Jurisdiction, the Applicant must submit evidence of the local taxing jurisdiction or local Participating Jurisdiction certification or designation of the Applicant as a CHDO.

(d) In the case of an Applicant applying for HOME funds (See 5% Disability requirement at §53.56 of this Title) from the Department to be used in a Participating Jurisdiction, where neither the Participating Jurisdiction nor the local taxing entity certifies CHDOs outside of the local HOME application process, the Certification process described in this section applies.

~~[(e) In the case of an Applicant applying for HOME funds (CHDO set aside) from the Department to be used in a Participating Jurisdiction, where neither the Participating Jurisdiction nor the local taxing entity certifies CHDOs outside of the local HOME application process, the Certification process described in this section applies.]~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 13, 2004.

TRD-200405639

Edwina P. Carrington

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 24, 2004

For further information, please call: (512) 475-3726

**MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST**

November 12, 2004

Action Item

Adoption of Final Housing Trust Fund Rules.

Required Action

1. Repeal of Housing Trust Fund Rules, Title 10 Texas Administrative Code, Part 1, Chapter 51
2. Adoption of Proposed Amended Housing Trust Fund Rules, Title 10 Texas Administrative Code, Part 1, Chapter 51

Background

On September 9, 2004, the proposed 2005 Housing Trust Fund Rules (HTF Rule) were published in the *Texas Register*. The comment period commenced on September 9, 2004, and ended on October 25, 2004. In addition to publishing the document in the *Texas Register*, a copy of the HTF Rule was published on the Department's web site and was made available to the public upon request. The Department held thirteen public hearings across the state to gather feedback on the proposed HTF Rule. The public was generally pleased with the draft HTF Rule and with the Department's efforts.

The Department received the majority of comments in writing by email, fax and mail. Comments were also collected during the Department's public hearings and transcripts from those meetings were used to include comments. The following summary provides the Department's response to all comments received. The comments and responses are summarized below by topic and HTF Rule section. Each HTF Rule section has numerical references that correspond to the individual or entity that made the comment(s). The list that identifies the entity associated with each number is found in Appendix A.

The comments and responses are divided into the following two sections:

- I. Substantive Comments and Department Response.
- II. Administrative Amendments.

I. Substantive Comments and Department Response.

General HTF Comment - Bootstrap Home Loan Program (5)

A comment was made on the Texas Bootstrap Home Loan Program requesting that the maximum level of operating and administrative funds be raised to 10% of awarded funds.

It was noted that this change may increase the number of applicants for the program and help develop the capacity of administrators, particularly in areas not currently being assisted.

Department Response:

The Texas Bootstrap Loan Program requires intensive administrative oversight to manage this program. The nonprofits must submit an application package for each very low income family that is identified for this program, provide homeownership education classes and supervise/monitor the self-help (sweat-equity) construction (60%) of the individual houses. Due to these reasons, the Department is researching and considering raising the administrative funds paid under this program.

§51.4 Allocation of Funding – (1, 2, 3)

It has been noted in public comment that the Department removed language from its rules that set-aside 10% of its annual state allocation for the predevelopment loan program and capacity building activities, each. The comment suggests that this language was removed from the 2004 HTF rule. The comment also notes that these programs help to nurture young and growing nonprofits.

Department Response:

From a review of the Department’s previous decision to remove the 10% set-aside it has been determined that two factors influenced this decision. First, previous staff members viewed the 10% set-aside as a cap on funding levels for these programs and not a minimum. The removal of language regarding the set-aside may have allowed the Department to increase funding for these programs. Second, the anticipated state allocation for HTF for FY 2004 and FY 2005 would be less than \$3 million, which would have further reduced the maximum allowable funding for Predevelopment and Capacity Building and been in conflict with the Department’s use of HTF to fulfill its legislative mandates like the Texas Bootstrap program.

Staff does not recommend that language regarding the 10% set-asides be renewed at this time.

§51.5 Eligible Activities – (1, 2, 3)

Comments were collected that expressed concern over the absence of specific language in the 2005 HTF Rule that allow for the Department to release new funds for the HTF Predevelopment Loan Program. The Department does include predevelopment in its low income housing plan.

Department Response:

The HTF Rule removed the language related to the predevelopment loan program in FY 2002. The Department has proposed new language which closely tracks that which was taken out in FY 2002 in response to the public comment. It should be noted that its absence in the rule has not precluded the administration of predevelopment activities.

§51.53. Definitions.

(19) 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.”

“§51.5. Basic Eligible Activities.

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, housing development activities; predevelopment costs associated with housing development; down-payment assistance; rental assistance; credit enhancements; and technical assistance or other forms of capacity building to nonprofit housing developers.

§51.7 Application Procedures and Requirements – (1, 4)

Public comments were submitted noting an interest in releasing Notices of Funding Availability (NOFA) for public comment prior to official release. It was noted that past NOFAs, including the 2004 HTF Rental Development NOFA, included limitations on applicants that reduced the effectiveness of the funding cycles.

Department Response:

Department staff understands that limitations placed in a NOFA may have a negative impact on certain applicants. However, Staff generally encourages input and will make an effort to gather more input in the NOFA development process. Staff does not recommend that any changes be made to the rule.

II. Administrative Amendments

Staff has made the following change to §51.8(c) to be consistent with §51.8(d) of the HTF Rule.

“§51.8(c)(1)

(C) An increase in funding that is not permitted under subpart (d) of this section.”

Appendix A – Collected Public Comments on the HTF Rule

Reference #	Contact	Organization
1	Reymundo Ocañas	Texas Association of Community Development Corporations
2	Delia Ponce	El Paso Collaborative for Community Economic Development
3	Edward Guerra	Edward Guerra, Harlingen CDC
4	Eduardo Magaloni	Housing Community Services, Inc.
5	John Henneberger	Texas Low-Income Housing Information Service



2005 HOUSING TRUST FUND RULE
TITLE 10, PART 1, CHAPTER 51 TEXAS ADMINISTRATIVE CODE

§51.1. Purpose.

This Chapter clarifies the use and administration of the Housing Trust Fund. The fund is created pursuant to Texas Government Code 2306.201.

§51.2. Program Goals and Objectives.

Use of the Housing Trust Fund is limited to providing:

- (1) assistance for individuals and families of low, very low income and extremely low income;
- (2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low, very low income and extremely low income; and
- (3) security for repayment of revenue bonds issued to finance housing for individuals and families of low, very low income and extremely low income.

§51.3. 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.

~~(2) Affordable Housing--Housing for which low, very low, and extremely low income families are not required to pay more than 30% of an area's median income.~~

~~(3)~~(2) Applicant -- 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.

~~(4)~~(3) Board--The governing board of the Department.

~~(5)~~(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 ~~low income~~ persons and families. This activity may include ~~but is not limited to:~~

(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.

~~(6)(5)~~ Community Housing Development Organizations--A nonprofit organization that satisfies the requirements of § Section 53.63 of this title.

(6) Competitive Application Cycle--A Notice of Funding Availability that has a fixed deadline by which applications must be submitted. Applications will be reviewed for threshold and scoring criteria in accordance with the rules for application review published in the Notice of Funding Availability (NOFA).

(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--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. ~~In accordance with Rider 3, and published by the Department, those counties where the median family income is lower than the state average median family income, applicants targeting households at or below 30% of the median income of the area may use the average state median family income based on number of persons in a household.~~

(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 Applicant's 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)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.

(14)~~Low-Income~~ ~~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.

(15)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; and

(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 has a tax exemption ruling from the Internal Revenue Service under the Internal Revenue Code of 1986, Section 501(c), as amended.

(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.

(16)NOFA--Notice of Funding Availability, published in the Texas Register.

(17)Open Application Cycle--A Notice of Funding Availability that does not have a fixed deadline by which applications must be submitted. Applications will be reviewed in accordance with the rules for application review published in the NOFA.

(18)Person with Special Needs--

(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. any persons legally responsible for caring for an individual described by subparagraph (A) and meets the income guidelines of a person of low, very low or extremely low income.

(19)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.

~~(18)~~(20) (C) Predevelopment costs do not include general operational or administrative costs. Public Agency—A branch of National, State or Local Government.

~~(19)~~(21) Public Housing Authority--A housing authority established under the Texas Local Government Code, Chapter 392.

~~(20)~~(22) 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.

~~(21)~~(23) 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.

~~(22)~~(24) Rural Project-- An area that is located:

(A) outside the boundaries of a PMSA or MSA; or

(B) within the boundaries of a PMSA or MSA area, if the statistical area has a population of not more than 20,000, and does not share boundaries with an urbanized area; or

(C) in an area that is eligible for new construction or rehabilitation funding by TX-USDA-RHS.

~~(23)~~(25) State--The State of Texas.

~~(24)~~(26) Statute--Texas Government Code 2306.

~~(25)~~(27) 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.

§51.4. Allocation of Housing Trust Funds.

(a) Funds shall be allocated to achieve broad geographic dispersion by awarding funds in accordance with § Section 2306.111(d) through and (g), Texas Government Code.

(b) The Department shall utilize its best efforts to target housing trust funds allocated each fiscal year to housing assistance for individuals and families earning less than 60% of median family income.

(c) 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.

§51.5. Basic Eligible Activities.

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, housing development activities; predevelopment costs associated with housing development; down-payment assistance; rental assistance; credit enhancements; and technical assistance or other forms of capacity building to nonprofit housing developers.

§51.6. Ineligible Activities and Restrictions.

(a) Displacement of Existing Affordable Housing. 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 as permitted under Chapter 2306 of the Texas Government Code and this title. ~~Residents of a development to be rehabilitated by Housing Trust Funds must be provided the opportunity to lease and occupy a comparable affordable dwelling unit in the development upon completion of the development. The landlord must provide all persons and families affected by the rehabilitation with:~~

~~(1) Notice in writing within a reasonable time indicating the right to remain in the dwelling unit or the need to relocate; and~~

~~(2) payment of the costs of temporary relocation, including moving costs and any increase in rent.~~

(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) through (3) of this subsection. §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)

~~(e) Restrictions on Communication.~~

~~(1) The Applicant or other person that is active in the ownership or control of the proposed activity, or individual employed as a lobbyist or in another capacity on behalf of the application, may not communicate with any Board member with respect to the application during the period of time starting with the time an application is submitted until the time 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.~~

~~(2) Applicants are restricted from communication with Department staff as described in this subsection. The Applicant or other person that is active in the ownership or control of the Development, or individual employed as a lobbyist or in another capacity on behalf of the application, may communicate with an employee of the Department with respect to the Development so long as that communication satisfies the conditions established under subparagraphs (A) through (E) of this paragraph. Communication with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.~~

~~(A) The communication must be restricted to technical or administrative matters directly affecting the Application;~~

~~(B) The communication must occur or be received on the premises of the Department during established business hours;~~

~~(C) Communication with the Executive Director, the Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Single Family Finance Production, the Director of Portfolio Management and Compliance, and the Director of Real Estate Analysis of the Department must only be in written form which includes electronic communication through the Internet;~~

~~(D) Communication with other Department staff may be oral or in written form which includes electronic communication through the Internet; and~~

~~(E) 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.~~

(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 ~~that~~ violate the state revolving door policy; and -

(6) Any applicant who would otherwise be considered ineligible under §49.5 of this title.

(e) 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; ~~or~~

(3) If the applicant has unresolved compliance or audit findings related to previous or current funding agreements with the Department; or -

(4) Has breached a contract with a public agency.

(f) Material Noncompliance. Each Application will be reviewed for its compliance history by the Department, consistent with Chapter 60 of this title. Applications found to be in Material Noncompliance, ~~or otherwise violating the compliance rules of the Department~~, will be terminated.

(g) Rental Housing Development Site and Development Restrictions. Restrictions include all those items referred to in §49.6 of this title and any additional items included in the NOFA for rental housing developments. The following restrictions apply to Rental Housing Developments only.

~~(1) 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 Developments proposing rehabilitation will be permitted in the 100 year floodplain unless they already are constructed in accordance with the policy stated above~~

~~for new construction or are able to provide evidence of flood insurance on the buildings and the contents of the units.~~

~~(2) Ineligible Building Types. Applications involving Ineligible Building Types will not be eligible for an award. Those buildings or facilities which are ineligible are as follows:~~

~~(A) Hospitals, nursing homes, trailer parks and 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) are ineligible. However, structures formerly used as hospitals, nursing homes or dormitories are eligible if the Development involves the conversion of the building to a non-transient multifamily residential development.~~

~~(B) Any elderly development of two stories or more that does not include elevator service for any Units or living space above the first floor.~~

~~(C) Any elderly development 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 new construction, other than a Development (new construction or rehabilitation) composed entirely of single-family dwellings, having any Units with four or more bedrooms.~~

~~(3)(h) Limitations on the Size of Developments. Developments involving new construction will be limited to 252 250 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 restrictions. The minimum number of units shall be 4 units under all Development programs.~~

~~(4) Unacceptable Sites. Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.~~

§51.7. 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. Applications containing false information and Application not received by the deadline will be disqualified. Disqualified applicants are notified in writing. All Applications must be received by the Department by 5:00 p.m. on the date identified in the NOFA, regardless of method of delivery.

(c) 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 ten 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 ten business days will be retained in Phase One until all deficiencies have been addressed/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 ten 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 ten business days, will be retained in Phase Two until all deficiencies have been addressed/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 ten business days will be

forwarded into "Recommended Status" and will continue to be prioritized by their received date. Applications with deficiencies not satisfied within ten 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 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 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 this 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.

(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 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 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.

~~(c) 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. 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. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within eight business days of the deficiency notice date, then 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 ten 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.~~

(e) ~~(d)~~ Applications received by the Department in response to a Competitive Application Cycle NOFA for housing development activities will be handled in the following manner. Rental Housing Developments will undergo a review as follows:

(1) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to ~~comply with~~ 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 required under Section 50. 9(f) of this title, which are those required for the Housing Tax Credit Program.

(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, § Section 1.32 of this title.

(f) All applications for housing development activities will be reviewed in the following manner;

~~(4)(1)~~ A site visit will be conducted. Applicants must receive recommendation for approval from the Department to be considered for funding by the Board.

~~(5)~~ Each Rental Housing Development Application will be notified of their score in writing no later than seven days after all applications received have been scored. Subsequently, the recommendation regarding their Application will be made on the Department's web site at least 7 days prior to the Board meeting where the awards will be approved.

~~(6)(2)~~ After Board approval for the award of Development activity funds is conditional upon a completed loan closing and any other conditions deemed necessary by the Department.

~~(e)(g)~~ Applications other than that Rental Housing Developments will be reviewed and evaluated in accordance with the NOFA for that activity.

~~(h)~~ ~~(f)~~ Applicants may appeal staff's decisions regarding their applications consistent with Section 1.7 of this title.

~~(h)(i)~~ Alternative Dispute Resolution Policy. 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. ~~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 and nonbinding arbitration. 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 process, the person may send a proposal to the Department's General Counsel and Dispute Resolution Coordinator. The proposal should describe the dispute and the details of the process proposed (including proposed participants, third party, when, where, procedure, and cost). The Department will evaluate whether the proposed process would fairly, expeditiously, and efficiently assist in resolving the dispute and promptly respond to the proposal.~~

§51.8. Criteria for Funding.

(a) In considering applications for funding, the Department considers the following requirements under § Section 2306.203(e), 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.

(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.

(2) Evaluation Factors. The criteria used to evaluate rank 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 subpart (d) of this section.

(2) Failure to comply with this subsection may result in the termination of funding to the 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; and

(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.

(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.

~~(d) The Executive Director of the Department may approve nonmaterial changes in the project description and in the scope of work to be performed for clarification and necessary administrative adjustments, provided that any such change does not increase the dollar amount of the original award of funds.~~

§51.9. 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 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 ~~is charge 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 restriction and reporting requirements.

(e) For funds being used for multifamily rental properties, the recipient must establish a reserve account consistent with Section 2306.186, Texas Government Code, and as further described in §1.37 Chapter 60 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.

§51.10. 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 ~~rule~~, 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) 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 ~~§ Section~~ 1.2 of this title.

§51.11. 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 including, 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.

§51.12. 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.

REAL ESTATE ANALYSIS

BOARD ACTION REQUEST

November 12, 2004

Action Items

Final Real Estate Analysis Rules and Guidelines.

Required Action

1. Adoption of Amended Title 10, Part 1, Sections 1.31 – 1.36
2. Adoption of New Title 10, Part 1, Section 1.37

Background

At the September 9, 2004 Board Meeting, the Board approved the Proposed Amended Title 10, Part 1, Sections 1.31 – 1.36 and the Proposed New Title 10, Part 1, Section 1.37. The draft sections were published in the *Texas Register* on October 1, 2004 for the public to provide comment. In order to receive additional comment on all proposed rules, Texas Department of Housing and Community Affairs staff held public hearings in the cities of Harlingen, Austin, Amarillo, Waco, Tyler, Wichita Falls, Dallas, Lufkin, San Angelo, Victoria, San Antonio, Houston and El Paso. Approximately 200 people attended these hearings.

Public Comment on the 2005 Draft Real Estate Analysis Rules and Guidelines (REA Rules)

The Department received the majority of comments in writing by email and fax. This document provides the Department's response to all comments received.

§1.32(d)(1)(A)(ii) - Program Rents less Utility Allowance – (1)

Comment:

“Water and sewer should be allowed to be tenant paid if submetered or if some RUBS system is in place that is used in the state and generally accepted that fairly allocates tenant used water and sewer. In (II) for gas some sort of metering should also be required.” – *Barry Kahn (1)*

Department Response:

The term “individually metered” was intended to take into account all metering systems that accurately record the utility use of a specific unit. Staff agrees that all utilities to be paid by tenants should be individually metered and the following language is proposed:

(Bii) 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. Water and sewer can only be a tenant-paid utility if the units will be individually metered for such services.

(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.

§1.32(d)(1)(B) - Miscellaneous Income – (2)

Comment:

“TAAHP agrees with a \$5 to \$15 per unit per month range for miscellaneous income **only if** other verifiable income sources such as utility payments, garage income, carport rent, etc. are moved to a new and separate line item income source. We would also like to recommend adding the option to use verifiable comparable data when allowing for exceptions.” – *Texas Affiliation of Affordable Housing Providers (2)*

Department Response:

Section 1.32(d)(1)(B) currently allows for miscellaneous income above the maximum guideline of \$15 per unit per month with verifiable comparable data. Moving additional secondary income to a separate line is done on a case by case basis where unique support indicates doing so. Routinely making this adjustment would double count this volatile income source. Staff does not recommend a change.

§1.32(d)(2) – Expenses – (2)

Comment:

“TAAHP recommends that TDHCA regionalize its database and then use it only as a guide when evaluating the reasonableness of an applicant’s expenses estimate. Exceptions should always be made for property tax abatements and other similar factors.” – *Texas Affiliation of Affordable Housing Providers (2)*

Department Response:

The TDHCA expense database currently categorizes information based on location (State Service Region) and the number of total units in the development. The TDHCA database is only one of many tools used by the Underwriter to estimate operating expenses which include data from the Applicant. Exceptions are made for property tax abatements and other similar factors when identified by the Applicant and supported by documentation. Staff does not recommend a change.

§1.32(d)(2)(H)(i) - Per Unit Assessed Value Calculation – (3)

Comment:

“The higher the capitalization rate used, the lower the assumed value of the property will be. The lower the assumed value of the property, the lower the property tax calculated. This tends to underestimate expenses and overestimate the amount of debt supportable by the property’s income. This will either 1) lead to over-leveraged property unable to support the debt payments, or 2) lead to unwarranted reductions in tax credit amounts per property resulting in even greater deferred developer fees, or 3) both outcomes. This may be especially true for acquisition/rehabilitation developments which often have property tax values weighted more heavily on the sale price rather than the income valuation method. The problem of underestimating property taxes is compounded further if TDHCA exercises rights to increase replacement reserves dramatically as is now proposed in the Underwriting Rules. A property that is over-leveraged is hard pressed to find the funds necessary to be maintained properly let alone be required to increase its replacement reserve funding obligations.

TDHCA’s stated Underwriting Evaluation and Criteria §49.9(d)(6) of the QAP states “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.” While it is a laudable goal to minimize the tax credit allocations to each development to maximize the number of potential developments receiving tax credits, TDHCA should be especially conservative when estimating expenses.

On new construction developments, using a lower cap rate of 8% or 9%, while arbitrary, is preferred over the higher 11% rate because it errs on the side of conservatism. Cutting the credits too excessively jeopardizes the long-term viability of rent restricted housing property. In places where the tax or assessment rates rise faster than 3-4% annually, these developments are especially at risk of defaulting on mortgage obligations. For rehabilitation developments, closer attention needs to be paid to the proposed sale price and, potentially, a small percentage of the value of the hard cost rehabilitation as a measure of what the appraisal district may appraise a property for tax purposes. This sales approach to value may lead to significantly higher or lower value calculations than a straight discount rate applied to potential income.” – *Edgewater Affordable Housing (3)*

Department Response:

TDHCA strives to find resources that will help in determining the most appropriate expense estimates for underwriting affordable housing developments. The intent of §1.32(d)(2)(H)(i) is to allow the Underwriter to use published capitalization rates in estimating the assessed value of a proposed property. If the published capitalization rates are not available, 10% will be utilized. This percentage rate was chosen based on the highest of current published capitalization rates as follows:

County	Posted Cap Rate
Bexar	7.75-9.5%
Brazos	10.5%
Cameron	10.5%
Dallas	8.5%
Harris	10.5%
Hidalgo	10%
Nueces	11%
Tarrant	9-10.5%
Williamson	8.75%

Also, comparable assessed values may be used in determining the property tax expense for a proposed development. Staff recommends the following language:

(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%. The TDHCA Database is used to interpret a per unit assessed value average for similar properties which is applied to the actual current tax rate.~~

(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% ~~11% will be used or~~ is most often contained within a range of \$15,000 to \$35,000 but may be higher or lower based upon documentation from the local tax assessor. Location, size of the units, and **comparable assessed values** also play a major role in **may be used in evaluating this line item expense.**

§1.32(e)(3) - Site Work Costs - (4)

Comment:

“Raise the site work limit from \$7,500 to \$12,500. We are having to develop sites that need more work and the average density on developments is decreasing, so costs per unit are rising.” – *Michael Hartman (4)*

Department Response:

Staff is opposed to raising this safe harbor limit further as \$7,500 per unit is intended to account for more than the average site work cost. Anything over that amount is acceptable as long as substantiation from engineering is provided. Relatively few deals exceed this guideline which has been incrementally raised over the last few years (roughly 50% over four years). We have no evidence to support that site work costs have risen an additional 66% across the board in the last year. Staff does not recommend a change.

§1.32(e)(4) - Direct Construction Costs – (2, 5)

Comment:

“TAAHP recommends that TDHCA use the existing Department database as a guide, regionalize the data, and adjust for inflation. Overall, we believe the investor is better suited to analyze and control costs, and this should be more the concern of the industry than that of TDHCA.” – *Texas Affiliation of Affordable Housing Providers (2)*

“Project cost estimates by TDHCA Underwriters are significantly less than what the bids come in for from the contractors.” – *Jessie Sewell (5)*

Department Response:

The Underwriter’s direct construction cost estimate is evaluated based on Marshall & Swift costing, and on final cost certifications for developments located in the same county and also, on final cost certifications for developments located in the same service region. The underwriting analysis provides an independent estimate of direct construction costs along with other development costs to ensure that no more tax credits or Department-sourced funds than are necessary for the financial feasibility of the proposed development are allocated as required by §42(m)(2). Staff will also consider information provided by the Applicant in the form

of: project-specific bids, costs for recently completed comparable developments, or evidence from third party contracts on comparable developments in the same or similar location. Staff does not recommend a change.

§1.32(e)(4)(A) - New Construction – (2)

Comment:

“TAAHP recommends using “Good” or better quality costing classification. Building costs have experienced massive increases, and maintaining the use of “Average Quality” will only encourage developers to cut corners to stay within allowable cost ranges. With the increase of neighborhood opposition it is not advisable to be downgrading the quality of affordable developments.” – *Texas Affiliation of Affordable Housing Providers (2)*

Department Response:

During the 2004 9% Housing Tax Credit application cycle the Underwriter’s direct construction cost estimate was generally higher than the Applicant’s projection. The Marshall & Swift cost handbook is updated on a quarterly basis and should account for increases in construction costs over time. Also, the current quality of construction proposed by applicants to TDHCA fall within the description of “Average Quality” based on Marshall & Swift’s definition. Should an Applicant propose to build at a higher quality of construction, the Underwriter will utilize the most appropriate classification under the Marshall & Swift handbook. However, the higher quality construction proposed must be verified and, in most cases, certified to by the Applicant. Staff does not recommend a change.

§1.32(e)(4)(A)(ii) - Direct Construction Costs – (1)

Comment:

“This should be modified to provide that if the Applicant’s costs are more than 5%, then the department should use the higher of that proposed by the Department or 4.99% over the Marshall and Swift number. If, on the alternative, the Applicant’s number had been 4.99% over, then that would have been accepted so why should one at 5.01% arbitrarily be reduced to the actual Marshall & Swift number. Marshall & Swift is not readily available, an expense, and 6-12 months behind actual costs.” – *Barry Kahn (1)*

Department Response:

As discussed above, the Underwriter’s direct cost estimate is based on several tools in an attempt to validate the Applicant’s cost within a 5% tolerance margin. If that fails to bring the Underwriter’s estimate within 5% of the Applicant’s figure, then the Underwriter’s total development cost estimate will be used to determine eligible basis and the need for permanent funds. The comment indicates that the Underwriter should take a step further and adjust the direct cost so that it varies by only 0.01% in a direct comparison in instances where the Applicant’s direct construction cost estimate is higher than the Underwriter’s estimate. Since deals just outside the 5% tolerance are disadvantaged when compared to those just within the tolerance level Staff notes that a 5% contingency and a minimum 10 basis points cushion in the underwriting applicable percentage rate already exist which minimize the impact of the commentor’s issue. Adding an additional 5% or taking 5% away for only those transactions that are not within 5% could technically be accomplished, but would be an inconsistent approach as some developments would get this extra consideration while others (already within 5%) would not. Staff will continue to work on finding an equitable solution to this issue, but recommends no change at this time.

§1.32(e)(4)(B) - Rehabilitation Costs – (3)

Comment:

“It is understandable that TDHCA would want to have third party verification of 1) the proposed rehabilitation costs to ensure that the costs are reasonable, and 2) the scope of work to ensure that the proposed rehabilitation is necessary. However, the PCA is not an appropriate tool to verify the reasonableness of the rehabilitation costs. It must also definitely not be used to limit the scope of rehabilitation work to be done.

A PCA is supposed to be a third party review of the condition of the property and an estimate of the cost to maintain it for a specified period of time. It identifies the minimum amount of work to be done to operate in acceptable condition as it is currently configured. A PCA does not typically inspect 100% of the units. It is not intended to take into account TDHCA’s requirements or the proposed lender’s or syndicator’s

rehabilitation requirements which often are not identified until just prior to closing. A PCA is also not typically prepared to identify and validate the necessity of rehabilitation performed to update elements of the property to be competitive in today's market, such as updated cabinetry or larger closets. Nor does it typically address improvements to energy efficiency or longer lasting materials (such as replacing T111 siding with hardi-board).

In effect, by requiring Development Owners to require the PCA to take into account all of the above elements a PCA is not typically designed to incorporate, the PCA is no longer a third party report. Because of the additional items required to be addressed in the PCA are not typically provided by a PCA, the cost of preparing it rises dramatically. Most importantly, however, if a PCA does not take into account all of these items, it will underestimate the appropriate scope of rehab for a property. If that is done, and TDHCA uses the PCA in the manner currently proposed in the Underwriting Rules, most developments will be allocated significantly fewer tax credits than reasonable to ensure that a property is properly rehabilitated for long-term viability. TDHCA should not be restricting the scope of rehabilitation developments to the minimum amount of work to be done to operate in acceptable condition as it is currently configured.

Because TDHCA's Underwriting Rules require that a PCA take into account the "cost estimates for repairs and replacements which are necessary immediately, and for repairs and replacements which are expected to be required throughout the term of the regulatory period", the longer the selected affordability period, the higher the up front replacement reserve deposits required will be. A development with only 15 years of compliance will not likely need a roof replacement if the roofs are replaced as part of the development budget, or have been replaced within the last five years. A development promising 40 years of compliance, however, will require a PCA analyst to present value a schedule of at least one roof replacement, and possibly two, into a current replacement reserve figure. This holds true for many other building components. The effect is compounded for items that have a shorter useful life. While it would seem proactive to require replacement reserves well in excess of the \$300/unit that is typically budgeted for developments promising longer low-income use, dramatically higher replacement reserve requirements drastically diverts current income that could otherwise be used to finance current improvements. The result is under-improved rehabilitation developments and over-funded replacement reserves. This effectively requires improvements to be inefficiently spread out over the life of a property. Combined with the high likelihood of reduced credits as a result of reduced scopes of work due to a misuse of PCA analysis and underestimated property taxes (see #4 below), the result will be poorly rehabilitated housing and an effective waste of tax credit funds.

If TDHCA truly wants a third party review of the proposed scope of work and verification of the proposed budget, it should engage an independent professional plan review of these items. This is always done when a Development Owner pursues HUD insured mortgages, or when a lender or syndicator reviews a proposed rehabilitation development. Plan review is a big business and there are plenty of companies qualified to complete these reviews in a timely manner. TDHCA could qualify several companies to perform the plan reviews as it does with market analysts and appraisers. Although the Development Owner pays for the third party review, the plan review consultant would be engaged by TDHCA and performed on its behalf. It might be wise to allow the Development Owner the choice of two or three plan review consultants at the time a development is scheduled to be underwritten to help avoid conflict of interest issues (i.e., plan review consultants related to other competing applicants).

Practically speaking, a plan review would eliminate the need for a PCA, because the plan reviewer could inspect for all of the necessary rehab items identified from a Development Owner's scope of work (which would typically be a comprehensive scope from a review of 100% of the units). It would also eliminate the cost of a plan review or PCA for those applications not submitted to underwriting for review (i.e., not competitive in a region or otherwise qualified to receive credits). A properly conducted plan review should 1) determine the reasonableness of the proposed costs for the complete scope of work, 2) determine the reasonableness of the proposed scope of work to cover both immediate rehab needs and the needs of the property over the next 15-20 years (beyond that point most components will begin to need replacing anyway), and 3) identify rehabilitation work that may indeed be unnecessary (although this is a judgment call that should really identify only the totally egregious items and not the marginal items, otherwise sub-par rehab could result). The plan review consultant would provide a report to TDHCA, with a copy to the Development

Owner, which should include an assessment of any additional rehab items necessary to ensure that more than \$300/unit in replacement reserves would not be necessary.

If TDHCA felt obligated to require a PCA in addition to a plan review (which again is completely unnecessary), the PCA's scope of work should be dramatically reduced to what a PCA would otherwise normally be required to do; review the condition of the property and an estimate of the cost to maintain it for a specified period of time. The key differences between a plan review engaged by TDHCA and TDHCA's proposed PCA requirements are:

- a. The plan review would be a genuine third party report.
- b. The plan review would be a response to a plan for development submitted by the Development Owner that would already incorporate a 100% review of the property's units, advice from the market study, TDHCA requirements, and potential requirements of syndicators and lenders selected for the property as opposed to rigging a PCA to incorporate these items.
- c. The plan review would be engaged to function as it would typically be engaged in the industry. This is critical because it keeps costs competitive and those who perform plan reviews are both practiced at what they do and can produce a product that better suits TDHCA's needs without going outside of the bounds of their normal course of work as is currently being requested of a PCA under the proposed Underwriting Rules.

With regard to the replacement reserve requirement for rehabilitation properties; 1) by virtue of TDHCA's ability, provided in the proposed Underwriting Rules, to increase replacement reserve deposit requirements as a result of future PCAs, and 2) by virtue of a properly conducted plan review described above, there is absolutely no need to require initial deposits to the replacement reserves of more than \$300/unit/year (unless the syndicator or lender requires a higher level). The benefits of keeping the reserves at this level are:

- 1) predictability – the Development Owner can maximize the current rehabilitation without fear of needing to reduce the scope of work due to increased reserve requirements imposed by TDHCA,
- 2) reasonability – the replacement reserves are kept to a level that is reasonable to ensure that a property will be properly maintained over the reasonable life of its components and not at a level that will try to maintain the property in perpetuity, and
- 3) uniformity – property that promises longer affordability is not punished by higher replacement reserve requirements which necessarily reduces current scopes of work, and is judged and competes at the same level as property that does not promise longer term affordability (typically bond financed developments).” – *Edgewater Affordable Housing (3)*

Department Response:

A plan review is impossible to conduct without a plan; the PCA is meant to provide that plan. Also, Staff is not aware of any regulation by the industry for plan reviews while PCAs have widely accepted rules (as referenced in §1.37) and should provide more consistent conclusions. TDHCA's PCA definition includes a requirement for a description of and cost estimate for both absolutely necessary repairs as well as additional planned repairs. If the issue relates directly to the belief that a PCA provider produces a report that does not provide the information required by TDHCA, Applicants should avoid that PCA provider and contract with a firm that will produce a report that meets all of the requirements of §1.37. Also, the suggestion that a plan review or PCA should be commissioned only at the time an Application is recommended for underwriting presents a problem as far as timing is concerned since it eliminates the Department's ability to validate costs and, therefore, tax credits in any meaningful way prior to allocation. Staff agrees that if the PCA is properly conducted and used by the Applicant as a tool in planning rehabilitation of the development, a reserve requirement in excess of \$300 per unit may not be required. However, arbitrarily setting it at this level in all cases when the PCA suggests a greater need after all proposed improvements are considered is not a responsible course of action. It is also inconsistent with State statute §2306.186(e). New language cannot be recommended at this time because the change may warrant a new public comment period. Due to the timeline,

a new public comment period for the 2005 REA Rules is not feasible. Therefore, staff does not recommend new language for the 2005 REA Rules, but suggests the issue will be readdressed at the time the 2006 Draft Rules are prepared for public comment.

§1.32(f) - Developer Capacity – (1)

Comment:

“The high risk characterization should be added back in. Development is tough enough for those who have experience and many trying to get in the business probably don’t understand the risks involved. Previous experience is probably one of the leading qualifications most lenders review in these more difficult operating environments and those who lack such should (instead of may) be characterized as high risk.” – *Barry Kahn (1)*

Department Response:

Previous experience documentation is a threshold item in the QAP under §49.9(f)(9) with review of the submitted documentation completed by the Portfolio Management and Compliance division. The Department is still concerned with and will continue to review Applicants’ previous experience. However, it is not considered to be a direct function of the underwriting analysis except to the extent that the development team does not have the financial strength to support the transaction. Staff does not recommend a change.

§1.32(f)(2)(C) - Financial Statements of Principals – (2)

Comment:

“TAAHP believes that this paragraph is in direct conflict with rules already in place in the draft 2005 Qualified Allocation Plan §49.9(e)(1). Applications are unable to move forward if evidence is not provided that one of the Development Owner’s General Partners, the Developer or their principals have a record of successfully constructing or developing residential units, as defined in (A) of that section. This policy will not add any further requirements on applicants who are determined to have a higher potential default rate as described in paragraph (1) or (2) of this section since previous experience was determined at the application phase. TAAHP recommends for consistency that defining a Development as high risk for the lack of previous experience and conditioning any potential award upon the identification and inclusion of additional Development partners who can meet the Department’s Guidelines should be removed from the draft 2005 Real Estate Analysis Rules.” – *Texas Affiliation of Affordable Housing Providers (2)*

Department Response:

The language in §1.32(f)(2)(C) is not in direct conflict with the QAP. The proposed rule eliminates the previous participation redundancy, but keeps in the financial capacity section. Staff does not recommend an additional change.

§1.32(g)(2)(B) - Inclusive Capture Rate – (1)

Comment:

“100% capture rate on elderly? Is this too high a standard?” – *Barry Kahn (1)*

Department Response:

An inclusive capture rate of 100% for developments targeting senior households is reasonable based on the Primary Market Area (PMA) boundary requirements under §1.33(e)(12). In most cases, a development targeting senior households will draw demand from outside of the PMA. An alternative to allowing a 100% inclusive capture rate is to propose new language for a separate PMA boundary requirement for developments targeting seniors. The same change should then be considered for developments located in rural areas (See §1.32(g)(2)(A)). However, staff does not recommend a change at this time, but will review this issue in the coming year.

§1.33 - Market Analysis Rules and Guidelines – (6, 7)

Comment:

“It is my understanding that the Department is contemplating posting the market analysis reports for each development on the internet. While I do not have a problem with providing the Department with an electronic

copy of our reports, I do not feel it is appropriate to post these reports on the internet for all to see. Our firm has spent a great deal of time and money perfecting these reports and do not want other, less qualified firms using our reports as templates. While I realize that our reports are available to others upon request from the Department, at least under the current scenario one must make some effort in order to obtain them. In my opinion, our reports have some degree of intellectual property to them and we do not want others to use this information to erode our market share which we have tried and will continue to try to increase.” – *O’Connor & Associates (6)*

Similar comment was made by Darrel Jack of *Apartment Market Data (7)*.

Department Response:

As stated in the public comment, the Market Studies are available through the public information act. It is not clear how making an effort to obtain a copy of the Market Study reduces the final impact of having that copy. Also, many of the requests for information received are requests for a copy of Market Studies which must be obtained from the physical file, copied, and mailed by TDHCA staff. Posting a copy of all Market Studies on the TDHCA website, if outsourced, may help to reduce the workload for TDHCA staff. However, the decision to post all Market Studies on the internet will be made at a later date and is not included in the proposed rule.

§1.33 - Market Analysis Rules and Guidelines – (2)

Comment:

“In the Board Action Summary dated September 9, 2004, staff responded to public comment regarding the potential requirement of information on the impact on schools be included in the market study, The response confirmed that this sort of information is not typically addressed in market studies, but suggested the information be required to be supplied directly by the applicant. TAAHP recommends this requirement be disregarded as it unnecessarily increases the application cost and it is not required for any other type of housing. Schools need to be more responsible for population growth and not put it solely on the backs of the development community.” – *Texas Affiliation of Affordable Housing Providers (2)*

Department Response:

Staff does not recommend a change.

§1.33 - Market Analysis Rules and Guidelines – (8)

Comment:

“TDHCA should require a market study of proposed projects under §49.8(c) (Pre-Application Evaluation Process) that includes racial/ethnic demographics of the market area and the census tract in which the project is located, as well as the projected demographics of the proposed project.” – *Lawyer’s Committee for Civil Rights Under Law (8)*

Department Response:

The purpose of a Market Study is to determine the income eligible demand and market rents for a specific development. Adding a requirement to provide racial and ethnic demographics would place an undue burden on the Market Analysts and increase the cost of Market Studies. Also, the information is currently being collected in the annual Fair Housing Sponsor Report. Staff does not recommend a change.

§1.33(c) - Self-Contained and §1.33 (e)(2) - Letter of Transmittal – (6)

Comment:

“I would like the word ‘recommendation’ to be removed from this sentence. The market analysis only addresses demand for the development, and there are many other factors that contribute to whether or not a development should or should not be constructed...Additionally, if a market analyst recommends that a development be constructed and for whatever reason the development is not successful...a market analyst could be held responsible if in the market analysis a recommendation is made to develop the property.” – *O’Connor & Associates (6)*

Department Response:

The “recommendation” referenced is not meant to be a recommendation to construct the development. Rather, the “recommendation” should encompass any changes to the structure of the development, such as unit mix

and leasing period, the Applicant should consider based on the market data. Staff does not recommend a change.

§1.33(d) - Market Analyst Qualifications – (4)

Comment:

“Market Studies should be reviewed against Department requirements. If any Market Study is substandard, then the Department should notify the market analyst of the deficiencies and the analyst should correct the deficiencies. If the deficient market analyst does not correct the deficiencies, or repeats the same deficiencies on another Market Study in the following year, then that market analyst should be removed from the approved market analyst list for the following two years. This would put some teeth into Section 1.33(d)(2) and would allow the Department to place greater reliance on the Market Studies.” – *Michael Hartman (4)*

Department Response:

Market Studies are reviewed against Department requirements and notification is sent if there are deficiencies. However, §1.33 does not currently penalize Market Analysts for a specific period of time. Instead, Market Analysts that are removed from the list may resubmit their qualifications and a sample Market Study that meets the requirements of §1.33 at any time after removal to be reinstated as an approved Market Analyst. Staff agrees that a specific period of time for debarment from the Approved List of Market Analysts may encourage continued compliance with §1.33, but a two-year debarment may be excessive. Also, new language with such a significant impact may warrant a new public comment period. Due to the timeline, a new public comment period for the 2005 REA Rules is not feasible. Therefore, staff does not recommend new language for the 2005 REA Rules, but will reconsider the issue at the time the 2006 Draft Rules are prepared for public comment.

§1.33(d)(2)(A) - Removal from Approved List of Market Analysts – (3)

Comment:

“Page 33 of the QAP requires that market studies not be older than “6 months as of the first day of the Application Acceptance Period,” If the due date for submission of the market study is April 1, 2005 at the latest, then 90 days prior to this date is approximately January 1, 2005. Any market studies commissioned prior to January 1, 2005, but within the six month period prior to March 1, 2005, from market analysts that are removed from the approved list would be required to be redone. Given the demand for market analysts during this period, re-commissioning a market study from another market analyst will not be an easy feat, especially if a Development Owner does not find out that their market analyst has been removed from the approved list until close to the application submission deadline. Section 1.33(d)(2)(A) should be revised to ‘not more than seven months before the Department’s deadline for submission, April 1, 2005.’ This will clean up the language, make it specific, and tie it in with the age of market studies permitted to be submitted.” – *Edgewater Affordable Housing (3)*

Department Response:

The Market Analyst removed from the list need only comply with the Department’s guidelines by resubmitting a corrected Market Study in order to be re-approved. If the Market Analyst fails to make the necessary corrections, a new Market Analyst may need to be commissioned to provide a new Market Study. However, ninety days is sufficient time to re-commission a Market Study. Staff does not recommend a change.

§1.33(e)(12) - Primary Market Information – (2, 7)

Comment:

“TAAHP recommends strongly that TDHCA allow the lenders and investors to use their own best practices when determining markets. TDHCA does not make an investment until the tax credits are purchased and thus should defer to the lenders and investors, who are taking the most risk, and therefore should have the flexibility to determine what constitutes a market in relation to an application.” – *Texas Affiliation of Affordable Housing Providers (2)*

Similar comment was made by Darrel Jack of *Apartment Market Data (7)*.

Department Response:

The Market Analysis Rules and Guidelines as well as all of the other Real Estate Analysis Rules and Guidelines apply to all applications submitted to and underwritten by the Department. Guidelines for the market area boundaries are necessary to allow for some consistency in methodology. Consistency is required in order to assure that the inclusive capture rate conclusions are comparable. Staff does not recommend a change.

§1.33(e)(12) - Primary Market Information – (6)

Comment:

“The definition of ‘proposed Affordable Housing developments’ needs to be clarified. For example, does this encompass only those properties that have received tax credits but have not commenced construction (i.e., previously approved) or does it include all properties which an application for tax credits has been made?” – *O’Connor & Associates (6)*

Department Response:

A map of the defined Primary Market Area with the subject property plus all existing, under construction and proposed Affordable Housing developments clearly identified must be provided as an exhibit of the Market Study. Proposed Affordable Housing Developments includes not only properties allocated tax credits that have yet to complete construction, but also those that have submitted application and those potentially funded through other means. This information is readily available on the Department’s website and the Bond Review Board website. Contact with the local planning and zoning department and housing authorities is required. Staff does not recommend a change.

§1.33(e)(13) - Comparable Property Analysis – (6, 7)

Comment:

Information such as economic occupancy, absorption rate, and turnover rate at comparable properties may be difficult to collect as managers and owners may choose not to divulge this type of data. The verbiage “if available” should be inserted after these requirements as well as other similar requirements throughout the rule. – *O’Connor & Associates (6)*

Similar comment was made by Darrel Jack of *Apartment Market Data (7)*.

Department Response:

The intent of §1.33(e)(13)(B) is to provide the Underwriter with an understanding of the occupancy at comparable properties within the defined Primary Market Area. Physical or economic occupancy rates may be collected, but the type of occupancy rate included in the Market Study must be clearly identified as either physical occupancy or economic occupancy. Also, it is not uncommon for a property owner or manager to refuse to provide requested information. However, adding the verbiage “if available” after requirements is not a solution recommended by staff. Instead staff recommends the following language:

(13) Comparable Property Analysis. Provide a comprehensive evaluation of the existing supply of comparable properties in the Primary Market Area defined by the Market Analyst. The analysis should include census data documenting the amount and condition of local housing stock as well as information on building permits since the census data was collected. The analysis must separately evaluate existing market rate housing and existing subsidized housing to include local housing authority units and any and all other rent- or income-restricted units with respect to items discussed in subparagraphs (A) through (F) of this paragraph. **If the comparable property owner and manager will not provide the information required in subparagraphs (A) through (F), a statement to that effect along with contact information for the comparable property must be included in the narrative of the Market Study.**

(A) Analyze comparable property rental rates. Include a separate attribute adjustment matrix for the most comparable market rate ~~and subsidized~~ units to the units proposed in the subject, a minimum of three developments—~~each~~. The Department recommends use of HUD Form [92227392273](#). Analysis of the Market Rents must be sufficiently detailed to permit the reader to understand the Market Analyst's logic and rationale. Total adjustments made to the Rent Comparable

Units in excess of 1525% suggest a weak comparable. Total adjustments in excess of 15% must be supported with additional narrative. In Primary Market Areas lacking sufficient rental comparables, it may be necessary for the Market Analyst to collect data from comparable properties in markets with similar characteristics and make quantifiable location adjustments. The Department also encourages requires close examination of the overall use of concessions in the Primary Market Area and the effect of the identified concessions on effective Market Rents.

~~(B) Provide an Affordability Analysis of the comparable unrestricted units.~~

~~(C) Analyze occupancy rates of each of the comparable properties and occupancy trends by bedroom type and income restricted level (percentage of AMI). Physical occupancy should be compared to economic occupancy. Occupancy rates presented should be clearly identified as either physical occupancy or economic occupancy.~~

§1.33(e)(15) – Conclusions – (4)

Comment:

“The needs of a particular market should dictate the unit mix in a proposed development, not an arbitrary rule drafted in Austin...The general partner, who is providing a fifteen-year operating deficit guarantee to the tax credit buyer and is therefore at risk for the long-term viability of the development, must be allowed to determine the needs of that particular market, as verified by a third-party market analyst.” – Michael Hartman (4)

Department Response:

Section 1.33 currently does not explicitly require the Market Analyst to recommend a unit mix that is appropriate for the development and the market area. Staff agrees this specific clarification would be useful information and proposes the following language (NOTE: the rationale for the new language in (E) will be discussed in detail below):

(15) 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)(F)~~ of this paragraph.

~~(A) Provide a best possible unit mix conclusion based on the occupancy rates by bedroom type within the PMA and income-eligible renter demand by household size within the PMA.~~

~~(B)(A)~~ Provide a separate market and subsidized rental rate conclusion for each proposed unit type and rental restriction category. Conclusions of rental rates below the maximum net rent limit rents must be well reasoned, documented, consistent with the market data, and address any inconsistencies with the conclusions of the demand for the subject units.

~~(C)(B)~~ Provide rental income, secondary income, and vacancy and collection loss projections for the subject derived independent of the Applicant’s estimates, but based on historic and/or well established data sources of comparable properties.

~~(D)(C)~~ Correlate and quantify secondary market and Primary Market demographics of housing demand to the current and proposed supply of housing and the need for each proposed unit type and the subject Development as a whole. The subject Development specific demand calculation may consider total demand from the date of application to the proposed place in service date.

~~(E)(D)~~ Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any properties with priority, as defined in §49.9(h)(2) of this title, over the subject that have made application to TDHCA and have not been presented to the TDHCA Board for decision plus any previously approved but unstabilized new Comparable Units in the Primary Market divided by the total income-eligible targeted renter demand identified by the Market Analysis for the subject Development’s Primary Market Area. The Market Analyst should calculate a separate capture rate for the subject Development’s proposed affordable units and market rate units as well as the subject Development as a whole. If any proposed or existing Developments are not included by the Market Analyst, withdrawn from application, subsequently found to not have priority over the subject, or not approved by the TDHCA Board, the Underwriter will adjust the inclusive capture rate accordingly.

~~(F)~~ Project an absorption period and rate for the subject until a Sustaining Occupancy level has been achieved. If absorption projections for the subject differ significantly from historic data, an explanation of such should be included.

~~(G)~~ Analyze the effects of the subject Development on the Primary Market occupancy rates and provide sufficient support documentation.

~~(H)~~ Identify any other Developments located within one linear mile of the proposed site and awarded funds by the Department in the three years prior to the Application Acceptance Period.

§1.33(e)(15)(D) - Inclusive Capture Rate – (2, 3)

Comment:

“TAAHP has several issues with the changes made to the process of calculating an inclusive capture rate. First, only approved deals should be included in the capture rate analysis. Comparing deals that have only submitted applications is extremely speculative and really does not give an accurate synopsis of the market. Also, adjusting the capture rate after-the-fact is of no benefit to anyone. Another issue we have is the sudden change in the definition of Comparable Unit. Removing the line about access to amenities and tenant services leads one to interpret that conventional units are now included in the definition of Comparable Units. This is absolutely wrong, as the capture rate analysis procedure’s main goal is to protect affordable developments and should have no relation to the protection of conventional units. We strongly recommend that ‘Comparable Units’ be replaced by ‘Affordable Units.’” – *Texas Affiliation of Affordable Housing Providers (2)*

“It is not clear whether §1.33(e)(15)(D) is intended to include pre-applications submitted in the pre-application round or just the final applications submitted by the March 1, 2005 deadline. Either way, it is not appropriate to include non-existent properties (properties that are not recommended for approval by TDHCA) in the capture rate calculation. This creates unnecessary bias suggesting that the proposed development’s market is more saturated than it really is. This is likely to lead an underwriter to dismiss all developments competing for an area rather than recommend funding for a development that has the best capture rate.

It is appropriate to consider the effect other proposed developments may have when making a funding decision. However, the underwriter should adjust the capture rate only at the time that a list of developments has been compiled to be recommended for funding. If two or more developments would be recommended for funding and serve the same area, only then should the underwriter revise the capture rates to include those developments to ensure that the overall capture rate is not exceeded. If the capture rate for multiple developments pending approval would yield an over saturation of the market, the development(s) with the smallest capture rates should take funding precedence.” – *Edgewater Affordable Housing (3)*

Department Response:

By including only development units that are approved at the time the Market Study is completed, the Market Analyst and Applicant may fail to take into account proposed developments that will affect the funding of the subject development. In such an instance, the Market Analyst would be doing a disservice to the Applicant. Adjustments are made at the time of underwriting to inclusive capture rates because Market Analyst’s occasionally fail to include other proposed units that may have priority over the subject units. The new language as proposed may not reduce the number of adjustments made at underwriting, but the adjustments will now be in favor of the subject development. Therefore, it will be less likely that an application will not be recommended due to a negative change in the inclusive capture rate. Conventional units that are comparable in construction type and rental rates have always been considered to be “Comparable Units” that should be included in the inclusive capture rate analysis. No new language is proposed affecting the classification of the conventional units that meet this criteria. The purpose of an inclusive capture rate calculation is not only to “protect affordable developments” already located in the market area, but also to provide a snapshot of the demand for the subject units. Finally, replacing the term “Comparable Units” with “Affordable Units” is inherently wrong since conventional units and rent-restricted units must be similar in construction type as well as rental rate to be considered “Comparable Units” whereas any unit affordable to households at the selected income levels is considered to be an “Affordable Unit.”

Finally, in response to the idea that the lowest capture rate should take precedence, Staff believes that funding priority is a function of the program rules. The underwriting analysis does not determine priority for funding. Staff does not recommend a change.

§1.33(e)(15)(D) - Inclusive Capture Rate – (6)

Comment:

“The Department must provide a method or contact person with whom a market analyst will be able to determine which properties have ‘priority’ over others in order that we can calculate an appropriate capture rate. Not providing this method or contact person is placing a huge burden of responsibility on the market analyst to make this determination.” Results of not following this proposal include costly and time-consuming revisions, loss of productivity for Department staff as well as Market Analysts and possibly a skewed capture rate conclusion. – *O’Connor & Associates (6)*

Department Response:

The reference to the QAP should be more specific, and staff recommends the reference is changed from §49.9(h) to §49.9(h)(2). The intent is for Market Analysts to take into consideration the priority system based on reservation dates for proposed tax credit developments which are also planning to utilize mortgage revenue bonds as a source of financing. Section 49.9(h)(2) clearly states the priority of proposed developments based on the reservation date for proposed tax credit developments which are also planning to utilize mortgage revenue bonds as a source of financing. The reservation dates are available on the Bond Review Board’s website. Staff does not believe a specifically designated contact person is necessary because the information is readily available.

~~(E)(D)~~ Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any properties with priority, as defined in §49.9(h)(2) of this title, over the subject that have made application to TDHCA and have not been presented to the TDHCA Board for decision plus any previously approved but unstabilized new Comparable Units in the Primary Market divided by the total income-eligible targeted renter demand identified by the Market Analysis for the subject Development’s Primary Market Area. The Market Analyst should calculate a separate capture rate for the subject Development’s proposed affordable units and market rate units as well as the subject Development as a whole. If any proposed or existing Developments are not included by the Market Analyst, withdrawn from application, subsequently found to not have priority over the subject, or not approved by the TDHCA Board, the Underwriter will adjust the inclusive capture rate accordingly.

§1.34(d) - Date of Appraisal – (2)

Comment:

“This is acceptable for a preliminary valuation, but the timing of the actual valuation needs to be more attuned to when the actual valuation is performed. TAAHP recommends the deletion of the proposed language and replace it with: ‘The date of original valuation may not be more than six months prior to the date the Lender requests a Commitment (from GSE). An update letter is required or an Appraisal dated more than six months, but less than nine months, prior to the date the Lender requests a Commitment. A complete reappraisal of the Property is required for Appraisals that are dated more than nine months prior to the date the Lender requests a Commitment.’

If, at any time, the Lender has reason to believe that the property’s value has declined since the date of the Appraisal, an update letter must be obtained regardless of the original valuation.

An update letter must:

1. be signed by the original appraiser and provide an updated value and valuation date;
2. state that the appraiser has reinspected the Property, the market rental comparables, and the market area; and
3. if the Property value has changed since the original date of valuation, specifically address and document those factors which contributed to the change in value. Such documentation may include a new estimate

of income and expenses as well as discussions of vacancies, concessions, and capitalization rates based upon a revised analysis of market conditions.” – *Texas Affiliation of Affordable Housing Providers (2)*

Department Response:

The purpose of an appraisal is: 1) to determine eligible building value for tax credit purposes in an acquisition development, and 2) to serve as a maximum transfer value in the case of an identity of interest transaction. In both cases the valuation is an “as-is” value estimate and such a value is not typically the primary value the lender is interested in or the value Staff believes the comment is referring to. Staff does not recommend a change.

§1.37 - Reserve for Replacement Rules and Guidelines – (2)

Comment:

“§2306.186 does not mandate that TDHCA have signatory rights to a property owner’s bank account for purposes of reserve for replacement. Maybe TDHCA’s main concerns could be better addressed by being part of the original escrow agreement. Having signatory authority is far too intrusive. We would like to see this clause removed. TAAHP would also like clarification as to whether the reserve account on page 29 is yet another account required from which the developer pays the Department for making necessary repairs. If so, we recommend only one account and a method to ensure payment to the Department. We would also like a stated process by which the Department would initiate requests for repairs.” – *Texas Affiliation of Affordable Housing Providers (2)*

Department Response: Staff concurs and recommends the following language:

(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 and the accounts held for the purpose of maintaining the required reserve funds.

§1.37(b)(1) - First Lien Lender other than the Department – (9)

Comment:

“‘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...’ This statement implies that this entire section (1)(A-C) is only for HOME or HTF financing and not bond or housing tax credit applications. Is this correct?” – *CG Consulting (9)*

Department Response:

It is incorrect to assume that §1.37(b)(1)(A)-(C) is only for HOME and HTF financing. This section applies to any development where the Department is not the first lien lender. Staff does not recommend a change.

§1.37(b)(1)(A) - TDHCA as Signatory Party in all Escrow Agreements – (3)

Comment:

“The issues cited by the October 25, 2004 letter from the Texas Affiliation of Affordable Housing Providers (“TAAHP”) regarding comments to the Underwriting Rules was an excellent summation of the issues surrounding TDHCA becoming a signatory in all escrow agreements. In addition to those issues cited by TAAHP, it should be noted that having signatory authority on the replacement reserve accounts probably exposes TDHCA to litigation if its signatory authority is deemed to be abused or misused in any way. Also, the Underwriting Rules cite that there will be a “subordination agreement” with the First Lien Lender or Bank Trustee. What is the proposed form of this subordination agreement? Will it be standardized? What if the First Lien Lender or Bank Trustee requires amendments to the agreement form? Will some First Lien Lenders or Bank Trustees be prohibited from changing form agreements that they are required to use in order to sell the mortgages on the secondary mortgage market? Who will be the authorized signatory for TDHCA? Will the authorized signatory be readily available for signing the appropriate documents? If the authorized signatory is

not readily available for signing the appropriate documents, will it hold up closing? What are the consequences for that? Also, per §2306 which is not currently capable of being revised, what if TDHCA improperly completes the necessary repairs? These are just a few of the issues facing TDHCA should it desire to become comprehensively involved in the replacement reserves of these developments.

TDHCA should eliminate the requirement to become a signatory party. If desired, it should receive reports on reserve funding, and it should issue compliance findings if the replacement reserve deposits are not sufficient. TDHCA should also consider reviewing its exposure to potential litigation if the department does step in to complete necessary repairs per §2306.186(f) and suggest revisions to 2306.186(f) if it is found that the potential exposure to litigation is unacceptable.” – *Edgewater Affordable Housing (3)*

Department Response:

The subordination agreement is a more direct method of enforcing TDHCA’s rights than merely receiving status reports. The legal liability to the Department and all available alternatives will be considered before TDHCA steps in to make necessary repairs. Staff does not recommend a change.

§1.37(b)(2) - Department’s Rights under Escrow and Subordination Agreements – (9)

Comment:

“The escrow agreement and subordination agreement identified relates to the statement in the previous paragraph 1.37(b)(1)(C) and therefore should be identified as 1.37(b)(1)(C)(i) and then the following paragraph (3) should be identified as (2).” – *CG Consulting (9)*

Department Response:

Staff agrees that this may be a source of confusion. However, rather than re-number the sections, the following change is proposed:

(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 and the accounts held for the purpose of maintaining the required 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.

§1.37(c) - Annual Submittal by First Lien Lender – (1)

Comment:

“What if the first lien lender won’t provide the data in subsection (c), otherwise comply with department requirements or won’t allow the department to make withdrawals.” – *Barry Kahn (1)*

Department Response:

The Owner will not be held accountable for the first lien lender’s actions. Staff does not recommend a change.

§1.37(e)(1)-(3) - Department as First Lien Lender – (9)

Comment:

“This section implies that only those developments where the department is the First Lien Lender (such as in HOME or HTF) have a Reserve Account requirement set by the department otherwise the requirement is the amount required by the lender, syndicator or bond trustee or the TDHCA minimum of \$250/new construction and \$300/rehabilitation. Is this correct?” – *CG Consulting (9)*

Department Response:

Yes, but the TDHCA minimum for rehabilitation developments may be higher than \$300 per unit based on the information provided in the Property Condition Assessment. It should be noted the reserve deposit per unit will exceed the Department minimums of \$200 per year for new construction developments and \$300 per year for rehabilitation developments only if the permanent lender, syndicator or information in the PCA indicates a higher amount is required. Staff does not recommend a change.

§1.37(j) - Use of Reserves for Expenses other than Repairs and Maintenance – (9)

Comment:

“If the reserve account is not established by the department or part of a subordination agreement as required in the above sections, how can the department determine where the money in the Reserve Account may be expended. Isn't it the function of either the First Lien Lender or Syndicator to approve expenditures from the Reserve Account as outlined in the partnership agreement or permanent loan documents? This section needs to be moved under the section outlining when the department will require an establishment of the reserve account for developments where the department is the First Lien Lender or there is no First Lien Lender.” – *CG Consulting (9)*

Department Response:

The Department will be made aware of withdrawals from the reserve and the expenditures through its signatory rights and already requires this information through the annual submittal of the owner financial certification. Staff does not recommend a change.

§1.37(j) - Use of Reserves for Expenses other than Repairs and Maintenance – (1)

Comment:

“In (j), does this mean anytime one takes money out of the Replacement Reserve, it needs to be fully repaid in addition to the monthly or yearly payments into the reserve before one can pay out any cash flow or developer fee. If so, this is much broader than lender requirements and not equitable to a developer.” – *Barry Kahn (1)*

Department Response:

If funds are taken out of the reserve for eligible repair and maintenance items, then §1.37(j) does not apply. However, if funds are taken out to pay expenses other than repairs and maintenance, then the reserve must be re-funded to the mandatory deposit level before cash flow can be paid to the Owner and deferred fees paid to the developer. The purpose for establishing rules for a reserve is to ensure the development has adequate funds to make necessary repairs and replacements. The Department standards in this regard are proposed to comply with the legislative purpose of the statute. Staff does not recommend a change.

§1.37 - Reserve for Replacement Rules and Guidelines – (1)

Comment:

“Does the department have the manpower to make this operative? What if the department's actions result in the first lien holder claiming a mortgage default? I assume this is only for 2005 and after allocations and that one would not have to get all existing agreements amended.” – *Barry Kahn (1)*

Department Response:

Staffing/resources are always an issue for the Department. Changes will be made as workload increases. The actions the Department can take under §1.37 include assessing a \$200 per unit penalty, characterizing the Owner as materially noncompliant, and making repairs as necessary. These actions should not independently have an effect on the status of the first lien mortgage, but serve to improve all parties' knowledge of the status of the property. Also, the language allows the Department to judge the most prudent action to take. The first

lien lender will be party to deciding when the Department may exercise rights other than those indicated directly in §1.37 as stated in §1.37(b)(2). The rule as proposed, if approved, will take effect for developments allocated funds in 2005. However, a form of the reserve rule was included in the PMC rules in previous years, as legislatively mandated. Staff does not recommend a change.

Lisa Vecchietti

From: Tom Gouris [tom.gouris@tdhca.state.tx.us]
Sent: Tuesday, October 26, 2004 10:38 AM
To: 'Lisa Vecchietti'
Subject: FW: Underwriting guideline comments

-----Original Message-----

From: Barry Kahn [mailto:bkahn@hettig-kahn.com]
Sent: Monday, October 25, 2004 2:52 PM
To: 'Tom Gouris'
Cc: 'Brooke Boston'
Subject: Underwriting guideline comments

Tom, please find comments attached which I would like to review with you. In particular 1.37 may be broader than the intended legislation. I have sent 1.37 to a Fannie Dus lender for comments but knew comments needed to be in today. What is a convenient time to discuss?

11/3/2004

COMMENTS TO UNDERWRITING GUIDELINES—2005

1. 1.32(d)(1)(A)(ii)(I) Water and sewer should be allowed to be tenant paid if submetered or if some RUBS system is in place that is used in the state and generally accepted that fairly allocates tenant used water and sewer. In (II) for gas some sort of metering should also be required.
2. 1.32(e)(4)(A)(ii). This should be modified to provide that if the Applicant's cost are more than 5%, then the department should use the higher of that proposed by the Department or 4.99% over the Marshall and Swift number. If, on the alternative, the Applicant's number had been 4.99% over, then that would have been accepted so why should one at 5.01% arbitrarily be reduced to the actual Marshall & Swift number. Marshall & Swift is not readily available, an expense, and 6-12 months behind actual costs.
3. 1.32(f) the high risk characterization should be added back in. Development is tough enough for those who have experience and many trying to get in the business probably don't understand the risks involved. Previous experience is probably one of the leading qualifications most lenders review in these more difficult operating environments and those who lack such should (instead of may) be characterized as high risk.
4. 100% capture rate on elderly? Is this too high a standard?
5. 1.37 is potentially a burden and may be broader than the legislation. If so, it needs to be tightened up. Has Fannie Mae and HUD approved the language. Also what if the first lien lender won't provide the data in subsection (c), otherwise comply with department requirements or won't allow the department to make withdrawals. And if lender won't comply or provide information, such should not be material noncompliance points against the developer.
In (j), does this mean anytime one takes money out of the Replacement Reserve, it needs to be fully repaid in addition to the monthly or yearly payments into the reserve before one can pay out any cash flow or developer fee. If so, this is much broader than lender requirements and not equitable to a developer.
Does the department have the manpower to make this operative? What if the department's actions result in the first lien holder claiming a mortgage default?
I assume this is only for 2005 and after allocations and that one would not have to get all existing agreements amended.



P.O. Box 27622
Austin, TX 78755-2622
Telephone: 512/330-9901
Fax: 512/330-9904
E-mail: jgarvin@taahp.org

To: Tom Gouris **From:** John Garvin

Fax: 475-4420 **Date:** October 25, 2004

Phone: **Pages:** 5

Re: 2005 Real Estate Analysis Rules and Guidelines **CC:**

Urgent **For Review** **Please Comment** **Please Reply**



TEXAS AFFILIATION OF AFFORDABLE HOUSING PROVIDERS

AFFORDABLE HOUSING PROVIDERS
*Increasing the supply and
quality of affordable housing
for Texans with limited
incomes*

Officers:
President
Jerry Wright
Newman & Associates, Inc.

President-Elect
Diana McIver
DMA Development Co., LLC

Vice President
G. Granger MacDonald
MacDonald & Associates

Vice President
Mika Sugrue
Guilford Capital Corporation

Treasurer
Tim Kemper
Reznick Group

Secretary
Patrick O'Connor
O'Connor & Associates

Immediate Past President
Mike Lankford
Lankford Interests, LLC

Past President
Chris Bergmann
Trammell Crow Residential

Directors:
Don Bethel
Bethel Realty Co.

Mike Clark
Alpha-Bames Real Estate Services

JOT Couch
Texas Inter-Faith
Housing Corporation

Sally Gaskin
SGI Ventures, Inc

Diana Helms-Morreale
Consultant

Neal Sox Johnson
Rural Rental Housing
Association of Texas

Ike Monty
Investment Builders, Inc.

Tom Scott
Coach Realty Services

David Wood
JP Morgan CHASE & Co.

October 25, 2004

Ms. Edwina Carrington
TDHCA
P.O. 13941
Austin, TX 78711-3941

Dear Ms. Carrington:

On behalf of the TAAHP Board of Directors I would like to thank you and the TDHCA Board of Directors for the opportunity to provide comment on the draft 2005 Real Estate Analysis Rules and Guidelines. TAAHP worked with an advisory group of the nations foremost experts on real estate analysis to develop the comment set forth below. The advisory group is composed of representatives from the full spectrum of financial partners - permanent lenders, construction lenders and equity providers. Below are our issues followed by our recommended solutions.

Issue One - §1.32(d)(1)(B), page 5

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, "or by using verifiable comparable data if available, 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.

Recommended Solution: TAAHP agrees with a \$5 to \$15 per unit per month range for miscellaneous income **only if** other verifiable income sources such as utility payments, garage income, carport rent, etc. are moved to a new and separate line item income source. We would also like to recommend adding the option (*"as noted*) to use verifiable comparable data when allowing for exceptions.

Issue Two - §1.32(d)(2), page 6

Expenses.

Recommended Solution: TAAHP recommends that TDHCA regionalize its database and then use it only as a guide when evaluating the reasonableness of an applicant's expenses estimate. Exceptions should always be made for property tax abatements and other similar factors.

Issue Three - §1.32(e)(4), page 12

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

Recommended Solution: TAAHP recommends that TDHCA use the existing Department database as a guide, regionalize the data, and adjust for inflation. Overall we believe that the investor is better suited to analyze and control costs, and this should be more the concern of the industry than that of TDHCA.

Issue Four - §1.32(e)(4)(A), page 12

New Construction. 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.

Recommended Solution: TAAHP recommends using "Good" or better quality costing classification. Building costs have experienced massive increases, and maintaining the use of "Average Quality" will only encourage developers to cut corners to stay within allowable cost ranges. With the increase of neighborhood opposition it is not advisable to be downgrading the quality of affordable developments.

Issue Five - §1.33, page 16

Market Analysis Rules and Guidelines. In the Board Action Summary dated September 9, 2004, staff responded to public comment regarding the potential requirement of information on the impact on schools be included in the market study. The response confirmed that this sort of information is not typically addressed in market studies, but suggested the information be required to be supplied directly by the applicant.

Recommended Solution: TAAHP recommends this requirement be disregarded as it unnecessarily increases the application costs and is not required for any other type of housing. Schools need to be more responsible for population growth and not put it solely on the backs of the development community.

Issue Six - §1.33(e)(12), page 17

Primary Market Information. Include a specific description of the subject's geographical location, specific demographic data, and an analysis of the Primary Market Area. The Primary Market Area will be defined on a case-by-case basis by the Market Analyst engaged to provide the Market Analysis. The Department encourages a conservative Primary Market Area delineation with use of natural, political, and geographical boundaries whenever possible. Furthermore, the Primary Market for a Development chosen by the Market Analyst should contain no more than 100,000 persons; however, a Primary Market with more residents with a maximum limit of 250,000 persons in the base demographic year may be indicated by the Market Analyst, where political/geographic boundaries indicate doing so, with additional supportive narrative. A summary of the neighborhood trends, future Development, and economic viability of the specific area must be addressed with particular emphasis given to Affordable Housing. A map of the Primary Market with the subject property plus all existing, under construction and proposed Affordable Housing developments clearly identified must be provided. A separate scaled distance map of the Primary Market that clearly identifies the subject and the location and distances of all Local Amenities described in the QAP, as proposed, must also be included.

Recommended Solution: TAAHP recommends strongly that TDHCA allow the lenders and investors to use their own best practices when determining markets. TDHCA does not make an investment until the tax credits are purchased and thus should defer to the lenders and investors, who are taking the most risk, and therefore should have the flexibility to determine what constitutes a market in relation to an application.

Issue Seven - §1.33(e)(15)(D), page 19

Calculation of Inclusive Capture Rate. Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any properties with priority, as defined in §49.9(h) of this title, over the subject that have made application to TDHCA and have not been presented to the TDHCA Board for decision plus any previously approved but unstabilized new Comparable Units in the Primary Market divided by the total income-eligible targeted renter demand identified by the Market Analyst for the subject Development's Primary Market Area. The Market Analyst should calculate a separate capture rate for the subject Development's proposed affordable units and market rate units as well as the subject Development as a whole. If any proposed or existing Developments are not included

by the Market Analyst, withdrawn from application, subsequently found to not have priority over the subject, or not approved by the TDHCA Board, the Underwriter will adjust the inclusive capture rate accordingly.

Recommended Solution: TAAHP has several issues with the changes made to the process of calculating an inclusive capture rate. First, only approved deals should be included in the the capture rate analysis. Comparing deals that have only submitted applications is extremely speculative and really does not give an accurate synopsis of the market. Also, adjusting the capture rate after-the-fact is of no benefit to anyone. Another issue we have is the sudden change in the definition of Comparable Unit. Removing the line about access to amenities and tenant services leads one to interpret that conventional units are now included in the definition of Comparable Units. This is absolutely wrong, as the capture rate analysis procedure's main goal is to protect affordable developments and should have no relation to the protection of conventional units. We strongly recommend that "Comparable Units" be replaced by "Affordable Units."

Issue Eight - §1.34(d), page 20

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

Recommended Solution: This is acceptable for a preliminary valuation, but the timing of the actual valuation needs to be more attuned to when the actual valuation is performed. TAAHP recommends the deletion of the proposed language and replace it with: "The date of original valuation may not be more than six months prior to the date the Lender requests a Commitment (from a GSE). An update letter is required for an Appraisal dated more than six months, but less than nine months, prior to the date the Lender requests a Commitment. A complete reappraisal of the Property is required for Appraisals that are dated more than nine months prior to the date the Lender requests a Commitment."

If, at any time, the Lender has reason to believe that the Property's value has declined since the date of the Appraisal, an update letter must be obtained regardless of the date of the original valuation.

Any update letter must:

- 1.) be signed by the original appraiser and provide an updated value and valuation date;
- 2.) state that the appraiser has reinspected the Property, the market rental comparables, and the market area; and
- 3.) if the Property value has changed since the original date of valuation, specifically address and document those factors which contributed to the change in value. Such documentation may include a new estimate of income and expenses as well as discussion of vacancies, concessions, and capitalization rates based upon a revised analysis of market conditions.

Issue Nine - §1.37, 26

Reserve Replacement Account. (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 and the accounts held for the purpose of maintaining the required reserve funds;

Recommended Solution: §2306.186 does not mandate that TDHCA have signatory rights to to a property owners bank account for purposes of reserves for replacement. Maybe TDHCA's concerns could be better addressed by being part of the original escrow agreement. Having signature authority is far too intrusive. We would like to see this clause removed. TAAHP would also like clarification as to whether the reserve replacement account on page 29 is yet another account required from which the developer

Page 4 of 4

pays the Department for making necessary repairs. If so, we recommend only one account and a method to ensure payment to the Department. We would also like a stated process by which the Department would initiate requests for repairs.

In closing, I would like to take thank you, the TDHCA Board members, and department staff for all the work that has been put into the draft 2005 Real Estate Analysis Rules and Guidelines. We appreciate the opportunity and look forward to working with you to make Texas' affordable housing programs as efficient, effective, and financially feasible as possible. Please feel free to contact me if you have any questions or need more information. Thank you.

Sincerely,



John L. Garvin
Executive Director

Cc: TDHCA Board of Directors
Tom Gouris, TDHCA
TAHP Board of Directors



TEXAS AFFILIATION OF AFFORDABLE HOUSING PROVIDERS

Increasing the supply and quality of affordable housing for Texans with limited incomes

Officers:

President

Officers:

President

Jerry Wright

Newman & Associates, Inc.

President-Elect

Diana McIver

DMA Development Co., LLC

Vice President

G. Granger MacDonald

MacDonald & Associates

Vice President

Mike Sugrue

Guilford Capital Corporation

Treasurer

Tim Kemper

Roznick Group

Secretary

Patrick O'Connor

O'Connor & Associates

Immediate Past President

Mike Lankford

Lankford Interests, LLC

Past President

Chris Bergmann

Trammell Crow Residential

Directors:

Don Bethel

Bethel Realty Co.

Mike Clark

Alpha-Barnes Real Estate

Services

JOT Couch

Texas Inter-Faith

Housing Corporation

Sally Gaskin

SGI Ventures, Inc

Diana Helms-Morreale

Consultant

Neal Sox Johnson

Rural Rental Housing

Association of Texas

Ike Monty

Investment Builders, Inc.

Tom Scott

Coach Realty Services

David Wood

JP Morgan CHASE & Co.

October 25, 2004

Ms. Edwina Carrington

TDHCA

P.O. 13941

Austin, TX 78711-3941

Dear Ms. Carrington:

On behalf of the TAAHP Board of Directors I would like to thank you and the TDHCA Board of Directors for the opportunity to provide comment on the draft 2005 Real Estate Analysis, 2005 Qualified Allocation Plan and §60.1 Compliance Monitoring Policies and Procedures.

Below are our comments concerning outstanding issues with which we have concerns/difficulties, and our recommended solutions.

Issue One: §1.32(f)(2)(D) of the draft 2005 Real Estate Analysis

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.

TAAHP believes that this paragraph is in direct conflict with rules already in place in the draft 2005 Qualified Allocation Plan §49.9(c)(1). Applications are unable to move forward if evidence is not provided that one of the Development Owner's General Partners, the Developer or their principals have a record of successfully constructing or developing residential units, as defined in (A) of that section. This policy will not add any further requirements on applicants who are determined to have a higher potential default rate as described in paragraph (1) or (2) of this section since previous experience was determined at the application phase.

Recommended Solution: TAAHP recommends for consistency that defining a Development as high risk for the lack of previous experience and conditioning any potential award upon the identification and inclusion of additional Development partners who can meet the Department's Guidelines be removed from the draft 2005 Real Estate Analysis Rules.

Issue Two: §49.16(g) of the draft 2005 Qualified Allocation Plan

TAAHP recommends for clarity purposes that the reference to inspections identify the actual areas TDHCA is reviewing during the construction process. TDHCA tests for the inclusion of threshold requirements and Development characteristics identified at application for additional points. TAAHP also encourages a reference to the Compliance Rules to identify the construction inspection process.

Please change §49.16(g) to read: "Development inspections shall be required to show that the Development is built or rehabilitated according to required plans and specifications construction threshold criteria and Development characteristics identified at application. At a minimum, all Development inspections must 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 fees and costs of said inspections as described in §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 Third party inspections. Details regarding the construction inspection process are set forth in Department Rule §60.1 of this title.

Issue Three: §60.1(c) of the draft 2005 Compliance Monitoring Policies and Procedures

TAAHP recommends for compliance efficiency purposes as well as implementing processes that address QAP construction inspection requirements that the PMC rules identify the actual areas to be reviewed during the construction inspection process.

TAAHP recommends changing the opening paragraph to read as follows: Construction inspections. The Department, through the Portfolio Management and Compliance Division, shall will monitor during the construction or rehabilitation process for compliance with all program applicable requirements, including construction threshold criteria and application Development characteristics through the entire construction or rehabilitation phase associated with any Development funded or administered by the Department. Construction is monitored to verify inclusion of application representations and Department design requirements. Construction inspections conducted by the Department or by an independent third party inspector acceptable to the Department will also monitor for material and workmanship quality during the construction process.

Issue Four: §60.1(c)(1)

TAAHP is concerned that the construction monitoring procedures for HTC Developments fails to implement minimum requirements as identified in the 2005 QAP §49.16(g), which calls for an inspection for quality during the construction process while defects can reasonable be corrected. The current proposed language calls for a plan review, a final inspection, and an accessibility clearance performed after completion. The plan review that is currently proposed does not meet the definition of an inspection during the construction process but rather is considered in the construction field as a pre-construction requirement. The 2005 QAP §49.16(g) also requires the Development Owner to pay for said construction inspections as referenced in §49.20 of the QAP. The proposed language requires a final inspection performed by the inspectors for the owner, lender and/or syndicator and the accessibility clearance to be performed by an owner-contracted accessibility specialist, the costs of which would be paid by the Applicant and not the Department. TAAHP would like clarification that the costs of required inspections identified in (A), (B), and (C) of this section are to be reimbursed by the Department from the \$750 inspection fee that is paid to the Department. Furthermore, TAAHP would like to note that a certification is already being provided for accessibility clearance at application, with the 10% Test Documentation and at Development completion as required in the 2005 QAP §49.9(f)(F).

Recommended Solution: TAAHP requests that the plan review requirement be removed from the draft 2005 Compliance Monitoring Policies and Procedures. TAAHP recommends incorporating the following language to aide TDHCA meet the minimum requirement of inspections for quality during the construction process. The recommended mid-construction inspections might not be the only way to meet the QAP requirements but could be used as a starting point. The final inspection language has been changed as to not conflict with language already in the §49.16(g) of the QAP. TAAHP requests that the requirement for an accessibility clearance be removed since this requirement is already submitted in the form of a certification to production staff.

Please change §60.1(c)(1) to read:

- (1) Construction ~~monitoring~~ inspection procedures for HTC Developments include:

~~(A) A plan review performed by the Department or by an independent plan review contractor engaged by the Department. The reviewer uses the TDHCA Application Compliance Checklist. The plan approval certificate is required by the Department in order for the issuance of the Acknowledgement Notice at the commencement of substantial construction. An initial inspection performed when the Department receives evidence of having commenced and continued substantial construction activities, as defined in the applicable QAP. Evidence of such activity must be submitted within thirty days and shall be provided in a format prescribed by the Department.~~

(B) A mid-construction inspection conducted the earlier of:

(1) 25% of the total number of Development buildings are at least 30% completed and are at a post-wiring/pre-sheetrock stage, or

(2) 40% of the construction contract amount for the Development, adjusted for any change orders, has been expended as documented by an inspecting architect.

Evidence of such activity must be submitted within thirty days of (1) or (2) being reached and shall be provided in a format prescribed by the Department.

~~(B)(C) A final inspection performed after completion of construction by inspectors for the owner, lender and/or syndicator using the TDHCA Application Compliance Checklist, performed at the time the Development is placed in service. Evidence of such activity must be submitted within thirty days and shall be provided in a format prescribed by the Department.~~

~~(C) An accessibility clearance performed after completion of construction by an owner-contracted accessibility specialist selected by the Development owner from the Department's list of approved contractors using the TDHCA Accessibility Checklist.~~

Issue Five: §60.1(c)(2)

TAAHP recommends that where possible the construction inspection process mimic the HTC multifamily Development requirements for consistency purposes, and to ease Developers in organizing the construction deadlines if multiple funding sources from TDHCA are utilized on a single Development.

Please change §60.1(c)(2) to read:

(2) Construction monitoring inspection procedures for non-HTC multifamily Developments include:

(A) A plan review performed by the Department or by an independent third-party plan reviewer acceptable to the Department. The plan review will confirm inclusion of construction program requirements and Development characteristics identified at application. owner-contracted independent plan review contractor selected from the Department's list of approved plan reviewers. The reviewer uses the TDHCA Application Compliance Checklist and issues a Certificate of Compliance once plans are approved. The plan approval certificate. The plan review must be completed prior to is required by the Department in order for the borrower or grantee to obtaining a Notice to Proceed with Construction.

(B) A mid-construction inspection conducted the earlier of:

(1) 25% of the total number of Development buildings are at least 30% completed and are at a post-wiring/pre-sheetrock stage, or

(2) 40% of the construction contract amount for the Development, adjusted for any change orders, has been expended as documented by an inspecting architect.

Evidence of such activity must be submitted within thirty days of (1) or (2) being reached and shall be provided in a format prescribed by the Department.

~~(B) Mid-construction progress inspections conducted within ten days prior to draw request submittals to the Department. Mid-construction inspections are performed by independent licensed architects or engineers engaged by the borrower or grantee. Depending on particular risks associated with the Development, the Department may require the borrower or grantee to select a contractor from the Department's list of approved inspectors. With each draw package, the borrower or grantee provides AIA documents (or equivalents) G701 Change Order form for any change in contract scope of work, cost, or time; G702 Application and Certificate for Payments; G703 Continuation Sheet; and G711 Field Report.~~

~~(C) A final inspection is performed by the Department or an owner contracted independent inspection contractor selected from the Department's list of approved final inspectors. The final inspector uses the TDHCA Application Compliance Checklist and issues the Certificate of Compliance once all work is in place and approved. The certificate performed after completion of construction or rehabilitation, when 100% of the construction contract amount, adjusted for any change orders, has been expended. Evidence of such activity must be submitted within thirty days and shall be provided in a format prescribed by the Department. The inspection is required by the Department in order to release retainage.~~

~~(3)(B) Mid construction progress inspections conducted within ten days prior to draw request submittals to the Department, for non-HTC Developments, must include construction progress inspection reports which were conducted within 10 day prior to the draw request. Mid-construction The inspections are performed by independent licensed architects or engineers engaged by the borrower or grantee. Evidence of such inspections shall be provided in a format prescribed by the Department. Depending on particular risks associated with the Development, the Department may require the borrower or grantee to select a contractor from the Department's list of approved inspectors. With each draw package, the borrower or grantee provides AIA documents (or equivalents) G701 Change Order form for any change in contract scope of work, cost, or time; G702 Application and Certificate for Payments; G703 Continuation Sheet; and G711 Field Report.~~

(4) For Non-HTC Developments a certification from a Department-approved third party accessibility specialist stating that the Development was 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 and in conformance with accessibility standards that are described in Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C, must be received in order to release retainage.

Issue Six: §60.1(c)(3)

TAAHP recommends changing the language to address both HTC and Non-HTC Developments. Construction inspection reports are conducted for applicants during the construction process and TAAHP has no issue submitting those reports if requested by the Department; however, TAAHP requests that the form submitted to the Department be a copy of the inspection report with a certification from the Owner that TDHCA can rely on the information provided in those reports. To require our contracted inspectors to complete additional Department forms would be costly to the Applicant.

Please change §60.1(c)(3) to read as follows, the numbering has been changed to fall in line with recommended changes addressed above:

~~(5)(3) The Department may require a copy of all reports from all construction inspections performed on behalf of the Applicant as needed, for the lender and/or syndicator for HTC Developments. The reports must indicate that the Department may rely on the information provided in the reports. The Department may provide those inspectors for the lenders and syndicator with required documentation to be completed that will confirm satisfaction of the requirements of this rule.~~

Issue Seven: §60.1(c)(4)

TAAHP is concerned that the proposed language is in direct conflict with 2005 QAP language §49.16(g) and §49.20 which states that inspection fees would be paid to the Department to pay for such Development construction inspections. The QAP §49.20(h) goes on to say that an additional fee can be charged in the amount of \$250 per Development. TAAHP is concerned that if the Development is determined to be high risk that the proposed language will require additional construction inspections to be at the owner's expense.

References to developments submitting copies of construction reports was already addressed in §60.1(c)(3) of the draft rule. TAAHP would also like to point out that the draft 2005 Real Estate Analysis rules identify characteristics that make a Development high risk for REA and should not be identified in the Compliance Monitoring Policies and Procedures.

TAAHP believes that the high risk characteristics identified for non-HTC developments would identify a majority of Developments as high risk and therefore triggering additional inspections and holding up the construction process. More thought should be put in to what characteristics identify a Development to be high risk as it relates to the construction inspection process.

Recommended Solution: TAAHP requests that the line requiring additional inspections to be at the owner's expense be removed from the draft rules. Also, under this section, TAAHP would like consideration for consistency that references to the submittal of construction reports and high risk characteristics identified by Real Estate Analysis, and for non-HTC Developments be removed from the draft rules. In addition, that items that determine a Development to be high risk be identified as deficiencies that might be observed during the construction inspection process by the Department. The areas identifying referrals to the other programmatic divisions and possible repercussions for failing to follow the process has been added to the end of the proposed language.

TAAHP would like consideration that §60.1 (c)(4) to read as follows, the numbering has been changed to reflect recommended changes addressed above:

~~(6)(4) Additional inspections may be conducted by the Department or by an independent third party inspector acceptable to the Department. Third-Party Inspections during the construction process. If necessary, based on the level of risk associated with the Development, the Department may inspect or obtain, at the owner's expense, a Third-Party inspection for purposes of monitoring during the construction phase. The Development owner shall, upon request, provide to the Department, or any Third-Party inspector hired by the Department any construction documents, plans, or specifications for the Development to perform these inspections. The Department uses the as determined by the Real Estate Analysis Division and or the Portfolio Management and Compliance Division to determine the amount of risk associated with each Development. Owners of high risk HTC Developments may be required to submit copies of all inspection reports made throughout the construction of the Development within fifteen days of the date the inspection occurred as well as the AIA documents required for non-HTC mid-construction inspections described above. Owners of high risk non-HTC Developments may be required to supplement their mid-construction draw request submittals with inspection reports prepared by an inspector selected and engaged by the owner from the Department's list of approved inspector. Risk factors determined by the Real Estate Analysis division involve any change in total construction cost or change in square footage. For non-HTC Developments, such changes are referred to the Department's Real Estate Analysis Division by the Portfolio Management and Compliance~~

~~Division if the changes are identified during mid-construction. For all multifamily Developments, changes of square footage or changes in the scope of work are referred by the Portfolio Management and Compliance Division to the Department's Real Estate Analysis Division and to the Department's Multifamily Finance Production Division if identified at plan review or final inspection. The Portfolio Management and Compliance Division identifies determines HTC Developments to be at high risk if inspections identify issues with construction threshold criteria and Development characteristics identified at application or if the material and workmanship is below standard. HTC Developments are also considered high risk if evidence of the required construction deadlines identified in (1) of this section were not submitted timely and caused a delay in the construction inspection process. the plan reviewer or final inspector evaluates the construction plans and specifications or completed construction work to be low quality as indicated by the reviewer or inspector using the quality evaluation factors in the Application Compliance Checklist. The Portfolio Management and Compliance Division identifies evaluates risk of 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 or if the material and workmanship is determined to be below standard. Non-HTC Developments are also considered high risk if evidence of the required construction deadlines identified in (2) of this section were not submitted timely and caused a delay in the construction inspection process. at the time of draw request or retainage release as low risk if none of the following factors apply, or high risk if four of the following factors apply:~~

- ~~(a) The Department is the first lien holder;~~
- ~~(b) The Development is a rehabilitation;~~
- ~~(c) 90% or more of the award is requested at once (pre-development and/or construction costs);~~
- ~~(d) Retainage release is requested and no inspection was conducted in the past 6 mos.;~~
- ~~(e) Borrower/grantee has a known history of non-compliance issues;~~
- ~~(f) Borrower/grantee has little or no prior development experience;~~
- ~~(g) The current draw is the first request;~~
- ~~(h) Reimbursement of stored materials is requested;~~
- ~~(i) Building plans are evaluated to be of low quality in the plan review;~~
- ~~(j) There is a possible lack of full cooperation from the Development team or there are other unusual circumstances.~~

Issue Eight: §60.1(c)(5)

TAAHP is not aware of any requirement of an initial compliance evaluation during the construction phase that is being conducted by TDHCA. If one exists TAAHP would like further clarification of this compliance evaluation.

Recommended Solution: TAAHP requests that the first sentence be deleted from the draft 2005 Compliance Monitoring Policies and Procedures until clarification is provided regarding the nature of the compliance evaluation during construction for USDA Developments.

Please change §60.1(c)(5) to read as follows; the numbering has been changed to reflect recommended changes addressed above:

~~(7)(5) After completion of a Development's construction phase, the Department periodically reviews the performance of the Development to confirm the accuracy of the Department's initial compliance evaluation during the construction phase. 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, upon request, provides to the Department copies of all inspections made by TX-USDA-RHS throughout the construction of the Development within fifteen days of the date the inspection occurred. (§2306.081)~~

(8)(6) The Portfolio Management and Compliance Division will notify the Multi-Family Finance Production Division and Real Estate Analysis Division of any Deficiencies or changes noted during the inspection process.

(9)(7) Failure to provide documentation as required under the construction inspection process for HTC Developments will result in the delay of the issuance of Form 8609. For Non-HTC developments it will delay reimbursement requests including retainage.

Issue Nine: General Comment on Inspection

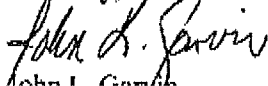
None of the inspection rules, policies, guidance to inspectors or inspection topics have been published as a rule nor put out for comment by the development community. There are many, many items in the inspection topics that go far beyond the requirements of "quality" or meeting the requirements of the QAP or compliance with the application commitments. TAAHP members are spending numerous hours dealing with these issues.

TAAHP members have received inspector reports that are wrong. Either the inspectors did not understand the QAP or application requirements, or just made a mistake on their report. Once the report is submitted to TDHCA, the developer is then asked to respond to the report - but the flawed report still exists in the file. TAAHP suggests in the "to-be-created" inspection rules, language that provides the developer a chance to review and/or respond to the inspection report before it becomes final and ends up in our file (and subject to open records request by our friendly neighborhood groups).

TAAHP also recommends that TDHCA avoids duplicating inspection issues that deal with local or national building codes. The local municipalities or counties are inspecting for these. TDHCA does not need to be in the business of creating additional codes to follow or interfering with existing ones. All they need to ensure is that applicants are doing what they committed to do in our application and that the units conform to local and national codes.

In closing, I would like to thank you, the TDHCA Board, and Department staff for all the hard work that has been put into the draft 2005 Compliance Monitoring Policies and Procedures. We look forward to working with you to make the construction inspection process as efficient and effective as possible.

Sincerely,


John L. Garvin
Executive Director

Cc: TDHCA, Board of Directors
Suzanne Phillips, TDCHA
TAAHP, Board of Directors



October 24, 2004

Doug Gurkin

1805 Lakehurst Road
Spicewood, TX 78669
(512) 264-1020 office
(512) 264-3052 fax
(512) 423-0521 mobile

Ms. Edwina Carrington
Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711

RE: Public Comment on the 2005 Proposed Qualified Allocation Plan
("QAP") and draft 2005 Real Estate Analysis Rules and Guidelines

Wooten Epes

128 Normandy Road
Little Rock, AR 72207
(501) 766-4554 office
(501) 664-7507 fax

Dear Ms. Carrington:

Thank you for the opportunity to present comments regarding the 2005 Proposed Qualified Allocation Plan and draft 2005 Real Estate Analysis Rules and Guidelines. The comments provided below for each of these documents are presented in order of their importance and need for change.

Deborah Welchel

21518 Patton Avenue
Lago Vista, TX 78645
(512) 267-7432 office
(512) 267-4377 fax
(512) 826-3880 mobile

Please consider the following comments and suggestions for revisions to the 2005 Proposed QAP.

1. **Carryover Requirements for Acquisition/Rehabilitation Properties.** Section 49.14(a) states "Developments involving acquisition/rehabilitation must submit the Carryover documentation to the Department no later than December 1 of the year in which the Commitment Notice is issued, however they will be ineligible for extensions beyond that date." Section 49.14(a)(1) under the requirements for Carryover states "The Development Owner must have purchased the property for the Development."

George Schmidt

34 Lone Oak Trail
Austin, TX 78745
(512) 680-1600 office
(512) 233-0860 fax

Issues: It is practically impossible for acquisition/rehabilitation properties 1) seeking decoupling approval for HUD 236 insured mortgages, 2) seeking new 221(d)(3) or (d)(4) insurance, or 3) seeking Transfer of Physical Asset ("TPA") approval from HUD to be purchased by December 1 of the year in which the Commitment Notice is issued. This requirement is not a Section 42 requirement and can be changed. Otherwise, all developments of these types will seek extensions to the December 1 deadline for the purchase of the property. If no extensions are allowed, these developments will not be completed. If extensions are permitted on a case-by-case basis for the purchase of the property, it raises questions of whether the penalties of 49.9(g)(22)(A) will be applied to future requests.

Because of the costs to initiate the HUD approvals for the above types of properties (\$60,000 for decoupling approval and at least \$40,000 for HUD insurance), Development Owners will not initiate the process until after tax

credit awards are assured (July 31). The decoupling process takes a minimum of six (6) months to complete and the process to obtain HUD insurance typically takes at least 5-6 months to complete. Also, because “purchase of the property” requires closing on both the land and the improvements, it is also patently unfair to require Development Owners of acquisition/ rehabilitation properties to close their transactions a full seven (7) months prior to the deadline for Development Owners of new construction properties.

Recommendations: Require submission of carryover documentation for all property types by November 1 of the year in which the Commitment Notice is issued and exempt Developments involving acquisition/rehabilitation from the requirements under Section 49.14(a)(1).

Please consider the following comments and suggestions for revisions to the draft 2005 Real Estate Analysis Rules and Guidelines.

1. **Use of the Physical Condition Assessment (“PCA”) in determining appropriate rehab costs and requirements for replacement reserves over \$300/unit.** Throughout the proposed Underwriting Rules, TDHCA expects the PCA to fulfill the role of a third party cost estimate and verification of the proposed rehabilitation scope of work. Section 1.32(e)(4)(B) is proposed as follows:

“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.”

Section 1.32(e) states “The Development’s need for permanent funds and, when applicable, the Development’s Eligible Basis is based upon the projected total development costs. . . . In the case of a rehabilitation Development, the Underwriter may use a lower tolerance level due to the reliance upon the PCA.”

Section 1.32(d)(2)(I) states “The Underwriter may require an amount above \$300 for Developments other than new construction based on information provided in the PCA.”

Issues: It is understandable that TDHCA would want to have third party verification of 1) the proposed rehabilitation costs to ensure that the costs are reasonable, and 2) the scope of work to ensure that the proposed rehabilitation is necessary. However, the PCA is not an appropriate tool to verify the reasonableness of the rehabilitation costs. It must also definitely not be used to limit the scope of rehabilitation work to be done.

A PCA is supposed to be a third party review of the condition of the property and an estimate of the cost to maintain it for a specified period of time. It identifies the minimum amount of work to be done to operate in acceptable condition as it is currently configured. A PCA does not typically inspect 100% of the units. It is not intended to take into account TDHCA’s

requirements or the proposed lender's or syndicator's rehabilitation requirements which often are not identified until just prior to closing. A PCA is also not typically prepared to identify and validate the necessity of rehabilitation performed to update elements of the property to be competitive in today's market, such as updated cabinetry or larger closets. Nor does it typically address improvements to energy efficiency or longer lasting materials (such as replacing T111 siding with hardi-board).

In effect, by requiring Development Owners to require the PCA to take into account all of the above elements a PCA is not typically designed to incorporate, the PCA is no longer a third party report. Because of the additional items required to be addressed in the PCA are not typically provided by a PCA, the cost of preparing it rises dramatically. Most importantly, however, if a PCA does not take into account all of these items, it will underestimate the appropriate scope of rehab for a property. If that is done, and TDHCA uses the PCA in the manner currently proposed in the Underwriting Rules, most developments will be allocated significantly fewer tax credits than reasonable to ensure that a property is properly rehabilitated for long-term viability. TDHCA should not be restricting the scope of rehabilitation developments to the minimum amount of work to be done to operate in acceptable condition as it is currently configured.

Because TDHCA's Underwriting Rules require that a PCA take into account the "cost estimates for repairs and replacements which are necessary immediately, and for repairs and replacements which are expected to be required throughout the term of the regulatory period", the longer the selected affordability period, the higher the up front replacement reserve deposits required will be. A development with only 15 years of compliance will not likely need a roof replacement if the roofs are replaced as part of the development budget, or have been replaced within the last five years. A development promising 40 years of compliance, however, will require a PCA analyst to present value a schedule of at least one roof replacement, and possibly two, into a current replacement reserve figure. This holds true for many other building components. The effect is compounded for items that have a shorter useful life. While it would seem proactive to require replacement reserves well in excess of the \$300/unit that is typically budgeted for developments promising longer low-income use, dramatically higher replacement reserve requirements drastically diverts current income that could otherwise be used to finance current improvements. The result is under-improved rehabilitation developments and over-funded replacement reserves. This effectively requires improvements to be inefficiently spread out over the life of a property. Combined with the high likelihood of reduced credits as a result of reduced scopes of work due to a misuse of PCA analysis and underestimated property taxes (see #4 below), the result will be poorly rehabilitated housing and an effective waste of tax credit funds.

Recommendations: If TDHCA truly wants a third party review of the proposed scope of work and verification of the proposed budget, it should engage an independent professional plan review of these items. This is always done when a Development Owner pursues HUD insured mortgages, or when a lender or syndicator reviews a proposed rehabilitation development. Plan review is a big business and there are plenty of companies qualified to complete these reviews in a timely manner. TDHCA could qualify several companies to perform the plan reviews as it does with market analysts and appraisers. Although the Development Owner pays for the third party review, the plan review consultant would be

engaged by TDHCA and performed on its behalf. It might be wise to allow the Development Owner the choice of two or three plan review consultants at the time a development is scheduled to be underwritten to help avoid conflict of interest issues (i.e., plan review consultants related to other competing applicants).

Practically speaking, a plan review would eliminate the need for a PCA, because the plan reviewer could inspect for all of the necessary rehab items identified from a Development Owner's scope of work (which would typically be a comprehensive scope from a review of 100% of the units). It would also eliminate the cost of a plan review or PCA for those applications not submitted to underwriting for review (i.e., not competitive in a region or otherwise qualified to receive credits). A properly conducted plan review should 1) determine the reasonableness of the proposed costs for the complete scope of work, 2) determine the reasonableness of the proposed scope of work to cover both immediate rehab needs and the needs of the property over the next 15-20 years (beyond that point most components will begin to need replacing anyway), and 3) identify rehabilitation work that may indeed be unnecessary (although this is a judgment call that should really identify only the totally egregious items and not the marginal items, otherwise sub-par rehab could result). The plan review consultant would provide a report to TDHCA, with a copy to the Development Owner, which should include an assessment of any additional rehab items necessary to ensure that more than \$300/unit in replacement reserves would not be necessary.

If TDHCA felt obligated to require a PCA in addition to a plan review (which again is completely unnecessary), the PCA's scope of work should be dramatically reduced to what a PCA would otherwise normally be required to do; review the condition of the property and an estimate of the cost to maintain it for a specified period of time. The key differences between a plan review engaged by TDHCA and TDHCA's proposed PCA requirements are:

- a. The plan review would be a genuine third party report.
- b. The plan review would be a response to a plan for development submitted by the Development Owner that would already incorporate a 100% review of the property's units, advice from the market study, TDHCA requirements, and potential requirements of syndicators and lenders selected for the property as opposed to rigging a PCA to incorporate these items.
- c. The plan review would be engaged to function as it would typically be engaged in the industry. This is critical because it keeps costs competitive and those who perform plan reviews are both practiced at what they do and can produce a product that better suits TDHCA's needs without going outside of the bounds of their normal course of work as is currently being requested of a PCA under the proposed Underwriting Rules.

With regard to the replacement reserve requirement for rehabilitation properties; 1) by virtue of TDHCA's ability, provided in the proposed Underwriting Rules, to increase replacement reserve deposit requirements as a result of future PCAs, and 2) by virtue of a properly conducted plan review described above, there is absolutely no need to require initial deposits to the replacement reserves of more than \$300/unit/year (unless the syndicator or lender requires a higher level). The benefits of keeping the reserves at this level are:

1) predictability – the Development Owner can maximize the current rehabilitation without fear of needing to reduce the scope of work due to increased reserve requirements imposed by TDHCA,

2) reasonability – the replacement reserves are kept to a level that is reasonable to ensure that a property will be properly maintained over the reasonable life of its components and not at a level that will try to maintain the property in perpetuity, and

3) uniformity – property that promises longer affordability is not punished by higher replacement reserve requirements which necessarily reduces current scopes of work, and is judged and competes at the same level as property that does not promise longer term affordability (typically bond financed developments).

2. **Replacement Reserve Requirements.** Section 1.37(b)(1)(A) states that TDHCA “Be a required signatory party in all escrow agreements . . .” Section 2306.186(f) states “The department may complete necessary repairs if the owner fails to complete the repairs as required by Subsection (e).”

Issues: The issues cited by the October 25, 2004 letter from the Texas Affiliation of Affordable Housing Providers (“TAAHP”) regarding comments to the Underwriting Rules was an excellent summation of the issues surrounding TDHCA becoming a signatory in all escrow agreements. In addition to those issues cited by TAAHP, it should be noted that having signatory authority on the replacement reserve accounts probably exposes TDHCA to litigation if its signatory authority is deemed to be abused or misused in any way. Also, the Underwriting Rules cite that there will be a “subordination agreement” with the First Lien Lender or Bank Trustee. What is the proposed form of this subordination agreement? Will it be standardized? What if the First Lien Lender or Bank Trustee requires amendments to the agreement form? Will some First Lien Lenders or Bank Trustees be prohibited from changing form agreements that they are required to use in order to sell the mortgages on the secondary mortgage market? Who will be the authorized signatory for TDHCA? Will the authorized signatory be readily available for signing the appropriate documents? If the authorized signatory is not readily available for signing the appropriate documents, will it hold up closing? What are the consequences for that? Also, per §2306 which is not currently capable of being revised, what if TDHCA improperly completes the necessary repairs? These are just a few of the issues facing TDHCA should it desire to become comprehensively involved in the replacement reserves of these developments.

Recommendations: TDHCA should eliminate the requirement to become a signatory party. If desired, it should receive reports on reserve funding, and it should issue compliance findings if the replacement reserve deposits are not sufficient. TDHCA should also consider reviewing its exposure to potential litigation if the department does step in to complete necessary repairs per §2306.186(f) and suggest revisions to 2306.186(f) if it is found that the potential exposure to litigation is unacceptable.

3. **Inclusive Capture Rate.** Section 1.33(e)(15)(D) states “Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any properties with priority, as defined in §49.9(h) of this title, over the subject that have made application to TDHCA and have not been presented to the TDHCA Board for decision . . .”.

Issues: It is not clear whether §1.33(e)(15)(D) is intended to include pre-applications submitted in the pre-application round or just the final applications submitted by the March 1, 2005 deadline. Either way, it is not appropriate to include non-existent properties (properties that are not recommended for approval by TDHCA) in the capture rate calculation. This creates unnecessary bias suggesting that the proposed development's market is more saturated than it really is. This is likely to lead an underwriter to dismiss all developments competing for an area rather than recommend funding for a development that has the best capture rate.

Recommendations: It is appropriate to consider the effect other proposed developments may have when making a funding decision. However, the underwriter should adjust the capture rate only at the time that a list of developments has been compiled to be recommended for funding. If two or more developments would be recommended for funding and serve the same area, only then should the underwriter revise the capture rates to include those developments to ensure that the overall capture rate is not exceeded. If the capture rate for multiple developments pending approval would yield an over saturation of the market, the development(s) with the smallest capture rates should take funding precedence.

4. **Property Tax Calculation.** Section 1.32(d)(2)(H)(i) states "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 11% will be used."

Issues: The higher the capitalization rate used, the lower the assumed value of the property will be. The lower the assumed value of the property, the lower the property tax calculated. This tends to underestimate expenses and overestimate the amount of debt supportable by the property's income. This will either 1) lead to over-leveraged property unable to support the debt payments, or 2) lead to unwarranted reductions in tax credit amounts per property resulting in even greater deferred developer fees, or 3) both outcomes. This may be especially true for acquisition/rehabilitation developments which often have property tax values weighted more heavily on the sale price rather than the income valuation method. The problem of underestimating property taxes is compounded further if TDHCA exercises rights to increase replacement reserves dramatically as is now proposed in the Underwriting Rules. A property that is over-leveraged is hard pressed to find the funds necessary to be maintained properly let alone be required to increase its replacement reserve funding obligations.

Recommendations: TDHCA's stated Underwriting Evaluation and Criteria §49.9(d)(6) of the QAP states "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." While it is a laudable goal to minimize the tax credit allocations to each development to maximize the number of potential developments receiving tax credits, TDHCA should be especially conservative when estimating expenses.

On new construction developments, using a lower cap rate of 8% or 9%, while arbitrary, is preferred over the higher 11% rate because it errs on the side of conservatism. Cutting the credits too excessively jeopardizes the long-term viability of rent restricted housing property. In places where the tax or assessment rates rise faster than 3-4% annually, these developments are especially at risk of defaulting on mortgage obligations. For rehabilitation developments, closer attention needs to be paid to the proposed sale price and, potentially, a small percentage of the value of the hard cost rehabilitation as a measure of what the appraisal district may appraise a property for tax purposes. This sales approach to value may lead to significantly higher or lower value calculations than a straight discount rate applied to potential income.

5. **Timing Consistency for Completing Market Studies.** Section 1.33(d)(2)(A) states that "Removal from the list of approved Market Analysts will not, in and of itself, invalidate a Market Analysis that has already been commissioned not more than 90 days before the Department's due date for submission as of the date the change in status of the Market Analyst is posted to the web."

Issues: Page 33 of the QAP requires that market studies not be older than "6 months as of the first day of the Application Acceptance Period." If the due date for submission of the market study is April 1, 2005 at the latest, then 90 days prior to this date is approximately January 1, 2005. Any market studies commissioned prior to January 1, 2005, but within the six month period prior to March 1, 2005, from market analysts that are removed from the approved list would be required to be redone. Given the demand for market analysts during this period, re-commissioning a market study from another market analyst will not be an easy feat, especially if a Development Owner does not find out that their market analyst has been removed from the approved list until close to the application submission deadline.

Recommendations: Section 1.33(d)(2)(A) should be revised to "not more than seven months before the Department's deadline for submission, April 1, 2005." This will clean up the language, make it specific, and tie it in with the age of market studies permitted to be submitted.

Thank you again for the opportunity to present these comments to the 2005 Proposed Qualified Allocation Plan and draft 2005 Real Estate Analysis Rules and Guidelines. With the few exceptions noted above, this year's QAP is the best I've seen. It is the direct result of you and your staff's encouragement of public participation and dedication to improving the affordable housing tax credit process. Please feel free to contact me if you have any questions or concerns.

Sincerely,



George Schmidt
Director

Edgewater Affordable Housing, L.P.

TO: Beth Anderson, Chairwoman
FROM: Michael Hartman
DATE: 10/23/04
SUBJECT: Final Comments on Draft 2005 QAP

1. Ineligible Building Types

- a. As written, the definition of Ineligible Building Types requires a family development to have at least 20% one-bedroom units unless the development is comprised entirely of single-family homes. This doesn't fit the market needs for family developments in many market areas.
- b. The following are examples of the problems associated with the proposed limitations placed on family developments:
 - i. HUD will not allow a single parent with a child age 5 or greater of the opposite sex to live in a one-bedroom apartment. There must be a separate bedroom for the child.
 - ii. HUD will not allow two children of opposite sex age 5 or greater to inhabit the same bedroom. Therefore, most families with two or more children need a third bedroom.
 - iii. In most cities, less than 5% of the rental units contain greater than two bedrooms. Therefore, families with more than one child are often forced by availability to live in cramped, substandard quarters.
 - iv. In summary, in many areas there is no need for one-bedroom units for families.
- c. Examples of successful developments which could not be built under the proposed definition are:
 - i. Cantibury Pointe, Lubbock. Cantibury is comprised of 72 three-bedroom and 72 four-bedroom townhomes. There are units at 50% of AMI, 60% of AMI and market rate units. This development leased up in five months (as opposed to a projected 12-month absorption) and remains at 95% occupancy a year after stabilization.
 - ii. Cypress Ridge, Nacogdoches. Cypress is comprised of 76 three and four bedroom townhomes, with a mix of various income levels. The development leased up in four months and has remained stabilized since its completion in 2002.
- d. In summary, the needs of a particular market should dictate the unit mix in a proposed development, not an arbitrary rule drafted in Austin. Therefore, sections (E) and (G) of the definition of Ineligible Building Types should be eliminated. The general partner, who is providing a fifteen-year operating deficit guarantee to the tax credit buyer and is therefore at risk for the long-term viability of the development, must be allowed to determine the needs of that particular market, as verified by a third-party market analyst.

2. Nonprofit Set Aside

- a. Internal Revenue Code Section 42 requires that at least 10% of the annual State tax credit ceiling be allocated to Nonprofit Developments. Texas law adopts the same provision.

- b. To implement this rule, the Department has proposed in the draft 2005 QAP at Section 49.7(b)(1) that at least 10% of the State Housing Credit Ceiling shall be allocated to Nonprofit Developments. This Set-Aside is taken first out of the State Credit Ceiling by allocation Credits to Nonprofit Developments with the highest scores on a statewide basis. Once this is done, the remaining Nonprofit Developments are allowed to compete with all other developments.
 - c. Under this allocation system, which is unchanged from 2004, approximately 22% of the State Credit Ceiling was allocated to Nonprofit Developments in 2004. Therefore, the current system of giving 10% of the Credits to Nonprofit Developments off the top gives the Nonprofit Developments an unfair advantage compared to Forprofit Developments and the statewide allocation off the top should be eliminated.
 - d. Instead, a system should be adopted as follows:
 - i. Let the Nonprofit Developments compete with the other Applicants.
 - ii. Once the approved application list is finalized at the July Board Meeting (but before the adoption vote), determine if the successful Applications meet the requirement that 10% of the Credit Ceiling be allocated to Nonprofit Developments. If the requirement is not met, move up the next-highest scoring Nonprofit Development not otherwise funded, regardless of region, and displace the lowest scoring Forprofit Development in that region. Repeat the process until the 10% requirement has been met.
 - e. In this way, all Applicants will have the same chance for success. Based upon the fact that 22% of the Credits in 2004 were awarded to Nonprofit Developments, it stands to reason that at least 12% of the winning Applications would have been Nonprofit Developments even without taking 10% of the Credits off the top.
3. Site work
- a. Raise the site work limit from \$7,500 to \$12,500.
 - b. We are having to develop sites that need more work and the average density on developments is decreasing, so costs per unit are rising.
4. Deadlines
- a. All Application items (zoning approval, evidence of utility availability, evidence of federal, state or local funding commitment, etc.) that were moved back to the date of Commitment Notice should be moved forward to April 15, 2005.
 - b. Otherwise, this will be unfair because certain developments that receive an award at the July Board meeting will drop out at Commitment Notice. Staff will then drop down to the next unfunded deal in that region, but by the time that the Board approves the new awards in September some of the deals will have lost site control.
 - c. For example, this could have happened to Arbor Cove in 2004, which had a land closing deadline of July 31.
 - d. Therefore, qualified deals that should have been funded in July will be lost under the new deadlines.

5. Market Analysis Rules and Guidelines

- a. Market Studies should be reviewed against Department requirements.
- b. If any Market Study is substandard, then the Department should notify the market analyst of the deficiencies and the analyst should correct the deficiencies.
- c. If the deficient market analyst does not correct the deficiencies, or repeats the same deficiencies on another Market Study in the following year, then that market analyst should be removed from the approved market analyst list for the following two years.
- d. This would put some teeth into Section 1.33(d)(2) and would allow the Department to place greater reliance on the Market Studies.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
PUBLIC HEARING
FFY 2006-2007 FUNDING FOR THE
COMMUNITY SERVICES BLOCK GRANT (CSBG)
&
STATEWIDE COMMUNITY FOOD AND NUTRITION PROGRAM (CFNP)

Tuesday, September 28, 2004
Texas Department of Housing and Community
Affairs
1515 Young Street
Erik Johnson Library
West Room
Dallas, Texas

3:00 p. m.

PANEL MEMBERS:

SARAH DALE ANDERSON
MICHAEL J. GARRETT
RITA D. GONZALES-GARZA, M.P.A.
JENNIFER JOYCE
PAIGE MCGILLOWAY
LISA VECCHIETTI

ON THE RECORD REPORTING
(512) 450-0342

Consulting contracted by HUD to do this training, I brought the same issue up and they agreed yes that the CHODO should get this money free and clear. And there were TDHCA reps there and they heard the same thing.

And I said this last year and nothing ever happened, so I'll try it again. And another thing is they are out of town, the project cost estimates by TDHCA underwriters are significantly less than what the bids come in from the contractors.

I had three bids and -- from three different contractors that were all not that much higher than TDHCA.

I sent them to TDHCA underwriting and they still say well that's not what our costs say. You know, something has to be done about that it seems like.

And then after submitting the funding application, we got approved. Got to do these other environmental tests and things that cost two or three thousand dollars and where does that money come from? So you know, that was totally unexpected. I was shocked. But I didn't know about this going into it but I'll know next time.

And integrated housing, are you all aware of integrated housing for people with disabilities and your attorneys said the rules about 95/5 percent for people

markets, keeping them incented and motivated to do that but by the same time being prudent in how many of these that we allow.

And we need help from state in that regard.

Thank you.

MS. ANDERSON: Thank you. Okay. Jessie Sewell and after that will be Claire Palmer.

MR. SEWELL: My name is Jessie Sewell. I'm from Fort Worth, Texas Ability Resource Incorporated. It's a small nonprofit. It does housing for people with disabilities.

I know about all of you up there so it's like old home week, sort of, kind of.

Anyway, I've just got a couple of comments. First of all about the HOME program. And we've done this before but we'll try it again. Like, for one thing, it's a CHODO -- a nonprofit CHODO being its own developer. Having the developer's fee as a grant, not a loan, because when a developer does a project for nonprofit, he gets his fee as a grant, not a loan.

Although a CHODO does get it as a loan, but it still is not fair for the CHODO to have to pay it back.

We've had training in 2003 and there were some people from TDHCA there too up in Fort Worth. With ICF

Patrick O'Connor & Associates, L.P., dba



October 25, 2004

Ms. Lisa Vecchietti
Texas Department of Housing and Community Affairs
Post Office Box 13941
507 Sabine Street, Suite 900
Austin, TX 78711-3941

Re: Proposed 2005 Market Analysis Rules and Guidelines

Dear Ms. Vecchietti:

Thank you for the opportunity to voice an opinion regarding the proposed 2005 Market Analysis Rules and Guidelines. I have some suggestions as to how these guidelines might be revised to better address the Department's desire for quality market analysis reports while at the same time considering the issues and challenges in writing these reports.

On Page 16, under "Self Contained" section, it states "A conclusion and recommendation section should be included at the end of the report." I would like the word "recommendation" to be removed from this sentence. The market analysis only addresses demand for the development, and there are many other factors that contribute to whether or not a development should or should not be constructed. Some of these items include costs, feasibility, etc. Additionally, if a market analyst recommends that a development be constructed and for whatever reason the development is not successful (such as a lack of prudent management and/or ownership), a market analyst could be held responsible if in the market analysis a recommendation is made to develop the property. The recommendation verbiage also appears on Page 17 at the end of the "Letter of Transmittal" section. Please remove the word "recommendation" from these areas as well as other areas which may appear similarly in the guidelines.

Ms. Lisa Vecchietti

Page 2

Proposed Market Analysis Rules and Guidelines

On Page 17, under the “Primary Market Information” section, it states “A map of the Primary Market plus all existing, under construction and proposed Affordable Housing developments” The definition of “proposed Affordable Housing developments” needs to be clarified. For example, does this encompass only those properties that have received tax credits but have not commenced construction (i.e., previously approved) or does it include all properties which an application for tax credits has been made? Please clarify.

On Page 18, under “Comparable Property Analysis” there includes a statement that “Physical occupancy and economic occupancy should be clearly identified” and the market analyst is to “Provide annual turnover rates of each of the comparable properties” as well as “Provide absorption rates for each of the comparable properties and absorption trends by property class.” While this information is very important to the market analyst, in most cases it is unavailable as managers or owners will not divulge this type of data. For example, most owners or managers would not provide the market analyst a rent roll on a comparable property, which is the only way one can calculate true economic occupancy. As such, the market analysts typically gather as much of this information as possible from primary sources but in many cases must rely on other data sources for this information (such as IREM). An alternative would be to insert the verbiage “if available” after these items as well as in other similar areas of the guidelines.

On Page 19, under the “Demand Analysis” section, the guidelines state the market analyst is to “Calculate an inclusive capture rate defined as the sum of the proposed subject units, plus any properties with priority, as defined by Section 49.9 of this title, over the subject that have made application to the TDHCA and have not been presented to the TDHCA board for decision plus” If this is to remain in the guidelines, the Department must provide a method or contact person with whom a market analyst will be able to determine which properties have “priority” over others in order that we can calculate an appropriate capture rate. Not providing this method or contact person is placing a huge burden of responsibility on the market analyst to make this determination. Being able to obtain the correct information from the Department will avoid costly and time-consuming revisions or recalculations which will translate in lost productivity for the Department as well as the market analyst involved. A solution is to have a contact person at the Department that could be contacted by the market analyst to obtain this information prior to completing the market analysis. If no method or contact person is provided by the Department, in many cases the Department will see market analysts include all of the properties with which an application has been filed in the capture rate. This will skew the capture rate calculation upward and will result in the Department recalculating most if not all of the capture rates in these studies.

Ms. Lisa Vecchietti
Page 3
Proposed Market Analysis Rules and Guidelines

Additionally, it is my understanding that the Department is contemplating posting the market analysis reports for each development on the internet. While I do not have a problem with providing the Department with an electronic copy of our reports, I do not feel it is appropriate to post these reports on the internet for all to see. Our firm has spent a great deal of time and money perfecting these reports and do not want other, less qualified firms using our reports as templates. While I realize that our reports are available to others upon request from the Department, at least under the current scenario one must make some effort in order to obtain them. In my opinion, our reports have some degree of intellectual property to them and we do not want others to use this information to erode our market share which we have tried and will continue to try to increase.

Once again, thank you very much for the opportunity to provide public comment on these guidelines. We look forward to working with the Department during the 2005 application round.

Regards,



Craig Young
Director of Business Development

cc: Mr. Tom Gouris
Ms. Edwina Carrington
TDHCA Governing Board

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Thursday, October 14, 2004
Waller Creek Office Building
507 Sabine
Room 437
Austin, Texas 78701

10:45 a. m.

BOARD MEMBERS:

BETH ANDERSON, CHAIRMAN
SHAD BOGANY
NORBERTO SALINAS
PATRICK GORDON

STAFF:

EDWINA CARRINGTON, EXECUTIVE DIRECTOR
BROOKE BOSTON
DAVID GAINES
TOM GOURIS
CHRIS WITTMAYER
ERIC PIKE
BILL DALLY

ON THE RECORD REPORTING
(512) 450-0342

HOYO Program reinstated at \$1 million, with a half going to UCP Texas as the lead organization to support that partnership formed in '96 and the rest going to anyone else who would love to try to do the program.

MS. ANDERSON: I have one question for you. On the Affordable Housing Needs Score, to continue that discussion, you discussed the Affordable Housing Needs Score in the context of using it as a tie-breaker.

And I'd be interested in your thoughts on using it as a tie-breaker and not having it be a points item. To sort of be responsive to what Mr. Shearer and Mr. Dunn were talking about earlier.

MR. GARVIN: I'd want to give that more thought. Kind of review it and seeing what taking the points out would do. It's -- I don't want to speak out of -- I'll look into that.

MS. ANDERSON: Don't let me down on that. Okay? And I'd be interested in anybody's thoughts on that as sort of an alternative to use it as a tie-breaker.

MR. GARVIN: Yes. I'll talk to Jen Lindley and we'll get something together. Thank you.

MS. ANDERSON: Thank you. Darrell Jack.

MR. JACK: Thank you. My name is Darrell Jack, and my firm is Apartment Market Data.

We write a fair amount of market study reports that are turned in on both the 9 percent and the 4 percent round.

I would like to start by answering Mr. Bogany's question because we do database apartments around the state by their affordability level.

What we see is not any significant difference between the occupancy of one-bedrooms, two's, or three's in the affordable units around the state. I think the issue though is, especially in the valley, what are the other alternative housing that people who need three and four bedroom units have?

When you look at rental product, they're having to move into homes and for those homes to be affordable to them, they're largely of lesser condition or poor quality for those potential residents.

So I think there's valid arguments on both sides. The one-bedrooms do lease. The people that need three and four-bedroom units don't have other alternatives at other rental apartment projects.

I think that's what people are trying to address. As to my comments today, I want to start by first bringing to the Board's attention the 2005 QAP as it's proposed.

I found that it gives an unfair advantage to family projects in rural areas over senior projects. I recently ran the capture rate analysis on 12 projects and found that only 25 percent of those would even qualify for the maximum points under the new QAP.

Effectively what the QAP has done is given advantage to projects that have one, two's, and three bedrooms over those that might just have one or two. And frankly, the senior projects in a lot of rural communities, are not going to work for 2005.

I hope that staff will address that.

MS. ANDERSON: You're saying the driver of that is the unit mix requirement that requires us to have so many ones, twos, and threes?

MR. JACK: It's more the maximum points that an applicant can get based on a certain percentage of the units being at 30 percent AMI and the rest of the units being at 60 percent AMI.

I think in the past there's been a more blended of 60 percent/50 percent and sometimes going lower. But in this case, where I ran the numbers at just 60 percent AMI and 30 percent AMI, I'm finding that there is an unfair advantage to family projects in rural areas over senior projects.

Unfortunately, each year as these rules change, we end up with a lot of unintended consequences that we really don't know until someone sits down and runs real numbers through the scenario to find out how it works.

I just want to bring this one case to the Board and to the staff's attention.

MR. BOGANY: What's your suggestion?

MR. JACK: There's a lot of numbers that go back into it. I think that perhaps in rural areas for senior projects, we may have to restructure the maximum points allowable to where it's not, you know, 30 percent and 60 percent, but maybe it's a mix of 40 percent/50 percent/60 percent. Something that gives a better blend of unit types.

I'd be happy to work with staff to try and address that issue.

MS. ANDERSON: Okay. So this is not about unit mix, it's about the -- I'm trying to figure out which part of the QAP. It's about the income levels, it's that section?

MR. JACK: Right. It's about the point grab at 30 percent and 60 percent.

A family project is able to go after those points. A senior project, most likely, is not.

Second, I'd like to bring to your attention a few things out of the changes in the market study guidelines.

First of all, I talked to quite a few of my counterparts around the state that are writing market studies. The general consensus of those that I talked to is that we are not in favor of electronic format.

It goes to really two points. I think probably the number 1 is there's pride in ownership in these reports and to simply have the reports available on the web for anyone to look at is the opportunity for anyone to go out and hang a shingle, and call themselves a market analyst.

The second point really goes to the fact that neighborhoods are being more vocal and more outspoken against affordable housing. We seem to be the target of much of their fury, in that we are called more and more to, one, justify our conclusions, but two, neighborhoods are calling us wanting to engage us for market studies to counter the one that was written by another qualified market analyst.

We feel that those two things, along with so much of our data coming from a variety of sources, makes it, one, difficult for us to put into electronic format,

but, two, the pride of ownership is really something that we would hope would be addressed.

Some analysts, I understand, have said that they opt of the program. That's the business. I hope that can be avoided.

Finally, the number two issue that's top on my list, is changing the population limits from 250,000 currently within the trade area, down to 100 unless we provide supporting data.

The problem with that is that there aren't any real clear-cut rules as to what qualified supporting data would be. And as hard as this Department tries within its underwriting staff, there are differences if a project gets one underwriter over another and things that they'll accept that another may not.

At least, if the population is going to go down, we need clear-cut guidelines on what is qualified.

Just looking at the reports that I did for 2004 in the urban areas, where we did use populations of 250,000, I would venture to say that probably 60 percent of my projects wouldn't have made it with the 100,000 population.

Simply, the Department and its rules have concentrated a large amount of housing within QCT's and

areas that really need the housing. I mean, there's no debate. Occupancies are high in all the existing projects and there's a need for additional housing, but it won't make.

Developments are going to have to go into other areas of town where maybe the need isn't as great.

And lastly, I'd like to comment, there's a call for three things. Some of these have been in the past guidelines and really have not been adhered to. I'd like to see them come out.

One is this statement about economic occupancy of comparable projects. Unless you have the projects rent roll, you cannot calculate an economic occupancy. There's no way to. Those rent rolls are not made available to us and frankly, other competing developers have no interest or obligation to provide that information to us.

The second one is the turnover rates for comparable properties. Again, there's no obligation for these people to supply that data to the industry. Most projects won't know their turnover rate. I did property management for more than 13 years. I can tell you I didn't know on a calculated basis.

Finally, the absorption rates of comparables and properties by class. If you talk to any developer

that's recently built a project, they're going to tell you they're a class A property. Frankly, the reason that we database projects by age and classify them by the decade that they were built, so that we don't have to get into those arguments over, is this project a class A or class B?

That's a very subjective thing that really has no guidelines as to property designation and we think it should be taken out of the market study guidelines.

MR. BOGANY: I have a question. Are you suggesting these three items, because you can't really qualify them, shouldn't be in there at all?

MR. JACK: Since you can't qualify them and the data is not available in the market, we have other sources like the IREM Annual Publication that gives us turnover rates. That's where most of the market studies go to for that.

MR. BOGANY: And what's wrong with doing that?

MR. JACK: IREM is great but what the guidelines call for are individual turnover rates of the comparable properties that we use in the analysis. That data is not available.

MR. BOGANY: Okay.

MR. JACK: Thank you.



October 25, 2004

ATTN: Ms. Edwina Carrington, Executive Director
Center for Housing Research, Planning, and Communications
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

VIA FACSIMILE: (512) 475-3746

Re: Public Comments on 2005 Texas Qualified Allocation Plan (QAP)

Dear Officials of the Texas Department of Housing and Community Affairs:

On behalf of the organizations listed below, we respectfully submit the following comments on the Texas Department of Housing and Community Affairs ("TDHCA")'s draft 2005 Texas Qualified Allocation Plan ("QAP") because we are concerned that the 2005 QAP, following the pattern of previous years, will exacerbate housing segregation by disproportionately siting affordable housing projects in low-income minority neighborhoods. As noted below, seeking desegregative sites in affordable housing programs is not merely a question of good policy, but is required by the affirmative obligations of the federal Fair Housing Act. Accordingly, we urge that the draft QAP be changed so that TDHCA's Low-Income Housing Tax Credit ("LIHTC") program actively promotes racial and ethnic integration by giving due weight and consideration to its obligation to site affordable housing in areas that will foster integration.

The Lawyers' Committee for Civil Rights Under Law is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy. The Committee's major objective is to obtain equal opportunity for and fight discrimination against minorities by addressing the many facets of our society that affect racial justice and economic opportunity. Given our nation's history of racial discrimination, de jure segregation, and the de facto inequities that persist, the Lawyers' Committee actively participates as attorneys in numerous cases to enforce compliance with civil rights laws and the desegregation of our communities.

The Texas Lawyers' Committee for Civil Rights Under Law is the only statewide organization in Texas dedicated to protecting the basic constitutional rights of immigrants through the rule of law. Over the years, the Texas Lawyers' Committee has worked on behalf of thousands of low-income immigrants of all nationalities on issues that reach the very heart of U.S. society: the guarantee of

Co-Chairs

John S. Skilton
Marjorie Press Lindblom

Secretary

Robert A. Murphy

Treasurer

William L. Robinson

Counsel

Nicholas T. Christakos

Executive Director

Barbara R. Artwine

Regional Vice-Chairs

Midwest Region

Fay Clayton
Teresa J. Kinker

Northeastern Region

Gregory P. Hansel
Neil V. McKittrick

Mid-Atlantic Region

Jay Cohen
Marsha E. Simms

Southeastern Region

Robert E. Harrington
William E. Hoffmann, Jr.

Western Region

Jack W. Londen
Bradley S. Phillips
Paul F. Fekstein

Chesapeake Region

Jonathan L. Greenblatt
Patricia A. Brannan

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

due process, judicial review over arbitrary agency action, unlawful governmental detention, abusive police power, denial of access to safety net services, and removing roadblocks to legal permanent residency and citizenship for new Americans. To ensure fair treatment for immigrants, the Texas Lawyers' Committee conducts advocacy, major law reform litigation, and individual representation of persons whose rights were violated.

The Greater Houston Fair Housing Center is a nonprofit organization that assists persons in the Houston metropolitan area who feel that they have been discriminated against in housing through the filing of an administrative complaint, a lawsuit, or mediation.

Operating under the philosophy that everyone has a right to safe, decent, affordable and fair housing, the Austin Tenants' Council fulfills thousands of requests each year for help with housing problems. Austin Tenants' Council programs, which serve residents of the city of Austin and some of its surrounding communities, address many areas of need: housing discrimination, landlord/tenant education & information, and housing repair & rehabilitation.

Segregation and the LIHTC Program

Segregation continues to pervade the communities of Texas and across the nation, and poses a continuing and serious problem to race relations, education achievement, and economic disparities between non-Hispanic whites and minorities. As the largest source of federal funding currently available for affordable housing development, the LIHTC program provides Texas in general – and TDHCA in particular – with a strong opportunity to address such segregation by siting affordable family housing in areas that will promote integration. Indeed, since 1987, the LIHTC program has been the de facto federal production program for low and moderate income family housing nationwide. *See, e.g., Jean Cummings & Denise DiPasquale, The Low-Income Housing Tax Credit: An Analysis of the First Ten Years*, 10 Housing Policy Debate 251, 303 (1999).

However, recent history indicates that TDHCA's implementation of the program has done the opposite – increased segregation. For example, according to HUD, Texas LIHTC units are concentrated in areas with more minorities and higher levels of poverty than the rest of the state. Specifically, HUD reports that 34.3% of Texas LIHTC units are in census tracts where more than half the households are below 60% of Area Median Income, and 26.4% of the units are in census tracts with over 30% of households in poverty. (By contrast, of all Texas rental units, the respective percentages are 15.2% and 13.1%). Similarly, 62% of Texas LIHTC units are in majority-minority census tracts; by contrast, less than half of all Texas rental units are in such tracts. *See HUD/Abt Associates, Updating the Low-Income Housing Tax Credit Database* (Dec. 2003).

Such data clearly reflect an ongoing pattern of siting the affordable family housing disproportionately needed by minorities primarily within minority (and, often, poor) neighborhoods. Moreover, these figures likely mask an even more pronounced degree of racial concentration subsidized by the LIHTC program because the total figures include both multi-family (predominantly minority) and elderly (predominantly white) development. Thus, the

share of predominantly minority multi-family LIHTC developments in minority areas and high-poverty areas is even higher than the overall figures for the program.

TDHCA's Affirmative Obligation to Promote Integration

Increasing segregation in Texas under the LIHTC program is not merely poor policy – it is also illegal. At least since the passage of the federal Fair Housing Act in 1968, federal law has been clear: federal and state entities implementing federally-subsidized affordable housing programs have an affirmative obligation to consider impacts of those programs on racial segregation, and to promote integration. Specifically, the Fair Housing Act requires that:

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner *affirmatively to further* the purposes of [the Fair Housing Act].

42 U.S.C. § 3608(d) (emphasis added). This provision of the Fair Housing Act thus imposes “a substantive obligation to promote racial and economic integration” in administering federal housing programs. *Alschuler v. HUD*, 686 F.2d 472, 482 (7th Cir. 1982). In sum, an agency’s affirmative duty is not merely to refrain from discrimination, but also to use federal programs to actively assist in ending discrimination and segregation.¹

Time and again, courts and agencies implementing federally-subsidized housing programs have recognized these affirmative obligations. For example, compliance with the affirmative obligation is required throughout the U.S. Department of Housing and Urban Development (“HUD”)’s programs, whether the Community Development Block Grant program

¹ Numerous courts have upheld this clear pronouncement. See *NAACP, Boston Chapter v. Sec’y of HUD*, 817 F.2d 149, 154 (1st Cir. 1987) (stating there is an affirmative duty for federal programs to actively assist in ending discrimination and segregation); *id.* at 155 (noting a statutory “intent that HUD do more than simply not discriminate itself; it reflects the desire to have HUD use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases”); *Anderson v. Alpharetta*, 737 F.2d 1530, 1535 (11th Cir. 1984) (the “affirmatively to further” provision is intended to allow race-conscious decision-making); *Alschuler v. HUD*, 686 F.2d 472, 482-484 (7th Cir. 1982) (Fair Housing Act imposes “a substantive obligation to promote racial and economic integration” and prohibits the siting of housing projects in areas of undue minority concentration that would have the effect of perpetuating racial segregation); *Otero v. New York City Hous. Auth.*, 484 F.2d 1122, 1134 (2d Cir. 1973) (the “affirmatively to further” requirement seeks to prevent the increase of segregation of racial groups whose lack of opportunities the Act was designed to combat); *Shannon v. HUD*, 436 F.2d 809, 820 (3d Cir. 1970) (color blindness in the administration of federal housing programs is impermissible).

For a recent example, see *Langlois v. Abington Hous. Auth.*, 234 F. Supp. 33, 72 (D. Mass. 2002) (Fair Housing Act intended for HUD to end discrimination and segregation through its programs).

(24 C.F.R. § 570.487(b)), Section 8 program (24 C.F.R. § 982.53(b)), Empowerment Zone program (24 C.F.R. § 598.210(h)), or other state housing programs (24 C.F.R. § 91.325)).

Notably, courts have repeatedly required agencies to consider the racial impacts of site selection procedures for affordable housing as part of compliance with their affirmative obligations. The *Shannon* decision, handed down just two years after the Fair Housing Act's passage, upheld a challenge to the site selection process for a subsidized housing project on the basis that "the site chosen will have the effect of increasing the already high concentration of low income black residents." *Shannon v. HUD*, 436 F.2d 809, 812 (3d Cir. 1970). Noting that the agency failed to consider the discriminatory effects of site locations which aggravated segregation, the Third Circuit ruled that "such color blindness is impermissible," *id.* at 820, because

the choice of location of a given project could have the "effect of subjecting persons to discrimination because of their race" 24 C.F.R. § 1.4(b)(2)(i). That effect could arise by virtue of the undue concentration of persons of a given race, or socio-economic group, in a given neighborhood.

Id. The Seventh Circuit reiterated that "[a]s part of HUD's duty under the Fair Housing Act, an approved housing project must not be located in an area of undue minority concentration, which would have the effect of perpetuating racial segregation." *Alschuler v. HUD*, 686 F.2d 472, 482 (7th Cir. 1982).

Thus, as required by the Fair Housing Act's affirmative obligation and such case law, HUD programs have been careful to implement regulations which require careful consideration of racial segregation in site selection – whether in public housing or Section 8 subsidized housing.² Notably, the state agency's obligation to consider the racial impact of sites selected for housing subsidies applies regardless of whether the agency itself selects the sites (as in public housing) or whether it chooses among sites proposed by private developers (as in subsidized housing programs). *See, e.g., Project B.A.S.I.C. v. Kemp*, 776 F. Supp. 637, 640 (D.R.I. 1991).

Of particular importance in fulfilling such obligations is the collection of data by the agency regarding the demographics of tenants and sites selected. As numerous courts have concluded, an agency cannot fulfill its obligation to affirmatively further fair housing unless it gathers and considers the site selection data necessary to fully understand the effects of its housing programs on racial segregation. *See Shannon*, 436 F.2d at 821 ("[T]he Agency must utilize some institutionalized method whereby, in considering site selection or type selection, it

² *See, e.g.,* 24 C.F.R. § 941.202(c)(1)(i) (public housing site selection regulations requiring that "[t]he site for new construction projects must not be located in [a]n area of minority concentration" unless specified exceptions are met, including the existence of "sufficient, comparable opportunities [] for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration"); 24 C.F.R. § 983.6(b)(3)(i), (ii) (Section 8 site selection regulations requiring that "[t]he site must not be located in an area of minority concentration," subject to the same exceptions).

has before it the relevant racial and socio-economic information necessary for compliance with its duties under the 1964 and 1968 Civil Rights Acts.”).³

Proposed Amendments to the Draft 2005 QAP

To fulfill its affirmative obligations under the Fair Housing Act, we believe that TDHCA should amend its draft 2005 QAP in ways that will discourage the concentration of LIHTC projects in areas of minority concentration and promote the siting of projects outside such areas. As it stands currently, many available steps to place emphasis on or increase incentives for integration are not being taken, even though they do not detract from the overall goals of the LIHTC program.⁴ For example, without attempts to encourage developments in non-minority areas or for mixed-income tenants, monitor racial demographics of development areas and reach out to diverse tenants, and eliminate possible local efforts to maintain segregation, affirmative obligations are not being met. These concerns are reflected in our comments and recommendations below with respect to application requirements and scoring criteria.

Allocation Formula

As a preliminary matter, TDHCA does not set forth in the QAP the “Regional Allocation Formula” that it purports to use in “distribut[ing] credits ... to all urban/exurban areas and rural areas.” § 49.7(a). TDHCA states that this “formula is based on the need for housing assistance, and the availability of housing resources in those urban/exurban areas and rural areas.” *Id.* Because the formula is not set forth in the QAP, the undersigned organizations cannot assess the

³ See also, e.g., *Alschuler v. HUD*, 686 F.2d 472, 482 (7th Cir. 1982) (to meet its obligation not to build housing “which would have the effect of perpetuating racial segregation,” HUD must ensure it has the proper data “necessary to make an informed decision on the effects of site selection on the area”); *Jones v. Tully*, 378 F. Supp. 286, 292 (E.D.N.Y. 1974) (“[i]t is incumbent upon the reviewing court to be assured that the Secretary of HUD, in administering the programs and activities relating to housing and urban development, did so ‘in a manner affirmatively to further the policies’ of the Civil Rights Act, which means that HUD in choosing site locations for funding must avoid racial discrimination”); *Blackshear Residents Org. v. Housing Auth. of the City of Austin*, 347 F. Supp. 1138, 1147 (W.D. Tex. 1971) (quoting *Shannon*’s requirement that the agency “utilize some institutionalized method” of considering the necessary racial and socioeconomic data).

Notably, the Third Circuit in *Shannon* made clear that this requirement does not *prohibit* the construction of all public or subsidized housing in areas of minority concentration. See *Shannon*, 436 F.2d at 822 (“We hold only that the agency’s judgment must be an informed one.”). On the other hand, of course, “the obligation does not end with a mere consideration of the proper factors.” *Project B.A.S.I.C. v. Kemp*, 776 F. Supp. 637, 643 (D.R.I. 1991).

⁴ Under the applicable statutes and regulations, there is no requirement that the TDHCA administer its LIHTC program through the point allocation system it uses. In particular, TDHCA is not required by any statute or regulation to include the problematic provisions identified in this comment letter, which have the effect of preventing the development of affordable housing in a manner that would promote economic and racial integration.

impact of that formula on housing segregation. However, because the proposal purports to be based on “need,” we caution TDHCA against defining need narrowly – *e.g.*, by neighborhood or municipality – rather than by region. Defining need in limited, narrow geographic areas is likely to have the result of increasing segregation. Specifically, if “need for housing assistance” under TDHCA’s formula correlates with high-poverty and/or disproportionately minority neighborhoods, then allocating credits to narrowly-defined geographic areas having such “need” – rather than allocating them on a regional basis – will concentrate tax credit housing in those areas, exacerbating segregation.

Threshold Requirements

- **Local Notice and Approval.** One of the most troublesome aspects of TDHCA’s QAP is the extensive provisions regarding notice to local government entities and other groups, combined with the scoring portions of the QAP which allocate points based on local approval (discussed below). Specifically, under § 49.8(d) (Pre-Application Threshold Criteria and Review) and § 49.9(f)(7) and (8) (Threshold Criteria), extensive local notice is required. Notice must be provided to a variety of local elected officials, as well as numerous other officials (such as the superintendent of the local school district); in addition to the public officials, developers must notify “any neighborhood organizations” of the proposed project. *See* §§ 49.8(d); 49.9(f)(8)(A). Further, the “Threshold Criteria” also require that the local chief executive officer provide a letter stating either that the zoning is appropriate (or that the applicant is seeking appropriate zoning), or stating that the project fits the locality’s housing plans or needs. *See* § 49.9(f)(7)(B). Such rigid and broad notice requirements are unwarranted under the statutes governing the QAP. The requirements to provide notice – and to seek essentially letters of permission from local officials to propose a development – place an onerous burden on applicants.⁵ Moreover, these notice provisions are likely to trigger extensive scrutiny and increased potential objections (regardless of their merit). Indeed, such provisions appear intentionally designed to limit, restrict and discourage developers from proposing the development of tax credit-subsidized affordable family housing outside areas with disproportionate concentrations of minorities and poverty. Regardless of intent, the effect of such provisions is certainly to limit the number of developers able to successfully propose the development of affordable family housing in areas that would promote integration.
- **Data Collection.** To effectively track the impact of Texas’s LIHTC program, data must be collected about the racial/ethnic demographics of the area around project sites. Indeed, unless the TDHCA collects and assesses such data, it is impossible for it to evaluate the impact of its housing subsidy decisions on housing segregation within the state. Therefore, it is axiomatic that TDHCA must collect such data – and give it weight in making funding decisions – if it is to fulfill its obligation “affirmatively to further” desegregation. TDHCA should require a market study of proposed projects under §

⁵ In addition, of course, the QAP does not address situations where a locality improperly refuses to provide the required letters. By implication, and the plain text of the QAP, when the required letters from local officials are withheld for any reason – nefarious or not – the developer will not be considered for tax credit funding.

49.8(c) (Pre-Application Evaluation Process) that includes racial/ethnic demographics of the market area and the census tract in which the project is located, as well as the projected demographics of the proposed project. Notably, the QAP already requires the submission of a comprehensive "Market Analysis," *see* § 49.9(f)(14)(B), but omits any requirement that developers collect and submit such demographic data. (Likewise, the "Site Evaluation" portion of the QAP's description of the "Evaluation Process" omits any requirement that TDHCA gather such demographic data or otherwise evaluate the neighborhood racial and income characteristics of proposed sites. *See* § 49.9(d)(8).) Beyond collecting and considering such information up front, TDHCA should continue to monitor racial demographics of all developments and their surrounding areas. Specifically, under compliance requirements in § 49.18 and § 60.1 (Compliance Monitoring and Material Non-Compliance), applicants should also have a continuing obligation to report on similar racial composition and demographic data. The effects of the tax credit program on segregation and/or integration in Texas cannot be analyzed unless TDHCA requires the collection of such data – and makes use of it in tax credit allocation decisions.

- **Require Affirmative Marketing.** As a condition of participation in the program, developers should be required to undertake affirmative marketing efforts to encourage tenant applicants in ways that promote integration – specifically, that developers promote their development to groups least likely to apply (*e.g.*, minorities in predominately white communities). This is a particularly important component of using affordable housing to promote integration, since such affirmative marketing steps are often crucial in encouraging minority families to make integrative moves to housing located outside minority areas. Likewise, owners should promote integrative moves by white families to projects located in minority areas. TDHCA should add to its Threshold Requirements an obligation that developers submit an affirmative marketing plan at the time of application.

Scoring

Given the highly competitive nature of the LIHTC program, we understand that every scoring factor in the 2005 QAP can be critical to whether an applicant is awarded tax credits by TDHCA. In particular, we are concerned that the points available for local approval are a significant barrier to those seeking to develop housing with greater likelihood of providing integrated housing opportunities.

In addition, we are concerned that there are a limited number of points available to projects representing such opportunities compared to the other types of projects favored by the scoring criteria. We urge TDHCA to re-evaluate the following scoring criteria which limits the points available for multi-family projects in areas outside of minority concentrations. A greatly increased number of points will be needed to encourage developers to submit applications for such housing.

- **Local Approval.** Historically, one of the greatest causes of segregation in federally-subsidized housing has been the ability of local officials to block proposed affordable

housing which might have the effect of desegregating predominantly white areas. Unfortunately, the QAP gives local entities significant influence over the affordable housing projects. Specifically, under § 49.9(g)(2) (Quantifiable Community Participation), statements of support from neighborhood organizations are rewarded very heavily (24 points out of 195 maximum) in comparison to other criteria. While unlawful reasons of opposition are discounted, such a scheme facilitates the failure of developments to be sited in non-minority areas as these areas would more strongly resist these projects. Further, under § 49.9(g)(5) (The Commitment of Development Funding), 18 points are awarded to proposals that include evidence of local governmental financial support. This large number of points available for local support essentially provides local governments, and even neighborhood organizations, with the capacity to exercise *de facto* veto power over proposed projects. Not only will the scoring criteria undermine the ability of developers to win a tax credit allocation from TDHCA, but the number of points here, combined with the extensive local notice requirements, substantially chill and undermine the incentive for developers to even propose affordable family housing outside of areas with higher percentages of residents who are in poverty and/or minority. Thus, these provisions violate TDHCA's affirmative obligation by improperly undermining developers who would otherwise site projects that promote integration in predominantly white areas (likely to resist such development). To comply with its obligation, TDHCA should greatly reduce the point allocation such that local organizations and elected officials do not wield such unfettered discretion to prevent the development of quality affordable family housing in their jurisdictions.

- **Promote Integrated Locations.** Another means of reducing the concentration of low-income minority families in neighborhoods that are already disproportionately minority and poor is to allocate a substantial number of points for projects in areas outside of concentrations of poverty. (As noted above, if tax credits are allocated on a regional basis, such that credits can be used to provide affordable family housing in low-poverty, predominantly white areas near disproportionately minority and poor communities, such siting decisions will offer real desegregated housing opportunities.) This is the most direct method available for TDHCA to fulfill its obligation affirmatively to further integrated housing – and the most likely to succeed. Under § 49.9(g)(8) (Cost of Development by Square Foot), the QAP provide significant incentives for low-cost developments, benefiting developments in high-poverty areas. A larger incentive, e.g. under § 49.9(g)(13)(D) and (H) (Development Location),⁶ must be provided to encourage developments in non-minority areas and that tax credits are awarded with consideration of positive integrative effects. In addition, a substantial portion of the annual LIHTC

⁶ These two provisions, representing less than 2% of maximum points available, are the only provisions in the QAP that encourage development in higher income, non-predominately minority areas. But even that 2% of points is submerged in a menu of options that make it unlikely they will be selected given the lack of other criteria supporting such development. In other words, this point allocation does little to promote integrated development because the points are also available for other options.

family rental allocation should be set aside for use in low poverty neighborhoods outside areas of minority concentration.

- **Promote Mixed Income Development.** In areas that are already disproportionately minority and poor, TDHCA has an affirmative obligation to reduce the concentration of low-income minority families in such neighborhoods by promoting the development of mixed-income developments, rather than new concentrations of poverty, in those areas. § 49.9(g)(3) (Income Levels of Tenants) awards up to 22 points to projects serving a high concentration of low-income tenants – projects which are most likely to exacerbate segregative effects of affordable housing. While points are also awarded for ‘lower’ concentrations of poverty in percentage terms, the development must house those in extreme poverty. To fully satisfy its affirmative obligations, the provision should encourage the development of mixed-income developments in low-income areas by rewarding affordable housing developments that include a reasonable mix of market-rate housing with subsidized units. At the same time, TDHCA should reduce the number of points awarded to projects serving the lowest-income tenants when such projects are sited in areas that already have high percentages in poverty.
- **Promote Family Housing.** Proposals that would provide significant family housing are not rewarded highly, although we understand that the bulk of demand for affordable housing likely comes from minority households with children.⁷ Under § 49.9(g)(13) (Development Location), an applicant can only receive 4 points if it met *any one of eight* criteria. Only two of the criteria, (G) and (H), specifically discuss family housing and the need for 70% of more of the units to have two or more bedrooms. Thus, there is little incentive for multifamily housing to be developed, when it should in fact be a focal point of the QAP. TDHCA should increase the award for family housing projects to 15 or more points.
- **Utilize Public Housing Waiting Lists to Promote Integration.** We believe that TDHCA should *require* all developers participating in the program to give priority to income-eligible families on public housing waiting lists; currently, under § 49.9(h)(A), it is merely a tie-breaker factor. As such families represent those in greatest need of housing in the state of Texas, it makes sound policy sense to coordinate the LIHTC program with Texas’s housing authority-maintained to best serve these families. Further, TDHCA should be sure to use waiting lists in a manner that will not promote segregation. Specifically, if developers give preference merely to the local waiting list of the housing

⁷ Statewide, minority families, compared to non-Hispanic whites, face a disproportionate need for affordable multifamily housing. For example, Comprehensive Housing Affordability Strategy (“CHAS”) data show that 54% of renter households are families (large and small), compared to only 10% of renter households who are elderly (one and two member households). Of such renter families, the need is disproportionately minority; overall, 18% of renter non-elderly family households are African-American, 39% are Hispanic, and 37% are white; the demand becomes even more disproportionately minority when lower-income renter households are considered. (About 45-46% of African-American and Hispanic renter households are at or below 50% of Area Median Income, compared to 28% of white renter households.)

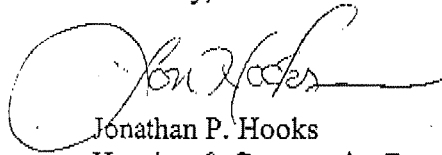
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

authority in their jurisdiction, the demographics of new tenants will likely mirror that of the local area – with the result of maintaining segregation. Instead, TDHCA should require that new developments use waiting lists from all regional housing authorities to find potential tenants because that will ameliorate segregative effects. This will ensure, for example, that a development in a predominantly white suburban community is offering the same preference to a predominantly-minority waiting list of a neighboring jurisdiction. In conjunction with the affirmative marketing steps set forth above, local housing authorities should also be consulted to work with TDHCA in providing education, support and encourage for families on public housing waiting lists to take advantage of desegregative opportunities created through the LIHTC program.

Thank you for your attention to this critical matter. We believe that these comments propose changes that are feasible and consistent with the larger policy goals of TDHCA. Indeed, our proposals are, as stated above, an effort to harmonize the LIHTC subsidized housing program with TDHCA's affirmative obligations to promote integration under the Fair Housing Act.

If you have questions regarding our comments, please do not hesitate to contact me directly at (202) 662-8326. We appreciate your consideration of our comments and we look forward to your response.

Sincerely,



Jonathan P. Hooks
Housing & Community Development Project
Lawyers' Committee for Civil Rights Under Law

On behalf of:

Javier Maldonado, Executive Director
Texas Lawyers' Committee for Civil Rights Under Law
118 Broadway, Ste. 502
San Antonio, Texas 78205-2074

Daniel Bustamante, Executive Director
Greater Houston Fair Housing Center
P.O. Box 292 1900 Kane, Room #111
Houston, TX 77001

Katherine Stark, Executive Director
Austin Tenants' Council
1619 East Cesar Chavez Street
Austin, TX 78702

CG Consulting

October 4, 2004

Center for Housing Research, Planning, and Communications
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Re: Public Comment on Published Rules

To Whom It May Concern:

As a representative of the developers I work with who develop affordable housing throughout the state, I make the following comments to the currently published draft rules.

Housing Tax Credit Program Qualified Allocation Plan and Rules

Section 49.9(f)(4) The term “points” in this section is confusing and requires revision and/or clarification within the section. It states that applicants are required to meet a certain point level of common amenities based upon the size of the development. Are these points included in the final application score? My interpretation is that the points are not included. However, for clarity, a statement indicating whether this item is scored should be contained within the section or the term “points” should be replaced with another word.

Section 49.9(g)(2)(B)(iii) *“Applicants that accurately certify in the Application that they do not know of any neighborhood organizations that are on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development, and for which no letters were scored, will be awarded the higher of zero points or the average number of points received by all applications for this exhibit.”* As mentioned during one of the QAP work groups, a better method for determining “quantifiable community participation” (QCP) would be based upon a percentage of letters received related to the number of qualified organizations on record. For example, if there are three organizations on record and an applicant only submits a support letter from one, the application receives 33% of the available points, etc. Where opposition letters are received that meet all criteria, points would be calculated the same way only in the negative.

For those areas where there are no organizations on file, the applicant would receive full points since “you can’t get a letter from a non-existent organization” and I don’t think the intent of the QAP was for developers to encourage development of neighborhood organizations for the sole purpose of scoring high in this category. Although there is language that prohibits this (Section 49.9(g)(2)(B)(ii)), because this section contains the second highest scoring element, the current

2901 Winchester Drive
Round Rock, Texas 78664

(512) 388-0921
(512) 569-9019 Cell

cgconsulting@sbcglobal.net

language might encourage some developers to develop neighborhood organizations instead of housing. By changing the scoring criteria as recommended above, Applicants will not be penalized for lack of organizations on record but will be able to compete equally with others whose areas are fortunate enough to have these types of organizations.

Secondly, if the current language remains, is the “average number of points received by all applications for this exhibit” the total of all applications in that Region, Set-Aside, or Statewide?

Deletion of points for HUB Ownership Although there have been suspected abuses of this section in previous cycles, to delete it in its entirety would be detrimental to all minority/women owned developers (HUB entities). Therefore, inclusion and revision of the 2004 QAP language to reduce the risk of abuse might be a better alternative than deleting the section. It is recommended that the 2004 QAP Section 50.9(g)(8) be returned as selection criteria specifically to encourage HUB businesses that wish to participate in the cycle and maintain competitiveness in the program. However, I would also like to recommend a revision to this section that states that the HUB entity that is being claimed for points must be 100% owned by a “qualified person” as defined in the HUB application process, therefore reducing the prevalence of husband/wife partnerships that are organized specifically to gain points.

Underwriting Rules and Guidelines

Section 1.37 Reserve for Replacement Guidelines

Since this section is entirely new, clarification is required as outlined below:

1.37(b)(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...” This statement implies that this entire section (1)(A-C) is only for HOME or HTF financing and not bond or housing tax credit applications. Is this correct?

1.37(b)(2) The escrow agreement and subordination agreement identified relates to the statement in the previous paragraph 1.37(b)(1)(C) and therefore should be identified as 1.37(b)(1)(C)(i) and then the following paragraph (3) should be identified as (2).

1.37(e)(1-3) This section implies that only those developments where the department is the First Lien Lender (such as in HOME or HTF) have a Reserve Account requirement set by the department otherwise the requirement is the amount required by the lender, syndicator or bond trustee or the TDHCA minimum of \$250/new construction and \$300/rehabilitation. Is this correct?

1.37(j) If the reserve account is not established by the department or part of a subordination agreement as required in the above sections, how can the department determine where the money in the Reserve Account may be expended. Isn't it the function of either the First Lien Lender or Syndicator to approve expenditures from the Reserve Account as outlined in the partnership agreement or permanent loan documents? This section needs to be moved under the section

outlining when the department will require an establishment of the reserve account for developments where the department is the First Lien Lender or there is no First Lien Lender.

This entire section is confusing and leads the reader to believe that the department may assign a different reserve deposit amount for each deal instead of following the guidelines of the higher of \$250/unit for new construction and \$300/unit for rehabilitation or the lenders required amount. If this is the intent, it appears that the department may not have the capacity to monitor compliance with the reserve account if all developments have a different reserve deposit requirement.

Thank you for your time and consideration of the above comments. I look forward to reviewing the final rules which will be presented to the TDHCA Board of Directors for approval and hope that these comments are helpful in finalizing these products.

Sincerely,

Cari Garcia



TITLE 10

PART 1

CHAPTER 1

SUBCHAPTER B UNDERWRITING, MARKET ANALYSIS, APPRAISAL, ENVIRONMENTAL SITE ASSESSMENT, ~~AND~~ PROPERTY CONDITION ASSESSMENT AND RESERVE FOR REPLACEMENT RULES AND GUIDELINES

§1.31. GENERAL PROVISIONS..... 1
§1.32. UNDERWRITING RULES AND GUIDELINES..... 3
§1.33. MARKET ANALYSIS RULES AND GUIDELINES. 16
§1.34. APPRAISAL RULES AND GUIDELINES. 20
§1.35. ENVIRONMENTAL SITE ASSESSMENT RULES AND GUIDELINES..... 20
§1.36. PROPERTY CONDITION ASSESSMENT RULES AND GUIDELINES..... 21
§1.37. RESERVE FOR REPLACEMENT RULES AND GUIDELINES

§1.31 General Provisions.

(a) Purpose. The Rules in this subchapter apply to the underwriting, market analysis, appraisal, environmental site assessment, ~~and~~ 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. 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 process. 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 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.~~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 and nonbinding arbitration. 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 process, the Person may send a proposal to the Department’s General Counsel and Dispute Resolution Coordinator (Chris Wittmayer, Email: ewittmay@tdhea.state.tx.us; Fax: (512) 475 3978). The proposal should describe the dispute and the~~

~~details of the process proposed (including proposed participants, Third Party, when, where, procedure, and cost). The Department will evaluate whether the proposed process would fairly, expeditiously, and efficiently assist in resolving the dispute and promptly respond to the proposal.~~

(c) Definitions. Many of the terms used in this subchapter are defined in ~~Chapter 50 of this title~~ (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 ~~or by natural market forces at the equivalent of 30% of 100% of an area's median income as determined by the United States Department of Housing and Urban development ("HUD").~~

~~(2) Affordability Analysis—An analysis of the ability of a prospective buyer or renter at a specified income level to buy or rent a housing unit at specified price or rent.~~

~~(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, described more fully in §1.32(a) and (b) of this subchapter.

(5) Comparable Unit - A unit of housing that is of similar ~~type, design,~~ quality of construction, age, size, number of rooms, location, utility structure, and other discernable characteristics that can be used to compare and contrast from a proposed or existing unit. ~~Other considerations may include access to amenities and supportive services on and off the property.~~

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

(67) 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.

(78) 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.

(89) 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.~~

(912) 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").

~~(10) HUD—The United States Department of Housing and Urban Development. The department of the US Government responsible for major housing and urban development programs, including programs that are redistributed through the State such as HOME and CDBG.~~

~~(11) Local Amenities—Include, but are not limited to police and fire protection, transportation, healthcare, retail, grocers, educational institutions, employment centers, parks, public libraries, entertainment centers, etc.~~

~~(12) Housing Tax Credit(s)—Sometimes referred to as "LIHTC" or "Tax Credit(s)." A financing source allocated by the Department as determined by the QAP. The Tax Credits are typically sold through syndicators to raise equity for the Development.~~

(13) Market Analysis - Sometimes referred to as a "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 Analyst - An individual or firm providing market information for use by the Department.

(15) 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 Rent Comparable Units](#).

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

(17) Primary Market - Sometimes referred to as "Primary Market Area" or "Submarket." The area defined by political/geographical boundaries from which a proposed or existing Development is most likely to draw the [bulk-majority](#) of its prospective tenants or homebuyers.

(18) 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.

[\(19\) Rent Comparable Unit - A unit of housing, not characterized as Affordable Housing, that is of similar quality of construction, age, size, number of rooms, location, utility structure, and other discernable characteristics that can be used to compare and contrast from a proposed or existing unit.](#)

~~(1920)~~ 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.

[\(21\) 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.](#)

~~(2022)~~ 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.

~~(2123)~~ 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.

~~(2224)~~ TDHCA Operating Expense Database - Sometimes ~~called-referred to as~~ [the "TDHCA Database."](#) ~~This is 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.

~~(23) Third Party - A Third Party is a Person which is not an Affiliate, Related Party, or Beneficial Owner of the Applicant, General Partner(s), Developer, or Person receiving any portion of the developer fee or contractor fee.~~

~~(2425)~~ Underwriter - The author(s), as evidenced by signature, of the Credit Underwriting Analysis Report.

~~(2526)~~ Unstabilized Development - A Development that has not maintained a 90% occupancy level for at least 12 consecutive months.

~~(2627)~~ Utility Allowance(s) - 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~~ [Subject](#) Development and consistent with the building plans provided.

[\(28\) Work Out Development - A financially distressed Development seeking a change in the terms of Department funding or program restrictions based upon market changes.](#)

§1.32. Underwriting Rules and Guidelines.

(a) General Provisions. The Department, 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 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. 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) Evaluation of the affordability of the proposed housing units to prospective residents;~~
- ~~(5) Review and analysis of the Applicant's operating proforma as compared to industry information, similar Developments previously funded by the Department, and the Department guidelines described in this section;~~
- ~~(6) Analysis of the Development's debt service capacity;~~
- ~~(7) Review and analysis of the Applicant's development budget as compared to the estimate prepared by the Underwriter under the guidelines in this section;~~
- (8) Evaluation of the commitment for additional sources of financing for the Development;
- ~~(9) Review of the experience of the Development Team members;~~
- (10) Identification of related interests among the members of the Development Team, Third Party service providers and/or the seller of the property;
- ~~(11) Analysis of the Applicant's and Principals' financial statements and creditworthiness including a review of the credit report for each of the Principals in for profit Developments subject to the Texas Public Information Act;~~
- ~~(12) Review of the proposed Development plan and evaluation of the proposed improvements and architectural design;~~
- ~~(13) Review of the Applicant's evidence of site control and any potential title issues that may affect site control;~~
- ~~(14) Identification and analysis of the site which includes review of the independent site inspection report prepared by a TDHCA staff member;~~
- ~~(15) 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;~~
- ~~(16) Review of market data and market Market study 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;~~
- ~~(17) Review of the appraisal, if required, for conformance with the Department's Appraisal Rules and Guidelines in §1.34 of this subchapter; and,~~
- ~~(18) 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.~~

(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 ~~eligible basis~~ program limit method (if applicable), ~~equity-gap/DCR~~ method, or the amount requested by the Applicant as further described in paragraphs (1) through (3) of this subsection.

(1) ~~Eligible-Basis Program Limit~~ Method. ~~This method is only used for For~~ Developments requesting Housing Tax Credits. ~~This, this~~ method is based upon calculation of ~~eligible-Eligible basis Basis~~ after applying all cost verification measures and program limits ~~on profit, overhead, general requirements, and developer fees~~ as described in this section. The Applicable Percentage used ~~in the Eligible-Basis Method~~ 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) ~~Equity-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 ~~NOI and~~ DCR standards described in this section.

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

(d) Operating Feasibility. The operating financial feasibility of ~~every~~ 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 (6) 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. 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 subparagraph (B) and (C) of this paragraph, respectively, are applied unless well-documented support is provided.

(A) Rental Income. The Program Rent less Utility Allowances ~~and~~or Market Rent ~~(if the project is not 100% affordable) 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") for those units is used. If the or Market Rents, as determined by the Market Analysis, ~~that~~ are lower than the net ~~program~~ Program Rents, ~~then the Market Rents for those units~~ are utilized.

(A) Market Rents. The Underwriter reviews the Attribute Adjustment Matrix of ~~Market Rent comparables~~ 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 should include, at a minimum, adjustments for location, size, amenities, and concessions as more fully described in §1.33 of this subchapter, the Department's Market Analysis Rules and Guidelines.

(B) 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. ~~Water and sewer can only be a tenant paid utility if the units will be individually metered for such services.~~

(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.

(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.

~~(2B)~~ 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. ~~Any estimates for secondary income above or below this amount are only considered if they are well documented by the financial statements of comparable properties as being achievable in the proposed market area as determined by the Underwriter.~~ Exceptions may be made at the discretion of the Underwriter for special uses, such as garages 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 ~~and should also be documented as being achievable in the submitted market study.~~

~~(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 ~~these~~ 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~~ Eligible basis-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. ~~The use of any secondary income over the maximum per unit per month limit that is based on the factors described in this paragraph is subject to the determination by the Underwriter that the factors being used are well documented.~~

~~(3C)~~ 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.

~~(4D)~~ Effective Gross Income (~~"EGI"~~). The Underwriter independently calculates EGI. If the EGI figure provided by the Applicant is within five percent of the EGI figure calculated by the Underwriter, the Applicant's figure is characterized as ~~acceptable or~~ 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 of EGI regardless of the characterization of the Applicant's figure.

~~(52)~~ Expenses. The Underwriter evaluates the reasonableness of the Applicant's expense estimate ~~based upon~~ by line item comparisons ~~with specific data sources available~~ 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. ~~Evaluating the relative weight or importance of the expense data points is one of the most subjective elements of underwriting.~~ Historical stabilized certified or audited financial statements of the property Development or Third Party quotes specific to the Development will reflect the strongest data points to predict future performance. ~~The Department also maintains a database of performance of other similar sized and type properties across the State. In the case of a new Development, the Department's database of property in the same location or region as the proposed Development also provides the most heavily relied upon data points. The Department also uses d~~ 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 ~~well documented~~ sources may be considered. ~~In most cases, the data points used from a particular source are an average of the per unit and per square foot expense for that item. The Underwriter considers the specifics of each transaction, including the type of Development, the size of the units, and the Applicant's expectations as reflected in the proforma to determine which data points are most relevant. The Underwriter will determine the appropriateness of each data point being considered and must use their~~

~~reasonable judgment as to which one fits each situation. The Department will create and utilize a feedback mechanism to communicate and allow for clarification by the Applicant when the overall expense estimate is over five percent greater or less than the Underwriter's estimate or when specific line items are inconsistent with the Underwriter's expectation based upon the tolerance levels set forth for each line item expense in subparagraphs (A) through (J) of this paragraph. If an acceptable rationale for the individual or total 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 five percent of the final total expense figure calculated by the Underwriter, the Applicant's figure is characterized as acceptable or reasonable in the Report, however, for purposes of calculating DCR the Underwriter will maintain and use its independent calculation of expenses regardless of the characterization of the Applicant's figure.~~

(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. ~~Historically, the TDHCA Database average has been used as the Department's strongest initial data point as it has generally been consistent with IREM regional and local figures.~~ 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, five percent 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 three percent may be utilized if documented ~~with by~~ a 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. ~~In urban areas, the local IREM per unit figure has historically held considerable weight as the Department's strongest initial data point. In rural areas, however, the TDHCA Database is often considered more reliable.~~ 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. ~~Historically, the TDHCA Database average has been used as the Department's strongest data point as it has generally been consistent with IREM regional and local figures.~~ 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 EGUnit rents. ~~Historically, the lower of an estimate based on 25.5% of the PHA local Utility Allowance or the TDHCA Database or local IREM averages have been used as the most significant data point. The higher amount may be used, however, if the current typical higher efficiency standard utility equipment is not projected to be included in the Development upon completion or if the higher estimate is more consistent with the Applicant's projected estimate. Also a lower or higher percentage of the PHA allowance may be used, depending on the amount of common area, and adjustments will be made for utilities typically paid by tenants that in the subject are owner paid as determined by the Underwriter.~~ 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 EGUnit rents. ~~Historically, the lower of the PHA allowance or the TDHCA Database average has been used.~~ 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 TDHCA Database is used with a minimum \$0.25 per net rentable square foot. Additional weight is given to a Third Party bid or insurance cost estimate provided in the application reflecting a higher amount for the proposed Development.~~ 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%. The TDHCA Database is used to interpret a per unit assessed value average for similar properties which is applied to the actual current tax rate.

(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% ~~11% will be used~~ or is most often contained within a range of \$15,000 to \$35,000 but may be higher or lower based upon documentation from the local tax assessor. Location, size of the units, and ~~comparable assessed values~~ also play a major role in may be used in evaluating this line item expense.

(ii) Property tax exemptions or proposed payment in lieu of taxes 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. For Community Housing Development Organization ("CHDO") owned or controlled properties, this documentation includes, at a minimum, evidence of the CHDO designation from the State or local participating jurisdiction and a letter from the local taxing authority recognizing that the Applicant is or will be considered eligible for the property exemption. The underwriting tolerance level for this line item is 10%.

(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 \$200 per unit for new construction and \$300 per unit for ~~rehabilitation 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. ~~The Underwriter will require documentation for any difference from the \$200 new construction and \$300 rehabilitation standard.~~

(J) Other Expenses. The Underwriter will include other reasonable and documented expenses, ~~other than 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 ~~in any way~~. The most common other expenses are described in more detail in clauses (i) through ~~(iii)~~(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. ~~Documented contract costs will be reflected in Other Expenses. Any selection points for this item will be evaluated prior to underwriting. The Underwriter will not evaluate any selection points for this item.~~ The Underwriter's verification will be limited to assuring any ~~documented anticipated~~ costs are included. For all transactions supportive services expenses are considered ~~part of Other Expenses and are considered part of in calculating~~ the Debt Coverage Ratio.

(ii) Security Expense. Security Expense includes contract or direct payroll expense for policing the premises of the Development ~~and is included as part of Other Expenses~~. The Applicant's amount is ~~moved to Other Expenses and~~ typically accepted as provided. The Underwriter will require documentation of the need for security expenses that exceed 50% of the anticipated ~~payroll and~~ payroll expenses estimate discussed in subsection (d)(~~2~~)(C) of this section.

(iii) Compliance Fees. Compliance fees include only compliance fees charged by TDHCA. The Department's charge for a specific program may vary over ~~time, time;~~ however, the Underwriter uses the current charge per unit per year at the time of underwriting. For all transactions compliance fees are considered ~~part of Other Expenses and are considered part of 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 EGL. Cost of providing cable television in only the community building should be included in General and Administrative Expense as described in subsection (d)(2)(A) of this section.

(K) The Department will communicate with and allow for clarification by the Applicant when the overall expense estimate is over five percent 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 five percent 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 proforma meets the requirements of paragraph (3) of this subsection.

~~(63) Net Operating Income and Debt Service.~~ NOI is the difference between the EGI and total operating expenses. If the NOI figure provided by the Applicant is within five percent of the NOI figure calculated by the Underwriter, the Applicant's figure is characterized as ~~acceptable or~~ reasonable in the Report; however, for purposes of calculating the DCR the Underwriter will maintain and use ~~its~~ ~~his~~ independent calculation of NOI ~~regardless of the characterization of the Applicant's figure. Only if unless~~ the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates ~~and characterized as acceptable or reasonable in the Report will the Applicant's estimate of NOI be used to determine the acceptable debt service amount. In all other cases the Underwriter's estimates are used. In addition to the NOI, the interest rate, term, and Debt Coverage Ratio range affect the determination of the acceptable debt service amount.~~

(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 ~~that will be~~ 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) Term Amortization Period. The primary debt loan term is reflected in the commitment letter.~~ 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 term 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 DCR range for all priority or foreclosable lien financing plus the Department's proposed financing falls between a minimum of 1.10 to a maximum of 1.30. In rare instances, such as for HOPE VI and USDA Rural Development transactions may underwrite to a DCR less than 1.10, the minimum DCR may be less than 1.10 based upon documentation of acceptance of such an acceptable DCR 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 subclause (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 debt service amount permanent loan amount for non-TDHCA funded loans is recommended~~ 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 subclause (I) through (III) of this clause. amount is recommended~~

~~(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, and the funding gap is reviewed to determine the continued need for Department financing. When the funding gap is reduced no adjustments are made to the level of Department financing unless there is an excess of financing, after the need for deferral of any developer fee is eliminated. If the increase in debt capacity provides excess sources of funds, the Underwriter adjusts any Department grant funds to a loan, if possible, and/or adjusts the interest rate of any Department loans upward until the DCR does not exceed the maximum or up to the prevailing current market rate for similar conventional funding, whichever occurs first. Where no Department grant or loan exists or the full market interest rate for the Department's loan has been accomplished, the Underwriter increases the conventional debt amount until the DCR is reduced to the maximum allowable. Any adjustments in debt service will become a condition of the Report, however, future changes in income, expenses, rates, and terms could allow additional adjustments to the final debt amount to be acceptable. In a Tax Credit transaction, an excessive DCR could negatively affect the amount of recommended tax credit, if based upon the Gap Method, more funds are available than are necessary after all deferral of developer fee is reduced to zero.~~

~~(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.~~

~~(75) Long Term Feasibility. The Underwriter will evaluate the long term feasibility of the Development by creating a 30-year operating proforma.~~

~~(A) A three percent annual growth factor is utilized for income and a four percent annual growth factor is utilized for expenses.~~

~~(B) The base year projection utilized is the Underwriter's EGI, expenses, and NOI unless the Applicant's EGI, total expenses, and NOI are each within five percent of the Underwriter's estimates and characterized as acceptable or reasonable in the Report.~~

~~(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 (e)(4) of this section.~~

~~(D) Any Development where the amount of with a 30-year proforma, used in the underwriting analysis, reflecting cumulative Cash Flow over the first fifteen years is as insufficient to repay the projected amount of deferred developer fee, amortized in irregular payments at zero percent interest, is characterized as infeasible, and 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.~~

~~(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 Development's 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 Applicant's total cost estimate will be compared to the Underwriter's total cost estimate and where the difference in cost exceeds will be used unless the Applicant's total development cost is within five percent of the Underwriter's estimate, the Underwriter shall substitute their own estimate for the Total Housing Development Cost to determine the Equity Gap Method and Eligible Basis Method where applicable. In~~

the case of a rehabilitation Development, the Underwriter may use a lower tolerance level due to the reliance upon the ~~Applicant's authorized Third Party cost assessment~~PCA. ~~Where 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. ~~The Department will create and utilize a feedback mechanism to communicate and allow for clarification by the Applicant before the Underwriter's total cost estimate is substituted for the Applicant's estimate.~~

(1) Acquisition Costs. The proposed acquisition price is verified with the fully executed site control document(s) for the ~~entirety of the~~ 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. Where within the past three years the seller or previous owner or any Principals of the seller or previous owner is an Affiliate, Beneficial Owner, or Related Party to the ~~Applicant, Developer, General Contractor, Housing Consultant, or persons receiving any portion of the Contractor or Developer Fees~~Development Team, the sale of the property will be considered to be an Identity of Interest transfer. In all such transactions the Applicant is required to provide the additional documentation identified in §49.9(e)(12) clauses (i) through (iv) of this subparagraph title to support the transfer price and this information will be used by the Underwriter to make a transfer price determination.

~~(i) Documentation of the original acquisition cost, such as the settlement statement.~~

~~(ii) An appraisal that meets the Department's Appraisal Rules and Guidelines as described in §1.34 of this subchapter.~~ In no instance will the acquisition value utilized by the Underwriter exceed the appraised value.

~~(iii) A copy of the current tax assessment value for the property.~~

~~(iv) Any other reasonably verifiable costs of owning, holding, or improving the property that when added to the value from clause (i) of this subparagraph justifies the Applicant's proposed acquisition amount. A reasonable return on the original owner equity, other than tax credit equity, contributed by the current seller at the time of original acquisition, and which did not take the form of a deferred fee or cost, calculated at a rate consistent with the historical returns of similar risks may be considered a holding cost.~~

~~(I) 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.~~

~~(II) For transactions which include existing buildings that will be rehabilitated or otherwise maintained as part of the property, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the property and the cost of exit taxes not to exceed an amount necessary to allow the sellers to be indifferent to foreclosure or breakeven transfer.~~

(C) ~~Non Identity of Interest~~ 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. ~~Where the actual sales price is more than ten percent different than the appraised value,~~ ~~t~~The Underwriter may alternatively prorate the actual or identity of interest sales price based upon ~~the a lower~~ calculated improvement value over the as-is value provided in the appraisal, so long as the improved resulting land value utilized by the Underwriter ~~does not exceed the total as-is appraised value of the entire property~~ 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 as presented in on the required application form ~~to be included in the Underwriter's cost budget.~~

(3) Site Work Costs. ~~If Project site work costs exceeding \$7,500 per Unit, the must be well documented and certified by a Third Party engineer on the required application form. Applicant must submit a detailed cost breakdown certified as being prepared by a Third Party engineer or architect, to be included in the Underwriter's cost budget.~~ In addition, for Applicants seeking Tax Credits, documentation in keeping with §49.9(f)(6)(G) of this title will be utilized in calculating eligible basis, a letter from a certified public accountant properly allocating which portions of the engineer's or architect's site costs should be included in eligible basis and which ones are ineligible, in keeping with the holding of the Internal Revenue Service Technical Advice Memoranda, is required for such costs to be included in the Underwriter's cost budget.

(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 five percent 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. If the Development will contain single family buildings, then the cost basis should be consistent with single family Average Quality as defined by Marshall & Swift Residential Cost Handbook. Whenever the Applicant's estimate is more than five percent greater or less than the Underwriter's Marshall and Swift based estimate, the Underwriter will attempt to reconcile this concern and ultimately identify this as a cost concern in the Report.~~

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

~~(ii)~~ (ii) if cost certifications are unavailable under clause (i) of this subparagraph, the uniform state service region in which the Development is to be located.

(B) Rehabilitation Costs. In the case where the Applicant has provided ~~Third Party signed bids with a work write up from contractors or a PCA estimates from certified or licensed professionals which are is inconsistent with the Applicant's figures as proposed in the project/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 Third Party initial PCA estimations in lieu of the Applicant's estimates, even when the difference between the Underwriter's costs and the Applicant's costs is less than five percent. The underwriting staff will evaluate rehabilitation Developments for comprehensiveness of the Third Party work write up and will determine if additional information is needed.~~

(5) Hard Cost Contingency. ~~This is the only contingency figure considered by the Underwriter and is only considered in underwriting prior to final cost certification. 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 five percent (5%) of direct costs plus site work for new construction Developments and ten percent (10%) of direct costs plus site work for rehabilitation Developments. The Applicant's figure is used by the Underwriter if the figure is less than five percent (5%).

(6) Contractor Fee Limits. Contractor fees are limited to six percent (6%) for general requirements, two percent (2%) for contractor overhead, and six percent (6%) for contractor profit. ~~These fees percentages are based upon applied to the sum of the direct construction costs plus site work costs. 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 TXRD TX-USDA-RHS-USDA, the~~

combination of builder's general requirements, builder's overhead, and builder's profit should not exceed the lower of TDHCA or ~~TX-RD~~TX-RD~~TX-USDA-RHS-USDA~~ requirements.

(7) Developer Fee Limits. For Tax Credit Developments, the development cost associated with developer's fees included in Eligible Basis cannot exceed fifteen percent (15%) of the project's Total Eligible Basis less developer fees, as defined in ~~Chapter 50~~the QAP of this title, as proposed ~~(adjusted for the reduction of federal grants, below market rate loans, historic credits, etc.), not inclusive of the developer fees themselves. The fee can be divided between overhead and fee as desired but the sum of both items must not exceed the maximum limit. The Developer Fee may be earned on non-eligible basis activities, but only the maximum limit as a percentage of eligible basis items may be included in basis for the purpose of calculating a project's credit amount. Any non-eligible amount of dDeveloper fee claimed must be proportionate to the work for which it is earned. In the case of an identity of interest transaction requesting acquisition Tax Credits, no developer fee attributable to acquisition of the Development will be included in Eligible Basis.~~ For non-Tax Credit Developments, the percentage remains the same 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 ~~paragraph subsection (f)~~(8) of this ~~subsection, and-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 ~~worth of~~ 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; ~~whereas, i~~ 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~~Basis~~.

(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 ~~certification of previous participation,~~ financial statements, and personal credit reports for those individuals anticipated to guarantee the completion of the Development.

~~(1) Previous Experience. The Underwriter will characterize the Development as "high risk" if the Developer has no previous experience in completing construction and reaching stabilized occupancy in a previous Development.~~

~~(2) 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.~~

~~(3) 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) The financial statement for individuals~~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.~~may be provided on the Personal Financial and Credit Statement form provided by the Department and must not be older than 90 days from the first day of the Application Acceptance Period.~~

~~(B) If submitting partnership~~Partnerships and corporate~~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.

~~financials in addition to the individual statements, the certified annual financial statement or audited statement, if available, should be for the most recent fiscal year not more than twelve months from first date of the Application Acceptance Period. This document is required for an entity even if the entity is wholly owned by a person who has submitted this document as an individual. For entities being formed for the purposes of facilitating the contemplated transaction but who have no meaningful financial statements at the present time, a letter attesting to this condition will suffice.~~

~~(A) Financial statements must be provided to the Underwriting Division at least seven days prior to the close of the application acceptance period in order for an acknowledgment of receipt to be provided as a substitute for inclusion of the statements themselves in the application. The Underwriting Division will FAX, e-mail or send via regular mail an acknowledgement for each financial statement received. The acknowledgement will not constitute acceptance by the Department that financial statements provided are acceptable in any manner but only acknowledge their receipt. Where time permits, the acknowledgement may identify the date of the statement and whether it will meet the time constraints under the QAP.~~

~~(B) The Underwriter will evaluate and discuss individual financial statements in a confidential portion of the Report. Where the financial statement indicates a limited net worth and/ or lack of significant liquidity and the Development is characterized as a high risk for either of the reasons described in paragraphs (1) and (2) of this subsection, the Underwriter must condition any potential award upon the identification and inclusion of additional Development partners who can meet the criteria described in this subsection.~~

(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 ~~and~~, 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 require~~

~~(B) The Applicant ~~to~~ 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 ~~where-if~~ the anticipated inclusive capture rate, as defined in §1.33 of this title, exceeds ~~is in excess of~~ 25% for the Primary Market unless: ~~the market is a rural market or the units are targeted toward the elderly.~~

~~(A) In rural markets and for~~ The Development 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) that are~~ The Development is strictly targeted to the elderly or transitional populations, in which case an inclusive capture rate of 100% is acceptable; or the Underwriter will not recommend the approval of funds to new housing Developments requesting funds from the Department where the anticipated capture rate is in excess of 100% of the qualified demand.

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

~~The inclusive capture rate for the Development is defined as the sum of the proposed units for a given project plus any previously approved but not yet stabilized new Comparable Units in the Submarket divided by the total income-eligible targeted renter demand identified in the Market Analysis for a specific Development's Primary Market. The Department defines Comparable Units, in this instance, as units that are dedicated to the same household type as the proposed subject property using the classifications of~~

family, elderly or transitional as housing types. The Department defines a stabilized project as one that has maintained a 90% occupancy level for at least 12 consecutive months. The Department will independently verify the number of affordable units included in the Market Study and may substitute the Underwriter's independent calculation based on the data provided in the Market Analysis or obtained through the Market Analysis performed for other Developments or other independently verified data obtained by the Underwriter regarding the market area. This may include revising the definitional boundaries of the Primary Market Area defined by the Market Analyst. The Underwriter will ensure that all projects previously allocated funds through the Department are included in the final analysis. The documentation requirements needed to support decisions relating to Inclusive Capture Rate are identified in §1.33 of this subchapter.

(3) The Underwriter will verify that no other developments of the same type within one linear mile have been funded by the Department in the three years prior to the application as provided in Section 2306.6703, Texas Government Code and that no other Developments within one linear mile have been funded in the past twelve months as provided in Section 2306.6711 of the Texas Government Code. The Underwriter will identify in the report any other Developments funded or known and anticipated to be eligible for funding within one linear mile of the subject.

(34) Supportive Housing. The unique development and operating characteristics of Supportive Housing Developments may require special consideration be given in the following areas when underwriting these Developments:

(A) Operating Income:— The extremely-low-income tenant population typically targeted with 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 and the maximum rent limit rent proposed proposed for the units and equal to any project based rental subsidy rent to be utilized for the Development. The initial rents should be structured, however, such that they satisfy the anticipated operating expenses by some margin. The use of project based rental or ongoing operating subsidies and/or supplemental fundraising to offset operating expenses is often critical for a Supportive Housing 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. The Applicant should provide substantiation from existing Supportive Housing Developments that they operate in the form of several years of historical operating expenses with sufficient detail for individual expense line items as identified in the current proforma operating expense form promulgated by the Department. Applicant's with no historical experience of their own are encouraged to provide evidence of historical operating information from comparable properties, estimates or quotes from Third Party service providers (e.g., insurance, tenant services), or other pertinent information.

(C) DCR and Long Term Feasibility:— Supportive Housing Developments may be exempted from the DCR requirements of subsection Section 1.32.(d)(4)(6)(C) of this section subchapter if the Development is anticipated to operate without conventional debt. Applicants must provide evidence of sufficient financial resources to offset any projected 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. Where 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 should 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.

(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.

§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. Furthermore, the Market Analyst shall certify that they are a Third Party and are not being compensated for the assignment based upon a predetermined outcome.

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

(c) Self-Contained. A Market Analysis prepared for the Department must contain sufficient data and analysis to allow the reader to understand the market data presented, the analysis of the data, and the conclusion(s) derived from such data and its relationship to the subject property. The complexity of this requirement will vary in direct proportion with the complexity of the real estate and the real estate market being analyzed. All data presented should reflect the most current information available. The analysis must clearly lead the reader to the same or similar conclusion(s) reached by the Market Analyst. A conclusion and recommendation section should be included at the end of the report.

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

(1) Market ~~analysts~~ Analysts must submit subparagraphs (A) through (F) of this paragraph for review by the Department.

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

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

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

(D) 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 described in this section.

(E) A sample Market Analysis that conforms to the Department’s Market Analysis Rules and Guidelines described in this section.

(F) Documentation of organization and good standing in the State of Texas.

(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 funding cycle and as time permits, staff and/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 Market Analyst list.

(A) Removal from the list of approved Market Analysts will not, in and of itself, invalidate a Market Analysis that has already been commissioned not more than 90 days before the Department’s due date for submission as of the date the change in status of the Market Analyst is posted to the web.

(B) To be reinstated as an approved 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. ~~This new~~The submitted study will then be reviewed for conformance with the rules of this section and if found to be in compliance, the Market Analyst will be reinstated.

(3) The list of approved 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.

(de) Market Analysis Contents. A Market Analysis for a multifamily 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 (17) of this subsection.

(1) Title Page. Include property address and/or location, housing type, TDHCA addressed as client or in the case that TDHCA is not the client, acknowledgement that TDHCA is granted full authority to rely on the findings and conclusions of the report, effective date of analysis, date of report, name and address of person authorizing report, and name and address of Market Analyst.

(2) Letter of Transmittal. Include date of letter, property address and/or location, description of property type, statement as to purpose of analysis, reference to accompanying Market Analysis, reference to all person(s) providing significant assistance in the preparation of analysis, statement from Market Analyst indicating any and all relationships to any member of the Development Team and/or owner of the subject property, date of analysis, effective date of analysis, date of property inspection, name of person(s) inspecting subject property, and signatures of all Market Analysts authorized to work on the assignment. In addition, a section discussing the conclusions and recommendations of the Market Analysis must be included.

(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/http://www.tdhca.state.tx.us/underwrite.html>.

(5) Assumptions and Limiting Conditions. Include a summary of all assumptions, both general and specific, made by the Market Analyst concerning the property.

(6) Disclosure of Competency. Include the Market Analyst's qualifications, detailing education and experience of all Market Analysts authorized to work on the assignment.

(7) 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.

(8) Statement of Ownership for the Subject Property. Disclose the current owners of record and provide a three year history of ownership.

(9) Purpose of the Market Analysis. Provide a brief comment stating the purpose of the analysis.

(10) Scope of the Market Analysis. Address and summarize the sources used in the Market Analysis. Describe the process of collecting, confirming, and reporting the data used in the Market Analysis.

(11) Secondary Market Information. Include a general description of the geographic location and demographic data and analysis of the secondary market area if applicable. The secondary market area will be defined on a case-by-case basis by the Market Analyst engaged to provide the Market Analysis. Additional demand factors and comparable property information from the secondary market may be addressed. However, use of such information in conclusions regarding the subject property must be well-reasoned and documented. A map of the secondary market area with the subject property clearly identified should be provided. In a Market Analysis for a Development targeting families, the demand and supply effects from the secondary market are not significant. For a Development that targets smaller subgroups such as elderly households, the demand and supply effects may be more relevant.

(12) Primary Market Information. Include a specific description of the subject's geographical location, specific demographic data, and an analysis of the Primary Market Area. The Primary Market Area will be defined on a case-by-case basis by the Market Analyst engaged to provide the Market Analysis. The Department encourages a conservative Primary Market Area delineation with use of natural, political, ~~and~~ and geographical boundaries whenever possible. Furthermore, the Primary Market for a Development chosen by the Market Analyst ~~will generally be most informative if it should~~ contains no more than ~~250,000~~100,000 persons, ~~though, however,~~ a Primary Market with more residents with a maximum limit of 250,000 persons in the base demographic year may be indicated by the Market Analyst, where political/geographic boundaries indicate doing so, with additional supportive narrative. A summary of the neighborhood trends, future Development, and economic viability of the specific area must be addressed with particular emphasis given to Affordable Housing. A map of the Primary Market with the subject property plus all existing, under construction and proposed Affordable Housing developments clearly identified must be provided. A separate scaled distance map of the Primary Market that clearly identifies the subject and the location and distances of all Local Amenities described in ~~§50.9(g)(4) of this title~~the QAP, as proposed, must also be included.

(13) Comparable Property Analysis. Provide a comprehensive evaluation of the existing supply of comparable properties in the Primary Market Area defined by the Market Analyst. The analysis should include census data documenting the amount and condition of local housing stock as well as information on building permits since the census data was collected. The analysis must separately evaluate existing market rate housing and existing subsidized housing to include local housing authority units and any and all other rent- or income-restricted units with respect to items discussed in subparagraphs (A) through (F) of this paragraph. If the comparable property owner and manager will not provide the information required in subparagraphs (A) through (F), a statement to that effect along with contact information for the comparable property must be included in the narrative of the Market Study.

(A) Analyze comparable property rental rates. Include a separate attribute adjustment matrix for the most comparable market rate ~~and subsidized~~ units to the units proposed in the subject, a minimum of three developments ~~each~~. The Department recommends use of HUD Form ~~922273~~92273. Analysis of the Market Rents must be sufficiently detailed to permit the reader to understand the Market Analyst's logic and rationale. Total adjustments made to the Rent Comparable Units in excess of ~~45~~25% suggest a weak comparable. Total adjustments in excess of 15% must be supported with additional narrative. In Primary Market Areas lacking sufficient rental comparables, it may be necessary for the Market Analyst to collect data from comparable properties in markets with similar characteristics and make quantifiable location adjustments. The Department also ~~encourages~~requires close examination of the overall use of concessions in the Primary Market Area and the effect of the identified concessions on effective Market Rents.

~~(B) Provide an Affordability Analysis of the comparable unrestricted units.~~

~~(B)~~ Analyze occupancy rates of each of the comparable properties and occupancy trends by bedroom type and income restricted level (percentage of AMI). ~~Physical occupancy should be compared to and economic occupancy.~~ Occupancy rates presented should be clearly identified as either physical occupancy or economic occupancy.

~~(D)~~ Provide annual turnover rates of each of the comparable properties and turnover trends by property class.

~~(E)~~ Provide absorption rates for each of the comparable properties and absorption trends by property class.

~~(F) The comparable developments must indicate current research for the proposed property type. The proposed property assumptions must be supported by current information from comparable developments within the PMA.~~ The rental data must be confirmed with the landlord, tenant or agent and individual data sheets must be included. The minimum content of the individual data sheets include: property address, lease terms, occupancy, turnover, development characteristics, current physical condition of the property, etc. A scaled distance map of the Primary Market that clearly identifies the subject Development and existing comparable market rate developments ~~and all existing/proposed subsidized Developments~~ must be provided.

(14) Demand Analysis. Provide a comprehensive evaluation of the demand for the proposed housing. The analysis must include an analysis of the need for market rate and Affordable Housing within the subject Development's Primary Market Area using the most current census and demographic data available. The demand for housing must be quantified, well reasoned, and segmented to include only relevant income- and age-eligible targets of the subject Development. Each demand segment should be addressed independently and overlapping segments should be minimized and clearly identified when required. In instances where more than 20% of the proposed units are comprised of three- and four-bedroom units, the analysis should be refined by factoring in the number of large households to avoid overestimating demand. The final quantified demand calculation may include demand due to items in subparagraphs (A) through (C) of this paragraph.

(A) Quantify new household demand due to documented population and household growth trends for targeted income-eligible rental households OR confirmed targeted income-eligible rental household growth due to new employment growth.

(B) Quantify existing household demand due to documented turnover of existing targeted income-eligible rental households OR documented rent over-burdened targeted income-eligible rental households that would not be rent over-burdened in the proposed Development and documented targeted income-eligible rental households living in substandard housing.

(C) Include other well reasoned and documented sources of demand determined by the Market Analyst.

(15) 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.

(A) Provide a best possible unit mix conclusion based on the occupancy rates by bedroom type within the PMA and income-eligible renter demand by household size within the PMA.

~~(B)~~ Provide a separate market and subsidized rental rate conclusion for each proposed unit type and rental restriction category. Conclusions of rental rates below the maximum net rent limit rents must be well reasoned, documented, consistent with the market data, and address any inconsistencies with the conclusions of the demand for the subject units.

~~(C)~~ Provide rental income, secondary income, and vacancy and collection loss projections for the subject derived independent of the Applicant's estimates, but based on historic and/or well established data sources of comparable properties.

~~(D)~~ Correlate and quantify secondary market and Primary Market demographics of housing demand to the current and proposed supply of housing and the need for each proposed unit type and the subject Development as a whole. The subject Development specific demand calculation may consider total demand from the date of application to the proposed place in service date.

~~(E)~~ Calculate an inclusive capture rate for the subject Development defined as the sum of the proposed subject units plus any properties with priority, as defined in §49.9(h)(2) of this title, over the subject that have made application to TDHCA and have not been presented to the TDHCA Board for decision plus any previously approved but unstabilized new Comparable Units in the Primary Market divided by the total income-eligible targeted renter demand identified by the Market Analysis for the subject Development's Primary Market Area. The Market Analyst should calculate a separate capture rate for the subject Development's proposed affordable units and market rate units as well as the subject Development as a whole. If any proposed or existing Developments are not included by the Market Analyst, withdrawn from application, subsequently found to not have priority over the subject, or not approved by the TDHCA Board, the Underwriter will adjust the inclusive capture rate accordingly.

~~(F)~~ Project an absorption period and rate for the subject until a Sustaining Occupancy level has been achieved. If absorption projections for the subject differ significantly from historic data, an explanation of such should be included.

~~(G)~~ Analyze the effects of the subject Development on the Primary Market occupancy rates and provide sufficient support documentation.

~~(H)~~ Identify any other Developments located within one linear mile of the proposed site and awarded funds by the Department in the three years prior to the Application Acceptance Period.

(16) Photographs. Include 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 also be included. An aerial photograph is desirable but not mandatory.

(17) Appendices. Any Third Party reports relied upon by the Market Analyst must be provided in appendix form and verified directly by the Market Analyst as to its validity.

(ef) Single Family Developments.

(1) Market studies for single-family Developments proposed as rental Developments must contain the elements set forth in subsections (d)(1) through (17) of this section. Market analyses for Developments proposed for single-family home ownership must contain the elements set forth in subsections (d)(1) through (17) of this section as they would apply to home ownership in addition to paragraphs (2) through (4) of this subsection.

(2) Include no less than three actual market transactions to inform the reader of current market conditions for the sale of each unit type in the price range contemplated for homes in the proposed Development. The comparables ~~must rely on current research for this~~ rental rate or sales data must be current for each specific property type. The sales prices must be confirmed with the buyer, seller, or real estate agent and individual data sheets must be included. The minimum content of the individual data sheets should include property address, development characteristics, purchase price and terms, description of any federal, state, or local affordability subsidy associated with the transaction, date of sale, and length of time on the market.

(3) Analysis of the comparable sales should be sufficiently detailed to permit the reader to understand the Market Analyst's logic and rationale. The evaluation should address the appropriateness of the living area, room count, market demand for Affordable Housing, targeted sales price range, demand for

interior and/or exterior amenities, etc. A scaled distance map of the Primary Market that clearly identifies the subject Development and existing comparable single family homes must be provided.

(4) A written statement is required stating if the projected sales prices for homes in the proposed Development are, or are not, below the range for comparable homes within the Primary Market Area. Sufficient documentation should be included to support the Market Analyst's conclusion with regard to the Development's absorption.

(fg) 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 property and the provisions of the particular program guidelines.

(gh) 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. 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. Self-contained reports 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.

(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 ~~land~~ the "as vacant" market value of the underlying land, based upon current sales comparables.

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

(3) ~~Properties-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. ~~Include~~

(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.

(ed) Date of Appraisal. The appraisal report must be dated and signed by the appraiser who inspected the property. ~~The date of the valuation, except in the case of proposed construction or extensive rehabilitation, must be a current date.~~ The date of valuation should not be more than six months prior to the date of ~~the~~ application to the Department unless the Department's program rules indicate otherwise.

(de) Appraiser Qualifications. The qualifications of each appraiser are determined and approved on a case-by-case basis by the Director of ~~Credit Underwriting~~ Real Estate Analysis and/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 ~~will~~ must be appropriately certified or licensed for the type of appraisal being performed by the Texas Appraiser Licensing and Certification Board.

(ef) Appraisal Contents. An appraisal ~~of a 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 (18) of this subsection.

(1) Title Page. 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 acknowledgement that THDCA is granted

[full authority to rely on the findings of the report](#), 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, identification of type(s) of value(s) estimated (e.g., market value, leased fee value, as-financed value, etc.), estimate of marketing period, signatures of all appraisers authorized to work on the assignment.

(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.

(6) Disclosure of Competency. Include appraiser's qualifications, detailing education and experience, as discussed in subsection (c) 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.

(8) 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.

(9) 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.

(13) Site/Improvement Description. Discuss the site characteristics including subparagraphs (A) through (F) 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 Highest and Best Use, 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 improvement 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 expert in such matters and the impact of such deficiencies may not be quantified; 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.

(14) 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 subsection (d)(13)(A) through (F) of this section 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) 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 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, 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 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 should include address, legal description, tax assessor's parcel number(s), sale 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 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) NOI/Unit of Comparison. If used in the report, the net 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 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 comparable and overall occupancy data for the subject's market area.

(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 data regarding the subject's assessment and tax rates should be included. 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 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.

(16) 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.

(17) Marketing Period. 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.

(18) 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.

(fg) Additional Appraisal Concerns. The appraiser(s) must recognize and be aware of the particular TDHCA program rules and guidelines 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). 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)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 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.

(b) In addition to ASTM requirements, The report must ~~include, but is not limited to:~~

(1) ~~A review of records, interviews with people knowledgeable about the property;~~
(2) ~~A certification that the environmental engineer has conducted an inspection of the property, the building(s), and adjoining properties, as well as any other industry standards concerning the preparation of this type of environmental assessment;~~

(3) ~~A State if a noise study is recommended for a property and located adjacent to or in~~ else identify its proximity to industrial zones, major highways, active rail lines, ~~and~~ civil and military airfields, or other potential sources of excessive noise;

(42) ~~A-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;

(53) ~~A-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) ~~A-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;

(65) ~~An assessment of the potential threat~~State if testing for asbestos containing materials (ACMs) ~~to be present on the property, and a recommendation as to whether specific testing for ACMs would be necessary as required by state law would be required pursuant to local, state, and federal laws, or recommended due to any other consideration;~~

(76) ~~An assessment of the potential presence of~~State if testing for Lead Based Paint ~~would be required pursuant to local, state, and federal laws, or recommended due to any other consideration on the property, and a recommendation as to whether specific testing in accordance with any state and federal laws would be necessary;~~

(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; and

(8) ~~An assessment of the~~Assess the potential for the presence of Radon on the property, and a ~~recommendation as to whether~~ specific testing ~~would be 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.

(e) For Developments in programs that allow a waiver of the Phase I ESA such as a ~~TxRDTX-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.

(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 and replacements which are necessary immediately, and for repairs and replacements which are expected to be required throughout the term of the regulatory period. 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 2138)" 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) Immediate Repairs: 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 necessary immediate repairs. The PCA should estimate 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;

(5) Expected Repairs Over Time: The term during which the PCA should estimate the cost of expected repairs over time should 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 should estimate the periodic costs which would be expected to arise for repairing or replacing each system or component on the property, based on the estimated remaining useful life of each such system or component, the PCA should estimate the periodic costs which would be expected to arise during the regulatory period for repairing or replacing such system or component. The PCA should include a 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 the regulatory period during which the costs are estimated to be incurred. 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; and

(6) Obsolescence: If the development plan calls for additional modification or replacement of certain systems, components, or other aspects of the property strictly due to functional obsolescence or external market obsolescence, such items should be identified and the nature or source of the obsolescence discussed. The associated costs may be included either with immediate repairs or with expected repairs over time as appropriate. 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 to ensure consistency between the PCA, and the proposed development costs.

(b) 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, or
- (4) 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 subsection, 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 should be signed and dated by the Third Party report provider not more than six months prior to the date of the application. However, an original report may be accepted up to 24 months old if a review inspection and update letter dated less than six months from the date of the application is signed by the original report provider, and that such letter identifies specific details of necessary amendments to the original report or specifies that no such amendments are necessary.

§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 and the accounts held for the purpose of maintaining the required 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 paragraphs (e)(1) through (3) of this section through the date described in paragraph (f)(2) of this section through the appointment of an escrow agent as further described in paragraph (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 paragraph (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;

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 paragraph (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.

PORTFOLIO MANAGEMENT & COMPLIANCE

BOARD ACTION REQUEST

November 12, 2004

Action Items

Final Compliance Monitoring Policies and Procedures

Required Action

1. Adoption of Repeal of Title 10, Part 1, Chapter 60, Subchapter A, Rule §60.1 –
2. Adoption of New Title 10, Part 1, Chapter 60, Subchapter A, Rule §60.1 –
Compliance Monitoring Policies & Procedures

Background

At the September 9, 2004 Board Meeting, the Board approved for public comment the Proposed Repeal and Proposed New Title 10, Part 1, Chapter 60, Subchapter A, Rule §60.1 – Compliance Monitoring Policies & Procedures. This was published in the *Texas Register* on September 24, 2004 for the public to provide comments. In order to receive additional comments on all proposed rules, Texas Department of Housing and Community Affairs staff held public hearings in the cities of Houston, El Paso, Dallas, San Antonio, Victoria, Waco and Tyler. No comments were received on the proposed repeal.

Public Comment on the Compliance Monitoring Policies and Procedures

The Department received the majority of comments in writing via email, fax, and mail. This document provides the Department's response to all comments received. The comment and responses are divided into the following two sections:

I. Substantive comments on the Compliance Monitoring Policies and Procedures and Departmental response. (After each comment title, numbers are shown in parentheses. These numbers refer to the person or entity that made the comment as reflected in the Addendum.)

II. Administrative Clarifications and Corrections.

III. General comments and Departmental response regarding Portfolio Management & Compliance activities not addressed to the Compliance Monitoring Policies and Procedures.

I. SUBSTANTIVE COMMENTS ON THE COMPLIANCE MONITORING POLICIES AND PROCEDURES AND DEPARTMENT RESPONSE

§60.1 (c) – Construction Inspection Process – (1)

Comment:

Comment received from the Texas Affiliation of Affordable Housing Providers (TAAHP) requested that §60.1 (c) reflect actual construction inspection areas to be reviewed.

Department Response:

Staff agrees that language for §60.1(c) should be changed to identify the main focus of the construction inspection process, as follows:

(c) Construction inspections. The Department, through the Portfolio Management and Compliance Division, shall monitor during the construction and rehabilitation process for compliance with all applicable program requirements, including construction threshold criteria and application Development characteristics through the entire construction or rehabilitation phase associated with any Development funded or administered by the Department. Construction is monitored to verify inclusion of application representations and Department design requirements. Construction inspections conducted by the Department or by an independent third party inspector acceptable to the Department will also monitor for material and workmanship quality during the construction process.

§60.1(c)(1) – Construction Inspection Process as it relates to HTC Developments – (1)

Comment:

Comment was received from TAAHP that the proposed process failed to implement the minimum requirements of an inspection for quality during the construction process, as identified in the draft 2005 QAP §49.16(g). The comment included opposition to the plan review and final accessibility clearance. Identifying the plan review as a pre-construction activity and accessibility clearance at final construction is already provided in the form of a certification in compliance with §49.9(f)(F) of the QAP. TAAHP recommended an initial, mid-construction and final construction inspection. TAAHP requested clarification that the cost for all proposed inspections will be paid by the Department through the inspection fees that are collected.

Department Response:

Staff agrees to change the language for §60.1(c)(1) to enable the Department to identify construction deficiencies with threshold criteria and application Development characteristics while defects can reasonably be corrected. Staff further acknowledges that plan reviews are a pre-construction activity and should not be identified as a tool to test for quality during the construction process. Furthermore, the Department acknowledges that an accessibility clearance certification is already provided at key points during the construction process to the Department and agrees with the removal of such requirement from this section. The recommended changes to the process will better aid the Department in implementing a clear inspection process that can identify deficiencies in a timely manner. By implementing the changes the cost of such inspections would be paid from the collected inspection fee. Staff does not agree to implement an initial inspection until the cost to the Department can be established. The following language is recommended to this proposed section of the Compliance Monitoring Policies and Procedures:

(1) Construction ~~monitoring~~ inspection procedures for HTC Developments include:

(A) ~~A plan review performed by the Department or by an independent plan review contractor engaged by the Department. The reviewer uses the TDHCA Application Compliance Checklist. The plan approval certificate is required by the Department in order for the issuance of the Acknowledgement Notice at the commencement of substantial construction.~~ A mid-construction inspection conducted the earlier of when:

(1) 25% of the total number of Development buildings are at least 30% completed and are at a post-wiring/pre-sheetrock stage, or

(2) 40% of the construction contract amount for the Development, adjusted for any change orders, has been expended as documented by an inspecting architect.

Evidence of such activity must be submitted within thirty days of (1) or (2) being reached and shall be provided in a format prescribed by the Department.

(B) ~~A final inspection performed after completion of construction by inspectors for the owner, lender and/or syndicator using the TDHCA Application Compliance Checklist.~~ at the time the Development is placed in service. Evidence of such activity must be submitted within thirty days and shall be provided in a format prescribed by the Department.

(C) ~~An accessibility clearance performed after completion of construction by an owner contracted accessibility specialist selected by the Development owner from the Department's list of approved contractors using the TDHCA Accessibility Checklist.~~

§60.1(c)(2) – Construction Inspection Process as it relates to non-HTC Developments – (1)

Comment:

Comment from TAAHP requests that where possible the inspection process mimic the Housing Tax Credit (HTC) requirements to allow coordination for Developments receiving multiple funding sources from the Department.

Department Response:

Staff agrees with this comment and suggests implementing the same inspection process where possible as identified for HTC Developments. Staff does not agree to implement the same accessibility certification as required in the QAP for HTC Developments. In lieu of the accessibility certification, staff recommends a plan review be required for non-HTC Developments. The portfolio of non-HTC Developments is small, and the cost to complete the plan reviews will not place a financial burden on the Department. The following language is recommended as §60.1(c)(2) and §60.1(c)(3):

(2) Construction ~~monitoring~~ inspection procedures for non-HTC multifamily Developments include:

(A) A plan review performed by the Department or by an ~~owner-contracted independent~~ third party plan reviewer acceptable to the Department, ~~contractor selected from the Department's list of approved plan reviewers. The reviewer uses the TDHCA Application Compliance Checklist and issues a Certificate of Compliance once plans are approved.~~ The plan review will confirm inclusion of construction program requirements and Development characteristics identified at application. The plan review must be completed prior to approval certificate is required by the Department in order for the borrower or grantee to obtaining a Notice to Proceed with Construction.

(B) A mid-construction inspection conducted the earlier of when:

(1) 25% of the total number of Development buildings are at least 30% completed and are at a post-wiring/pre-sheetrock stage, or

(2) 40% of the construction contract amount for the Development, adjusted for any change orders, has been expended as documented by an inspecting architect.

Evidence of such activity must be submitted within thirty days of (1) or (2) being reached and shall be provided in a format prescribed by the Department.

(C) A final inspection is performed by the Department or an ~~owner-contracted independent inspection contractor selected from the Department's list of approved final inspectors. The final inspector uses the TDHCA Application Compliance Checklist and issues the Certificate of Compliance once all work is in place and approved.~~ after completion of construction or rehabilitation, when 100% of the construction contract amount, adjusted for any change orders, has been expended. Evidence of such activity must be submitted within thirty days and shall be provided in a format prescribed by

the Department. The inspection is required by the Department in order to release retainage.

(3) ~~Mid-construction progress inspections conducted within ten days prior to D~~draw request submittals to the Department, for non-HTC Developments, must include construction progress inspection reports which are conducted within 10 days prior to the draw request. ~~Mid-construction~~ The inspections are performed by independent licensed architects or engineers engaged by the borrower or grantee. ~~Depending on particular risks associated with the Development, the Department may require the borrower or grantee to select a contractor from the Department's list of approved inspectors. With each draw package, the borrower or grantee provides AIA documents (or equivalents) G701 Change Order form for any change in contract scope of work, cost, or time; G702 Application and Certificate for Payments; G703 Continuation Sheet; and G711 Field Report.~~ Evidence of such inspection shall be provided in a format prescribed by the Department.

§60.1(c)(3) – Construction Inspection reports submitted to the Department – (1)

Comment:

Comment from TAAHP recommended changing the language to apply to HTC and non-HTC Developments. TAAHP also requested that the Department allow the submittal of inspection reports provided to the Developer instead of requiring an additional form be completed by the inspector.

Department Response:

Staff agrees with the change and foresees no issue with applying the process to all Developments. Staff recommends the following language as §60.1(c)(4):

~~(4)~~ (4) The Department may require a copy of all reports from all construction inspections performed ~~for the lender and/or syndicator for HTC Developments on behalf of the Applicant as needed.~~ The reports must indicate that the Department may rely on the information provided in those reports. ~~inspectors for the lenders and syndicator with required documentation to be completed that will confirm satisfaction of the requirements of this rule.~~

§60.1(c)(4) – Additional inspection reports submitted to the Department and high risk factors – (1)

Comment:

Comment from TAAHP identifies this section as being in direct conflict with proposed 2005 QAP language §49.16(g) and §49.20 with regard to inspection fees being paid by TDHCA. The proposed language requires any additional inspections to be paid by the Developer. There is also concern that the risk factors as identified would include numerous Developments and could hold up the inspection process. TAAHP's comments also requested that any references to risk factors identified by Real Estate Analysis should not be identified in the Compliance Monitoring Policies and Procedures. It was requested that more thought be put into the risk factors as it relates to the inspection process.

Department Response:

Staff agrees with the comments and is proposing to implement the language suggested by TAAHP. This language deletes references to the additional inspections being at the cost of the owner and all references to REA risk factors. Staff will further research risk factors for the inspection process. Staff

recommends that developments be identified as high risk if deficiencies are identified during the inspection process. Part of this section was proposed language by TAAHP. Staff's recommended changes have also been incorporated. Staff recommends the following language as §60.1(c)(5):

(54) Additional inspections may be conducted by the Department or by an independent Third Party Inspections inspector acceptable to the Department during the construction process. If necessary, based on the level of risk associated with the Development, the Department may inspect or obtain, at the owner's expense, a Third-Party inspection for purposes of monitoring during the construction phase. The Development owner shall, upon request, provide to the Department, or any Third-Party inspector hired by the Department any construction documents, plans, or specifications for the Development to perform these inspections. The Department uses as determined by the Real Estate Analysis Division and or the Portfolio Management and Compliance Division, ~~to determine the amount of risk associated with each Development.~~ Owners of high risk HTC Developments may be required to submit copies of all inspection reports made throughout the construction of the Development within fifteen days of the date the inspection occurred as well as the AIA documents required for non-HTC mid-construction inspections described above. Owners of high risk non-HTC Developments may be required to supplement their mid-construction draw request submittals with inspection reports prepared by an inspector selected and engaged by the owner from the Department's list of approved inspector. Risk factors determined by the Real Estate Analysis division involve any change in total construction cost or change in square footage. For non-HTC Developments, such changes are referred to the Department's Real Estate Analysis Division by the Portfolio Management and Compliance Division if the changes are identified during mid-construction. For all multifamily Developments, changes of square footage or changes in the scope of work are referred by the Portfolio, Management and Compliance Division to the Department's Real Estate Analysis Division and to the Department's Multifamily Finance Production Division if identified at plan review or final inspection. The Portfolio Management and Compliance Division ~~determines~~ identify HTC Developments to be at high risk if the plan reviewer or final inspector evaluates the construction plans and specifications or completed construction work to be low quality as indicated by the reviewer or inspector using the quality evaluation factors in the Application Compliance Checklist. inspections identify issues with construction threshold criteria and Development characteristics identified at application. The Portfolio Management and Compliance Division ~~evaluates~~ identifies risk of 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. at the time of draw request or retainage release as low risk if none of the following factors apply, or high risk if four of the following factors apply:

- (a) The Department is the first lien holder;
- (b) The Development is a rehabilitation;

- ~~(c) 90% or more of the award is requested at once (pre-development and/or construction costs);~~
- ~~(d) Retainage release is requested and no inspection was conducted in the past 6 mos.;~~
- ~~(e) Borrower/grantee has a known history of non-compliance issues;~~
- ~~(f) Borrower/grantee has little or no prior development experience;~~
- ~~(g) The current draw is the first request;~~
- ~~(h) Reimbursement of stored materials is requested;~~
- ~~(i) Building plans are evaluated to be of low quality in the plan review;~~
- ~~(j) There is a possible lack of full cooperation from the Development team or there are other unusual circumstances.~~

§60.1(c)(5) – Inspection process as it relates to Developments financed with TX-USDA-RHS – (1)

Comment:

Comment received from TAAHP requested deletion of the first line referencing the inspection conducted at final construction. Comment was also provided by TAAHP including language for notifying Real Estate Analysis and Multi-Family Finance of any deficiencies and identifying repercussions for not complying with this section.

Department Response:

Staff agrees with deleting the first line of this section. Doing so will exempt Developments that received financing through TX-USDA-RHS from all construction inspections performed by the Department, not just the final inspection. Proposed language incorporated a requirement that inspections conducted by TX-USDA-RHS only be provided “upon request”, but to comply with the QAP requirements this proposed language should not be incorporated. Staff does not agree that references to notifying other division of deficiencies is necessary since this is part of our internal process. It is also not necessary to implement language regarding the repercussions of failing to meet the inspection process as this is already built in to program rules and proposed language. Staff recommends the following language as §60.1(c)(6):

~~(65) After completion of a Development's construction phase, the Department periodically reviews the performance of the Development to confirm the accuracy of the Department's initial compliance evaluation during the construction phase. 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, upon request, provides to the Department copies of all inspections made by TX-USDA-RHS throughout the construction of the Development within fifteen days of the date the inspection occurred. (§2306.081)~~

§60.1(d) – Monitoring During the Affordability Period – (3),(4)

Comment:

Comments were received from Texas RioGrande Legal Aid and Texas Low Income Housing Information Services (TxLIHIS) regarding the recent IRS Revenue Ruling 2004-82 (August 30, 2004) referencing Q-5 and A-5 in the Ruling: “...requiring) that an extended low-income housing commitment include a prohibition during the extended use period against (1) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit (no-cause eviction protection)...” and “...each housing credit agency is required to review its extended low income housing commitments for compliance with this interpretation...” Texas Rio Grande Legal Aid and TxLIHIS requested the Department ensure that there are lease provisions that incorporate the language from the Revenue Ruling. Texas Low Income Housing commented that the Department is not in compliance with this ruling since the current LURA only protects the tenants during the three year period following the termination of the Land Use Restriction Agreement (LURA).

Department Response:

The Department is conducting a review of the LURA and, if necessary, will process amendments to any LURAs. Staff does not recommend any changes or additions to this section of the Compliance Monitoring Policies or Procedures because the matter is already sufficiently addressed in §60.1(d) of the rule and in Section 6 of the LURA.

§60.1(h)(10) – Recordkeeping as it relates to race and ethnicity of residents – (5)

Comment:

The Lawyers’ Committee for Civil Rights Under Law, on behalf of the Texas Lawyers’ Committee for Civil Rights Under Law, the Greater Houston Fair Housing Center, and the Austin Tenants’ Council stated, in a letter addressing the Qualified Allocation Plan, that the Department should collect data from developments on tenant ethnicity and race.

Department Response:

Staff recommends no change since this matter is already addressed in §60.1(h)(10) of the Compliance Monitoring Policies and Procedures. Furthermore, the information is collected by the Department as part of the electronic submission collection process. This information is available to the public upon request.

II. ADMINISTRATIVE CLARIFICATIONS AND CORRECTIONS

§60.1 (o)(2) – Notice to the IRS

An administrative change was made to clarify the Department’s willingness to review corrective actions even if they are beyond three years. This paragraph was deleted and the subsequent paragraphs were renumbered from 3 and 4 to 2 and 3.

§60.1(q)(1) – Utility Allowances

An administrative correction was made to the phrase “Section 1.42-10 of the Internal Revenue Code”. It was changed to “Section 1.42-10 of the Regulations”.

III. GENERAL COMMENTS AND DEPARTMENTAL RESPONSE REGARDING PORTFOLIO MANAGEMENT & COMPLIANCE ACTIVITIES NOT ADDRESSED TO THE COMPLIANCE MONITORING POLICIES AND PROCEDURES

General Comment: Concerns regarding faxes and HOME Investment Partnership Program contract transaction – (2)

Comment:

A Community Development Consultant, during the Lufkin Public Hearing, said: “We have almost totally discontinued the use of faxes because I think the faxes are delivered once a day or something, and the machine is somewhere else.” In regard to HOME contract transactions and inquiries, he stated: “...it was certainly nice when I could call ...(an employee) and tell her all my troubles, and she would run around up there to find out what was going on, you know.” He continued saying the current situation (talking to several different employees rather than a single contact) has been better after the recent Divisional reorganization.

Department Response:

The concerns were reported to the Director of Portfolio Management and Compliance. Additionally, staff assured the consultant in subsequent conversation that recent personnel additions within the Division have alleviated the problem with faxes. The reorganization within PMC ensures timely and measured response to inquiries about HOME contracts. PMC is continuously reviewing suggestions to make a process more efficient and effective and appreciates the comment regarding the HOME contract transaction process.

General Comment: Inspection Process – (1)

Comment:

Comment was received from TAAHP regarding the lack of publishing the inspection rules, policies, and guidance to inspectors or inspection topics for comment by the development community. The current inspection process goes far beyond the requirements of “quality” or testing for application commitments and QAP requirements. Furthermore, the reports received from inspectors are incorrect due to either a misunderstanding of the QAP or application requirements or due to administrative error. The current process then allows for comment by the developer and even if erroneous issues are uncovered or issues are correct a report indicating the corrections/errors is not filed. It was requested that to be developed processes allow developers a chance to respond before inspection reports become final. It was also recommended that the Department not duplicate inspection issues that are being handled by the local municipalities in their inspection process and that the Department focus on commitments during the application process.

Department Response:

In an effort to involve the development community the Department has incorporated the inspection process and expectations as part of the Compliance Monitoring Policies and Procedures. Staff is aware of the errors in the current inspection process and has been working hard to address those issues. As staff moves forward with the new proposed inspection process the plans are to involve the development community to provide the valuable input necessary to make this process a success. The intent of the proposed new language to the inspection process is to place a focus on the Department’s role in construction, which is to assure that threshold requirements and application representations are implemented on the Development.

PUBLIC COMMENT REFERENCES

TAB	NAME	TITLE	ORGANIZATION
1.	John L. Garvin	Executive Director	Texas Affiliation of Affordable Housing Providers
2.	Jim Vann	Grant Administrator	Ray, McKay, Vann and Associates
3.	Fred Fuchs		Texas RioGrande Legal Aid, Inc.
4.	John Henneberger	Co-Director	Texas Low Income Housing Information Service
5.	Jonathan P. Hooks		Lawyers' Committee for Civil Rights Under Law

Texas Administrative Code

<u>TITLE 10</u>	COMMUNITY DEVELOPMENT
<u>PART 1</u>	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
<u>CHAPTER 60</u>	COMPLIANCE ADMINISTRATION
<u>SUBCHAPTER A</u>	COMPLIANCE MONITORING AND ASSET MANAGEMENT
RULE §60.1	Compliance Monitoring Policies and Procedures

TABLE OF CONTENTS

<u>60.1 (a) Purpose</u>	<u>page 2</u>
<u>60.1 (b) Definitions</u>	<u>page 2</u>
<u>60.1 (c) Construction Inspections</u>	<u>page 4</u>
<u>60.1 (d) Monitoring During the Affordability Period</u>	<u>page 5</u>
<u>60.1 (e) Compliance History</u>	<u>page 5</u>
<u>60.1 (f) Section 8 voucher holders</u>	<u>page 6</u>
<u>60.1 (g) Monitoring of Compliance</u>	<u>page 6</u>
<u>60.1 (h) Recordkeeping</u>	<u>page 6</u>
<u>60.1 (i) Reporting</u>	<u>page 8</u>
<u>60.1 (j) Fair Housing Sponsor Report Certification and Review</u>	<u>page 8</u>
<u>60.1 (k) Record Retention provisions</u>	<u>page 11</u>
<u>60.1 (l) Inspection provision</u>	<u>page 12</u>
<u>60.1 (m) Inspection Standard</u>	<u>page 13</u>
<u>60.1 (n) Notices to Owner</u>	<u>page 13</u>
<u>60.1 (o) Notice to the IRS</u>	<u>page 13</u>
<u>60.1 (p) Notices to the Department</u>	<u>page 14</u>
<u>60.1 (q) Utility Allowances</u>	<u>page 14</u>

60.1 (r) Material Noncompliance page 15

60.1 (s) Alternative Dispute Resolution Policy page 20

60.1 (t) Liability page 20

60.1 (u) Applicability to all programs page 20

60.1 (v) Waiver page 20

(a) Purpose. The Department monitors rental developments receiving assistance from the Department, including ~~Low Income Tax Credits, during the construction period and continuing~~ under the Housing Tax Credit program (“HTC”), the HOME program, the Tax Exempt Bond program, the Housing Trust Fund program, and the Federal ~~Deposit Insurance Corporation’s Affordable Housing Program~~. Compliance monitoring begins with the commencement of construction and continues to the end of the long term Affordability Period. The ~~compliance division~~ Portfolio Management and Compliance Division (PMC) monitors to ensure owners comply with the program rules and regulations, Chapter §23062306 of the Texas Government Code, the Land Use Restriction Agreement (LURA) requirements and any conditions and representations imposed by the application or award of funds by the Department, The Portfolio Management and Compliance Division’s processes, eligibility procedures, forms, and ~~further~~ additional programmatic details are set out in the individual program regulations and in Owner’s Compliance Manual(s) prepared by the ~~Department’s Portfolio, Portfolio Management and Compliance~~ Division, as amended from time to time. The rules under this section address processes, reports and records that ~~may~~ are ~~be~~ required by the Department to enable ~~facilitate~~ the Department’s to monitoring of a Development for ~~violations~~ compliance of the with a program’s federal and state rules and regulations. These rules do not address forms and other records that ~~may~~ be ~~may~~ be required of Development Owners by the Internal Revenue Service (“IRS”) or other governmental entities more generally, whether for purposes of filing annual returns or supporting Development Owner tax positions during an IRS or other governmental audit.

(b) 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 ~~on the effective date as specified of~~ 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 and continues through the appropriate program’s affordability requirements or termination of the LURA, which ever 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) Board means the governing board of the Texas Department of Housing and Community Affairs.

- (3) Department means the Texas Department of Housing and Community Affairs, an official and public agency of the State of Texas pursuant to Chapter 2306 of the Texas Government Code.
- (4) Development means 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 and urban areas.
 - (C) a proposed qualified low income housing project, as defined by Section 42(g), Internal Revenue Code of 1986 (26 U.S.C. Section 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 for federal tax purposes, including a project consisting of multiple buildings that are located on scattered sites and contain only rent-restricted units.
- (4)(5) Low Income Unit means a unit that ~~complies with the income restrictions of occupancy requirements of the housing programs administered by the Department. Is is~~ intended for occupancy by an income eligible household.
- (6) 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 subchapter; Chapter 2306, Texas Government Code; the Internal Revenue Code, Section 42; and the requirements of the various programs administered or funded by the Department.
- (57) Material Non-Compliance. A Housing Tax Credit property development located within the state of Texas ~~and monitored by the Department~~ will be classified by the Department as being in material non-compliance status if the non-compliance score for such property development is equal to or exceeds a threshold of 30 points in accordance with the material non-compliance provisions, ~~and~~ methodology, and point system of this title or, if the Housing Tax Credit property development is located outside the state of Texas, and non-compliance is reported to the Department that would equal or exceed a non-compliance threshold score of 30 points if measured in accordance with the methodology and point system set forth in this subsection. ~~The Low Income Housing Tax Credit compliance status score prevails for development layered with more than one Department program.~~ Non Housing Tax Credit development ~~Development~~ Development 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 Housing Tax Credit development~~Development~~ 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 Housing Tax Credit development~~Development~~ 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. For all programs, a Development will be in material noncompliance if the noncompliance is stated in Section (r) of these rules to be material noncompliance. Development

(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.

(c) Construction inspections. The Department, through the ~~Perfekte~~, Portfolio Management and Compliance ~~d~~Division, with responsibility for compliance matters, shall monitor during the construction and rehabilitation process for compliance with all applicable program requirements, including construction threshold criteria and application Development characteristics ~~the entire construction or rehabilitation phase-associated with any Development fundfunded or administered~~ by the Department including Low Income Tax Credits.- Construction inspections conducted by the Department or by an independent third party inspector acceptable to the Department will also monitor for material and workmanship quality during the construction process.

(1) Construction inspection procedures for HTC Developments include:

(A) A mid-construction inspection conducted the earlier of:

(i) 25% of the total number of Development buildings are at least 30% completed and are at a post-wiring/pre-sheetrock stage, or

(ii) 40% of the construction contract amount for the Development adjusted for any change orders has been expended as documented by an inspecting architect.

Evidence of such activity must be submitted within thirty days of (1) or (2) being reached and shall be provided in a format prescribed by the Department.

(B) A final inspection performed at the time the Development is placed in service. Evidence of such activity must be submitted within thirty days and shall be provided in a format prescribed by the Department.

(2) Construction inspection procedures for non-HTC multifamily Developments include:

(A) A plan review performed by the Department or by an independent third party plan reviewer acceptable to the Department. The plan review will confirm inclusion of construction program requirements and Development characteristics identified at application. The plan

review must be completed prior to the borrower or grantee obtaining a Notice to Proceed with Construction.

(B) A mid-construction inspection conducted the earlier of:

- (i) 25% of the total number of Development buildings are at least 30% completed and are at a post-wiring/pre-sheetrock stage, or
- (ii) 40% of the construction contract amount for the Development adjusted for any change orders has been expended as documented by an inspecting architect.

Evidence of such activity must be submitted within thirty days of (1) or (2) being reached and shall be provided in a format prescribed by the Department.

(C) A final inspection performed after completion of construction or rehabilitation, when 100% of the construction contract amount, adjusted for any change orders, has been expended. Evidence of such activity must be submitted within thirty days and shall be provided in a format prescribed by the Department. The inspection is required by the Department in order to release retainage.

(3) Draw request submittals to the Department, for non-HTC Developments, must include construction progress inspection reports which are conducted within 10 days prior to the draw request. The inspections are performed by independent licensed architects or engineers engaged by the borrower or grantee. Evidence of such inspection shall be provided in a format prescribed by the Department.

~~(4) The Department will may require monitor under this requirement by requiring a copy of all reports from all construction inspections performed for the lender and/or syndicator for the Development on behalf of the Applicant as needed. Those reports must indicate that the Department may rely on the information provided in the reports. The Department may provide those inspectors for the lenders and/or syndicator with required documentation to be completed that will confirm satisfaction of the requirements of this rule.~~

(5) Additional inspections may be conducted by the Department or by an independent third party Inspector acceptable to the Department during the construction process. The Applicant must provide the Department with copies of all inspections made throughout the construction of the Development within fifteen days of the date the inspection occurred. In addition, if necessary, based on the level of risk associated with the Development, the Department may inspect or obtain a Third Party inspection for purposes of monitoring during the construction phase. The Department, or any Third Party Inspector hired by the Department, shall be provided, upon request, any construction documents, plans, or specifications for the Development to perform these inspections. The monitoring level for each Development must be based on the amount of risk associated with the Development. The Department shall use as determined by the Real Estate Analysis division responsible for credit underwriting matters and or the Portfolio Management and Compliance division, responsible for compliance matters to determine the amount of risk associated with each Development. The Portfolio Management and Compliance Division identify

HTC Developments to be at high risk if inspections identify issues with construction threshold criteria and Development characteristics identified at application. The Portfolio Management and Compliance Division 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.

(6) After completion of a Development's construction phase, the Department shall periodically reviews the performance of the Development to confirm the accuracy of the Department's initial compliance evaluation during the construction phase. 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 with copies of all inspections made by TX-USDA-RHS throughout the construction of the Development within fifteen days of the date the inspection occurred. (§2306.081)

(d) On-going Monitoring. During the Affordability Period, The Department will monitor compliance with all 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, §42 of the Internal Revenue Code, §142 of the Internal Revenue Code Treasury Regulations or other rulings of the IRS, Community Planning and Development (CPD) Notices and Chapters 51 and 53 of this title or undertaken by the Development Owner in response to Department requirements or criteria.

(e) Compliance history. Prior to Board approval of any project development application, the Portfolio Management and eCompliance Division shall assess the compliance history of the Applicant and any affiliate of the Applicant with respect to all applicable requirements and any compliance issues associated with the proposed Development, pursuant to §2306.057 of Texas Government Code. The Portfolio, Portfolio Management and eCompliance Division will provide the Board:

- (1) the compliance history of the Applicant and any affiliate of the Applicant with respect to all applicable requirements;
- (2) the compliance issues associated with the proposed project Development; and
- (3) a written report regarding the results of the assessments. ; and

(4) The Board shall fully document and disclose any instances in which the Board approves a project Development application despite any non-compliance associated with the project Development, Applicant, or affiliate.

(4) Reserve deposits. The Department will ensure that, for multifamily rental housing developments funded through loans, grants, or tax credit, the owner keeps the rents affordable restricted for low income residents for the longest period that is economically feasible and provides regular maintenance to keep the development sanitary, safe and decent and otherwise complies with the requirements of §2306.186. The Department shall monitor to ensure compliance with this subsection.

~~(1) Rental developments that receive financial assistance including low income housing tax credits from the Texas Department of Housing and Community Affairs on or after January 1, 2004, are required to comply with this subsection. Only those rental developments that receive financial assistance including tax credits or where the Department is the first lien lender that contains 25 or more rental units On or after January 1, 2004, all rental developments that:~~

~~_____ (A) receive Housing Tax Credits or~~

~~_____ receive financial assistance and contain 25 or more units and have the Department as first lien holder shall comply with this subsection. shall and shall deposit annually into a reserve account:~~

~~_____ (Ai) for year 2004 and each subsequent year not less than \$150 per unit for _____ units one to five years old; and; and~~

~~_____ (Bii) not less than \$200 per unit for units six or more years old.~~

~~_____ (iii) These amounts may be increased annually based on the Consumer _____ Price Index.~~

~~(2) With respect to multifamily rental developments, if the reserve fund has not been established by the first lien lender, the Development Owner shall set aside the repair reserves amount as a reserve for capital improvements. The reserve must be established for each unit in the development, regardless of the amount of rent charged for the unit.~~

~~(3) The Land Use Restriction Agreement or restrictive covenant between the owner and the Department shall require the owner to begin making annual deposits in the reserve account on the date that occupancy of the multifamily rental housing development stabilizes reaches 90% of the date that permanent financing for the development is completely in place, whichever occurs later, and shall continue until the earliest of the following dates:~~

~~_____ (A) the date of any involuntary change in ownership of the development;~~

~~_____ (B) the date on which the owner suffers a total casualty loss with respect to the Development or 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 multifamily rental property; or~~

~~_____ (E) the end of the affordability period specified in the land use restriction agreement or restrictive covenant.~~

~~(4) Beginning with the 11th year after the awarding of any financial assistance including tax credits, the Development Owner of a multifamily rental housing development shall contract for a third party physical needs assessment at appropriate intervals that are consistent with lender requirements with respect to the Development. If the first lien lender does not require a third party physical needs assessment or if the Department is the first lien lender, the Development Owner shall contract with a third party to conduct a physical needs assessment at least once during each five-year period beginning with the 11th year after the awarding of any financial assistance including tax credits. The Development Owner shall submit to the Department copies of the most recent third party physical needs assessment, any response by the Development Owner to the assessment, information on any repairs made in response to the assessment, and information on any necessary changes to the required reserve based on the assessment.~~

~~(5) The Department may complete necessary repairs if the Development Owner fails to complete the repairs as required by the third party physical needs assessment. Payment of the repairs must be made directly by the Development Owner or through the reserve account established for the Development.~~

~~(6) If notified of the Development Owner's failure to comply with a local health, safety, or building code, the Department may enter on the property and complete any repairs necessary to correct a violation of that code, as identified in the applicable violation report, and may pay for those repairs through the reserve account established for the Development.~~

~~(7) The duties of the Development Owner of a multifamily rental development cease on the date of a voluntary change in ownership of the Development, but the subsequent owner is subject to the deposit, inspection and notification requirements of paragraphs (1) (64) of this subsection.~~

~~(8) The first lien lender shall maintain the reserve account. In the event there is no longer a first lien lender, then paragraphs (1) and (2) of this subsection no longer apply.~~

~~(9) The Department shall adopt rules:~~

~~(A) to establish requirement and standards regarding:~~

~~(i) for first lien lenders and bank trustees:~~

~~(I) maintenance of reserve accounts and reasonable cost of the maintenance;~~

~~(II) asset management;~~

~~(III) transfer of money in reserve accounts to the Department to fund necessary repairs; and~~

~~(IV) oversight of reserve accounts and the provision of financial data and other information to the Department; and~~

~~(ii) for Development Owners, inspections of the multifamily rental housing developments and identification of necessary repairs, including requirements and standards regarding construction, rehabilitation, and occupancy that may enable quicker identification of those repairs; and~~

~~(B) to identify circumstances in which money in the reserve accounts may:~~

~~(i) be used for expense other than necessary repairs, including property taxes or insurance;~~

- ~~_____~~ (ii) fall below mandatory deposit levels without resulting in Department action;
 - ~~_____~~ (iii) define the scope of Department oversight of reserve accounts and the repair process;
 - ~~_____~~ (iv) provide the consequences of any failure to make a required deposit, including a definition of good cause, if any, for a failure to make a required deposit;
 - ~~_____~~ (v) specify or create processes and standards to be used by the Department to obtain repair for developments;
 - ~~_____~~ (vi) define for purposes of paragraph (3) of this subsection the date on which occupancy of a Development is considered to have stabilized and the date on which permanent financing is considered to be completely in place; and
 - ~~_____~~ (vii) provide for appointment of a bond trustee as necessary under this subsection.
- ~~_____~~ (109) The Department shall assess an administrative penalty on Development Owners _____ who fail to contract for the third part physical needs assessment and make the identified _____ repairs as required by this section. The Department may assess the administrative penalty _____ in the same manner as allowed pursuant to §2306.6023. The penalty is computed by _____ multiplying \$200 by the number of dwelling units in the Development and must be paid _____ to the Department.
- ~~_____~~ (110) This section does not apply to a Development for which an owner is required to _____ maintain a reserve account under any other provision of federal or state law.

~~(g)~~ Section 8 voucher holders. The Department will monitor to ensure development owners comply with §1.14 of this title regarding residents receiving rental assistance under Section 8, United States Housing Act of 1937 (42 U.S. C. §1437F). (§2306.269 and §2306.6728 of the Texas Government Code).

~~(g)~~ Monitoring of compliance. The Department may contract with an independent ~~external~~ third party to monitor a Development during ~~its~~ construction or rehabilitation and during ~~its~~ operation for compliance with any conditions imposed by the Department in connection with funding or other Department oversight including housing tax credits to the Development and appropriate state and federal laws, as required by other state law or by the Board. (§2306.6719 of the Texas Government Code).

~~(h)~~ Recordkeeping. All Development Owners must comply with program recordkeeping requirements. In addition, records including items listed in paragraphs (1) - (12) of this subsection must be kept for each qualified low income rental unit and building in the Development, commencing with lease up activities and continuing on an ~~annual~~ monthly basis until the end of the affordability period. (~~§2306.072~~) 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 ~~of~~ 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 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 ~~in the Compliance Manual~~, 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 ~~ethnic~~ makeup ethnicity of the residents of each Developing;
- ____(11) the number of units occupied ~~by~~ by households, ~~individuals~~ receiving government-supported housing assistance and the type of assistance received; and
- ____(12) any additional information as required by the Department.

(j) Reporting. Each Developing shall submit reports as required by the Department. Each Developing that receives financial assistance or is that receives financial assistance administered by the Department including Low Income Housing Tax Credits from the Department The FDIC's Affordable Housing Program shall submit the information required under this subsection (j) of this section ~~in the which describes the~~ annual Fair Housing Sponsor Report pursuant to required by §2306.072 and §2306.0724 of the Texas Government Code. The Department may require this information to be submitted electronically and This information shall be electronically reported in the format prescribed by the Department. Section 1.11 of this title contains procedures regarding filing and penalties for failure to file reports.

____(1) Part A, the "Owner's Certification of Program Compliance"; Part B, the "Unit Status Report"; and Part C, "Tenant Services Provided Report" of the Fair Housing Sponsor Report, must be provided to the Department no later than March 1st of each year, reporting data current as of January 1 of each 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, ~~which includes the current audited financial statements, and income and expenses of the Development for the prior year.~~ A Full description of the Fair Housing Sponsor Report is contained in subsection (m) of this section.

~~=(2)~~ The Department maintains ~~a summary of~~ the information reported by the Fair Housing Sponsor Report pursuant to §2306.0724(c) of the Texas Government Code~~2(6)~~ in electronic and hard-copy formats available at no charge to the public.

~~=(3)~~ Rental developments funded or administered by the Department, including by HOME, Housing Trust Fund, the FDIC's Affordable Housing Program, ~~and~~ ~~and~~ any other rental programs ~~fund~~ funded or ~~administered~~ by 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 ~~tenant information~~ the Unit Status Report at least annually and as required by this subsection.

~~=(4)~~ Developments financed by tax exempt bonds issued by the Department shall report quarterly throughout the Qualified Project Period or until released by the Department.

~~=(5)~~ The Department ~~retains the right to~~ requires ~~the all~~ Owners of properties administered by the Department ~~to~~ submit the Unit Status Report ~~tenant data~~ in the electronic format ~~as developed~~ by the Department. The Electronic Compliance Reporting Filing Agreement and the Owner's Designation of Administrator of Accounts forms must be filed with the Department no later than January 31, 2005. Developments that are awarded funds in the future must submit the required forms 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 the Unit Status Report online.

~~=(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. This information will be reported on the Department's internet site and will include the following:

- ~~(A)~~ the name, if any, of the development;
- ~~(B)~~ the street address of the development;
- ~~(C)~~ the number of housing units in the development that are designed for persons with disabilities and that are available for lease;
- ~~(D)~~ the number of bedrooms in each housing units designed for a person with a disability;
- ~~(E)~~ the special features that characterize each housing unit's suitability for a person with disabilities;
- ~~(F)~~ the rent for each housing unit designed for a person with a disability; and
- ~~(G)~~ the telephone number and name of the development manager or agent to whom inquiries by prospective tenants may be made.

~~(k) Database. The Department shall create an easily accessible database that contains all Development compliance information developed under this section including Development compliance information provided to the Department by The Texas State Affordable Housing Corporation. (§2306.081)~~

~~_____ (4) Information regarding housing for persons with disabilities. The Department shall establish a system that requires owners of state or federally assisted housing developments with 20 or more housing units to report information regarding housing units designed for persons with disabilities pursuant to §2306.078. The system will allow an owner of a development with at least one housing unit designed for a person with a disability to enter the following information on the Department's Internet site:~~

- ~~- _____ (1) the name, if any of the Development;~~
- ~~- _____ (2) the street address of the Development;~~
- ~~- _____ (3) the number of housing units in the Development that are designed for persons with disabilities and that are available for lease;~~
- ~~- _____ (4) the number of bedrooms in each housing unit designed for a person with a disability;~~
- ~~- _____ (5) the special features that characterize each housing unit's suitability for a person with a disability;~~
- ~~- _____ (6) the rent for each housing unit designed for a person with a disability; and~~
- ~~- _____ (7) the telephone number and name of the Development manager or agent to whom inquiries by prospective tenants may be made. The Department shall solicit the owner's voluntary provision of updated information.~~

~~(~~##~~k) Fair Housing Sponsor Report Certification and Review.~~

~~_____ (1) On or before February 1st of each year of the affordability period, the Department will send each rental Development Owner a reminder that the Fair Housing Sponsor Report (forms provided by the Department available on the Department's website) to must be completed by the Owner and returned to the Department on or before the first day of March of applicable deadline each year during the Affordability Period. The Department may require some or all of the Fair Housing Sponsor Report to be submitted electronically. The Fair Housing Sponsor Report shall consist of:~~

- ~~_____ (A) Part A, "Owner's Certification of Program Compliance";~~
- ~~_____ (B) Part B, "Unit Status Report";~~
- ~~_____ (C) Part C, "Tenant Services Provided Report"; and~~
- ~~_____ (D) Part D, "Owner's Financial Certification" .~~

~~_____ (2) Penalties and sanctions are assessed in accordance ~~to~~with §1.11(d) of this title for failure to provide the Fair Housing Sponsor Report in part or entirety, including administrative penalties and denial of future requests for Department funding.~~

~~_____ (3) Any ~~d~~Development for which the Fair Housing Sponsor Report Part A, "Owner Certification of Program Compliance," is not received or is received past due will be considered not in compliance with these rules. If Part A, ~~or~~ is incomplete, improperly completed or not signed by the Development Owner, it will be considered not received and ~~is considered~~ 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 Housing Tax Credit development that fails to comply with this section. ~~Tax credit Developments~~~~

~~will be considered not in compliance with the provisions of §42 of the Code and will be reported to the IRS on Form 8823, Low Income Housing Credit Agencies Report of Non-Compliance.~~
The Fair Housing Sponsor Report Part A shall include at a minimum the following statements of the Development Owner:

~~_____~~ (A) the Development met the minimum set aside test which was applicable to the Development;

~~_____~~ (B) 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 (~~LHHC-ITC~~ only);

~~_____~~ (C) the Development Owner has received an annual income certification from each low income resident and documentation to support that certification, in the ~~proper~~ manner and form ~~designated~~ required by the Department's Compliance Manual, as may be ~~modified~~ amended from time to time;

~~_____~~ (D) 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 the Code, §42(g) as described in the Compliance Manual;

~~_____~~ (E) each low income unit in the Development was rent-restricted under the Land Use Restriction Agreements and applicable program regulations, including IRC Code, §42(g) (2), 24 CFR Part 92, and ~~the~~ owner maintained documentation to support the utility allowance applicable to such unit;

~~_____~~ (F) 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 Code) (~~LHHC-ITC~~ and Bond only);

~~_____~~ (G) 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~~ 3616a (a)(1), or an adverse judgment from a federal court.

~~In addition a statement as to whether the Development 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 Commission on Human Rights (or equivalent agency) or with the United States Department of Justice;~~

_____ (H) each unit or building in the Development is, and has been, suitable for occupancy, taking into account 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;

_____ (I) each unit meets conditions set by Housing Quality Standards and an annual inspection to confirm the condition has been performed/performed-if applicable; (HOME only)

_____ (J) there has been no change in the Eligible Basis (as defined by §42(d) of the Code) for any building in the Development since the last certification or, if _____ changes, the nature of the change; (HTC only)

_____ (K) 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 without charge to any tenants in the Development/the Development.

_____ (L) For tax credit Developments, Residents have not been charged for the certification that the character and use of the any nonresidential portion of the building that was included in the building's Eligible Basis under the §42(d) of the Internal Revenue Code, §42(d), (e.g. _____ whether tenant facilities are available on a comparable basis to all tenants; whether any fee is charged for use of the facilities; whether facilities are reasonably required by the Development)-(L/HTC-HTC only);

_____ (M) 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 tax and tax exempt bonds only)

_____ (N) 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;

_____ (O) a LURA including an Extended Low Income Housing Commitment as described in §42(h)(6) of the Internal Revenue Code, §42(h)(6), 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 Internal Revenue Code, §42(h)(6)(B)(iv), 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) (~~EHHC-HTC~~ HTC only);

~~_____~~ (~~OP~~) 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 §42 of the Internal Revenue Code, §42; (HTC only)

~~_____~~ (~~PQ~~) if the Development Owner is required to be a ~~received its Housing Credit Allocation from the portion of the state-esting set aside for developments involving~~ Qualified Nonprofit Organizations under §42(h)(5) of the Internal Revenue Code, §42(h)(5); 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 Internal Revenue Code, §469(h); (EHHC-HTC only);

~~_____~~ (~~QR~~) no low income units in the Development were occupied by ineligible full time student households; (HTC and tax exempt bonds only)

~~_____~~ (~~RS~~) no change in the ownership of ~~a~~ the Development has occurred during the reporting period or changes and transfers were or are reported;

~~_____~~ (~~ST~~) 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;

~~_____~~ (~~TU~~) the Development has made all required lender deposits, including annual reserve deposits;

~~_____~~ (~~UV~~) the street address and municipality or county in which the Development is located;

~~_____~~ (~~VW~~) the name, address contact person, telephone and telephone number of the property management or leasing agent;

~~(_____~~ (~~W~~) ~~a statement as to whether the Development has any instance of material non-compliance with bond indentures or deed restrictions including meeting _____ restriction of financing agreements; and~~

~~_____~~ (~~XX~~) any additional information as required by the Department.

~~_____~~ (4) Review. Department staff will review Part A of the Fair Housing Sponsor Report for compliance with the requirements of the appropriate program including §42 of the Internal Revenue Code §42.

~~(#k)~~ Record retention provisions. Each Development that is administered by the received assistance from the Department including Low Income Housing Tax Credits the FDIC's Affordable Housing

Program 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 paragraphs (1) - (4) of this subsection;

 (1) ~~Low Income~~-Housing Tax Credits records, as described in subsection ~~(h)~~ of this section, must be retained for at least six years after the due date (with extensions) ~~for filing 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.

 (2) 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.

 (3) ~~Retention of records for~~-Housing Trust Fund rental developments ~~pertaining to~~ must retain tenant files ~~must be retained~~ 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, ~~project~~development costs and documentation, must be retained for ~~at least~~ at least five years after the affordability period terminates.

 (4) 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.

~~(eml)~~ Inspection provision. The Department retains the right to perform an on-site inspection of any low income Development, and review and photocopy including all books, documents, and records pertaining ~~there to~~ supporting compliance with Departmental programs, through either the end of the Compliance Period or the end of the period covered by any Extended Low Income Housing Commitment, whichever is later.

 (1) The Department will perform on-site inspections and file reviews of each low income Development. The Department will conduct the first a review of ~~Low Income~~-Housing Tax Credit Development~~ss~~ 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 a the first review of all other Developments as leasing commences. Subsequent reviews will occur at least once every three years during the compliance period. The Department will monitor at least ~~20~~ 15% of the low income ~~units~~ resident files in each Development, ~~inspect the units~~ and review the ~~low~~ income certifications, the documentation the Development Owner has received to support the certifications, the rent records ~~for each low income tenant in these units,~~ 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 ~~property~~ development, property development amenities, and an interior inspection of a sample of units.

~~(2) During the affordability period, at least once every three years, the Department will conduct on-site inspections and file reviews of each Development and, for at least 15% or more of the~~

development's low income units, inspect the units and review the low income certifications, the documentation supporting the certifications, the rent records for the tenants in those units and any additional information that the Department deems necessary.

_____ (32) The Department may, at the time and in the form designated by the Department, require the Development Owners to submit, ~~for compliance review,~~ information on tenant income and rent for each low income unit and may require a Development Owner to submit, ~~for compliance review,~~ 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.

_____ (43) The Department will ~~randomly select which the~~ low income units and tenant records ~~that are are~~ to be inspected and reviewed. ~~The review of the tenant records may be undertaken wherever the Development owner maintains or stores the records if located within the state of Texas.~~ Original records are required for review. ~~The Department will not Units and tenant records to be inspected and reviewed will be selected in a manner that will not give~~ Development Owners advance notice that a particular unit, ~~and~~ tenant records ~~for or~~ a particular year will ~~or will not~~ 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 that the Development Owner may notify tenants of the inspection or assemble original tenant records for review.

_____ (54) The Department will conduct a limited inspection ~~to determine 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. and make referrals to appropriate federal and state agencies.

_____ (65) Exception: The Department may, at its discretion, enter into a Memorandum of Understanding with the United States Department of Agriculture Rural Development Housing Service (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 ~~by the TX-USDA RHS~~ under its §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.

(~~pam~~) Inspection Standard. ~~For the on-site inspections of developments and low income units, To determine compliance with property condition standards~~ the Department shall review any local health, safety, or building code violation ~~s-reported-reports to,~~ or notices ~~of such violations retained by,~~ the Development Owner, ~~under subsection (m)(3)(H) of this section, and determine whether the units satisfy local health, safety, and building codes or the uniform physical condition standards for public housing~~

~~established by HUD (24 CFR 5.703) or Housing Quality Standards. The HUD physical condition standards do not supersede or preempt local health, safety and building codes. In the absence of local health, safety and building code violation reports or and if deemed necessary by the Department, inspections by third-party inspectors or local government entities will 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 the Housing Quality Standards and may use those standards to determine compliance with property condition standards. Developments must continue to satisfy these codes and maintain property condition standards throughout the affordability period. Housing Tax Credit Developments that fail to copy comply with local codes or the uniform physical condition standards must be reported to the IRS.~~

~~(gen)~~ Notices to Owner. The Department will provide prompt written notice to the Development Owner if the Department does not receive the Fair Housing Sponsor Report or discovers through audit, inspection, review or any other manner that the Department is not in compliance with the provisions of the deed restrictions, conditions imposed by the Department, or program rules and regulations, including §42. The notice will specify a correction period which will not exceed 90 days from the date of notice to the Development Owner, during which the Development Owner may respond to the Department's findings, bring the Development into compliance, or supply any missing documentation or certifications. The Department may extend the correction period for up to six months from the date of the notice to the Development Owner if it determines there is good cause for granting an extension. If any communication to the Development Owner under this section is returned to the Department as refused, unclaimed or undeliverable, the Development may be considered not in compliance without further notice to the Development Owner. The Development Owner is responsible ~~to provide for providing the~~ Department with current contact information including address and phone number.

~~(#90)~~ Notice to the IRS. (~~Low Income~~Housing Tax Credit Developments only)

~~_____~~ (1) Regardless of whether the non-compliance is corrected, the Department is required to file IRS Form 8823 with the IRS. IRS Form 8823 will be filed not later than 45 days after the end of the correction period specified in the Notice to Owner (including any extensions permitted by the Department), but will not be filed before the end of the correction period. The Department will ~~explain~~ indicate on IRS Form 8823 the nature of the non-compliance and will indicate whether the Development Owner has corrected the non-compliance.

~~_____~~ (2) ~~If a particular instance of non-compliance is not corrected within three years after the end of the permitted correction period, the Department is not required to report any subsequent correction to the IRS.~~

~~_____~~ (3) The Department will retain records of non-compliance or failure to certify for six years beyond the Department's filing of the respective IRS Form 8823. ~~In all other cases, the Department will retain the Fair Housing Sponsor Reports and records, certification and reports for three years from the end of the calendar year the Department receives the~~ certifications and records.

~~_____~~ (43) The Department will send the ~~O~~owner of ~~R~~record copies of any 8823s submitted to the IRS. Copies of 8823s will be submitted to the syndicator for Developments awarded tax ~~credits~~ after January 1, 2004. The Development owner is responsible for providing the name and mailing address of the syndicator.

~~(5g)~~ Notices to the Department. If any of the events in paragraphs (1) through (6) occur, written notice must be provided within the timeframes listed below: A Development Owner must provide information to the Department for events listed in paragraphs (1) ~~(5) of this subsection and must notify the division responsible for compliance in writing:~~

~~_____~~ (1) ~~prior to a~~Any sale, transfer, exchange, or renaming of the Development or any portion of the Development. Notification must be provided at least 30 days prior to this event. For Rural Developments that are federally assisted or purchased from HUD, the Department shall not authorize the sale of any portion of the Development. Any transfers of ownership must follow procedures as required by the Department (§2306.852 of the Texas Government Code);

~~_____~~ (2) The mailing address of the owner changes. Notification must be provided within 30 days of the address change.
of any change of address to which subsequent notices or communications shall be sent;

~~_____~~ (3) The last building in the Development is placed in service. Notification must be provided within 30 days of the placement in service of the last building. ~~within thirty days of the placement in service of each building, the Department must be provided the in-service date of each building (LHTC-HTC –only);~~

~~_____~~ (4) ~~if~~The Development suffers in whole or in part has suffered a casualty loss.
Notification must be provided within 30 days following the event of loss, ~~and when the loss occurs;~~ and

~~_____~~ (5) ~~within thirty days of e~~Commencement of leasing activity. Notification must be provided within 30 days following the commencement of leasing activities. In addition, Owners of Tax Exempt Bond Developments shall notify the Department of the date 10 percent of the units are occupied and the date 50 percent of the units are occupied within 90 days of such dates.

~~(6)~~ Request for a Land Use Restriction Agreement. Request for a LURA must be provided no later than September 1st of the calendar year in which the owner intends to have it recorded. A request for a LURA received after September 1st may not be processed by the Department in the same calendar year.

~~(#g)~~ Utility allowances.

~~_____~~ (1) The Department will monitor to determine if Housing Tax Credit and Tax Exempt bond properties comply with published rent limits, which include an allowance for utilities for utilities. If residents are responsible for some or all utilities, Development owners must use a Utility Allowance that complies with Section 1.42-10 of the Internal Revenue Code Regulations, whether rents comply with the published rent limits using the utility allowances established by the local housing authority or approved by the Department. 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.

~~_____~~ (2) The Department will monitor to determine if HOME and Housing Trust Fund Developments comply with published rent limits, which include an allowance for utilities. Unless otherwise approved by the Department, HOME and Housing Trust Fund Developments must use the utility allowance established by the applicable housing authority. Changes in utility allowances must be implemented on the published effective date.

~~(usr)~~ Material Non-Compliance. For all programs, a Development will be in material noncompliance if the noncompliance is stated in Section (r) of these rules 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. In accordance with the Low Income Tax Credit QAP and Department Notices of Funding Availability (NOFAs), the Department will disqualify an Application for funding if the Applicant, the Development Owner, or 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 located in or outside the State of Texas is determined by the Department to be in Material Non-Compliance on the date the Application Round closes. The Department will classify a property development as being in Material Non-Compliance when such property development has a Non-Compliance score that is equal to or exceeds 30 points in accordance with the methodology and point system set forth in this subsection, or, if the property development is located outside the state of Texas, non-compliance is reported to the Department that would equal or exceed a non-compliance score of 30 points if measured in accordance with the methodology and point system set forth in this subsection.

~~_____~~ (1) Each property development that has received an allocation from is administered by the Department will be scored according to the type and number of non-compliance events as it relates to the Low Income Housing Tax Credit Program or other Department programs. All Developments regardless of status that have received an allocation are or have been administered by the Department are scored even if the project development no longer actively participates in the program. Unless otherwise specified below, under the Low Income Housing Tax Credit program, non-compliance events issued on Form 8823 are assigned point values. For other programs monitored-administered by the Department, unless otherwise

specified below, non-compliance events identified during on-site monitoring reviews are assigned point values.

 (2) Uncorrected non-compliance will carry the maximum number of points until the non-compliance event has been reported corrected by the Department. Once reported corrected by the Department, the score will be reduced to the "corrected value." Corrected non-compliance will no longer be included in the Development score three years after the date the non-compliance was reported corrected by the Department.

 ~~(A)~~ (A) Under the Low Income Housing Tax Credit Program, non-compliance 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 non-compliance event. The score for these events will no longer be included in the Development's score three years after the date the Form 8823 was executed.

 (B) The score in effect on the date the Housing Tax Credit program application round closes or the date of the filing of Volume I of the application for a Tax Exempt Bond Development will determine if any rental development disclosed on previous participation forms is in material non-compliance. For applications submitted for funding, a non-compliance report will be run by the Department's Compliance Division, for any rental developments disclosed on the Previous Participation Forms, on the date the Low Income Housing Tax Credit Program Application Round closes.

 (C) Any corrective action documentation affecting ~~this~~ the compliance status score must be received by the Department two weeks ~~thirty days~~ prior to the date the Low Income Housing Tax Credit Program Application Round closes or thirty days prior to the submission of Volume I of the application for a Tax Exempt Bond Development.

 (3) Events of non-compliance are categorized as either "development events" or "unit/building events." Development events of non-compliance affect some or all the buildings in the property development; however, the property development will receive only one score for the event rather than a score for each building. Other types of non-compliance are identified individually by unit. This type of non-compliance will receive the appropriate score for each unit cited with an event. The unit scores and the development scores accumulate towards the total score of the Development. Violations ~~on~~ under the Low Income Housing Tax Credit program Developments are identified by unit; however, the building is scored rather than the unit, and the building will receive the non-compliance score if one or ~~at~~ more of the units are in non-compliance.

~~Development and unit events affect applications of Development Team Members participating in a subsequent year allocation.~~

_____ (4) Each type of non-compliance is assigned a point value. The point value for non-compliance is reduced upon correction of the non-compliance. The scoring point system and values are as described in subparagraphs (A) and (B) of this paragraph. The point system weighs certain types of non-compliance more heavily than others; therefore certain non-compliance events carry a sufficient number of points to automatically place the property development in Material Non-Compliance. However, other types of non-compliance by themselves do not warrant the classification of Material Non-Compliance. Multiple occurrences of these types of non-compliance events may produce enough points to cause the property development to be in Material Non-Compliance.

~~For purposes of these scores, the terms "uncorrected" and "corrected" refer to actions taken subsequent to notification of non-compliance by the Department.~~

(A) Development Non-Compliance items are identified in clauses (i) - (~~xxiv~~xxvii) of ~~this~~ subparagraph.

_____ (i) Major property condition violations. ~~As determined by the Department, the project development displays major violations of health, safety and building codes. Uncorrected, this is material non-compliance. or the property does not satisfy the uniform physical condition standards. Uncorrected is equal to the material non-compliance status threshold score as defined in Section (b) (7) of these rules. 30 points. Corrected is 20 points.~~

_____ (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 non-compliance. Uncorrected is equal to the material non-compliance status threshold score as defined in Section (b)(7) of these rules. 30 points. Corrected is 10 points.

_____ (iii) Development is not available to general public. Determination of violation under the Fair Housing Act. Uncorrected, this is material non-compliance. Uncorrected is equal to the material non-compliance status threshold score as defined in Section (b)(7) of these rules. 30 points. Corrected is 10 points.

_____ (iv) Development is out of compliance and never expected to comply. Uncorrected, this is material non-compliance. Uncorrected is equal to the material non-compliance status threshold score as defined in Section (b)(7) of these rules. 30 points.

_____ (v) ~~Development is completed without a threshold amenity or an amenity for which points were received without seeking and receiving consent for~~

~~an acceptable substitution from the Department. Uncorrected is 30 points.~~
~~Acceptable substitution after violation is 10 points.~~

(v) 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 Section (b)(7) of these rules. Corrected is 5 points.

~~(vi) 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 Section (b)(7) of these rules. Corrected is 5 points.~~

~~(vi) Development is not completed by due date of the cost certification documentation. 25 points.~~

~~(vii) Developments awarded Housing tax Tax eCredits 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.~~

~~(viii) 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. (~~LHTC~~-HTC and BOND only)~~

~~(ix) No evidence of, or failure to certify to, non-profit material participation for Owner having received an allocation from the Nonprofit Set-Aside. Uncorrected is 10 points. Corrected is 3 points.~~

~~(x) 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. Development has failed to meet state restrictions, if any, that exist in addition to the federal requirements. Uncorrected is 10 points. Corrected is 3 points.~~

~~(xi) The Development failed to provide required supportive services as promised at Application. Uncorrected is 10 points. Corrected is 3 points.~~

~~(xii)~~ The Development failed to provide housing to the elderly as promised at Application. Uncorrected is 10 points. Corrected is 3 points.

~~(xiii)~~ 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.

~~(xiv)~~ The Development Owner failed to provide required annual notification to local administering agency for the Section 8 program. Uncorrected is 5 points. Corrected is 2 points.

(xv) 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. (~~LHTC-HTC~~ Development only) ~~and scored by project~~

(xvi) Owner failed to post Fair Housing Logo and/or poster in leasing offices. Uncorrected is 3 points. Corrected is 1 point.

~~(xvii) LURA not in effect. The LURA was not executed within the required time period. Uncorrected is 10 points. Corrected is 3 points. (LHTC only)~~

~~(xviii) Owner failed to pay fees or allow on-site monitoring review. Uncorrected is 3 points. Corrected is 1 point.~~

~~(xix)~~ Failure to submit part or all of the Fair Housing Sponsor Report or failure to submit any other annual, monthly, or quarterly report required by the Department. Uncorrected is 10 points. Corrected is 3 points.

~~(xxix)~~ Owner failed to make available or maintain management plan with required language as required under §1.14 of this title. Uncorrected is 3 points. Corrected is 1 point.

~~(xiv)~~ Owner failed to approve and distribute Affirmative Marketing Plan as required under §1.14 of this title. Uncorrected is 3 points. Corrected is 1 point.

~~(xx)~~ Pattern of minor property condition violations. Development displays a pattern of property violations; however, those violations do not impair essential services and safeguards for tenants. Uncorrected is 5 points. Corrected is 2 points.

(~~xxiii~~xxii) Development failed to comply with requirements limiting minimum income standards for Section 8 residents. Complaints ~~verified~~verified by the Department regarding violations of the income standard ~~while~~because~~which~~ cause exclusion from admission of Section 8 resident(s) results in a violation. Uncorrected score 10 points. Corrected 3 points.

(xxiv) 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 Section (b)(7) of these rules. Corrected is 10 points. One point for each succeeding month of default up to 20 points.

(xxv) Utility allowance not calculated properly. Uncorrected 3 points. Corrected 1 point.

(xxvi) Failure to comply with the Next Available Qualifying Unit Rule. Uncorrected 3 points. Corrected 1 point.

(xxvii) Owner failed to execute required lease provisions or exclude prohibited lease language. Uncorrected 3 points. Corrected 1 point (All programs, except Housing Tax Credits)

(xxviii) Failure to provide annual Housing Quality Standards inspection. Uncorrected 10 points. Corrected 3 points. (HOME Only)

(xxix) Development has failed to establish and maintain a reserve account in accordance with Section 1.37 of title 10, Texas Administrative Code. 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 (b) (7) of these rules. Corrected is 10 points.

(B) Unit Non-Compliance items are identified in clauses (i) - (x) of this subparagraph.

(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 3 points. Corrected is 1 point

(ii) Low-income units occupied by nonqualified full-time students. Uncorrected is 3 points. Corrected is 1 point. (~~LHHC~~LHC and Bond only)

_____ (iii) Low income units used on transient basis. Uncorrected is 3 points. Corrected is 1 point. (~~LHHC~~HTC and Bond only)

_____ (iv) Household income increased above the recertification limit and available Unit was rented to market tenant. Uncorrected is 3 points. Corrected is 1 point.

_____ (v) Gross rent exceeds ~~rent~~the highest rent allowed under the LURA or other deed restriction~~limit~~. Uncorrected is 3 points. Corrected is 1 point.

_____ (~~vi~~) ~~Utility allowance not calculated properly. Uncorrected is 3 points. Corrected is 1 point.~~

_____ (~~vi~~) Failure to maintain or provide tenant income certification and documentation. Uncorrected is 3 points. Corrected is 1 point.

_____ (~~viii~~) 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 ~~LHHC~~HTC Developments.

_____ (~~ix~~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 3 points. Corrected 1 point.

_____ (~~ix~~) Unit not available for rent. Unit is used for non-residential purposes excluding unavailable Units due to casualty and manager-occupied Units. Uncorrected is 3 points. Corrected is 1 point.

_____ (~~x~~) ~~Qualifying unit designation removed from household. Uncorrected 3 points. Corrected 1 point. (FDIC's Affordable Housing Program only)~~

(s) 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 any time an applicant or other person would like to engage the Department in an ADR process, 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.

~~(vtt)~~ Liability. Compliance with the program requirements including compliance with the Code, §42, is the sole responsibility of the Development owner. By monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the Development Owner including the Development Owner's non-compliance with §42 the Internal Revenue Code, the HOME program regulations, the Tax Exempt Bond program requirements, and all other program monitored by the Department, §42.

~~(wuu)~~ Applicability to all programs. These provisions apply to all Developments administered by the ~~for which the Department has provided funding~~ including the FDIC's Affordable Housing Program

(v) Waiver. The Board, in its discretion and within the limits of law, 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.~~low income housing tax credits.~~

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2005

Action Items

2005 Housing Tax Credit Application Submission Procedures Manual: In accordance with §2306.67022 of Texas Government Code, the Board is required to adopt a Qualified Allocation Plan (QAP) and corresponding manual annually. This action item is for the manual only.

Required Action

Approve the 2005 Housing Tax Credit Application Submission Procedures Manual.

Background and Recommendations

The Application Submission Procedures Manual (ASPM) is the manual that is generated annually and provided to applicants to describe the logistics for submitting and packaging their application in accordance with our requirements.



Multifamily Finance Production Division

**2005 APPLICATION SUBMISSION PROCEDURES MANUAL (ASPM) for
Competitive Housing Tax Credits**

TABLE OF CONTENTS

APPLICATION SUBMISSION PROCEDURES MANUAL..... 2

PRE-APPLICATION AND APPLICATION SUBMISSION 3

FORMAT FOR SUBMITTING THE PRE-APPLICATION 3

FORMAT FOR PRE-CERTIFICATION AND ACKNOWLEDGEMENT 4

FORMAT FOR SUBMITTING THE APPLICATION..... 5

PUBLIC VIEWING OF PRE-APPLICATIONS AND APPLICATIONS..... 6

TIMELINE FOR THE 2005 MULTIFAMILY COMPETITIVE APPLICATION CYCLE 7

APPLICATION SUBMISSION PROCEDURES MANUAL

The Texas Department of Housing and Community Affairs' (the Department) Housing Tax Credit Application Submission Procedures Manual (ASPM) sets forth the basic information needed for filing a Pre-Application or Application for competitive Housing Tax Credits pursuant to the 2005 Qualified Allocation Plan and Rules (QAP). All portions of the ASPM must be followed when filing a Pre-Application or an Application for either program. This document is meant to serve only as a brief complementary guide on how to put the Application together.

- ³ **Housing Tax Credit Authority:** The Department's 2005 tax credit authority is approximately \$40 million. The requirements for submission, and the methodology for allocation of funds, are based on the 2005 Qualified Allocation Plan (QAP). It is essential that the Applicant read and understand the QAP prior to submitting an Application, as the QAP is indeed the rule that governs the HTC Program.

Because of changes to the QAP for the 2005 Application Cycle, and the competitive nature of the programs, attendance at the 2005 Application Workshops is strongly recommended. Information regarding the workshop registration, is detailed on the Department's website (www.tdhca.state.tx.us). The Pre-Application and Application Materials and Instructions are expected to be posted to the Department's website by November 19, 2004.

PRE-APPLICATION AND APPLICATION SUBMISSION

A Pre-Application for a Housing Credit Allocation from the State Housing Credit Ceiling may be filed at any time during the Pre-Application Acceptance Period. An Application for a Housing Credit Allocation from the State Housing Credit Ceiling may be filed at any time during the Application Acceptance Period. For the 2005 Application Round the dates are:

Pre and Full Application Cycle Open:	Friday, December 10, 2004
Pre-Application Acceptance Period Closes:	Wednesday, January 5, 2005
Application Acceptance Period Closes:	Tuesday, March 1, 2005

Applications received after 5:00 P.M. on the last day of the Acceptance Period(s) **will not be accepted**. The deadline is **strictly** adhered to; therefore the Department strongly encourages you to consider traffic and travel delays when planning your submission.

Note: This year the Department will not be providing the binding system and tabs as in years past. It is the applicant’s responsibility to purchase the required tabs and binding system as further described in the application materials available on the TDHCA website (pending finalization by staff).

FORMAT FOR SUBMITTING THE PRE-APPLICATION

If an Applicant for HTC chooses to submit a Pre-Application, the complete Pre-Application for each proposed development must be submitted as described in the Pre-Application instructions published on the Department’s website. Incomplete Pre-Applications or improperly bound Pre-Applications **will not be accepted**.

The Applicant should ensure that all sets of documentation are clearly labeled with the:

1. Development Name
2. Owner Name
3. Contact Name
4. Contact Address
5. Contact Phone and Fax Numbers

Bound Items. The Pre-Application consists of only one volume, Tabs 1-3. The volume must be bound using yellow pressboard binders and tabs as further described in the application materials available on the TDHCA website (pending finalization by staff). If a volume’s required documentation exceeds the capacity of a binder, another binder may be used to subdivide the volume.

Pre-Application Threshold Criteria. The forms provided by the Department must be completed by using the version available on the TDHCA web site (pending finalization by staff). If you have difficulty downloading the files from the website, staff will email you the documents. If a question does not pertain to the development, insert “N/A” in that space. **All questions and spaces must be completed.**

One additional copy of the entire Pre-Application **must** be submitted.

Complete the *Document and Payment Receipt* and submit it with the above referenced documentation. **Do not bind the receipt in the Pre-Application. Don't forget your Pre-Application Fee as the Department is unable to accept a Pre-Application without the fee.**

FORMAT FOR PRE-CERTIFICATION AND ACKNOWLEDGEMENT

There are four documents that the Applicant is required to submit as part of their Application that are issued by the Department and may be requested in advance of the Application deadline.

1. **Experience Certificate.** Individuals (a person or an entity) that will be utilizing their experience to meet the experience threshold requirement must submit their evidence of experience to the Department no later than **Tuesday, February 15**. The required documents are explained in detail in §49.9(e)(1) of the QAP. After staff review of the documents, a Certificate of Experience will be issued by the Multifamily Finance Production Division and mailed back to the entity that requested the certificate. The Certificate must be included in the Application submission. While a form requesting the experience certificate is not required, a form has been created for this purpose entitled *2005 HTC Experience Certification* which will be available on the Department's website and facilitates the Department's prompt issuance of the requested document. **Note: 2004 Experience Certificates are good for 2005 HTC competitive round and requests for recertification are not necessary.**
2. **Acknowledgement of Receipt of Financial Statement and Authorization to Release Credit.** Individuals (a person or an entity) may submit a *Financial Statement and Authorization to Release Credit* form as part of the Application must submit their completed form(s) to the Department no later than **Tuesday, February 15**. To determine which individuals or entities need to submit these forms, refer to §49.9(e)(2) of the QAP. Upon receipt of the statements, the Real Estate Analysis Division will issue an Acknowledgement of Receipt which will be mailed back to the entity that submitted the financials. The Acknowledgement is what included in the Application submission. Note that the Acknowledgement does not make any statement about the content of the financial statement, but merely acknowledges that the document has been received.
3. **Previous Participation.** Individuals (a person or an entity) that will be required to submit a "Previous Participation and Background Certification Form" form as part of the Application must submit their completed form(s) to the Department no later than **Tuesday, February 15**. A completed and executed "Previous Participation and Background Certification Form" must be provided for each entity as required in §49.9(e)(3). Upon receipt of this evidence, an acknowledgement from Portfolio Management and Compliance Division will be provided to the Applicant for inclusion in the Application.
4. **National Previous Participation.** Individuals (a person or an entity) that will be required to submit a "National Previous Participation and Background Certification Form" form as part of the Application must submit their completed form(s) to the Department no later than **Tuesday, February 15**. A completed and executed "National Previous Participation and Background Certification Form" must be provided for each entity as required in §49.9(e)(4). Upon receipt of this evidence, an acknowledgement from Portfolio Management and Compliance Division will be provided to the Applicant for inclusion in the Application.

FORMAT FOR SUBMITTING THE APPLICATION

A complete Application for each proposed development must be submitted as described in this section. Incomplete Applications or improperly bound Applications **will not be accepted**. Applications must be presented in the order provided below.

The Applicant should ensure that all sets of documentation are clearly labeled with the:

1. Development Name
2. If a Pre-Application was submitted, include the assigned TDHCA Development Number
3. Owner Name
4. Contact Name
5. Contact Address
6. Contact Phone and Fax Numbers

Bound Items. Volumes 1 through 4 must be bound using the red pressboard binders and tabs as further described in the application materials available on the TDHCA website (pending finalization by staff).

One additional bound copy of the entire Application (Volumes 1 through 4) **must** be submitted using the red pressboard binders and tabs, and in the format required, as further described in the application materials available on the TDHCA website (pending finalization by staff). This additional copy should be clearly labeled, “**COPY**” on the front of each binder.

Any Social Security numbers appearing in any portion of the Application submission must be removed from this second copy prior to submission to the Department.

Unbound Items. The following documents will not be bound in the pressboard covers provided by the Department. Please do not use three-ring binders for these unbound submissions.

1. Appraisal (if required) may be bound using the analyst’s preferred format.
2. Phase I Environmental Site Assessment may be bound using the analyst’s preferred format.
3. Market Analysis may be bound using the analyst’s preferred format.
4. If a Rehabilitation Development, Property Condition Assessment as required by §49.9(f)(6)(E).
5. An extra copy of Exhibit 1 of an unbound Volume 1, including the depiction of the Organizational Charts, bound with a clip or staple
6. An extra copy of Volume II- Site Inspection Package

If the Applicant has received support/opposition letters from elected officials and/ or neighborhood organizations, members of the public, or neighborhood organizations, those can be submitted at the time the Application is submitted. **Please staple such documents together with a brief letter of transmittal identifying them as such. DO NOT bind these documents in the application.**

Complete the *Document and Payment Receipt* and submit it with the above referenced documentation. **Do not bind the receipt in the application. Don’t forget your Application Fee as the Department is unable to accept an Application without the fee.**

PUBLIC VIEWING OF PRE-APPLICATIONS AND APPLICATIONS

The Department will have a viewing room that will allow the public to view any Pre-Applications or Applications that have been submitted to the Department. The viewing room will be set up within approximately two weeks of the Close of the Pre-Application Acceptance Period and within approximately two weeks of the Close of the Application Acceptance Period. The viewing room will be open between the hours of 9:00 am and 4:00 pm Monday through Friday. It is recommended that an appointment be made so that adequate staff are available. Appointments can be made by contacting a HTC Program Representative at 512-475-3340.



Timeline for the 2005 Multifamily Competitive Application Cycle

Multifamily Finance Production Division

Note: Items identified in this timeline are tentative until the QAP is approved by the Board.

NOVEMBER 2004

- | | |
|----------------------|--|
| Friday, November 12 | November Board Meeting. Board Approves Final QAP and ASPM. |
| Friday, November 19 | Pre-Application and Application Materials and Instructions posted to the Department's website. |
| Tuesday, November 30 | Austin HTC Application Workshop. |

December 2004

- | | |
|-----------------------|---|
| Wednesday, December 1 | Deadline for Governor Approval of the QAP.
Houston HTC Application Workshop. |
| Tuesday, December 7 | Dallas HTC Application Workshop. |
| Friday, December 10 | Application Acceptance Period Begins. |

January 2005

- | | |
|-----------------------|--|
| Wednesday, January 5 | 5:00 p.m. Pre-Application Deadline. |
| Wednesday, January 12 | Posting of the pre-application submission log. |
| Saturday, January 15 | Deadline for Local Elected Official Notification as required by §§49.8(d)(3)(b) and 49.9(f)(8)(A)(ii)(I) of the QAP. |
| Friday, January 28 | Results of the Pre-Application round released. |

February 2005

- | | |
|----------------------|--|
| Tuesday, February 15 | Due date for Pre-Submissions: Financial Acknowledgements, Experience Certifications and Previous Participation Acknowledgements. |
|----------------------|--|

MARCH 2005

Tuesday, March 1

Deadline for HTC Applications.

Deadline for neighborhood organizations to register as being on record with the state or county, pursuant to §49.9(g)(2)(A)(v) of the QAP.

Tuesday, March 15

Department releases a log of all application submissions.

APRIL 2005

Friday, April 1

Market Study, Environmental Site Assessments, Appraisals, Property Condition Assessments and related documents due into TDHCA.

Letters for QCP must be received by the Department.

Letter of support or opposition from state officials must be submitted in order to be considered for points.

Evidence from local government to be exempt from 1-mile-3-year rule must be received by Department.

Evidence required for “2 Times the State Average” exemption must be received by Department.

Monday-Friday April 11-22

Public Hearings on Applications (not firm).

JUNE 2005

June (dates uncertain)

Board meeting to review staff HTC recommendations and approve a list of applications for allocations of tax credits.

Release of Application Log.

Notification by Department to all applicants of their support/opposition (40 days prior to July board meeting).

Deadline for all public comment to go to Board.

JULY 2005

July (dates uncertain)

Board Meeting: Board approval of final commitments for HTC (legislated deadline is July 31) awards.

CENTER FOR HOUSING RESEARCH, PLANNING, AND COMMUNICATIONS

BOARD ACTION REQUEST

November 12, 2004

Action Items

2005 Regional Allocation Formula (RAF).

Required Action

Approval of the 2005 RAF for the HOME, Housing Tax Credit, and Housing Trust Fund Program.

- See Attachment A for a summary of revisions to the RAF Methodology. A comparison of the proposed and final RAF distributions is also provided.
- See Attachment B for the RAF public comments and the Department's responses.
- See Attachment C for the 2005 RAF as recommended for final Board approval.
- See Attachment D for a summary of the 2005 RAF methodology as recommended for final Board approval.

Background

In 1999, the 76th Legislature enacted Senate Bill 1112 (§2306.111, Government Code), which required TDHCA to develop and use a formula to regionally allocate its HOME Program, Housing Trust Fund (HTF), and Housing Tax Credit Program (HTC) funding. Each year, the formula is submitted for public comment, with the final version to be published in the State of Texas Low Income Housing Plan and Annual Report.

At the September 9, 2004 Board Meeting, the Board approved the Proposed RAF. The proposed RAF funding distribution and methodology was subsequently made available to the public for a 32-day comment period. The documents were published on the TDHCA web site and the item was on the agenda at the 13 Consolidated public hearings held around the state (Amarillo, Austin, Dallas, El Paso, Harlingen, Houston, Lufkin, San Angelo, San Antonio, Tyler, Victoria, Waco, and Wichita Falls). These hearings were attended by approximately 196 people.

ATTACHMENT A: Summary of Revisions to the RAF Methodology

The public comment did not generate any recommended changes to the RAF. A summary of the comments and the Department’s reasoned responses is provided as Attachment B.

It should be noted that the recommended final RAF funding distribution differs from the proposed. As was described to the Board in the draft RAF presentation, final available resource data was not available when the draft was published. As such, the draft funding distributions were estimates that were subject to change. This caveat was also clearly noted in the documentation that was provided for public comment. As the need data remained constant, the inclusion of the final available resource data was the sole cause of changes in the HTC and HTF distributions. The HOME distribution was also affected by the following additional factors.

- An updated list of Participating Jurisdictions (PJ) was obtained from HUD. This list changed the “PJ” or “Non PJ” designation of 99 places. With this change, the level of non-PJ place need within some PJ counties was affected. This in turn, affected the regional distribution of need.
- The USDA single family funding used in the draft was incomplete. In the draft, this source only comprised a very small percentage (.7%) of the state’s available resources. The final data indicated that this source actually accounted for 13.5 percent of the total available resources.

For comparison, the regional distribution differences between the final and draft RAF are below provided.¹

Region	HTC			HOME		
	Final Allocation	Draft Allocation	Difference	Final Allocation	Draft Allocation	Difference
1	1,722,258	2,033,015	(310,757)	1,403,135	1,767,925	(364,790)
2	1,116,011	1,098,122	17,889	1,111,915	1,151,940	(40,025)
3	7,363,515	7,130,518	232,997	4,862,039	4,406,261	455,778
4	1,986,653	2,062,051	(75,398)	3,021,376	3,511,142	(489,766)
5	1,195,713	1,187,919	7,794	1,620,998	2,238,492	(617,494)
6	7,780,711	7,887,113	(106,402)	2,687,490	1,980,034	707,456
7	2,815,135	2,804,062	11,073	1,084,004	1,280,262	(196,258)
8	2,390,317	2,338,134	52,183	1,073,074	1,670,666	(597,592)
9	3,232,645	2,926,934	305,711	1,198,520	1,103,229	95,291
10	1,989,518	1,817,750	171,768	1,712,010	1,335,499	376,511
11	5,161,538	5,462,493	(300,955)	4,383,924	3,366,231	1,017,693
12	1,180,594	1,222,987	(42,393)	1,357,016	1,372,754	(15,738)
13	2,065,391	2,028,901	36,490	484,502	815,565	(331,063)
Ttl.	40,000,000	40,000,000	-	26,000,000	26,000,000	0

¹ Only the HTF distribution percentages were shown in the draft. The final regional percentage distribution will be identical to the HTC distribution.

The increase in Region 11's HOME distribution is directly related to the updated HUD PJ list. Of the 99 affected places, 33 were non-PJ places in a PJ County in Region 11. These places accounted for an increase of 2.3 percent of the state's need. Related increases can be noted in Region 3 and Region 6 which also had a relatively high number of non-PJ places in PJ Counties.

The rural and urban/exurban funding distribution also changed with the inclusion of actual funding data.

Housing Tax Credit Rural and Urban/Exurban Differences between the Final and Draft

Region	HTC			
	Rural		Urban/Exurban	
	Final Funding Amount	Difference from Proposed	Final Funding Amount	Difference from Proposed
1	549,109	(412,316)	1,173,149	101,559
2	506,070	46,281	609,941	(28,393)
3	627,932	252,252	6,735,583	(19,256)
4	915,414	(420,222)	1,071,240	344,825
5	715,677	(7,708)	480,036	15,501
6	589,249	240,575	7,191,463	(346,977)
7	211,087	9,561	2,604,048	1,512
8	525,268	(59,683)	1,865,049	111,867
9	335,493	15,913	2,897,152	289,798
10	623,807	(378,965)	1,365,711	550,733
11	1,436,390	(1,091,117)	3,725,148	790,162
12	337,227	(156,580)	843,367	114,187
13	264,937	113,526	1,800,454	(77,036)
TX	7,637,660	(1,848,481)	32,362,340	1,848,481

In the final RAF, the statewide rural percentage of HTC funding decreased from 23.7 percent to 19.1 percent. This change was primarily tied to a significant change in the regional distribution of HTCs to rural and urban/exurban areas between the 2003 (used in the draft) and 2004 (used in the final) allocation rounds. The table below shows the shift from urban to rural awards in regions that showed the largest rural funding decreases from what was shown in the draft. Because the rural and urban/exurban distribution of the other available resources did not change significantly, the geographical shift of HTC funding directly affected the rural and urban/exurban distribution in these regions. Most notable is Region 11 where the rural funding allocation of HTCs increased by 2.5 million between 2003 and 2004. This change caused a 1,091,117 credit shift from rural to urban/exurban areas between the draft and final version of the RAF. This change accounted for the majority of the statewide rural funding percentage decrease. As a point of clarification, the changes in rural and urban/exurban funding do not affect the regional funding distribution. Rather, it only affects how the funding is distributed within each region.

Changes between the Rural and Urban/Exurban Allocation of HTCs 2003 -2004

Region	Rural				Urban/Exurban			
	2003 HTC Awards	% of 2003 Awards	2004 HTC Awards	% of 2004 Awards	2003 HTC Awards	% of 2003 Awards	2004 HTC Awards	% of 2004 Awards
1	0	0%	841,709	41%	1,002,862	100%	1,225,661	59%
4	515,338	23%	1,936,408	75%	1,742,722	77%	652,315	25%
10	41,006	2%	938,415	51%	2,668,146	98%	899,429	49%
11	66,499	2%	2,522,570	50%	4,273,093	98%	2,542,781	50%

HOME Rural and Urban/Exurban Differences between the Final and Draft

Region	HOME			
	Rural		Urban	
	Final Funding Amount	Difference from Proposed	Final Funding Amount	Difference from Proposed
1	1,403,135	(364,790)	-	-
2	1,083,904	(38,695)	28,010	(1,330)
3	1,146,126	(15,735)	3,715,913	471,513
4	2,370,452	(439,834)	650,923	(49,933)
5	1,392,359	(501,866)	228,638	(115,629)
6	873,299	342,170	1,814,191	365,286
7	554,654	(58,569)	529,350	(137,690)
8	748,314	(510,147)	324,760	(87,444)
9	779,277	(64,594)	419,243	159,885
10	1,129,898	23,204	582,112	353,306
11	2,778,440	219,149	1,605,484	798,544
12	540,459	(498,486)	816,557	482,747
13	313,031	(104,027)	171,471	(227,035)
TX	15,113,348	(2,012,220)	10,886,652	2,012,220

ATTACHMENT B: RAF Public Comments and Department Responses

Comment

The Texas Low Income Housing Information Service supported TDHCA's recommended formula for distributing resources and the methodology proposed.

- **Department Response**

No changes to the RAF methodology are recommended.

Comment

Two comments were provided in support of continuing to weigh multifamily tax exempt bonds at 20 percent of their face amount in the portion of the RAF that considers available housing resources. It was stated that the actual assistance value of the bonds is only a small portion of the face amount. This amount is reduced further by the additional bond issuance costs. The following quote suggests why the value of the bond transactions should be limited in the RAF.

"The 9% credits are allocated to each state based on population. The major metropolitan areas have the heavy underserved populations that are the basis of the allocation of the 9% credits and should not be additionally arbitrarily penalized with the regional allocation formula."

- **Department Response**

TDHCA concurs with the comments on how the bonds should be weighted in the RAF. The 20 percent weighting level used in the draft represents TDHCA's best estimate of the value of the transaction over the life of the loan.

While the weighting of the bond transactions does not address the comment's concern that too much emphasis will be placed on available resources, the draft RAF does include a maximum resource funding adjustment limit which tries to address this issue. In reviewing the available resources the RAF considers, it has been determined that a few resources cause most of the need and resource imbalances.

- Multifamily bond funding is distributed via a non-competitive lottery system. Because the system is noncompetitive, developments that would otherwise fulfill TDHCA HTC application requirements in terms of quality, community support, and ability to meet local need, may be unable to receive this resource.

- For financial feasibility reasons, multifamily bonds tend to only work in the state's largest metropolitan places unless significant amounts of additional financial subsidies can be obtained. Some regions could lose a large portion of their funding for receiving resources that large portions of the region's

communities cannot access. This would particularly affect rural communities in regions with large metropolitan areas.

Since a few non-regionally distributed resources cause most of the resource and need distribution mismatch, it seemed logical that a region's contribution of its need based funding should not exceed the percentage of the state's total resources that are not regionally distributed. In this case, funding sources where the average regional difference between the funding and need distribution exceeds five percent. This part of the formula addresses the need to ensure that regions are not *"arbitrarily penalized with the regional allocation formula."* No changes to the RAF methodology are recommended.

Comment

The Lawyers' Committee for Civil Rights under Law submitted a comment that related to the RAF's impact on segregation issues.

"As a preliminary matter, TDHCA does not set forth in the QAP the "Regional Allocation Formula" that it purports to use in "distribut[ing] credits...to all urban/exurban areas and rural areas." Because the formula is not set forth in the QAP, the undersigned organizations cannot assess the impact of that formula on housing segregation."

- **Department Response**

The RAF is not part of the QAP; the RAF is made available as a separate document. The RAF distributes funding for three programs: Housing Trust Fund, HOME program, and Housing Tax Credits. The public comment period and public hearings for the RAF run concurrently with the QAP. The Department posts the RAF on the website. Along with the website's description of available credits, it is the Department's practice to publish a detailed description of the RAF methodology. This year's description was accompanied by a detailed set of worksheets which mathematically showed each step of the RAF calculation.

Comment

The second comment from Lawyers' Committee for Civil Rights under Law relating to the RAF was:

"[B]ecause, the proposal purports to be based on "need" we caution TDHCA against defining need narrowly – e.g., by neighborhood or municipality – rather than by region. Defining need in limited geographic areas is likely to have the result of increasing segregation. Specifically, if "need for housing assistance" under TDHCA's formula correlates with high poverty and/or disproportionately minority neighborhoods, then allocating the credits to narrowly-defined geographic areas having such "need" – rather

than allocating them on a regional basis – will concentrate tax credit housing in those areas, exacerbating segregation.”

- **Department Response**

Per Section 2306.111(d) of the Texas Government Code, the RAF allocates the HOME, Housing Trust Fund, and Housing Tax Credits “to all urban/exurban areas and rural areas of each uniform state service region based on a formula developed by the department that is based on the need for housing assistance and the availability of housing resources in those urban/exurban areas and rural areas, provided that the allocations are consistent with applicable federal and state requirements and limitations.” This allocation is done using four different Census measures (poverty, cost burden, overcrowding, and substandard housing) at the regional and not “neighborhood or municipality” level.

While not specifically referenced by the Lawyers’ Committee for Civil Rights under Law, TDHCA uses an Affordable Housing Need Score to help distribute funding to places and counties within each region. This score is comprised of two parts. The first half of the score evaluates the percentage of need at the county level relative to the region. All of the places within a county receive the same score without regard to their own level of need. The second part of the formula looks at the housing need indicators at the place level relative to the overall population of the place. While a combined score is generated at the “municipality” level, this score does not encourage or discourage an applicant to develop at any specific site within or in close proximity to the community.

No changes to the RAF methodology are recommended.

ATTACHMENT C: 2005 RAF as Recommended for Final Board Approval

Housing Tax Credit RAF

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban/ Exurban Funding Amount	Urban/ Exurban Funding %
1	Lubbock	1,722,258	4.3%	549,109	31.9%	1,173,149	68.1%
2	Abilene	1,116,011	2.8%	506,070	45.3%	609,941	54.7%
3	Dallas/Fort Worth	7,363,515	18.4%	627,932	8.5%	6,735,583	91.5%
4	Tyler	1,986,653	5.0%	915,414	46.1%	1,071,240	53.9%
5	Beaumont	1,195,713	3.0%	715,677	59.9%	480,036	40.1%
6	Houston	7,780,711	19.5%	589,249	7.6%	7,191,463	92.4%
7	Austin/Round Rock	2,815,135	7.0%	211,087	7.5%	2,604,048	92.5%
8	Waco	2,390,317	6.0%	525,268	22.0%	1,865,049	78.0%
9	San Antonio	3,232,645	8.1%	335,493	10.4%	2,897,152	89.6%
10	Corpus Christi	1,989,518	5.0%	623,807	31.4%	1,365,711	68.6%
11	Brownsville/Harlingen	5,161,538	12.9%	1,436,390	27.8%	3,725,148	72.2%
12	San Angelo	1,180,594	3.0%	337,227	28.6%	843,367	71.4%
13	El Paso	2,065,391	5.2%	264,937	12.8%	1,800,454	87.2%
	Total	40,000,000	100.0%	7,637,660	19.1%	32,362,340	80.9%

Housing Trust Fund RAF

Due to the relatively small regional funding amounts, the HTF funds will be allocated regionally, but without specified rural and urban/exurban allocations. The overall statewide rural and urban/exurban distribution of funds will be maintained in awarding the funds.

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban/ Exurban Funding Amount	Urban/ Exurban Funding %
1	Lubbock	172,226	4.3%				
2	Abilene	111,601	2.8%				
3	Dallas/Fort Worth	736,351	18.4%				
4	Tyler	198,665	5.0%				
5	Beaumont	119,571	3.0%				
6	Houston	778,071	19.5%				
7	Austin/Round Rock	281,514	7.0%				
8	Waco	239,032	6.0%				
9	San Antonio	323,265	8.1%				
10	Corpus Christi	198,952	5.0%				
11	Brownsville/Harlingen	516,154	12.9%				
12	San Angelo	118,059	3.0%				
13	El Paso	206,539	5.2%				
	Total	4,000,000	100.0%		19.1%		80.9%

HOME RAF

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban/ Exurban Funding Amount	Urban/ Exurban Funding %
1	Lubbock	1,403,135	5.4%	1,403,135	100.0%	-	0.0%
2	Abilene	1,111,915	4.3%	1,083,904	97.5%	28,010	2.5%
3	Dallas/Fort Worth	4,862,039	18.7%	1,146,126	23.6%	3,715,913	76.4%
4	Tyler	3,021,376	11.6%	2,370,452	78.5%	650,923	21.5%
5	Beaumont	1,620,998	6.2%	1,392,359	85.9%	228,638	14.1%
6	Houston	2,687,490	10.3%	873,299	32.5%	1,814,191	67.5%
7	Austin/Round Rock	1,084,004	4.2%	554,654	51.2%	529,350	48.8%
8	Waco	1,073,074	4.1%	748,314	69.7%	324,760	30.3%
9	San Antonio	1,198,520	4.6%	779,277	65.0%	419,243	35.0%
10	Corpus Christi	1,712,010	6.6%	1,129,898	66.0%	582,112	34.0%
11	Brownsville/Harlingen	4,383,924	16.9%	2,778,440	63.4%	1,605,484	36.6%
12	San Angelo	1,357,016	5.2%	540,459	39.8%	816,557	60.2%
13	El Paso	484,502	1.9%	313,031	64.6%	171,471	35.4%
	Total	26,000,000	100.0%	15,113,348	58.1%	10,886,652	41.9%

ATTACHMENT D: Summary of the 2005 RAF Methodology as Recommended for Final Board Approval

Background

Section 2306.111(d) of the Government Code requires that TDHCA use a formula to regionally allocate its HOME, HTC, and HTF program funding. The resulting RAF objectively measures the affordable housing need and available resources in the 13 State Service Regions it uses for planning purposes. Additionally, the RAF allocates funding to rural and urban/exurban areas within each region. As a dynamic measure of need, the formula is updated annually to reflect more up-to-date demographic and available resource information; respond to public comment on the formula; and include other factors as required to better assess regional affordable housing needs. Slightly

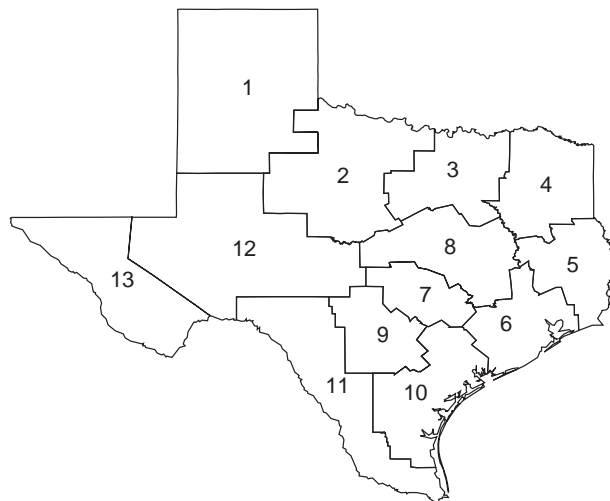


Figure 1. State Service Regions

modified versions of the RAF are used for the HOME and HTF/HTC programs because the programs have different eligible activities, households, and geographical areas. The formula is submitted annually for public comment and the final version is published in the SLIHP.

RAF Methodology for 2005

Considering Affordable Housing Need

The first part of the RAF determines how the program funding would be distributed based solely on objective measures of each region's share of the State's affordable housing need. The four following 2000 US Census need measures are used to calculate this regional distribution of need.

- **Poverty:** Number of persons in the region who live in poverty.
- **Cost Burden:** Units with a monthly gross rent or mortgage payment to monthly household income ratio that exceeds 30 percent.
- **Overcrowded Units:** Units with more than one person per room.
- **Units with Incomplete Kitchen or Plumbing:** Units that do not have all of the following: a sink with piped water; a range or cook top and oven; refrigerator, hot and cold piped water, a flush toilet, and a bathtub or shower.

Because the need measures used in the RAF reflect the three funding sources' eligible households and activities, the data follows these guidelines.

- Except for the poverty data, the data sets relate to households at or below 80% of the Area Median Family Income (AMFI).
- Since the HTC/HTF formula primarily affects rental development activities, the HTC/HTF formula data relates specifically to renter households. Poverty data is the exception as only information on all households is available. Since the HOME program supports renter and owner activities, data for all households (renter and owner) is used in the HOME formula. Because 95% of HOME funds must be expended in non-participating jurisdictions (PJ), only non PJ data is included in the HOME formula.

Each need measure is weighted to reflect its perceived relevance in assessing affordable housing need. Because of the significant number of persons in poverty and its value as an overall measure of need, half the formula weight is associated with this measure. The other half of the measure weight is proportionately allocated based on the relative size of the remaining measures. As each measure's relative number of impacted persons or households does not vary significantly within the renter only and renter and owner data sets, renter and owner data is used to assign both formulas' measure weight percentages. The population size of each measure is provided below in *Table 1. Relative Size of the Measure Populations*. The resulting measure weights are: poverty = 50 percent, cost burden = 36 percent, overcrowding = 12 percent, and substandard housing = 2 percent.

Table 1. Size of the Measure Populations

Poverty	Renter Cost Burden	Renter Overcrowding	Incomplete Kitchen or Plumbing
3,117,609	1,263,817	435,309	58,065

The total funding the RAF will distribute is multiplied by each measure's weight to determine how much of the need based funding distribution is tied to that measure. Each measure's associated funding amount is then regionally distributed based on the regional dispersal of its affected persons or households. The resulting distributions are then combined to provide each region's need based funding amount. This amount will then be adjusted to consider the regional availability of available housing resources.

Considering Available Housing Resources

Section 2306.111(d) of the Government Code requires the RAF to consider available housing resources in the region. In theory, if the measure of regional housing need is accurate, then the regional distribution of available housing resources should reflect the observed housing need distribution. Therefore, a **resource funding adjustment** increases or decreases each region's need based funding amount to address regional resource and need mismatches.

Because the available resources used in the RAF reflect the three funding sources' eligible households and activities, the data follows these guidelines.

- HTC and HTF formula only uses sources of rental funding.
- HOME formula uses sources of rental and owner funding.
- HOME formula only considers resources in non-PJs.

The following resources are used in the HOME and HTC/HTF RAFs.

- HUD Emergency Shelter Grant Funds (ESG) (TDHCA & PJ)
- HUD HOME Funds (TDHCA & PJ)
- HUD Housing for Persons with AIDS (HOPWA) Funding
- HUD Section 8 Tenant-Based Rental Assistance (TDHCA & Public Housing Authorities (PHA))
- HUD PHA Capital Funds
- United States Department of Agriculture (USDA) Multifamily Development Funding²
- USDA Rental Assistance

² These resources do not include transactions that represent only a reauthorization of funds or a loan transfer that does not actually provide additional new or rehabilitation funding. USDA lists such transactions as new funding activity.

- Multifamily Housing Tax Credits (9% and 4% associated with tax-exempt bond financing)³
- Multifamily Tax-Exempt Bond Financing (Texas Bond Review Board)⁴

The HOME RAF also includes the following two sources of owner funding.

- USDA 502 and 504 Loans and Grants
- Single Family Bond Financing (TDHCA and Housing Finance Corporations)

Considering Rural and Exurban/Urban Need

Section 2306.111(d) of the Government Code requires the RAF to consider “rural and urban/exurban” areas in its distribution of program funding. TDHCA has determined that “urban/exurban” is a single category. The RAF uses the following rural and urban/exurban definitions.

Rural

1. A place that is outside the boundaries of a metropolitan statistical area (MSA);
2. or within the boundaries of a MSA, if the place has a population of 20,000 or less and does not share a boundary with a place that has a population greater than 20,000.

Urban/Exurban

1. Any place that does not satisfy the Rural place definition;
2. or an area located outside the boundaries of a place and in a census tract that has a population density greater than 1,200⁵ people per square mile.

To equitably allocate funding to these areas, the rural and urban/exurban distribution of need and resources is compared at the regional level. As was done to determine the regional funding amount, resource funding adjustments are made to address observed rural and urban/exurban resource and need distribution differences.

³ The value of the HTC is an estimate of the capital raised through the sale of the credits.

⁴ The value of the bonds has been reduced to 20 percent of the total bond amount. This 20 percent adjustment is an estimate of the value of the bonds over an equivalent market-rate loan that was developed by the TDHCA Real Estate Analysis Division and the TDHCA Center for Housing Research, Planning, and Communications. The HTCs associated with these bonds are valued at their full estimated syndicated value.

⁵ 1,200 persons per square mile is approximately equal to the average population density of urban categorized places with a population less than 100,000.

CENTER FOR HOUSING RESEARCH, PLANNING, AND COMMUNICATIONS

BOARD ACTION REQUEST

November 12, 2004

Action Items

2005 Affordable Housing Need Score (AHNS).

Required Action

Approval of the 2005 Affordable Housing Need Score for the HOME, Housing Tax Credit, and Housing Trust Fund Program.

- See Attachment A for a summary of revisions to the Affordable Housing Need Score methodology.
- See Attachment B for a summary of the Affordable Housing Need Score Public Comments and the Department's responses.
- See Attachment C for the 2005 Affordable Housing Need Scores as proposed for final Board approval.

Background

The scoring criteria used to evaluate HOME, Housing Trust Fund (HTF), and Housing Tax Credit (HTC) applications include an Affordable Housing Need Score (AHNS). **The AHNS provides a comparative assessment of each county and place's level of need relative to other areas within the 13 Uniform State Service Regions TDHCA uses for planning purposes.** While not specifically legislated by the state, the AHNS helps address other need based funding allocation requirements. The AHNS responds to an IRS Section 42 requirement that the selection criteria used to award the HTC funding must include "housing needs characteristics." Similarly, the AHNS responds to State Auditor's Office and Sunset findings that call for the use of objective, need based criteria to award the Department's funding. Through the AHNS, applicants are encouraged to request funding to serve communities that have a high proportion of the region's affordable housing need.

At the September 9, 2004 Board Meeting, the Board approved the Proposed Affordable Housing Need Scores. The AHNS methodology and resulting scores were subsequently made available to the public for a 32-day comment period. The documents were published on the TDHCA web site and the item was on the agenda at the 13 Consolidated public hearings held around the state (Amarillo, Austin, Dallas, El Paso, Harlingen, Houston, Lufkin, San Angelo, San Antonio, Tyler, Victoria, Waco, and Wichita Falls). These hearings were attended by approximately 196 people.

ATTACHMENT A: Summary of Revisions to the Affordable Housing Need Score Methodology

The comments that were received did not generate any recommended changes to the methodology. A summary of the comments and the Department's reasoned responses is provided as Attachment "B."

The final scores are provided as Attachment "C." The final HTC and HTF scores are unchanged from the proposed. The HOME scores have been revised slightly to reflect an updated list of Participating Jurisdictions from HUD. Using the revised HUD list changed the "PJ" designation of 99 places. As some of the places shifted in their PJ categorization, the need associated with these places caused the level of need in some counties to change. To account for this change, the database table that assigns points to areas based on their need was modified slightly to keep the scoring distribution within each region fairly equally distributed. The resulting score changes were very minor. The average AHNS change statewide was only .2 points.

ATTACHMENT B: Affordable Housing Need Score Public Comments and Department Responses

Comment

A number of comments requested that the AHNS criteria be abandoned. Since the AHNS is not statutorily required, it should be eliminated because it does not fairly allow for fair and effective regional allocation. It was suggested that during the last HOME funding round the awarded applications were largely determined by the particular jurisdiction's AHNS. It was also indicated that the AHNS was the determining factor in some applications' non-funded status. The following quote is indicative of this sentiment.

"..the vast majority of the owner-occupied applicants are requesting an allocation reserved for persons in their community with incomes at or below 30 percent of median income. And ladies and gentlemen, I would just submit to you that regardless of the Affordable Housing Need Score that has been statistically created, there is very little difference to the actual people that benefit from these programs from city to city who are in these income levels. And I think that the way that the Affordable Housing Need Score has been used, it has rendered large numbers of very low-income Texans just unable to participate in this program."

- **Department Response**

The AHNS responds to an IRS Section 42 requirement that the selection criteria used to award the HTC funding must include "housing needs characteristics." Similarly, the AHNS responds to State Auditor's Office and Sunset findings that call for the use of objective, need based criteria to award the Department's funding.

To objectively quantify the effect of the AHNS on the HOME awards, TDHCA reviewed the scores for the HOME activity which received the most applications (191), owner occupied rehabilitation (OCC). After removing the AHNS from each application's total score, the following observations were noted from the resulting scoring distribution.

- Only 18 revised unfunded scores would have equaled or exceeded their region's lowest revised regional funded score. In a third of these instances, the AHNS would have served as a tie breaker.
- On average, the resulting scoring difference between the 18 revised unfunded scores and the lowest regional funded score was only 1.4 points.

It was also noted that often the AHNS was not the sole determining factor. Even when the AHNS score was included in the total score, half of the 18 unfunded

applications would have received an award if they had received additional points for not having recently received HOME funding.

The AHNS, like any scoring factor, does impact the award process. As noted by the comments, it can even be the determining factor. However, given its importance in objectively measuring the need for affordable housing in different areas, it does not appear to be an overwhelmingly significant factor. With the reduction in the AHNS value from 20 to seven points this year, instances where it will serve as the sole determining factor should be reduced. The value of the HTC score had already been reduced for last year's allocation round. No change to the AHNS methodology is recommended.

Comment

A few comments stated that the AHNS need data is inconsistent with the actual need in rural communities. While some communities have more need than others, that need is not reflected in the current AHNS. The focus of the HOME program should be the needs of the specific community and its residents. The following comments pertain to this issue.

"I think that it is a mistake to continue to allocate these funds under a system where the outcome is determined by the one set of facts that no community has direct control over, and also relies heavily on census data. I know that today as we speak here, that data is five years old, and it will certainly continue to age as we go through this decennial period."

"We are in a county with the Woodlands and Conroe and some others, and it is light-years from Montgomery to the Woodlands. We have no rental housing. We have no multi family housing. We're a community of single family homeowners. Many of these homeowners have had land in their families for 150 years. There's not an option for them of moving to affordable housing in some other area. So it's irrelevant for us. They would never give up the land they've had for 150 years in their families."

The current score does not measure the community's income levels; health and safety issues compromised by substandard housing; economic development needs; and access to taxes and other available resources. It was requested that the AHNS be changed to allow communities to be assessed on real need and the real picture of the community and not just a mathematical formula.

- **Department Response**

The AHNS objectively measures an area's level of general affordable housing need. This measure helps distribute funds to areas within the State's service regions that have the highest need. The current AHNS methodology considers: an area's poverty level; housing costs in the form of rental and owner cost burden; condition of housing stock as measured by substandard housing; and availability

as measured by overcrowding. These factors provide a good measure of overall housing need. While the U.S. Census data is aging, it remains a consistent and objective source of data that can be used to measure need at the state, regional, and local level. It is recognized that the AHNS cannot identify the specific and constantly evolving needs of a given community. The proposed reduction in the AHNS point value will place less significance on need as measured by mathematical formula. Other scoring criteria in the application, such as special needs points, income targeting, citizen surveys, and local participation, will continue to measure how an application represents the specific needs of the community. No change to the AHNS methodology is recommended.

Comment

As an alternate to Census data, which does not accurately reflect local issues, it was suggested that independent surveys could be used to assess need. An income survey that supplemented Census data used for a USDA application was provided as an example. Even though the survey process was difficult, the applicant felt it was necessary so that their community could access the resources it desperately needed.

- **Department Response**

TDHCA conducts or helps produce a number of surveys as part of its Consolidated Plan and other research initiatives. Its experience, even with the resources at its disposal, is that it is extremely difficult to get detailed, objective, and measurable data at the local level which could be used in the AHNS. This is one reason why the Community Needs Survey portion of the AHNS was removed from the proposed methodology. Because of these reasons, requiring local level surveys as part of the AHNS is not considered to be feasible. While such surveys might be suggested as a separate part of the HOME application scoring process, a public comment on the current citizen survey part of the HOME application process seems to indicate that some applicants would not welcome additional surveying requirements.

“Citizen surveys, you know we could run around. It is just a time-consuming feature of the application to take all these pictures and get these people to sign the forms and that sort of thing and send them in. And from that, we are supposed to be able to determine the low to moderate income amount of people in the area, or something like that. I mean, we are getting six. It is not very much of a consideration.”

No change to the AHNS methodology is recommended.

Comment

It was suggested that places in close proximity to each other have significantly different AHNS. Two adjacent places may have varying levels of available affordable housing. Of the two, the community with more available housing will have a higher score. The resulting scoring difference may cause developers to choose one of these areas over another. One example was provided of a multifamily development locating in QCT in the middle of Conroe instead of Montgomery.

- **Department Response**

The AHNS measures both need at the county level and at the place level. Half of the score is based on the level of county need relative to the region's total need. This part of the score (3.5 points) is the same for all places in the county. Therefore, the only scoring difference between places in close proximity within the same county is in the second part of the score. The other half of the score evaluates a place's level of need relative to the place's total population. This scoring system was developed in response to public comment received last year. It helps provide competitive scores to very small communities that have a high place level of need even if their county's share of regional need is low. Again, the reduction in the AHNS' total value should help lessen the impact of scoring differentials related to place size and location within a certain county. No change to the AHNS methodology is recommended.

Comment

It was suggested that removing the part of the AHNS that considers an area's non TDHCA funded status over the previous two funding rounds disadvantages communities with low AHNS scores.

- **Department Response**

The current HOME application contains a scoring item which addresses this issue. Applications that have never received TDHCA HOME funding receive five points. One point is awarded to those applications that did not receive a HOME award in the previous allocation round. Continuing to award points in the AHNS that are based on previous TDHCA funding would be duplicative. This measure of need should focus on need related data as opposed to access to resources. No change to the AHNS methodology is recommended.

Comment

The following quote seems to indicate that the AHNS places a significant weight on TDHCA's Community Needs Survey.

“[Comment relates to HOME's citizen survey requirement.] But then, I am wondering well, what is this affordable housing needs scoring that is supposed to take all this into

consideration. Why would we even need to do that, you know? I mean, you know that this city here has got 12 points or whatever it is that has been developed from surveys already taken”

- **Department Response**

The proposed AHNS does not include data from the Community Needs Survey as a need measure.

Comment

One commentator felt that municipalities should not be evaluated and given an affordable housing need number that is relevant to the area instead of using the county's AHN number.

- **Department Response**

If it was interpreted correctly, the comment seems to indicate that solely using the county score would benefit smaller communities. The current formula uses both a measure of the county need relative to the region and the place's need relative to the place's total population. The current AHNS methodology reflects changes made last year to specifically address public comment so smaller communities in any county can score more competitively.

Comment

One commentator said that it was very disturbing for communities with relatively low AHNS to be funded over communities with higher scores, solely because they were considered under the urban/exurban allocation. The urban/exurban and rural designation is merited in some other parts of Texas, but in East Texas these geographic distinctions do not make sense. In instances where the urban designation is applied to smaller jurisdictions within the urban/exurban area, a sense of unfairness is created for nearby jurisdictions that are virtually identical to those that are being favored by that categorization.

- **Department Response**

State law (§2306.111, Texas Government Code) requires TDHCA to allocate its HOME, HTC, and HTF program funding to “urban/exurban” and “rural” areas. Without regard to an application's AHNS score or total score, dissimilar geographic area types do not compete against each other. TDHCA's current urban/exurban and rural definition which categorizes the state's communities based on region, place size, and proximity to other places is equitable. No change to the AHNS methodology is recommended.

Comment

It was suggested that a community's inventory of available affordable housing might be one of the very few items that should be considered when creating a need score. Many of the people served by the HOME program have virtually no housing alternatives. In a very large number of these communities, there is no public housing alternative. While there are housing authorities and USDA financed multifamily properties in some rural communities, a growing number of those are for elderly persons. They do not serve the part of the population with the greatest numbers; small and large families. As a result many families are living in substandard housing and simply do not have a great number of available alternatives.

- **Department Response**

As was the case with a previous comment on suggested local surveys, obtaining this kind of detailed, evolving information at the local level is problematic. While the value of such information is not questioned, obtaining consistent, objective, statewide data that could be rolled into an annual score is not possible. TDHCA will continue to explore ways to include additional data that will help the Department better identify those areas of the state that are most in need of funding.

Comment

A comment was made that questioned the relationship between the per capita distribution of HTCs to the AHNS.

"Dallas has a higher AHNS than Sherman. It seems that this should be the other way around. If Dallas has more than twice the per capita or credits, it would seem like its need for affordable housing should be lower or the same as every other city that falls into the same category. The formula may be calculating correctly, it just seemed strange as we try to deconcentrate that the inner city that scoring is better than the rural/exurban areas".

- **Department Response**

The per capita analysis required by state law evaluates how credits have been distributed historically based on population as opposed to the level of need that exists in the places. For example, in 2000 the U.S. Census showed that Dallas had 207,493 persons in poverty and 62,813 households with rental cost burden as compared to Sherman's respective 4,401 and 1,769. All of the need in Dallas has not been completely served by the HTC activity which occurred since 2000 and a significant gap in the level of cost burden still exists between the two places. Therefore, Dallas' need score would be higher than Sherman's. No change to the AHNS methodology is recommended.

**ATTACHMENT C: 2005 Affordable Housing Need Scores as Proposed
for Final Board Approval**



2005 HOME Affordable Housing Need Scores (AHNS) Place Level

(Sorted by Region then Place.)

Instructions:

Use this table to determine the AHNS of an application that will serve a **single** place.

Special Circumstances

(1) Rental Development activities that are not located within a place's jurisdiction will utilize the score of closest place.

(2) Participating Jurisdictions (PJ) receive a score of zero and are not included in the table.

All questions relating to scoring an application under the AHN Scoring Component should be submitted in writing to Paige McGilloway via facsimile at (512) 475-4798 or by email at paige.mcgilloway@tdhca.state.tx.us.

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
1	Abernathy	Hale	Rural	2,839	3.5	0.7	4
1	Adrian	Oldham	Rural	159	0.7	3.5	4
1	Amherst	Lamb	Rural	791	2.8	3.5	6
1	Anton	Hockley	Rural	1,200	2.8	2.8	6
1	Bishop Hills	Potter	Rural	210	0.7	0.7	1
1	Booker	Lipscomb	Rural	1,315	1.4	2.8	4
1	Borger	Hutchinson	Rural	14,302	2.8	0.7	4
1	Bovina	Parmer	Rural	1,874	2.8	2.8	6
1	Brownfield	Terry	Rural	9,488	2.8	3.5	6
1	Buffalo Springs	Lubbock	Rural	493	2.8	0.7	4
1	Cactus	Moore	Rural	2,538	2.8	2.8	6
1	Canadian	Hemphill	Rural	2,233	1.4	1.4	3
1	Canyon	Randall	Rural	12,875	2.8	2.8	6
1	Channing	Hartley	Rural	356	0.7	0.7	1
1	Childress	Childress	Rural	6,778	2.1	1.4	4
1	Clarendon	Donley	Rural	1,974	1.4	1.4	3
1	Claude	Armstrong	Rural	1,313	0.7	1.4	2
1	Crosbyton	Crosby	Rural	1,874	2.8	3.5	6
1	Dalhart	Dallam	Rural	7,237	2.1	1.4	4
1	Darrouzett	Lipscomb	Rural	303	1.4	2.1	4
1	Denver City	Yoakum	Rural	3,985	2.1	2.8	5
1	Dickens	Dickens	Rural	332	1.4	3.5	5
1	Dimmitt	Castro	Rural	4,375	2.1	2.8	5
1	Dodson	Collingsworth	Rural	115	1.4	3.5	5
1	Dumas	Moore	Rural	13,747	2.8	1.4	4
1	Earth	Lamb	Rural	1,109	2.8	3.5	6
1	Edmonson	Hale	Rural	123	3.5	1.4	5
1	Estelline	Hall	Rural	168	2.1	3.5	6
1	Farwell	Parmer	Rural	1,364	2.8	2.1	5
1	Floydada	Floyd	Rural	3,676	2.8	3.5	6
1	Follett	Lipscomb	Rural	412	1.4	2.8	4
1	Friona	Parmer	Rural	3,854	2.8	2.1	5
1	Fritch	Hutchinson	Rural	2,235	2.8	0.7	4
1	Groom	Carson	Rural	587	1.4	1.4	3
1	Gruver	Hansford	Rural	1,162	1.4	2.1	4

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
1	Hale Center	Hale	Rural	2,263	3.5	2.8	6
1	Happy	Swisher	Rural	647	2.1	1.4	4
1	Hart	Castro	Rural	1,198	2.1	2.1	4
1	Hartley	Hartley	Rural	441	0.7	0.7	1
1	Hedley	Donley	Rural	379	1.4	3.5	5
1	Hereford	Deaf Smith	Rural	14,597	2.8	2.8	6
1	Higgins	Lipscomb	Rural	425	1.4	2.8	4
1	Howardwick	Donley	Rural	437	1.4	1.4	3
1	Idalou	Lubbock	Rural	2,157	2.8	0.7	4
1	Kress	Swisher	Rural	826	2.1	2.1	4
1	Lake Tanglewood	Randall	Rural	825	2.8	0.7	4
1	Lakeview	Hall	Rural	152	2.1	3.5	6
1	Lefors	Gray	Rural	559	2.8	0.7	4
1	Levelland	Hockley	Rural	12,866	2.8	2.8	6
1	Lipscomb	Lipscomb	Rural	44	1.4	0.7	2
1	Littlefield	Lamb	Rural	6,507	2.8	2.8	6
1	Lockney	Floyd	Rural	2,056	2.8	2.1	5
1	Lorenzo	Crosby	Rural	1,372	2.8	3.5	6
1	Matador	Motley	Rural	740	0.7	2.1	3
1	McLean	Gray	Rural	830	2.8	2.1	5
1	Meadow	Terry	Rural	658	2.8	2.1	5
1	Memphis	Hall	Rural	2,479	2.1	2.8	5
1	Miami	Roberts	Rural	588	0.7	0.7	1
1	Mobeetie	Wheeler	Rural	107	1.4	0.7	2
1	Morse	Hansford	Rural	172	1.4	1.4	3
1	Morton	Cochran	Rural	2,249	1.4	3.5	5
1	Muleshoe	Bailey	Rural	4,530	2.1	2.1	4
1	Nazareth	Castro	Rural	356	2.1	0.7	3
1	New Deal	Lubbock	Rural	708	2.8	2.1	5
1	New Home	Lynn	Rural	320	2.1	0.7	3
1	O'Donnell	Lynn	Rural	1,011	2.1	2.8	5
1	Olton	Lamb	Rural	2,288	2.8	2.8	6
1	Opdyke West	Hockley	Rural	188	2.8	2.8	6
1	Palisades	Randall	Rural	352	2.8	0.7	4
1	Pampa	Gray	Rural	17,887	2.8	1.4	4
1	Panhandle	Carson	Rural	2,589	1.4	0.7	2
1	Perryton	Ochiltree	Rural	7,774	2.1	1.4	4
1	Petersburg	Hale	Rural	1,262	3.5	2.1	6
1	Plains	Yoakum	Rural	1,450	2.1	2.8	5
1	Plainview	Hale	Rural	22,336	3.5	2.8	6
1	Post	Garza	Rural	3,708	2.1	3.5	6
1	Quail	Collingsworth	Rural	33	1.4	0.7	2
1	Quitaque	Briscoe	Rural	432	0.7	2.8	4
1	Ralls	Crosby	Rural	2,252	2.8	3.5	6
1	Ransom Canyon	Lubbock	Rural	1,011	2.8	0.7	4
1	Reese Center	Lubbock	Urb./Exurb.	42	2.8	0.7	4
1	Roaring Springs	Motley	Rural	265	0.7	1.4	2
1	Ropesville	Hockley	Rural	517	2.8	1.4	4

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
1	Samnorwood	Collingsworth	Rural	39	1.4	0.7	2
1	Sanford	Hutchinson	Rural	203	2.8	3.5	6
1	Seth Ward	Hale	Rural	1,926	3.5	3.5	7
1	Shallowater	Lubbock	Rural	2,086	2.8	1.4	4
1	Shamrock	Wheeler	Rural	2,029	1.4	2.8	4
1	Silverton	Briscoe	Rural	771	0.7	2.1	3
1	Skellytown	Carson	Rural	610	1.4	2.1	4
1	Slaton	Lubbock	Rural	6,109	2.8	3.5	6
1	Smyer	Hockley	Rural	480	2.8	2.8	6
1	Spade	Lamb	Rural	100	2.8	1.4	4
1	Spearman	Hansford	Rural	3,021	1.4	2.1	4
1	Springlake	Lamb	Rural	135	2.8	3.5	6
1	Spur	Dickens	Rural	1,088	1.4	2.1	4
1	Stinnett	Hutchinson	Rural	1,936	2.8	0.7	4
1	Stratford	Sherman	Rural	1,991	1.4	1.4	3
1	Sudan	Lamb	Rural	1,039	2.8	2.1	5
1	Sundown	Hockley	Rural	1,505	2.8	2.1	5
1	Sunray	Moore	Rural	1,950	2.8	1.4	4
1	Tahoka	Lynn	Rural	2,910	2.1	3.5	6
1	Texhoma	Sherman	Rural	371	1.4	2.1	4
1	Texline	Dallam	Rural	511	2.1	1.4	4
1	Timbercreek Canyon	Randall	Rural	406	2.8	0.7	4
1	Tulia	Swisher	Rural	5,117	2.1	2.1	4
1	Turkey	Hall	Rural	494	2.1	3.5	6
1	Vega	Oldham	Rural	936	0.7	2.1	3
1	Wellington	Collingsworth	Rural	2,275	1.4	2.8	4
1	Wellman	Terry	Rural	203	2.8	3.5	6
1	Wheeler	Wheeler	Rural	1,378	1.4	0.7	2
1	White Deer	Carson	Rural	1,060	1.4	0.7	2
1	Whiteface	Cochran	Rural	465	1.4	2.1	4
1	Wilson	Lynn	Rural	532	2.1	3.5	6
1	Wolforth	Lubbock	Rural	2,554	2.8	2.1	5
2	Albany	Shackelford	Rural	1,921	0.7	0.7	1
2	Anson	Jones	Rural	2,556	2.8	2.1	5
2	Archer City	Archer	Rural	1,848	1.4	1.4	3
2	Aspermont	Stonewall	Rural	1,021	0.7	2.8	4
2	Baird	Callahan	Rural	1,623	1.4	1.4	3
2	Ballinger	Runnels	Rural	4,243	2.1	2.1	4
2	Bangs	Brown	Rural	1,620	3.5	2.8	6
2	Bellevue	Clay	Rural	386	1.4	2.1	4
2	Benjamin	Knox	Rural	264	1.4	2.1	4
2	Blackwell	Nolan	Rural	360	2.8	0.7	4
2	Blanket	Brown	Rural	402	3.5	2.8	6
2	Bowie	Montague	Rural	5,219	2.1	2.1	4
2	Breckenridge	Stephens	Rural	5,868	2.1	2.1	4
2	Brownwood	Brown	Rural	18,813	3.5	2.8	6
2	Bryson	Jack	Rural	528	1.4	3.5	5
2	Buffalo Gap	Taylor	Rural	463	2.1	0.7	3

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
2	Burkburnett	Wichita	Rural	10,927	2.8	0.7	4
2	Byers	Clay	Rural	517	1.4	0.7	2
2	Carbon	Eastland	Rural	224	2.8	0.7	4
2	Chillicothe	Hardeman	Rural	798	1.4	2.1	4
2	Cisco	Eastland	Rural	3,851	2.8	2.8	6
2	Clyde	Callahan	Rural	3,345	1.4	0.7	2
2	Coleman	Coleman	Rural	5,127	2.1	3.5	6
2	Colorado City	Mitchell	Rural	4,281	2.1	3.5	6
2	Comanche	Comanche	Rural	4,482	2.1	2.8	5
2	Cross Plains	Callahan	Rural	1,068	1.4	3.5	5
2	Crowell	Foard	Rural	1,141	0.7	2.1	3
2	De Leon	Comanche	Rural	2,433	2.1	3.5	6
2	Dean	Clay	Rural	341	1.4	0.7	2
2	Early	Brown	Rural	2,588	3.5	1.4	5
2	Eastland	Eastland	Rural	3,769	2.8	2.8	6
2	Elbert	Throckmorton	Rural	56	0.7	0.7	1
2	Electra	Wichita	Rural	3,168	2.8	2.8	6
2	Girard	Kent	Rural	62	0.7	1.4	2
2	Goree	Knox	Rural	321	1.4	3.5	5
2	Gorman	Eastland	Rural	1,236	2.8	1.4	4
2	Graham	Young	Rural	8,716	2.8	2.1	5
2	Gustine	Comanche	Rural	457	2.1	3.5	6
2	Hamlin	Jones	Rural	2,248	2.8	2.8	6
2	Haskell	Haskell	Rural	3,106	2.1	3.5	6
2	Hawley	Jones	Rural	646	2.8	1.4	4
2	Henrietta	Clay	Rural	3,264	1.4	1.4	3
2	Hermleigh	Scurry	Rural	393	2.8	3.5	6
2	Holliday	Archer	Rural	1,632	1.4	1.4	3
2	Impact	Taylor	Urb./Exurb.	39	2.1	2.1	4
2	Iowa Park	Wichita	Rural	6,431	2.8	0.7	4
2	Jacksboro	Jack	Rural	4,533	1.4	1.4	3
2	Jayton	Kent	Rural	513	0.7	0.7	1
2	Jolly	Clay	Rural	188	1.4	0.7	2
2	Knox City	Knox	Rural	1,219	1.4	2.8	4
2	Lake Brownwood	Brown	Rural	1,694	3.5	2.8	6
2	Lakeside City	Archer	Urb./Exurb.	984	1.4	0.7	2
2	Lawn	Taylor	Rural	353	2.1	2.1	4
2	Lorraine	Mitchell	Rural	656	2.1	3.5	6
2	Lueders	Jones	Rural	300	2.8	2.8	6
2	Megargel	Archer	Rural	248	1.4	0.7	2
2	Merkel	Taylor	Rural	2,637	2.1	1.4	4
2	Miles	Runnels	Rural	850	2.1	2.1	4
2	Moran	Shackelford	Rural	233	0.7	3.5	4
2	Munday	Knox	Rural	1,527	1.4	3.5	5
2	Newcastle	Young	Rural	575	2.8	2.8	6
2	Nocona	Montague	Rural	3,198	2.1	1.4	4
2	Novice	Coleman	Rural	142	2.1	0.7	3
2	O'Brien	Haskell	Rural	132	2.1	3.5	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
2	Olney	Young	Rural	3,396	2.8	2.8	6
2	Paducah	Cottle	Rural	1,498	0.7	2.1	3
2	Petrolia	Clay	Rural	782	1.4	2.1	4
2	Pleasant Valley	Wichita	Urb./Exurb.	408	2.8	1.4	4
2	Potosi	Taylor	Urb./Exurb.	1,664	2.1	0.7	3
2	Putnam	Callahan	Rural	88	1.4	3.5	5
2	Quanah	Hardeman	Rural	3,022	1.4	2.8	4
2	Ranger	Eastland	Rural	2,584	2.8	2.1	5
2	Rising Star	Eastland	Rural	835	2.8	3.5	6
2	Roby	Fisher	Rural	673	0.7	1.4	2
2	Rochester	Haskell	Rural	378	2.1	3.5	6
2	Roscoe	Nolan	Rural	1,378	2.8	3.5	6
2	Rotan	Fisher	Rural	1,611	0.7	2.8	4
2	Rule	Haskell	Rural	698	2.1	2.8	5
2	Santa Anna	Coleman	Rural	1,081	2.1	2.8	5
2	Scotland	Archer	Rural	438	1.4	0.7	2
2	Seymour	Baylor	Rural	2,908	1.4	2.1	4
2	Snyder	Scurry	Rural	10,783	2.8	1.4	4
2	St. Jo	Montague	Rural	977	2.1	2.1	4
2	Stamford	Jones	Rural	3,636	2.8	2.8	6
2	Sunset	Montague	Rural	339	2.1	2.8	5
2	Sweetwater	Nolan	Rural	11,415	2.8	3.5	6
2	Throckmorton	Throckmorton	Rural	905	0.7	1.4	2
2	Trent	Taylor	Rural	318	2.1	0.7	3
2	Tuscola	Taylor	Rural	714	2.1	0.7	3
2	Tye	Taylor	Urb./Exurb.	1,158	2.1	3.5	6
2	Vernon	Wilbarger	Rural	11,660	2.8	1.4	4
2	Weinert	Haskell	Rural	177	2.1	2.1	4
2	Westbrook	Mitchell	Rural	203	2.1	2.8	5
2	Windthorst	Archer	Rural	440	1.4	0.7	2
2	Winters	Runnels	Rural	2,880	2.1	3.5	6
2	Woodson	Throckmorton	Rural	296	0.7	1.4	2
3	Addison	Dallas	Urb./Exurb.	14,166	3.5	2.1	6
3	Aledo	Parker	Rural	1,726	2.1	1.4	4
3	Allen	Collin	Urb./Exurb.	43,554	2.8	0.7	4
3	Alma	Ellis	Rural	302	2.8	2.8	6
3	Alvarado	Johnson	Rural	3,288	2.8	2.8	6
3	Alvord	Wise	Rural	1,007	1.4	2.1	4
3	Angus	Navarro	Rural	334	2.8	2.1	5
3	Anna	Collin	Rural	1,225	2.8	2.1	5
3	Annetta	Parker	Rural	1,108	2.1	0.7	3
3	Annetta North	Parker	Rural	467	2.1	0.7	3
3	Annetta South	Parker	Rural	555	2.1	0.7	3
3	Argyle	Denton	Urb./Exurb.	2,365	3.5	0.7	4
3	Aubrey	Denton	Rural	1,500	3.5	2.8	6
3	Aurora	Wise	Rural	853	1.4	3.5	5
3	Bailey	Fannin	Rural	213	1.4	3.5	5
3	Bardwell	Ellis	Rural	583	2.8	3.5	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Barry	Navarro	Rural	209	2.8	2.8	6
3	Bartonville	Denton	Rural	1,093	3.5	0.7	4
3	Bells	Grayson	Rural	1,190	2.8	2.8	6
3	Blooming Grove	Navarro	Rural	833	2.8	3.5	6
3	Blue Ridge	Collin	Rural	672	2.8	3.5	6
3	Bonham	Fannin	Rural	9,990	1.4	2.8	4
3	Boyd	Wise	Rural	1,099	1.4	3.5	5
3	Briar	Tarrant	Rural	5,350	2.8	1.4	4
3	Briar Oaks	Johnson	Rural	493	2.8	1.4	4
3	Bridgeport	Wise	Rural	4,309	1.4	3.5	5
3	Burleson	Johnson	Urb./Exurb.	20,976	2.8	1.4	4
3	Caddo Mills	Hunt	Rural	1,149	2.8	2.8	6
3	Callisburg	Cooke	Rural	365	1.4	2.8	4
3	Campbell	Hunt	Rural	734	2.8	2.1	5
3	Carrollton	Denton	Urb./Exurb.	109,576	3.5	1.4	5
3	Celeste	Hunt	Rural	817	2.8	2.8	6
3	Celina	Collin	Urb./Exurb.	1,861	2.8	2.8	6
3	Chico	Wise	Rural	947	1.4	2.8	4
3	Cleburne	Johnson	Urb./Exurb.	26,005	2.8	2.8	6
3	Colleyville	Tarrant	Urb./Exurb.	19,636	2.8	0.7	4
3	Collinsville	Grayson	Rural	1,235	2.8	2.1	5
3	Combine	Kaufman	Rural	1,788	2.1	1.4	4
3	Commerce	Hunt	Rural	7,669	2.8	3.5	6
3	Cool	Parker	Rural	162	2.1	3.5	6
3	Coppell	Dallas	Urb./Exurb.	35,958	3.5	0.7	4
3	Copper Canyon	Denton	Urb./Exurb.	1,216	3.5	0.7	4
3	Corinth	Denton	Urb./Exurb.	11,325	3.5	0.7	4
3	Corral City	Denton	Rural	89	3.5	2.1	6
3	Corsicana	Navarro	Rural	24,485	2.8	3.5	6
3	Cottonwood	Kaufman	Rural	181	2.1	2.1	4
3	Crandall	Kaufman	Rural	2,774	2.1	1.4	4
3	Cross Roads	Denton	Rural	603	3.5	1.4	5
3	Cross Timber	Johnson	Rural	277	2.8	1.4	4
3	Dawson	Navarro	Rural	852	2.8	3.5	6
3	Decatur	Wise	Rural	5,201	1.4	2.1	4
3	Denison	Grayson	Urb./Exurb.	22,773	2.8	2.8	6
3	DeSoto	Dallas	Urb./Exurb.	37,646	3.5	2.1	6
3	Dodd City	Fannin	Rural	419	1.4	3.5	5
3	Dorchester	Grayson	Urb./Exurb.	109	2.8	2.1	5
3	Double Oak	Denton	Urb./Exurb.	2,179	3.5	0.7	4
3	Dublin	Erath	Rural	3,754	2.1	3.5	6
3	Eagle Mountain	Tarrant	Urb./Exurb.	6,599	2.8	1.4	4
3	Ector	Fannin	Rural	600	1.4	2.1	4
3	Edgecliff Village	Tarrant	Urb./Exurb.	2,550	2.8	1.4	4
3	Emhouse	Navarro	Rural	159	2.8	0.7	4
3	Ennis	Ellis	Rural	16,045	2.8	2.8	6
3	Eureka	Navarro	Rural	340	2.8	1.4	4
3	Fairview	Collin	Urb./Exurb.	2,644	2.8	0.7	4

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Farmersville	Collin	Rural	3,118	2.8	2.1	5
3	Fate	Rockwall	Rural	497	0.7	1.4	2
3	Ferris	Ellis	Rural	2,175	2.8	2.1	5
3	Flower Mound	Denton	Urb./Exurb.	50,702	3.5	0.7	4
3	Forney	Kaufman	Rural	5,588	2.1	2.1	4
3	Frisco	Collin	Urb./Exurb.	33,714	2.8	0.7	4
3	Frost	Navarro	Rural	648	2.8	3.5	6
3	Gainesville	Cooke	Rural	15,538	1.4	3.5	5
3	Garrett	Ellis	Rural	448	2.8	3.5	6
3	Glen Rose	Somervell	Rural	2,122	0.7	2.8	4
3	Godley	Johnson	Rural	879	2.8	2.1	5
3	Goodlow	Navarro	Rural	264	2.8	3.5	6
3	Gordon	Palo Pinto	Rural	451	1.4	2.8	4
3	Graford	Palo Pinto	Rural	578	1.4	2.1	4
3	Granbury	Hood	Rural	5,718	0.7	2.8	4
3	Grandview	Johnson	Rural	1,358	2.8	3.5	6
3	Grays Prairie	Kaufman	Rural	296	2.1	0.7	3
3	Greenville	Hunt	Urb./Exurb.	23,960	2.8	3.5	6
3	Gunter	Grayson	Rural	1,230	2.8	1.4	4
3	Hackberry	Denton	Urb./Exurb.	544	3.5	3.5	7
3	Hawk Cove	Hunt	Rural	457	2.8	2.1	5
3	Heath	Rockwall	Urb./Exurb.	4,149	0.7	0.7	1
3	Hebron	Denton	Urb./Exurb.	874	3.5	0.7	4
3	Hickory Creek	Denton	Urb./Exurb.	2,078	3.5	1.4	5
3	Highland Park	Dallas	Urb./Exurb.	8,842	3.5	0.7	4
3	Highland Village	Denton	Urb./Exurb.	12,173	3.5	0.7	4
3	Honey Grove	Fannin	Rural	1,746	1.4	2.8	4
3	Howe	Grayson	Urb./Exurb.	2,478	2.8	2.8	6
3	Hudson Oaks	Parker	Rural	1,637	2.1	1.4	4
3	Italy	Ellis	Rural	1,993	2.8	2.1	5
3	Josephine	Collin	Rural	594	2.8	2.8	6
3	Joshua	Johnson	Urb./Exurb.	4,528	2.8	2.1	5
3	Justin	Denton	Rural	1,891	3.5	1.4	5
3	Kaufman	Kaufman	Rural	6,490	2.1	3.5	6
3	Keene	Johnson	Rural	5,003	2.8	2.8	6
3	Kemp	Kaufman	Rural	1,133	2.1	3.5	6
3	Kerens	Navarro	Rural	1,681	2.8	3.5	6
3	Knollwood	Grayson	Urb./Exurb.	375	2.8	2.1	5
3	Krugerville	Denton	Rural	903	3.5	1.4	5
3	Krum	Denton	Rural	1,979	3.5	0.7	4
3	Ladonia	Fannin	Rural	667	1.4	3.5	5
3	Lake Bridgeport	Wise	Rural	372	1.4	2.1	4
3	Lake Dallas	Denton	Rural	6,166	3.5	2.1	6
3	Lake Kiowa	Cooke	Rural	1,883	1.4	0.7	2
3	Lakewood Village	Denton	Rural	342	3.5	2.1	6
3	Lavon	Collin	Rural	387	2.8	0.7	4
3	Leonard	Fannin	Rural	1,846	1.4	3.5	5
3	Lewisville	Denton	Urb./Exurb.	77,737	3.5	2.1	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Lincoln Park	Denton	Rural	517	3.5	3.5	7
3	Lindsay (Cooke)	Cooke	Rural	788	1.4	1.4	3
3	Lipan	Hood	Rural	425	0.7	1.4	2
3	Little Elm	Denton	Urb./Exurb.	3,646	3.5	2.8	6
3	Lone Oak	Hunt	Rural	521	2.8	2.8	6
3	Lowry Crossing	Collin	Urb./Exurb.	1,229	2.8	1.4	4
3	Lucas	Collin	Urb./Exurb.	2,890	2.8	0.7	4
3	Mabank	Kaufman	Rural	2,151	2.1	2.8	5
3	Marshall Creek	Denton	Rural	431	3.5	3.5	7
3	Maypearl	Ellis	Rural	746	2.8	2.1	5
3	McKinney	Collin	Urb./Exurb.	54,369	2.8	2.1	5
3	McLendon-Chisholm	Rockwall	Rural	914	0.7	0.7	1
3	Melissa	Collin	Urb./Exurb.	1,350	2.8	1.4	4
3	Mesquite	Dallas	Urb./Exurb.	124,523	3.5	2.1	6
3	Midlothian	Ellis	Urb./Exurb.	7,480	2.8	2.1	5
3	Mildred	Navarro	Rural	405	2.8	3.5	6
3	Milford	Ellis	Rural	685	2.8	3.5	6
3	Millsap	Parker	Rural	353	2.1	1.4	4
3	Mineral Wells	Palo Pinto	Rural	16,946	1.4	3.5	5
3	Mingus	Palo Pinto	Rural	246	1.4	2.1	4
3	Mobile City	Rockwall	Rural	196	0.7	2.1	3
3	Muenster	Cooke	Rural	1,556	1.4	1.4	3
3	Murphy	Collin	Urb./Exurb.	3,099	2.8	0.7	4
3	Mustang	Navarro	Rural	47	2.8	1.4	4
3	Navarro	Navarro	Rural	191	2.8	0.7	4
3	Nevada	Collin	Rural	563	2.8	0.7	4
3	New Fairview	Wise	Rural	877	1.4	2.8	4
3	New Hope	Collin	Rural	662	2.8	0.7	4
3	Newark	Wise	Rural	887	1.4	2.8	4
3	Neylandville	Hunt	Rural	56	2.8	3.5	6
3	North Richland Hills	Tarrant	Urb./Exurb.	55,635	2.8	1.4	4
3	Northlake	Denton	Urb./Exurb.	921	3.5	2.8	6
3	Oak Grove	Kaufman	Rural	710	2.1	1.4	4
3	Oak Leaf	Ellis	Rural	1,209	2.8	0.7	4
3	Oak Point	Denton	Rural	1,747	3.5	0.7	4
3	Oak Ridge (Cooke)	Cooke	Rural	224	1.4	3.5	5
3	Oak Ridge (Kaufman)	Kaufman	Rural	400	2.1	2.1	4
3	Oak Trail Shores	Hood	Rural	2,475	0.7	3.5	4
3	Oak Valley	Navarro	Rural	401	2.8	2.1	5
3	Ovilla	Ellis	Urb./Exurb.	3,405	2.8	0.7	4
3	Palmer	Ellis	Rural	1,774	2.8	2.8	6
3	Paradise	Wise	Rural	459	1.4	3.5	5
3	Parker	Collin	Urb./Exurb.	1,379	2.8	0.7	4
3	Pecan Acres	Wise	Rural	2,289	1.4	2.8	4
3	Pecan Hill	Ellis	Rural	672	2.8	0.7	4
3	Pecan Plantation	Hood	Rural	3,544	0.7	0.7	1
3	Pelican Bay	Tarrant	Rural	1,505	2.8	3.5	6
3	Pilot Point	Denton	Rural	3,538	3.5	2.1	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Ponder	Denton	Rural	507	3.5	0.7	4
3	Post Oak Bend City	Kaufman	Rural	404	2.1	2.1	4
3	Pottsboro	Grayson	Rural	1,579	2.8	2.1	5
3	Powell	Navarro	Rural	105	2.8	2.8	6
3	Princeton	Collin	Urb./Exurb.	3,477	2.8	2.1	5
3	Prosper	Collin	Urb./Exurb.	2,097	2.8	1.4	4
3	Quinlan	Hunt	Rural	1,370	2.8	2.8	6
3	Ravenna	Fannin	Rural	215	1.4	3.5	5
3	Red Oak	Ellis	Urb./Exurb.	4,301	2.8	2.1	5
3	Rendon	Tarrant	Urb./Exurb.	9,022	2.8	2.1	5
3	Reno (Parker)	Parker	Rural	2,441	2.1	2.8	5
3	Retreat	Navarro	Rural	339	2.8	2.1	5
3	Rhome	Wise	Rural	551	1.4	3.5	5
3	Rice	Navarro	Rural	798	2.8	3.5	6
3	Richardson	Dallas	Urb./Exurb.	91,802	3.5	1.4	5
3	Richland	Navarro	Rural	291	2.8	3.5	6
3	Rio Vista	Johnson	Rural	656	2.8	2.8	6
3	Roanoke	Denton	Urb./Exurb.	2,810	3.5	2.1	6
3	Rockwall	Rockwall	Urb./Exurb.	17,976	0.7	1.4	2
3	Rosser	Kaufman	Rural	379	2.1	2.8	5
3	Royse City	Rockwall	Rural	2,957	0.7	2.8	4
3	Runaway Bay	Wise	Rural	1,104	1.4	1.4	3
3	Sadler	Grayson	Rural	404	2.8	3.5	6
3	Sanctuary	Parker	Rural	256	2.1	2.8	5
3	Sanger	Denton	Rural	4,534	3.5	2.1	6
3	Savoy	Fannin	Rural	850	1.4	2.1	4
3	Shady Shores	Denton	Urb./Exurb.	1,461	3.5	1.4	5
3	Sherman	Grayson	Urb./Exurb.	35,082	2.8	2.8	6
3	Southmayd	Grayson	Rural	992	2.8	1.4	4
3	Springtown	Parker	Rural	2,062	2.1	3.5	6
3	St. Paul (Collin)	Collin	Rural	630	2.8	1.4	4
3	Stephenville	Erath	Rural	14,921	2.1	3.5	6
3	Strawn	Palo Pinto	Rural	739	1.4	2.8	4
3	Sunnyvale	Dallas	Urb./Exurb.	2,693	3.5	0.7	4
3	Talty	Kaufman	Rural	1,028	2.1	0.7	3
3	Terrell	Kaufman	Rural	13,606	2.1	3.5	6
3	The Colony	Denton	Urb./Exurb.	26,531	3.5	0.7	4
3	Tioga	Grayson	Rural	754	2.8	1.4	4
3	Tolar	Hood	Rural	504	0.7	2.1	3
3	Tom Bean	Grayson	Rural	941	2.8	2.1	5
3	Trenton	Fannin	Rural	662	1.4	2.1	4
3	Trophy Club	Denton	Urb./Exurb.	6,350	3.5	0.7	4
3	Valley View	Cooke	Rural	737	1.4	2.1	4
3	Van Alstyne	Grayson	Rural	2,502	2.8	1.4	4
3	Venus	Johnson	Rural	910	2.8	2.1	5
3	Waxahachie	Ellis	Urb./Exurb.	21,426	2.8	2.8	6
3	Weatherford	Parker	Rural	19,000	2.1	2.8	5
3	West Tawakoni	Hunt	Rural	1,462	2.8	3.5	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Westminster	Collin	Rural	390	2.8	2.1	5
3	Weston	Collin	Urb./Exurb.	635	2.8	1.4	4
3	Westover Hills	Tarrant	Urb./Exurb.	658	2.8	0.7	4
3	Whitesboro	Grayson	Rural	3,760	2.8	2.8	6
3	Whitewright	Grayson	Rural	1,740	2.8	2.8	6
3	Willow Park	Parker	Rural	2,849	2.1	0.7	3
3	Windom	Fannin	Rural	245	1.4	2.1	4
3	Wolfe City	Hunt	Rural	1,566	2.8	3.5	6
3	Wylie	Collin	Rural	15,132	2.8	1.4	4
4	Alba	Wood	Rural	430	2.1	2.8	5
4	Alto	Cherokee	Rural	1,190	2.8	3.5	6
4	Annona	Red River	Rural	282	1.4	3.5	5
4	Arp	Smith	Rural	901	1.4	0.7	2
4	Athens	Henderson	Rural	11,297	2.8	2.1	5
4	Atlanta	Cass	Rural	5,745	2.1	2.8	5
4	Avery	Red River	Rural	462	1.4	2.8	4
4	Avinger	Cass	Rural	464	2.1	3.5	6
4	Beckville	Panola	Rural	752	1.4	2.8	4
4	Berryville	Henderson	Rural	891	2.8	2.8	6
4	Big Sandy	Upshur	Rural	1,288	1.4	2.1	4
4	Bloomburg	Cass	Rural	375	2.1	2.1	4
4	Blossom	Lamar	Rural	1,439	2.8	1.4	4
4	Bogata	Red River	Rural	1,396	1.4	2.1	4
4	Brownsboro	Henderson	Rural	796	2.8	3.5	6
4	Bullard	Smith	Rural	1,150	1.4	0.7	2
4	Caney City	Henderson	Rural	236	2.8	3.5	6
4	Canton	Van Zandt	Rural	3,292	2.1	0.7	3
4	Carthage	Panola	Rural	6,664	1.4	1.4	3
4	Chandler	Henderson	Rural	2,099	2.8	0.7	4
4	Clarksville	Red River	Rural	3,883	1.4	2.8	4
4	Clarksville City	Gregg	Rural	806	2.8	1.4	4
4	Coffee City	Henderson	Rural	193	2.8	2.1	5
4	Como	Hopkins	Rural	621	2.1	3.5	6
4	Cooper	Delta	Rural	2,150	0.7	3.5	4
4	Cumby	Hopkins	Rural	616	2.1	1.4	4
4	Cuney	Cherokee	Rural	145	2.8	3.5	6
4	Daingerfield	Morris	Rural	2,517	1.4	3.5	5
4	De Kalb	Bowie	Rural	1,769	3.5	3.5	7
4	Deport	Lamar	Rural	718	2.8	1.4	4
4	Detroit	Red River	Rural	776	1.4	3.5	5
4	Domino	Cass	Rural	52	2.1	1.4	4
4	Douglasville	Cass	Rural	175	2.1	0.7	3
4	East Mountain	Upshur	Rural	580	1.4	1.4	3
4	East Tawakoni	Rains	Rural	775	0.7	0.7	1
4	Easton	Gregg	Rural	524	2.8	3.5	6
4	Edgewood	Van Zandt	Rural	1,348	2.1	2.1	4
4	Edom	Van Zandt	Rural	322	2.1	2.1	4
4	Elkhart	Anderson	Rural	1,215	2.8	2.8	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
4	Emory	Rains	Rural	1,021	0.7	2.1	3
4	Enchanted Oaks	Henderson	Rural	357	2.8	1.4	4
4	Eustace	Henderson	Rural	798	2.8	0.7	4
4	Frankston	Anderson	Rural	1,209	2.8	1.4	4
4	Fruitvale	Van Zandt	Rural	418	2.1	2.1	4
4	Gallatin	Cherokee	Rural	378	2.8	2.8	6
4	Gary City	Panola	Rural	303	1.4	2.1	4
4	Gilmer	Upshur	Rural	4,799	1.4	2.1	4
4	Gladewater	Gregg	Rural	6,078	2.8	2.8	6
4	Grand Saline	Van Zandt	Rural	3,028	2.1	2.1	4
4	Gun Barrel City	Henderson	Rural	5,145	2.8	1.4	4
4	Hallsville	Harrison	Rural	2,772	2.8	0.7	4
4	Hawkins	Wood	Rural	1,331	2.1	2.1	4
4	Henderson	Rusk	Rural	11,273	2.1	1.4	4
4	Hooks	Bowie	Rural	2,973	3.5	1.4	5
4	Hughes Springs	Cass	Rural	1,856	2.1	2.8	5
4	Jacksonville	Cherokee	Rural	13,868	2.8	2.8	6
4	Jefferson	Marion	Rural	2,024	0.7	3.5	4
4	Kilgore	Gregg	Rural	11,301	2.8	1.4	4
4	Lakeport	Gregg	Rural	861	2.8	1.4	4
4	Leary	Bowie	Rural	555	3.5	1.4	5
4	Liberty City	Gregg	Rural	1,935	2.8	0.7	4
4	Lindale	Smith	Rural	2,954	1.4	1.4	3
4	Linden	Cass	Rural	2,256	2.1	1.4	4
4	Log Cabin	Henderson	Rural	733	2.8	3.5	6
4	Lone Star	Morris	Rural	1,631	1.4	3.5	5
4	Malakoff	Henderson	Rural	2,257	2.8	3.5	6
4	Marietta	Cass	Rural	112	2.1	0.7	3
4	Marshall	Harrison	Urb./Exurb.	23,935	2.8	2.8	6
4	Maud	Bowie	Rural	1,028	3.5	1.4	5
4	Miller's Cove	Titus	Rural	120	2.1	3.5	6
4	Mineola	Wood	Rural	4,550	2.1	2.1	4
4	Moore Station	Henderson	Rural	184	2.8	3.5	6
4	Mount Enterprise	Rusk	Rural	525	2.1	2.1	4
4	Mount Pleasant	Titus	Rural	13,935	2.1	2.8	5
4	Mount Vernon	Franklin	Rural	2,286	0.7	2.1	3
4	Murchison	Henderson	Rural	592	2.8	2.1	5
4	Naples	Morris	Rural	1,410	1.4	3.5	5
4	Nash	Bowie	Urb./Exurb.	2,169	3.5	2.1	6
4	Nesbitt	Harrison	Rural	302	2.8	1.4	4
4	New Boston	Bowie	Rural	4,808	3.5	2.1	6
4	New Chapel Hill	Smith	Rural	553	1.4	0.7	2
4	New London	Rusk	Rural	987	2.1	1.4	4
4	New Summerfield	Cherokee	Rural	998	2.8	3.5	6
4	Noonday	Smith	Rural	515	1.4	0.7	2
4	Omaha	Morris	Rural	999	1.4	3.5	5
4	Ore City	Upshur	Rural	1,106	1.4	3.5	5
4	Overton	Rusk	Rural	2,350	2.1	2.1	4

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
4	Palestine	Anderson	Rural	17,598	2.8	2.8	6
4	Paris	Lamar	Rural	25,898	2.8	2.8	6
4	Payne Springs	Henderson	Rural	683	2.8	0.7	4
4	Pecan Gap	Delta	Rural	214	0.7	3.5	4
4	Pittsburg	Camp	Rural	4,347	1.4	3.5	5
4	Point	Rains	Rural	792	0.7	3.5	4
4	Poynor	Henderson	Rural	314	2.8	1.4	4
4	Queen City	Cass	Rural	1,613	2.1	2.8	5
4	Quitman	Wood	Rural	2,030	2.1	1.4	4
4	Red Lick	Bowie	Rural	853	3.5	0.7	4
4	Redwater	Bowie	Rural	872	3.5	2.8	6
4	Reklaw	Cherokee	Rural	327	2.8	2.1	5
4	Reno (Lamar)	Lamar	Rural	2,767	2.8	0.7	4
4	Rocky Mound	Camp	Rural	93	1.4	0.7	2
4	Roxton	Lamar	Rural	694	2.8	3.5	6
4	Rusk	Cherokee	Rural	5,085	2.8	1.4	4
4	Scottsville	Harrison	Rural	263	2.8	3.5	6
4	Seven Points	Henderson	Rural	1,145	2.8	3.5	6
4	Star Harbor	Henderson	Rural	416	2.8	0.7	4
4	Sulphur Springs	Hopkins	Rural	14,551	2.1	2.1	4
4	Sun Valley	Lamar	Rural	51	2.8	2.1	5
4	Talco	Titus	Rural	570	2.1	3.5	6
4	Tatum	Rusk	Rural	1,175	2.1	3.5	6
4	Texarkana	Bowie	Urb./Exurb.	34,782	3.5	3.5	7
4	Tira	Hopkins	Rural	248	2.1	0.7	3
4	Toco	Lamar	Rural	89	2.8	3.5	6
4	Tool	Henderson	Rural	2,275	2.8	1.4	4
4	Trinidad	Henderson	Rural	1,091	2.8	1.4	4
4	Troup	Smith	Rural	1,949	1.4	2.8	4
4	Uncertain	Harrison	Rural	150	2.8	2.1	5
4	Union Grove	Upshur	Rural	346	1.4	3.5	5
4	Van	Van Zandt	Rural	2,362	2.1	1.4	4
4	Wake Village	Bowie	Urb./Exurb.	5,129	3.5	1.4	5
4	Warren City	Gregg	Rural	343	2.8	2.1	5
4	Waskom	Harrison	Rural	2,068	2.8	2.8	6
4	Wells	Cherokee	Rural	769	2.8	3.5	6
4	White Oak	Gregg	Urb./Exurb.	5,624	2.8	1.4	4
4	Whitehouse	Smith	Rural	5,346	1.4	0.7	2
4	Wills Point	Van Zandt	Rural	3,496	2.1	2.1	4
4	Winfield	Titus	Rural	499	2.1	2.8	5
4	Winnsboro	Wood	Rural	3,584	2.1	1.4	4
4	Winona	Smith	Rural	582	1.4	0.7	2
4	Yantis	Wood	Rural	321	2.1	2.8	5
5	Appleby	Nacogdoches	Rural	444	3.5	1.4	5
5	Bevil Oaks	Jefferson	Rural	1,346	2.8	0.7	4
5	Broadus	San Augustine	Rural	189	0.7	2.8	4
5	Browndell	Jasper	Rural	219	2.1	2.1	4
5	Buna	Jasper	Rural	2,269	2.1	1.4	4

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
5	Burke	Angelina	Rural	315	3.5	2.1	6
5	Center	Shelby	Rural	5,678	2.1	2.8	5
5	Central Gardens	Jefferson	Rural	4,106	2.8	0.7	4
5	Chester	Tyler	Rural	265	1.4	1.4	3
5	Chireno	Nacogdoches	Rural	405	3.5	2.1	6
5	Coldspring	San Jacinto	Rural	691	1.4	2.1	4
5	Colmesneil	Tyler	Rural	638	1.4	2.1	4
5	Corrigan	Polk	Rural	1,721	2.1	3.5	6
5	Crockett	Houston	Rural	7,141	2.1	3.5	6
5	Cushing	Nacogdoches	Rural	637	3.5	1.4	5
5	Deweyville	Newton	Rural	1,190	1.4	1.4	3
5	Diboll	Angelina	Rural	5,470	3.5	2.1	6
5	Evadale	Jasper	Rural	1,430	2.1	1.4	4
5	Garrison	Nacogdoches	Rural	844	3.5	2.1	6
5	Goodrich	Polk	Rural	243	2.1	3.5	6
5	Grapeland	Houston	Rural	1,451	2.1	2.8	5
5	Groves	Jefferson	Urb./Exurb.	15,733	2.8	0.7	4
5	Groveton	Trinity	Rural	1,107	1.4	2.8	4
5	Hemphill	Sabine	Rural	1,106	1.4	2.1	4
5	Hudson	Angelina	Rural	3,792	3.5	1.4	5
5	Huntington	Angelina	Rural	2,068	3.5	2.8	6
5	Huxley	Shelby	Rural	298	2.1	0.7	3
5	Jasper	Jasper	Rural	8,247	2.1	3.5	6
5	Joaquin	Shelby	Rural	925	2.1	3.5	6
5	Kennard	Houston	Rural	317	2.1	2.8	5
5	Kirbyville	Jasper	Rural	2,085	2.1	2.8	5
5	Latexo	Houston	Rural	272	2.1	2.8	5
5	Livingston	Polk	Rural	5,433	2.1	2.8	5
5	Lovelady	Houston	Rural	608	2.1	1.4	4
5	Lufkin	Angelina	Rural	32,709	3.5	2.1	6
5	Lumberton	Hardin	Rural	8,731	1.4	0.7	2
5	Mauriceville	Orange	Rural	2,743	0.7	1.4	2
5	Milam	Sabine	Rural	1,329	1.4	0.7	2
5	Nacogdoches	Nacogdoches	Rural	29,914	3.5	3.5	7
5	Nederland	Jefferson	Urb./Exurb.	17,422	2.8	0.7	4
5	Newton	Newton	Rural	2,459	1.4	2.1	4
5	Nome	Jefferson	Rural	515	2.8	2.8	6
5	Oakhurst	San Jacinto	Rural	230	1.4	2.1	4
5	Onalaska	Polk	Rural	1,174	2.1	2.1	4
5	Pine Forest	Orange	Rural	632	0.7	0.7	1
5	Pineland	Sabine	Rural	980	1.4	2.1	4
5	Pinewood Estates	Hardin	Rural	1,633	1.4	0.7	2
5	Point Blank	San Jacinto	Rural	559	1.4	2.1	4
5	Port Neches	Jefferson	Urb./Exurb.	13,601	2.8	0.7	4
5	Rose City	Orange	Rural	519	0.7	2.1	3
5	Rose Hill Acres	Hardin	Urb./Exurb.	480	1.4	0.7	2
5	San Augustine	San Augustine	Rural	2,475	0.7	2.1	3
5	Seven Oaks	Polk	Rural	131	2.1	0.7	3

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
5	Shepherd	San Jacinto	Rural	2,029	1.4	2.1	4
5	South Toledo Bend	Newton	Rural	576	1.4	0.7	2
5	Tenaha	Shelby	Rural	1,046	2.1	3.5	6
5	Timpson	Shelby	Rural	1,094	2.1	3.5	6
5	Trinity	Trinity	Rural	2,721	1.4	2.8	4
5	West Livingston	Polk	Rural	6,612	2.1	2.1	4
5	Woodville	Tyler	Rural	2,415	1.4	2.8	4
5	Zavalla	Angelina	Rural	647	3.5	2.8	6
6	Aldine	Harris	Urb./Exurb.	13,979	3.5	2.8	6
6	Ames	Liberty	Rural	1,079	1.4	3.5	5
6	Anahuac	Chambers	Rural	2,210	0.7	2.8	4
6	Angleton	Brazoria	Rural	18,130	2.1	2.1	4
6	Atascocita	Harris	Urb./Exurb.	35,757	3.5	0.7	4
6	Bacliff	Galveston	Urb./Exurb.	6,962	3.5	3.5	7
6	Barrett	Harris	Rural	2,872	3.5	3.5	7
6	Bay City	Matagorda	Rural	18,667	2.1	2.8	5
6	Bayou Vista	Galveston	Rural	1,644	3.5	1.4	5
6	Baytown	Harris	Urb./Exurb.	66,430	3.5	2.8	6
6	Beach City	Chambers	Urb./Exurb.	1,645	0.7	1.4	2
6	Bellville	Austin	Rural	3,794	0.7	1.4	2
6	Blessing	Matagorda	Rural	861	2.1	3.5	6
6	Boling-lago	Wharton	Rural	1,271	2.1	2.1	4
6	Bolivar Peninsula	Galveston	Rural	3,853	3.5	2.1	6
6	Brookshire	Waller	Rural	3,450	1.4	3.5	5
6	Bunker Hill Village	Harris	Urb./Exurb.	3,654	3.5	0.7	4
6	Channelview	Harris	Urb./Exurb.	29,685	3.5	2.8	6
6	Cinco Ranch	Fort Bend	Urb./Exurb.	11,196	2.8	0.7	4
6	Clear Lake Shores	Galveston	Urb./Exurb.	1,205	3.5	1.4	5
6	Cleveland	Liberty	Rural	7,605	1.4	3.5	5
6	Cloverleaf	Harris	Urb./Exurb.	23,508	3.5	3.5	7
6	Columbus	Colorado	Rural	3,916	1.4	2.8	4
6	Conroe	Montgomery	Urb./Exurb.	36,811	2.8	3.5	6
6	Cove	Chambers	Rural	323	0.7	2.1	3
6	Crosby	Harris	Rural	1,714	3.5	2.1	6
6	Cummings	Fort Bend	Urb./Exurb.	683	2.8	2.8	6
6	Cut and Shoot	Montgomery	Urb./Exurb.	1,158	2.8	2.1	5
6	Daisetta	Liberty	Rural	1,034	1.4	2.8	4
6	Damon	Brazoria	Rural	535	2.1	3.5	6
6	Dayton Lakes	Liberty	Rural	101	1.4	2.8	4
6	Devers	Liberty	Rural	416	1.4	3.5	5
6	Dickinson	Galveston	Urb./Exurb.	17,093	3.5	2.8	6
6	Eagle Lake	Colorado	Rural	3,664	1.4	2.8	4
6	East Bernard	Wharton	Rural	1,729	2.1	2.1	4
6	El Campo	Wharton	Rural	10,945	2.1	2.8	5
6	El Lago	Harris	Urb./Exurb.	3,075	3.5	0.7	4
6	Fifth Street	Fort Bend	Urb./Exurb.	2,059	2.8	3.5	6
6	Four Corners	Fort Bend	Urb./Exurb.	2,954	2.8	2.8	6
6	Fresno	Fort Bend	Urb./Exurb.	6,603	2.8	2.8	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
6	Friendswood	Galveston	Urb./Exurb.	29,037	3.5	1.4	5
6	Greatwood	Fort Bend	Urb./Exurb.	6,640	2.8	0.7	4
6	Hardin	Liberty	Rural	755	1.4	2.1	4
6	Hedwig Village	Harris	Urb./Exurb.	2,334	3.5	1.4	5
6	Hempstead	Waller	Rural	4,691	1.4	3.5	5
6	Highlands	Harris	Urb./Exurb.	7,089	3.5	2.1	6
6	Hillcrest	Brazoria	Urb./Exurb.	722	2.1	1.4	4
6	Hilshire Village	Harris	Urb./Exurb.	720	3.5	0.7	4
6	Hitchcock	Galveston	Urb./Exurb.	6,386	3.5	3.5	7
6	Holiday Lakes	Brazoria	Rural	1,095	2.1	2.8	5
6	Hungerford	Wharton	Rural	645	2.1	2.1	4
6	Hunters Creek Village	Harris	Urb./Exurb.	4,374	3.5	0.7	4
6	Huntsville	Walker	Rural	35,078	2.1	3.5	6
6	Industry	Austin	Rural	304	0.7	3.5	4
6	Jamaica Beach	Galveston	Urb./Exurb.	1,075	3.5	2.1	6
6	Jersey Village	Harris	Urb./Exurb.	6,880	3.5	1.4	5
6	Kemah	Galveston	Urb./Exurb.	2,330	3.5	2.1	6
6	Kenefick	Liberty	Rural	667	1.4	2.1	4
6	La Marque	Galveston	Urb./Exurb.	13,682	3.5	2.8	6
6	League City	Galveston	Urb./Exurb.	45,444	3.5	1.4	5
6	Liverpool	Brazoria	Rural	404	2.1	1.4	4
6	Louise	Wharton	Rural	977	2.1	2.1	4
6	Magnolia	Montgomery	Rural	1,111	2.8	2.1	5
6	Markham	Matagorda	Rural	1,138	2.1	1.4	4
6	Mission Bend	Fort Bend	Urb./Exurb.	30,831	2.8	1.4	4
6	Missouri City	Fort Bend	Urb./Exurb.	52,913	2.8	0.7	4
6	Mont Belvieu	Chambers	Rural	2,324	0.7	1.4	2
6	Montgomery	Montgomery	Rural	489	2.8	2.8	6
6	Nassau Bay	Harris	Urb./Exurb.	4,170	3.5	1.4	5
6	New Territory	Fort Bend	Urb./Exurb.	13,861	2.8	0.7	4
6	New Waverly	Walker	Rural	950	2.1	3.5	6
6	North Cleveland	Liberty	Rural	263	1.4	2.8	4
6	Oak Ridge North	Montgomery	Urb./Exurb.	2,991	2.8	0.7	4
6	Old River-Winfree	Chambers	Rural	1,364	0.7	2.1	3
6	Palacios	Matagorda	Rural	5,153	2.1	3.5	6
6	Panorama Village	Montgomery	Urb./Exurb.	1,965	2.8	0.7	4
6	Pattison	Waller	Rural	447	1.4	2.1	4
6	Patton Village	Montgomery	Rural	1,391	2.8	3.5	6
6	Pecan Grove	Fort Bend	Rural	13,551	2.8	0.7	4
6	Pine Island	Waller	Rural	849	1.4	1.4	3
6	Pinehurst (Montgomery)	Montgomery	Rural	4,266	2.8	2.1	5
6	Piney Point Village	Harris	Urb./Exurb.	3,380	3.5	0.7	4
6	Plum Grove	Liberty	Rural	930	1.4	2.1	4
6	Porter Heights	Montgomery	Rural	1,490	2.8	1.4	4
6	Prairie View	Waller	Rural	4,410	1.4	2.8	4
6	Quintana	Brazoria	Rural	38	2.1	3.5	6
6	Riverside	Walker	Rural	425	2.1	3.5	6
6	Roman Forest	Montgomery	Rural	1,279	2.8	0.7	4

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
6	San Felipe	Austin	Rural	868	0.7	2.1	3
6	San Leon	Galveston	Urb./Exurb.	4,365	3.5	2.8	6
6	Santa Fe	Galveston	Urb./Exurb.	9,548	3.5	1.4	5
6	Sealy	Austin	Rural	5,248	0.7	2.8	4
6	Sheldon	Harris	Rural	1,831	3.5	2.1	6
6	Shenandoah	Montgomery	Urb./Exurb.	1,503	2.8	0.7	4
6	Sienna Plantation	Fort Bend	Urb./Exurb.	1,896	2.8	0.7	4
6	Southside Place	Harris	Urb./Exurb.	1,546	3.5	2.1	6
6	Splendor	Montgomery	Rural	1,275	2.8	2.8	6
6	Spring	Harris	Urb./Exurb.	36,385	3.5	1.4	5
6	Spring Valley	Harris	Urb./Exurb.	3,611	3.5	0.7	4
6	Stagecoach	Montgomery	Rural	455	2.8	0.7	4
6	Stowell	Chambers	Rural	1,572	0.7	2.8	4
6	Sugar Land	Fort Bend	Urb./Exurb.	63,328	2.8	0.7	4
6	Taylor Lake Village	Harris	Urb./Exurb.	3,694	3.5	0.7	4
6	Texas City	Galveston	Urb./Exurb.	41,521	3.5	2.8	6
6	The Woodlands	Montgomery	Urb./Exurb.	55,649	2.8	1.4	4
6	Tiki Island	Galveston	Urb./Exurb.	1,016	3.5	0.7	4
6	Van Vleck	Matagorda	Rural	1,411	2.1	1.4	4
6	Wallis	Austin	Rural	1,172	0.7	2.1	3
6	Weimar	Colorado	Rural	1,981	1.4	2.1	4
6	Wharton	Wharton	Rural	9,237	2.1	3.5	6
6	Wild Peach Village	Brazoria	Rural	2,498	2.1	1.4	4
6	Willis	Montgomery	Rural	3,985	2.8	3.5	6
6	Winnie	Chambers	Rural	2,914	0.7	2.1	3
6	Woodbranch	Montgomery	Rural	1,305	2.8	1.4	4
6	Woodloch	Montgomery	Rural	247	2.8	0.7	4
7	Anderson Mill	Williamson	Urb./Exurb.	8,953	3.5	2.1	6
7	Bartlett	Williamson	Rural	1,675	3.5	3.5	7
7	Barton Creek	Travis	Urb./Exurb.	1,589	2.8	1.4	4
7	Bastrop	Bastrop	Rural	5,340	2.1	2.8	5
7	Bear Creek	Hays	Rural	360	3.5	0.7	4
7	Bee Cave	Travis	Rural	656	2.8	0.7	4
7	Bertram	Burnet	Rural	1,122	2.1	2.1	4
7	Blanco	Blanco	Rural	1,505	0.7	3.5	4
7	Briarcliff	Travis	Rural	895	2.8	1.4	4
7	Brushy Creek	Williamson	Urb./Exurb.	15,371	3.5	0.7	4
7	Buchanan Dam	Llano	Rural	1,688	1.4	2.1	4
7	Buda	Hays	Urb./Exurb.	2,404	3.5	1.4	5
7	Burnet	Burnet	Rural	4,735	2.1	2.8	5
7	Camp Swift	Bastrop	Rural	4,731	2.1	2.8	5
7	Carmine	Fayette	Rural	228	1.4	3.5	5
7	Cedar Park	Williamson	Urb./Exurb.	26,049	3.5	1.4	5
7	Circle D-KC Estates	Bastrop	Rural	2,010	2.1	1.4	4
7	Cottonwood Shores	Burnet	Rural	877	2.1	2.8	5
7	Creedmoor	Travis	Rural	211	2.8	1.4	4
7	Dripping Springs	Hays	Rural	1,548	3.5	2.8	6
7	Elgin	Bastrop	Rural	5,700	2.1	3.5	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
7	Fayetteville	Fayette	Rural	261	1.4	2.8	4
7	Flatonia	Fayette	Rural	1,377	1.4	3.5	5
7	Florence	Williamson	Rural	1,054	3.5	3.5	7
7	Garfield	Travis	Rural	1,660	2.8	2.8	6
7	Georgetown	Williamson	Urb./Exurb.	28,339	3.5	2.1	6
7	Giddings	Lee	Rural	5,105	0.7	2.8	4
7	Granger	Williamson	Rural	1,299	3.5	2.8	6
7	Granite Shoals	Burnet	Rural	2,040	2.1	3.5	6
7	Hays	Hays	Rural	233	3.5	1.4	5
7	Highland Haven	Burnet	Rural	450	2.1	0.7	3
7	Horseshoe Bay	Llano	Rural	3,337	1.4	1.4	3
7	Hudson Bend	Travis	Urb./Exurb.	2,369	2.8	1.4	4
7	Hutto	Williamson	Rural	1,250	3.5	2.1	6
7	Johnson City	Blanco	Rural	1,191	0.7	2.8	4
7	Jollyville	Williamson	Urb./Exurb.	15,813	3.5	1.4	5
7	Jonestown	Travis	Rural	1,681	2.8	2.1	5
7	Kingsland	Llano	Rural	4,584	1.4	2.8	4
7	Kyle	Hays	Rural	5,314	3.5	2.1	6
7	La Grange	Fayette	Rural	4,478	1.4	2.8	4
7	Lago Vista	Travis	Rural	4,507	2.8	2.1	5
7	Lakeway	Travis	Rural	8,002	2.8	1.4	4
7	Leander	Williamson	Urb./Exurb.	7,596	3.5	2.1	6
7	Lexington	Lee	Rural	1,178	0.7	2.8	4
7	Liberty Hill	Williamson	Rural	1,409	3.5	2.1	6
7	Llano	Llano	Rural	3,325	1.4	2.1	4
7	Lockhart	Caldwell	Rural	11,615	2.1	2.8	5
7	Lost Creek	Travis	Urb./Exurb.	4,729	2.8	0.7	4
7	Luling	Caldwell	Rural	5,080	2.1	3.5	6
7	Manor	Travis	Urb./Exurb.	1,204	2.8	2.8	6
7	Marble Falls	Burnet	Rural	4,959	2.1	3.5	6
7	Martindale	Caldwell	Rural	953	2.1	2.8	5
7	Meadowlakes	Burnet	Rural	1,293	2.1	0.7	3
7	Mountain City	Hays	Rural	671	3.5	1.4	5
7	Mustang Ridge	Caldwell	Rural	785	2.1	2.1	4
7	Niederwald	Hays	Rural	584	3.5	1.4	5
7	Onion Creek	Travis	Urb./Exurb.	2,116	2.8	0.7	4
7	Pflugerville	Travis	Urb./Exurb.	16,335	2.8	1.4	4
7	Rollingwood	Travis	Urb./Exurb.	1,403	2.8	0.7	4
7	Round Mountain	Blanco	Rural	111	0.7	0.7	1
7	Round Rock	Williamson	Urb./Exurb.	61,136	3.5	1.4	5
7	Round Top	Fayette	Rural	77	1.4	2.1	4
7	San Leanna	Travis	Urb./Exurb.	384	2.8	2.1	5
7	San Marcos	Hays	Urb./Exurb.	34,733	3.5	3.5	7
7	Schulenburg	Fayette	Rural	2,699	1.4	2.8	4
7	Serenada	Williamson	Urb./Exurb.	1,847	3.5	0.7	4
7	Shady Hollow	Travis	Urb./Exurb.	5,140	2.8	0.7	4
7	Smithville	Bastrop	Rural	3,901	2.1	3.5	6
7	Sunrise Beach Village	Llano	Rural	704	1.4	1.4	3

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
7	Sunset Valley	Travis	Urb./Exurb.	365	2.8	2.1	5
7	Taylor	Williamson	Rural	13,575	3.5	2.8	6
7	The Hills	Travis	Rural	1,492	2.8	0.7	4
7	Thrall	Williamson	Rural	710	3.5	3.5	7
7	Uhland	Hays	Rural	386	3.5	3.5	7
7	Weir	Williamson	Rural	591	3.5	2.1	6
7	Wells Branch	Travis	Urb./Exurb.	11,271	2.8	2.1	5
7	West Lake Hills	Travis	Urb./Exurb.	3,116	2.8	0.7	4
7	Wimberley	Hays	Rural	3,797	3.5	2.1	6
7	Windemere	Travis	Urb./Exurb.	6,868	2.8	1.4	4
7	Woodcreek	Hays	Rural	1,274	3.5	1.4	5
7	Wyldwood	Bastrop	Rural	2,310	2.1	1.4	4
8	Abbott	Hill	Rural	300	2.1	1.4	4
8	Aquilla	Hill	Rural	136	2.1	0.7	3
8	Bellmead	McLennan	Urb./Exurb.	9,214	2.8	2.8	6
8	Belton	Bell	Urb./Exurb.	14,623	3.5	2.1	6
8	Beverly Hills	McLennan	Urb./Exurb.	2,113	2.8	2.1	5
8	Blum	Hill	Rural	399	2.1	2.1	4
8	Bruceville-Eddy	McLennan	Rural	1,490	2.8	1.4	4
8	Buckholts	Milam	Rural	387	2.1	2.1	4
8	Burton	Washington	Rural	359	0.7	1.4	2
8	Bynum	Hill	Rural	225	2.1	3.5	6
8	Cameron	Milam	Rural	5,634	2.1	2.8	5
8	Carl's Corner	Hill	Rural	134	2.1	1.4	4
8	Clifton	Bosque	Rural	3,542	1.4	1.4	3
8	Coolidge	Limestone	Rural	848	2.1	3.5	6
8	Copperas Cove	Coryell	Urb./Exurb.	29,592	2.8	1.4	4
8	Covington	Hill	Rural	282	2.1	1.4	4
8	Cranfills Gap	Bosque	Rural	335	1.4	2.1	4
8	Crawford	McLennan	Rural	705	2.8	0.7	4
8	Evant	Coryell	Rural	393	2.8	3.5	6
8	Fairfield	Freestone	Rural	3,094	1.4	2.8	4
8	Fort Hood	Bell	Urb./Exurb.	33,711	3.5	0.7	4
8	Gatesville	Coryell	Rural	15,591	2.8	0.7	4
8	Gholson	McLennan	Rural	922	2.8	1.4	4
8	Goldthwaite	Mills	Rural	1,802	1.4	2.1	4
8	Golinda	Falls	Rural	423	2.1	1.4	4
8	Groesbeck	Limestone	Rural	4,291	2.1	2.8	5
8	Hallsburg	McLennan	Rural	518	2.8	0.7	4
8	Hamilton	Hamilton	Rural	2,977	1.4	2.1	4
8	Harker Heights	Bell	Urb./Exurb.	17,308	3.5	1.4	5
8	Hewitt	McLennan	Urb./Exurb.	11,085	2.8	0.7	4
8	Hico	Hamilton	Rural	1,341	1.4	2.8	4
8	Hillsboro	Hill	Rural	8,232	2.1	2.8	5
8	Holland	Bell	Rural	1,102	3.5	3.5	7
8	Hubbard	Hill	Rural	1,586	2.1	2.8	5
8	Iredell	Bosque	Rural	360	1.4	2.8	4
8	Itasca	Hill	Rural	1,503	2.1	2.1	4

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
8	Kempner	Lampasas	Rural	1,004	2.1	1.4	4
8	Kirvin	Freestone	Rural	122	1.4	0.7	2
8	Kosse	Limestone	Rural	497	2.1	3.5	6
8	Lacy-Lakeview	McLennan	Urb./Exurb.	5,764	2.8	2.1	5
8	Lampasas	Lampasas	Rural	6,786	2.1	2.8	5
8	Leona	Leon	Rural	181	0.7	0.7	1
8	Leroy	McLennan	Rural	335	2.8	0.7	4
8	Little River-Academy	Bell	Rural	1,645	3.5	1.4	5
8	Lometa	Lampasas	Rural	782	2.1	3.5	6
8	Lorena	McLennan	Rural	1,433	2.8	0.7	4
8	Lott	Falls	Rural	724	2.1	3.5	6
8	Madisonville	Madison	Rural	4,159	1.4	2.8	4
8	Malone	Hill	Rural	278	2.1	3.5	6
8	Marlin	Falls	Rural	6,628	2.1	3.5	6
8	Marquez	Leon	Rural	220	0.7	3.5	4
8	Mart	McLennan	Rural	2,273	2.8	2.8	6
8	McGregor	McLennan	Urb./Exurb.	4,727	2.8	2.1	5
8	Meridian	Bosque	Rural	1,491	1.4	2.1	4
8	Mertens	Hill	Rural	146	2.1	3.5	6
8	Mexia	Limestone	Rural	6,563	2.1	2.8	5
8	Milano	Milam	Rural	400	2.1	2.1	4
8	Millican	Brazos	Rural	108	0.7	0.7	1
8	Moody	McLennan	Rural	1,400	2.8	2.8	6
8	Morgan	Bosque	Rural	485	1.4	3.5	5
8	Morgan's Point Resort	Bell	Rural	2,989	3.5	0.7	4
8	Mount Calm	Hill	Rural	310	2.1	0.7	3
8	Mullin	Mills	Rural	175	1.4	3.5	5
8	Nolanville	Bell	Rural	2,150	3.5	2.1	6
8	Normangee	Leon	Rural	719	0.7	2.8	4
8	Oglesby	Coryell	Rural	458	2.8	2.1	5
8	Penelope	Hill	Rural	211	2.1	2.1	4
8	Richland Springs	San Saba	Rural	350	1.4	1.4	3
8	Riesel	McLennan	Rural	973	2.8	1.4	4
8	Robinson	McLennan	Urb./Exurb.	7,845	2.8	0.7	4
8	Rockdale	Milam	Rural	5,439	2.1	2.1	4
8	Rogers	Bell	Rural	1,117	3.5	2.1	6
8	Rosebud	Falls	Rural	1,493	2.1	2.8	5
8	Ross	McLennan	Rural	228	2.8	0.7	4
8	Salado	Bell	Rural	3,475	3.5	0.7	4
8	San Saba	San Saba	Rural	2,637	1.4	2.1	4
8	South Mountain	Coryell	Rural	412	2.8	0.7	4
8	Streetman	Freestone	Rural	203	1.4	1.4	3
8	Teague	Freestone	Rural	4,557	1.4	1.4	3
8	Tehuacana	Limestone	Rural	307	2.1	0.7	3
8	Temple	Bell	Urb./Exurb.	54,514	3.5	2.1	6
8	Thorndale	Milam	Rural	1,278	2.1	1.4	4
8	Thornton	Limestone	Rural	525	2.1	2.1	4
8	Todd Mission	Grimes	Rural	146	0.7	1.4	2

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
8	Troy	Bell	Rural	1,378	3.5	1.4	5
8	Valley Mills	Bosque	Rural	1,123	1.4	1.4	3
8	Walnut Springs	Bosque	Rural	755	1.4	3.5	5
8	West	McLennan	Rural	2,692	2.8	1.4	4
8	Whitney	Hill	Rural	1,833	2.1	2.8	5
8	Wixon Valley	Brazos	Rural	235	0.7	0.7	1
8	Woodway	McLennan	Urb./Exurb.	8,733	2.8	0.7	4
8	Wortham	Freestone	Rural	1,082	1.4	2.8	4
9	Alamo Heights	Bexar	Urb./Exurb.	7,319	2.1	1.4	4
9	Bandera	Bandera	Rural	957	0.7	2.8	4
9	Bigfoot	Frio	Rural	304	2.1	3.5	6
9	Boerne	Kendall	Rural	6,178	1.4	2.8	4
9	Bulverde	Comal	Rural	3,761	3.5	0.7	4
9	Canyon Lake	Comal	Rural	16,870	3.5	2.1	6
9	Castle Hills	Bexar	Urb./Exurb.	4,202	2.1	1.4	4
9	Castroville	Medina	Rural	2,664	2.1	2.1	4
9	Charlotte	Atascosa	Rural	1,637	2.8	3.5	6
9	Christine	Atascosa	Rural	436	2.8	3.5	6
9	Cibolo	Guadalupe	Rural	3,035	3.5	1.4	5
9	Comfort	Kendall	Rural	2,358	1.4	3.5	5
9	Cross Mountain	Bexar	Urb./Exurb.	1,524	2.1	0.7	3
9	Devine	Medina	Rural	4,140	2.1	3.5	6
9	Dilley	Frio	Rural	3,674	2.1	3.5	6
9	Fair Oaks Ranch	Bexar	Urb./Exurb.	4,695	2.1	0.7	3
9	Falls City	Karnes	Rural	591	1.4	2.1	4
9	Floresville	Wilson	Rural	5,868	1.4	2.8	4
9	Fredericksburg	Gillespie	Rural	8,911	1.4	2.1	4
9	Garden Ridge	Comal	Rural	1,882	3.5	0.7	4
9	Geronimo	Guadalupe	Urb./Exurb.	619	3.5	0.7	4
9	Harper	Gillespie	Rural	1,006	1.4	2.8	4
9	Hill Country Village	Bexar	Urb./Exurb.	1,028	2.1	0.7	3
9	Hilltop	Frio	Rural	300	2.1	3.5	6
9	Hollywood Park	Bexar	Urb./Exurb.	2,983	2.1	0.7	3
9	Hondo	Medina	Rural	7,897	2.1	3.5	6
9	Ingram	Kerr	Rural	1,740	2.8	2.8	6
9	Jourdanton	Atascosa	Rural	3,732	2.8	2.8	6
9	Karnes City	Karnes	Rural	3,457	1.4	3.5	5
9	Kenedy	Karnes	Rural	3,487	1.4	3.5	5
9	Kerrville	Kerr	Rural	20,425	2.8	2.8	6
9	Kingsbury	Guadalupe	Rural	652	3.5	0.7	4
9	La Vernia	Wilson	Rural	931	1.4	2.1	4
9	Lackland AFB	Bexar	Urb./Exurb.	7,123	2.1	0.7	3
9	LaCoste	Medina	Rural	1,255	2.1	2.8	5
9	Lakehills	Bandera	Rural	4,668	0.7	2.1	3
9	Lytle	Atascosa	Rural	2,383	2.8	2.8	6
9	Marion	Guadalupe	Rural	1,099	3.5	2.1	6
9	McQueeney	Guadalupe	Urb./Exurb.	2,527	3.5	1.4	5
9	Moore	Frio	Rural	644	2.1	2.8	5

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
9	Natalia	Medina	Rural	1,663	2.1	3.5	6
9	New Berlin	Guadalupe	Rural	467	3.5	0.7	4
9	New Braunfels	Comal	Urb./Exurb.	36,494	3.5	2.1	6
9	North Pearsall	Frio	Rural	561	2.1	2.1	4
9	Northcliff	Guadalupe	Rural	1,819	3.5	1.4	5
9	Olmos Park	Bexar	Urb./Exurb.	2,343	2.1	0.7	3
9	Pearsall	Frio	Rural	7,157	2.1	3.5	6
9	Pleasanton	Atascosa	Rural	8,266	2.8	3.5	6
9	Poteet	Atascosa	Rural	3,305	2.8	3.5	6
9	Poth	Wilson	Rural	1,850	1.4	2.8	4
9	Redwood	Guadalupe	Rural	3,586	3.5	3.5	7
9	Runge	Karnes	Rural	1,080	1.4	3.5	5
9	Santa Clara	Guadalupe	Rural	889	3.5	2.1	6
9	Scenic Oaks	Bexar	Urb./Exurb.	3,279	2.1	0.7	3
9	Schertz	Guadalupe	Urb./Exurb.	18,694	3.5	1.4	5
9	Seguin	Guadalupe	Urb./Exurb.	22,011	3.5	2.8	6
9	St. Hedwig	Bexar	Rural	1,875	2.1	1.4	4
9	Stockdale	Wilson	Rural	1,398	1.4	2.8	4
9	Stonewall	Gillespie	Rural	469	1.4	2.8	4
9	Terrell Hills	Bexar	Urb./Exurb.	5,019	2.1	0.7	3
9	Timberwood Park	Bexar	Urb./Exurb.	5,889	2.1	0.7	3
9	West Pearsall	Frio	Rural	349	2.1	1.4	4
9	Windcrest	Bexar	Urb./Exurb.	5,105	2.1	1.4	4
9	Zuehl	Guadalupe	Rural	346	3.5	1.4	5
10	Agua Dulce (Nueces)	Nueces	Rural	737	2.8	2.8	6
10	Airport Road Addition	Brooks	Rural	132	1.4	3.5	5
10	Alfred-South La Paloma	Jim Wells	Rural	451	2.8	0.7	4
10	Alice	Jim Wells	Rural	19,010	2.8	2.1	5
10	Alice Acres	Jim Wells	Rural	491	2.8	1.4	4
10	Aransas Pass	San Patricio	Rural	8,138	3.5	2.1	6
10	Austwell	Refugio	Rural	192	0.7	3.5	4
10	Bayside	Refugio	Rural	360	0.7	2.8	4
10	Beeville	Bee	Rural	13,129	2.8	3.5	6
10	Benavides	Duval	Rural	1,686	2.1	2.8	5
10	Bishop	Nueces	Rural	3,305	2.8	1.4	4
10	Bloomington	Victoria	Rural	2,562	3.5	2.1	6
10	Blue Berry Hill	Bee	Rural	982	2.8	3.5	6
10	Cantu Addition	Brooks	Rural	217	1.4	1.4	3
10	Concepcion	Duval	Rural	61	2.1	0.7	3
10	Coyote Acres	Jim Wells	Rural	389	2.8	3.5	6
10	Cuero	DeWitt	Rural	6,571	1.4	2.8	4
10	Del Sol-Loma Linda	San Patricio	Rural	726	3.5	2.8	6
10	Doyle	San Patricio	Urb./Exurb.	285	3.5	0.7	4
10	Driscoll	Nueces	Rural	825	2.8	1.4	4
10	Edgewater-Paisano	San Patricio	Rural	182	3.5	3.5	7
10	Edna	Jackson	Rural	5,899	1.4	2.1	4
10	Edroy	San Patricio	Rural	420	3.5	0.7	4
10	Encino	Brooks	Rural	177	1.4	2.1	4

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
10	Falfurrias	Brooks	Rural	5,297	1.4	3.5	5
10	Falman-County Acres	San Patricio	Rural	289	3.5	1.4	5
10	Flowella	Brooks	Rural	134	1.4	3.5	5
10	Freer	Duval	Rural	3,241	2.1	2.1	4
10	Fulton	Aransas	Rural	1,553	1.4	1.4	3
10	Ganado	Jackson	Rural	1,915	1.4	1.4	3
10	George West	Live Oak	Rural	2,524	0.7	2.1	3
10	Goliad	Goliad	Rural	1,975	0.7	2.1	3
10	Gonzales	Gonzales	Rural	7,202	2.1	2.1	4
10	Gregory	San Patricio	Rural	2,318	3.5	2.1	6
10	Hallettsville	Lavaca	Rural	2,345	1.4	1.4	3
10	Inez	Victoria	Rural	1,787	3.5	0.7	4
10	Ingleside	San Patricio	Urb./Exurb.	9,388	3.5	0.7	4
10	Ingleside on the Bay	San Patricio	Urb./Exurb.	659	3.5	1.4	5
10	K-Bar Ranch	Jim Wells	Rural	350	2.8	3.5	6
10	Kingsville	Kleberg	Rural	25,575	2.8	2.8	6
10	La Paloma-Lost Creek	Nueces	Rural	323	2.8	2.8	6
10	La Ward	Jackson	Rural	200	1.4	1.4	3
10	Lake City	San Patricio	Rural	526	3.5	0.7	4
10	Lakeshore Gardens-Hidden Acres	San Patricio	Rural	720	3.5	0.7	4
10	Lakeside (San Patricio)	San Patricio	Rural	333	3.5	2.8	6
10	Lolita	Jackson	Rural	548	1.4	0.7	2
10	Loma Linda East	Jim Wells	Rural	214	2.8	2.1	5
10	Mathis	San Patricio	Rural	5,034	3.5	3.5	7
10	Morgan Farm Area	San Patricio	Rural	484	3.5	2.1	6
10	Moulton	Lavaca	Rural	944	1.4	0.7	2
10	Nixon	Gonzales	Rural	2,186	2.1	2.8	5
10	Nordheim	DeWitt	Rural	323	1.4	0.7	2
10	Normanna	Bee	Rural	121	2.8	0.7	4
10	North San Pedro	Nueces	Rural	920	2.8	2.1	5
10	Odem	San Patricio	Rural	2,499	3.5	2.1	6
10	Orange Grove	Jim Wells	Rural	1,288	2.8	1.4	4
10	Owl Ranch-Amargosa	Jim Wells	Rural	527	2.8	3.5	6
10	Pawnee	Bee	Rural	201	2.8	2.8	6
10	Pernitas Point	Live Oak	Rural	269	0.7	0.7	1
10	Petronila	Nueces	Rural	83	2.8	0.7	4
10	Pettus	Bee	Rural	608	2.8	1.4	4
10	Point Comfort	Calhoun	Rural	781	2.1	0.7	3
10	Port Aransas	Nueces	Urb./Exurb.	3,370	2.8	1.4	4
10	Port Lavaca	Calhoun	Rural	12,035	2.1	2.1	4
10	Portland	San Patricio	Urb./Exurb.	14,827	3.5	0.7	4
10	Premont	Jim Wells	Rural	2,772	2.8	3.5	6
10	Rancho Alegre	Jim Wells	Rural	1,775	2.8	3.5	6
10	Rancho Banquete	Nueces	Rural	469	2.8	3.5	6
10	Rancho Chico	San Patricio	Rural	309	3.5	3.5	7
10	Realitos	Duval	Rural	209	2.1	3.5	6
10	Refugio	Refugio	Rural	2,941	0.7	2.1	3
10	Robstown	Nueces	Rural	12,727	2.8	3.5	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
10	Rockport	Aransas	Rural	7,385	1.4	2.1	4
10	San Diego	Duval	Rural	4,753	2.1	3.5	6
10	San Patricio	San Patricio	Rural	318	3.5	2.1	6
10	Sandia	Jim Wells	Rural	431	2.8	0.7	4
10	Sandy Hollow-Escondidas	Nueces	Rural	433	2.8	1.4	4
10	Seadrift	Calhoun	Rural	1,352	2.1	2.1	4
10	Shiner	Lavaca	Rural	2,070	1.4	1.4	3
10	Sinton	San Patricio	Rural	5,676	3.5	2.8	6
10	Skidmore	Bee	Rural	1,013	2.8	2.8	6
10	Smiley	Gonzales	Rural	453	2.1	2.8	5
10	Spring Garden-Terra Verde	Nueces	Rural	693	2.8	3.5	6
10	St. Paul (San Patricio)	San Patricio	Rural	542	3.5	0.7	4
10	Taft	San Patricio	Rural	3,396	3.5	2.8	6
10	Taft Southwest	San Patricio	Rural	1,721	3.5	3.5	7
10	Three Rivers	Live Oak	Rural	1,878	0.7	2.1	3
10	Tierra Grande	Nueces	Rural	362	2.8	2.8	6
10	Tradewinds	San Patricio	Rural	163	3.5	3.5	7
10	Tuleta	Bee	Rural	292	2.8	1.4	4
10	Tulsita	Bee	Rural	20	2.8	3.5	6
10	Tynan	Bee	Rural	301	2.8	3.5	6
10	Vanderbilt	Jackson	Rural	411	1.4	0.7	2
10	Victoria	Victoria	Urb./Exurb.	60,603	3.5	1.4	5
10	Waelder	Gonzales	Rural	947	2.1	2.8	5
10	Westdale	Jim Wells	Rural	295	2.8	3.5	6
10	Woodsboro	Refugio	Rural	1,685	0.7	1.4	2
10	Yoakum	Lavaca	Rural	5,731	1.4	2.1	4
10	Yorktown	DeWitt	Rural	2,271	1.4	2.1	4
11	Abram-Perezville	Hidalgo	Rural	5,444	3.5	2.8	6
11	Alto Bonito	Starr	Rural	569	2.8	3.5	6
11	Alton North	Hidalgo	Rural	5,051	3.5	3.5	7
11	Arroyo Alto	Cameron	Rural	320	2.8	3.5	6
11	Arroyo Colorado Estates	Cameron	Rural	755	2.8	1.4	4
11	Arroyo Gardens-La Tina Ranch	Cameron	Rural	732	2.8	2.1	5
11	Asherton	Dimmit	Rural	1,342	2.1	2.8	5
11	Batesville	Zavala	Rural	1,298	2.1	2.8	5
11	Bausell and Ellis	Willacy	Rural	112	2.1	1.4	4
11	Bayview	Cameron	Rural	323	2.8	0.7	4
11	Big Wells	Dimmit	Rural	704	2.1	3.5	6
11	Bixby	Cameron	Rural	356	2.8	2.8	6
11	Bluetown-Iglesia Antigua	Cameron	Rural	692	2.8	3.5	6
11	Botines	Webb	Rural	132	2.1	2.8	5
11	Box Canyon-Amistad	Val Verde	Rural	76	2.8	0.7	4
11	Brackettville	Kinney	Rural	1,876	0.7	2.8	4
11	Brundage	Dimmit	Rural	31	2.1	3.5	6
11	Bruni	Webb	Rural	412	2.1	0.7	3
11	Cameron Park	Cameron	Urb./Exurb.	5,961	2.8	3.5	6
11	Camp Wood	Real	Rural	822	0.7	2.8	4
11	Carrizo Hill	Dimmit	Rural	548	2.1	3.5	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
11	Carrizo Springs	Dimmit	Rural	5,655	2.1	2.8	5
11	Catarina	Dimmit	Rural	135	2.1	0.7	3
11	Cesar Chavez	Hidalgo	Urb./Exurb.	1,469	3.5	2.8	6
11	Chula Vista-Orason	Cameron	Rural	394	2.8	3.5	6
11	Chula Vista-River Spur	Zavala	Rural	400	2.1	2.8	5
11	Cienegas Terrace	Val Verde	Rural	2,878	2.8	3.5	6
11	Citrus City	Hidalgo	Rural	941	3.5	2.8	6
11	Combes	Cameron	Urb./Exurb.	2,553	2.8	1.4	4
11	Cotulla	La Salle	Rural	3,614	1.4	2.1	4
11	Crystal City	Zavala	Rural	7,190	2.1	3.5	6
11	Cuevitas	Hidalgo	Rural	37	3.5	3.5	7
11	Del Mar Heights	Cameron	Rural	259	2.8	3.5	6
11	Del Rio	Val Verde	Rural	33,867	2.8	2.1	5
11	Doffing	Hidalgo	Rural	4,256	3.5	3.5	7
11	Doolittle	Hidalgo	Urb./Exurb.	2,358	3.5	2.8	6
11	Eagle Pass	Maverick	Rural	22,413	2.8	2.8	6
11	Edinburg	Hidalgo	Urb./Exurb.	48,465	3.5	2.1	6
11	Eidson Road	Maverick	Rural	9,348	2.8	2.8	6
11	El Camino Angosto	Cameron	Urb./Exurb.	254	2.8	3.5	6
11	El Cenizo	Webb	Rural	3,545	2.1	3.5	6
11	El Indio	Maverick	Rural	263	2.8	0.7	4
11	El Refugio	Starr	Rural	221	2.8	3.5	6
11	Elm Creek	Maverick	Rural	1,928	2.8	2.8	6
11	Encantada-Ranchito El Calaboz	Cameron	Rural	2,100	2.8	2.8	6
11	Encinal	La Salle	Rural	629	1.4	3.5	5
11	Escobares	Starr	Rural	1,954	2.8	3.5	6
11	Falcon Heights	Starr	Rural	335	2.8	3.5	6
11	Falcon Lake Estates	Zapata	Rural	830	2.1	0.7	3
11	Falcon Mesa	Zapata	Rural	506	2.1	0.7	3
11	Falcon Village	Starr	Rural	78	2.8	0.7	4
11	Faysville	Hidalgo	Urb./Exurb.	348	3.5	0.7	4
11	Fowlerton	La Salle	Rural	62	1.4	0.7	2
11	Fronton	Starr	Rural	599	2.8	2.1	5
11	Garceno	Starr	Rural	1,438	2.8	3.5	6
11	Grand Acres	Cameron	Rural	203	2.8	2.8	6
11	Green Valley Farms	Cameron	Rural	720	2.8	3.5	6
11	Guerra	Jim Hogg	Rural	8	1.4	0.7	2
11	Havana	Hidalgo	Rural	452	3.5	2.8	6
11	Hebbronville	Jim Hogg	Rural	4,498	1.4	1.4	3
11	Heidelberg	Hidalgo	Rural	1,586	3.5	3.5	7
11	Indian Hills	Hidalgo	Rural	2,036	3.5	3.5	7
11	Indian Lake	Cameron	Rural	541	2.8	0.7	4
11	Knippa	Uvalde	Rural	739	2.1	0.7	3
11	La Blanca	Hidalgo	Rural	2,351	3.5	2.8	6
11	La Casita-Garciasville	Starr	Rural	2,177	2.8	3.5	6
11	La Feria	Cameron	Rural	6,115	2.8	2.1	5
11	La Feria North	Cameron	Rural	168	2.8	3.5	6
11	La Grulla	Starr	Rural	1,211	2.8	2.8	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
11	La Homa	Hidalgo	Urb./Exurb.	10,433	3.5	3.5	7
11	La Paloma	Cameron	Rural	354	2.8	3.5	6
11	La Presa	Webb	Rural	508	2.1	2.1	4
11	La Pryor	Zavala	Rural	1,491	2.1	3.5	6
11	La Puerta	Starr	Rural	1,636	2.8	3.5	6
11	La Rosita	Starr	Rural	1,729	2.8	3.5	6
11	La Victoria	Starr	Rural	1,683	2.8	2.8	6
11	Lago	Cameron	Rural	246	2.8	3.5	6
11	Laguna Heights	Cameron	Rural	1,990	2.8	3.5	6
11	Laguna Seca	Hidalgo	Rural	251	3.5	2.1	6
11	Laguna Vista	Cameron	Rural	1,658	2.8	0.7	4
11	Lake View	Val Verde	Rural	167	2.8	0.7	4
11	Laredo Ranchettes	Webb	Rural	1,845	2.1	2.8	5
11	Larga Vista	Webb	Urb./Exurb.	742	2.1	2.8	5
11	Las Colonias	Zavala	Rural	283	2.1	3.5	6
11	Las Lomas	Starr	Rural	2,684	2.8	3.5	6
11	Las Lomitas	Jim Hogg	Rural	267	1.4	3.5	5
11	Las Palmas-Juarez	Cameron	Rural	1,666	2.8	3.5	6
11	Las Quintas Fronterizas	Maverick	Rural	2,030	2.8	2.8	6
11	Lasana	Cameron	Urb./Exurb.	135	2.8	0.7	4
11	Lasara	Willacy	Rural	1,024	2.1	3.5	6
11	Laughlin AFB	Val Verde	Rural	2,225	2.8	0.7	4
11	Laureles	Cameron	Rural	3,285	2.8	3.5	6
11	Leakey	Real	Rural	387	0.7	1.4	2
11	Llano Grande	Hidalgo	Urb./Exurb.	3,333	3.5	2.8	6
11	Lopeno	Zapata	Rural	140	2.1	3.5	6
11	Lopezville	Hidalgo	Urb./Exurb.	4,476	3.5	3.5	7
11	Los Alvarez	Starr	Rural	1,434	2.8	3.5	6
11	Los Angeles Subdivision	Willacy	Rural	86	2.1	3.5	6
11	Los Ebanos	Hidalgo	Rural	403	3.5	3.5	7
11	Los Fresnos	Cameron	Rural	4,512	2.8	2.8	6
11	Los Indios	Cameron	Rural	1,149	2.8	3.5	6
11	Los Villareales	Starr	Rural	930	2.8	2.8	6
11	Lozano	Cameron	Rural	324	2.8	0.7	4
11	Lyford	Willacy	Rural	1,973	2.1	2.8	5
11	Lyford South	Willacy	Rural	172	2.1	3.5	6
11	Medina	Zapata	Rural	2,960	2.1	3.5	6
11	Midway North	Hidalgo	Urb./Exurb.	3,946	3.5	2.8	6
11	Midway South	Hidalgo	Urb./Exurb.	1,711	3.5	3.5	7
11	Mila Doce	Hidalgo	Rural	4,907	3.5	3.5	7
11	Mirando City	Webb	Rural	493	2.1	3.5	6
11	Mission	Hidalgo	Urb./Exurb.	45,408	3.5	2.1	6
11	Monte Alto	Hidalgo	Rural	1,611	3.5	2.8	6
11	Morales-Sanchez	Zapata	Rural	95	2.1	0.7	3
11	Muniz	Hidalgo	Rural	1,106	3.5	3.5	7
11	New Falcon	Zapata	Rural	184	2.1	3.5	6
11	North Alamo	Hidalgo	Urb./Exurb.	2,061	3.5	3.5	7
11	North Escobares	Starr	Rural	1,692	2.8	3.5	6

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
11	Nurillo	Hidalgo	Urb./Exurb.	5,056	3.5	3.5	7
11	Oilton	Webb	Rural	310	2.1	2.8	5
11	Olivarez	Hidalgo	Rural	2,445	3.5	2.8	6
11	Olmito	Cameron	Urb./Exurb.	1,198	2.8	3.5	6
11	Palm Valley	Cameron	Urb./Exurb.	1,298	2.8	0.7	4
11	Palmview South	Hidalgo	Urb./Exurb.	6,219	3.5	2.8	6
11	Pharr	Hidalgo	Urb./Exurb.	46,660	3.5	2.8	6
11	Port Isabel	Cameron	Rural	4,865	2.8	2.1	5
11	Port Mansfield	Willacy	Rural	415	2.1	1.4	4
11	Primera	Cameron	Urb./Exurb.	2,723	2.8	2.1	5
11	Quemado	Maverick	Rural	243	2.8	2.8	6
11	Radar Base	Maverick	Rural	162	2.8	3.5	6
11	Ranchette Estates	Willacy	Rural	133	2.1	3.5	6
11	Ranchitos Las Lomas	Webb	Rural	334	2.1	2.8	5
11	Rancho Viejo	Cameron	Urb./Exurb.	1,754	2.8	0.7	4
11	Ranchos Penitas West	Webb	Urb./Exurb.	520	2.1	1.4	4
11	Rangerville	Cameron	Rural	203	2.8	2.8	6
11	Ratamosa	Cameron	Rural	218	2.8	0.7	4
11	Raymondville	Willacy	Rural	9,733	2.1	2.8	5
11	Reid Hope King	Cameron	Urb./Exurb.	802	2.8	3.5	6
11	Relampago	Hidalgo	Rural	104	3.5	3.5	7
11	Rio Bravo	Webb	Urb./Exurb.	5,553	2.1	3.5	6
11	Rio Grande City	Starr	Rural	11,923	2.8	3.5	6
11	Rio Hondo	Cameron	Rural	1,942	2.8	2.1	5
11	Rocksprings	Edwards	Rural	1,285	0.7	2.8	4
11	Roma	Starr	Rural	9,617	2.8	3.5	6
11	Roma Creek	Starr	Rural	610	2.8	3.5	6
11	Rosita North	Maverick	Rural	3,400	2.8	3.5	6
11	Rosita South	Maverick	Rural	2,574	2.8	2.8	6
11	Sabinal	Uvalde	Rural	1,586	2.1	1.4	4
11	Salineno	Starr	Rural	304	2.8	1.4	4
11	San Benito	Cameron	Urb./Exurb.	23,444	2.8	2.8	6
11	San Carlos	Hidalgo	Rural	2,650	3.5	3.5	7
11	San Ignacio	Zapata	Rural	853	2.1	3.5	6
11	San Isidro	Starr	Rural	270	2.8	3.5	6
11	San Manuel-Linn	Hidalgo	Rural	958	3.5	0.7	4
11	San Pedro	Cameron	Rural	668	2.8	0.7	4
11	San Perlita	Willacy	Rural	680	2.1	3.5	6
11	Santa Cruz	Starr	Rural	630	2.8	3.5	6
11	Santa Maria	Cameron	Rural	846	2.8	3.5	6
11	Santa Monica	Willacy	Rural	78	2.1	2.1	4
11	Santa Rosa	Cameron	Rural	2,833	2.8	2.8	6
11	Scissors	Hidalgo	Rural	2,805	3.5	3.5	7
11	Sebastian	Willacy	Rural	1,864	2.1	2.1	4
11	Siesta Shores	Zapata	Rural	890	2.1	0.7	3
11	Solis	Cameron	Rural	545	2.8	0.7	4
11	South Alamo	Hidalgo	Rural	3,101	3.5	3.5	7
11	South Fork Estates	Jim Hogg	Rural	47	1.4	0.7	2

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
11	South Padre Island	Cameron	Rural	2,422	2.8	0.7	4
11	South Point	Cameron	Rural	1,118	2.8	2.8	6
11	Spofford	Kinney	Rural	75	0.7	0.7	1
11	Tierra Bonita	Cameron	Rural	160	2.8	2.1	5
11	Utopia	Uvalde	Rural	241	2.1	2.1	4
11	Uvalde	Uvalde	Rural	14,929	2.1	2.1	4
11	Uvalde Estates	Uvalde	Rural	1,972	2.1	2.1	4
11	Val Verde Park	Val Verde	Rural	1,945	2.8	1.4	4
11	Villa del Sol	Cameron	Rural	132	2.8	1.4	4
11	Villa Pancho	Cameron	Urb./Exurb.	386	2.8	3.5	6
11	Villa Verde	Hidalgo	Urb./Exurb.	891	3.5	3.5	7
11	West Sharyland	Hidalgo	Rural	2,947	3.5	1.4	5
11	Willamar	Willacy	Rural	15	2.1	0.7	3
11	Yznaga	Cameron	Rural	103	2.8	0.7	4
11	Zapata	Zapata	Rural	4,856	2.1	2.8	5
11	Zapata Ranch	Willacy	Rural	88	2.1	0.7	3
12	Ackerly	Dawson	Rural	245	2.8	3.5	6
12	Andrews	Andrews	Rural	9,652	2.1	2.1	4
12	Balmorhea	Reeves	Rural	527	2.8	3.5	6
12	Barstow	Ward	Rural	406	2.1	3.5	6
12	Big Lake	Reagan	Rural	2,885	1.4	0.7	2
12	Big Spring	Howard	Rural	25,233	2.8	2.1	5
12	Brady	McCulloch	Rural	5,523	2.1	2.8	5
12	Bronte	Coke	Rural	1,076	1.4	2.1	4
12	Christoval	Tom Green	Rural	422	1.4	2.8	4
12	Coahoma	Howard	Rural	932	2.8	0.7	4
12	Coyanosa	Pecos	Rural	138	2.1	3.5	6
12	Crane	Crane	Rural	3,191	1.4	0.7	2
12	Eden	Concho	Rural	2,561	1.4	0.7	2
12	Eldorado	Schleicher	Rural	1,951	1.4	3.5	5
12	Forsan	Howard	Rural	226	2.8	2.8	6
12	Fort Stockton	Pecos	Rural	7,846	2.1	2.8	5
12	Gardendale	Ector	Rural	1,197	2.8	0.7	4
12	Goldsmith	Ector	Rural	253	2.8	1.4	4
12	Grandfalls	Ward	Rural	391	2.1	3.5	6
12	Grape Creek	Tom Green	Rural	3,138	1.4	1.4	3
12	Imperial	Pecos	Rural	428	2.1	2.8	5
12	Iraan	Pecos	Rural	1,238	2.1	0.7	3
12	Junction	Kimble	Rural	2,618	1.4	2.8	4
12	Kermit	Winkler	Rural	5,714	2.1	2.1	4
12	Lamesa	Dawson	Rural	9,952	2.8	2.8	6
12	Lindsay (Reeves)	Reeves	Rural	394	2.8	3.5	6
12	Los Ybanez	Dawson	Rural	32	2.8	3.5	6
12	Mason	Mason	Rural	2,134	1.4	2.1	4
12	McCamey	Upton	Rural	1,805	1.4	2.8	4
12	Melvin	McCulloch	Rural	155	2.1	3.5	6
12	Menard	Menard	Rural	1,653	1.4	3.5	5
12	Mertzon	Irion	Rural	839	0.7	0.7	1

2005 HOME Place Level AHNS

State Service Region	Place Name	County Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
12	Midland	Midland	Urb./Exurb.	94,996	3.5	1.4	5
12	Monahans	Ward	Rural	6,821	2.1	1.4	4
12	Ozona	Crockett	Rural	3,436	2.1	2.8	5
12	Paint Rock	Concho	Rural	320	1.4	2.1	4
12	Pecos	Reeves	Rural	9,501	2.8	3.5	6
12	Pyote	Ward	Rural	131	2.1	2.8	5
12	Rankin	Upton	Rural	800	1.4	1.4	3
12	Robert Lee	Coke	Rural	1,171	1.4	2.1	4
12	Sanderson	Terrell	Rural	861	0.7	3.5	4
12	Seagraves	Gaines	Rural	2,334	2.1	2.8	5
12	Seminole	Gaines	Rural	5,910	2.1	2.1	4
12	Sonora	Sutton	Rural	2,924	1.4	1.4	3
12	Stanton	Martin	Rural	2,556	1.4	2.8	4
12	Sterling City	Sterling	Rural	1,081	0.7	2.1	3



2005 HOME Affordable Housing Need Scores (AHNS) County Level

(Sorted by Region then County.)

Instructions:

Use this table to determine an AHNS for an application that will serve an entire county, multiple counties, or multiple places within a county or counties.

Special Circumstances

(1) If multiple counties or places in multiple counties will be served by the application, then the county scores should be averaged.

(2) Participating Jurisdictions (PJ) receive a score of zero and are not included in the table.

All questions relating to scoring an application under the AHN Scoring Component should be submitted in writing to Paige McGilloway via facsimile at (512) 475-4798 or by email at paige.mcgilloway@tdhca.state.tx.us.

State Service Region	County	Population	County Need/Region Need	County Need/Region Need Points	AHNS
1	Armstrong	2,148	1.4	0.7	2
1	Bailey	6,594	2.1	2.1	4
1	Briscoe	1,790	2.1	0.7	3
1	Carson	6,516	0.7	1.4	2
1	Castro	8,285	2.8	2.1	5
1	Childress	7,688	1.4	2.1	4
1	Cochran	3,730	3.5	1.4	5
1	Collingsworth	3,206	2.8	1.4	4
1	Crosby	7,072	3.5	2.8	6
1	Dallam	6,222	1.4	2.1	4
1	Deaf Smith	18,561	2.8	2.8	6
1	Dickens	2,762	2.8	1.4	4
1	Donley	3,828	2.1	1.4	4
1	Floyd	7,771	2.8	2.8	6
1	Garza	4,872	3.5	2.1	6
1	Gray	22,744	1.4	2.8	4
1	Hale	36,602	2.8	3.5	6
1	Hall	3,782	3.5	2.1	6
1	Hansford	5,369	2.1	1.4	4
1	Hartley	5,537	0.7	0.7	1
1	Hemphill	3,351	1.4	1.4	3
1	Hockley	22,716	2.8	2.8	6
1	Hutchinson	23,857	0.7	2.8	4
1	Lamb	14,709	2.8	2.8	6
1	Lipscomb	3,057	2.8	1.4	4
1	Lubbock	242,628	2.1	2.8	5
1	Lynn	6,550	2.8	2.1	5
1	Moore	20,121	1.4	2.8	4
1	Motley	1,426	2.1	0.7	3
1	Ochiltree	9,006	1.4	2.1	4
1	Oldham	2,185	2.8	0.7	4
1	Parmer	10,016	2.1	2.8	5
1	Potter	113,546	0.7	0.7	1
1	Randall	104,312	2.1	2.8	5
1	Roberts	887	0.7	0.7	1
1	Sherman	3,186	1.4	1.4	3
1	Swisher	8,378	2.1	2.1	4

2005 HOME County Level AHNS

State	Service	Region	County	Population	County Pop	County Need/Region Need	AHNS
						Points	
1			Terry	12,761	3.5	2.8	6
1			Wheeler	5,284	2.1	1.4	4
1			Yoakum	7,322	2.8	2.1	5
2			Archer	8,854	0.7	1.4	2
2			Baylor	4,093	2.1	1.4	4
2			Brown	37,674	2.8	3.5	6
2			Callahan	12,905	1.4	1.4	3
2			Clay	11,006	1.4	1.4	3
2			Coleman	9,235	3.5	2.1	6
2			Comanche	14,026	2.8	2.1	5
2			Cottle	1,904	2.1	0.7	3
2			Eastland	18,297	2.8	2.8	6
2			Fisher	4,344	2.1	0.7	3
2			Foard	1,622	2.1	0.7	3
2			Hardeman	4,724	2.8	1.4	4
2			Haskell	6,093	3.5	2.1	6
2			Jack	8,763	1.4	1.4	3
2			Jones	20,785	2.8	2.8	6
2			Kent	859	0.7	0.7	1
2			Knox	4,253	3.5	1.4	5
2			Mitchell	9,698	3.5	2.1	6
2			Montague	19,117	2.1	2.1	4
2			Nolan	15,802	3.5	2.8	6
2			Runnels	11,495	2.8	2.1	5
2			Scurry	16,361	2.1	2.8	5
2			Shackelford	3,302	0.7	0.7	1
2			Stephens	9,674	2.1	2.1	4
2			Stonewall	1,693	2.8	0.7	4
2			Taylor	126,555	1.4	2.1	4
2			Throckmorton	1,850	1.4	0.7	2
2			Wichita	131,664	0.7	2.8	4
2			Wilbarger	14,676	1.4	2.8	4
2			Young	17,943	2.1	2.8	5
3			Collin	491,675	1.4	2.8	4
3			Cooke	36,363	2.8	1.4	4
3			Denton	432,976	1.4	3.5	5
3			Ellis	111,360	2.8	2.8	6
3			Erath	33,001	3.5	2.1	6
3			Fannin	31,242	2.8	1.4	4
3			Grayson	110,595	2.8	2.8	6
3			Hood	41,100	2.1	0.7	3
3			Hunt	76,596	3.5	2.8	6
3			Johnson	126,811	2.1	2.8	5
3			Kaufman	71,313	2.8	2.1	5
3			Navarro	45,124	3.5	2.8	6
3			Palo Pinto	27,026	3.5	1.4	5
3			Parker	88,495	2.1	2.1	4
3			Rockwall	43,080	1.4	0.7	2
3			Somervell	6,809	2.8	0.7	4
3			Wise	48,793	2.8	1.4	4
4			Anderson	55,109	2.8	2.8	6

2005 HOME County Level AHNS

State	Service	Region	County	Population	County Need/ County Pop	County Need/ Region Need Points	AHNS
4			Bowie	89,306	2.8	3.5	6
4			Camp	11,549	3.5	1.4	5
4			Cass	30,438	2.8	2.1	5
4			Cherokee	46,659	2.8	2.8	6
4			Delta	5,327	3.5	0.7	4
4			Franklin	9,458	2.1	0.7	3
4			Gregg	111,379	1.4	2.8	4
4			Harrison	62,110	2.1	2.8	5
4			Henderson	73,277	2.1	2.8	5
4			Hopkins	31,960	2.1	2.1	4
4			Lamar	48,499	2.8	2.8	6
4			Marion	10,941	3.5	0.7	4
4			Morris	13,048	3.5	1.4	5
4			Panola	22,756	1.4	1.4	3
4			Rains	9,139	1.4	0.7	2
4			Red River	14,314	2.8	1.4	4
4			Rusk	47,372	1.4	2.1	4
4			Smith	174,706	0.7	1.4	2
4			Titus	28,118	3.5	2.1	6
4			Upshur	35,291	2.1	1.4	4
4			Van Zandt	48,140	1.4	2.1	4
4			Wood	36,752	1.4	2.1	4
5			Angelina	80,130	2.1	3.5	6
5			Houston	23,185	3.5	2.1	6
5			Jasper	35,604	2.8	2.1	5
5			Nacogdoches	59,203	3.5	3.5	7
5			Newton	15,072	2.1	1.4	4
5			Polk	41,133	2.1	2.1	4
5			Sabine	10,469	2.1	1.4	4
5			San Augustine	8,946	2.1	0.7	3
5			San Jacinto	22,246	2.1	1.4	4
5			Shelby	25,224	2.8	2.1	5
5			Trinity	13,779	2.8	1.4	4
5			Tyler	20,871	2.1	1.4	4
6			Austin	23,590	2.1	0.7	3
6			Chambers	26,031	2.1	0.7	3
6			Colorado	20,390	2.8	1.4	4
6			Galveston	250,158	2.1	3.5	6
6			Matagorda	37,957	2.8	2.1	5
6			Walker	61,758	3.5	2.1	6
6			Waller	32,663	3.5	1.4	5
6			Wharton	41,188	2.8	2.1	5
7			Bastrop	57,733	2.8	2.1	5
7			Blanco	8,418	2.8	0.7	4
7			Burnet	34,147	2.8	2.1	5
7			Caldwell	32,194	3.5	2.1	6
7			Fayette	21,804	2.8	1.4	4
7			Hays	97,589	3.5	3.5	7
7			Lee	15,657	2.8	0.7	4
7			Llano	17,044	2.1	1.4	4
7			Travis	812,280	1.4	2.8	4

2005 HOME County Level AHNS

State	Service	Region	County	Population	County Pop	County Need/ Region Need	County Need/ Region Need	AHNS
						Points	Points	
7	Williamson			249,967	2.1	3.5	6	
8	Bell			237,974	1.4	3.5	5	
8	Bosque			17,204	2.1	1.4	4	
8	Coryell			74,978	1.4	2.8	4	
8	Falls			18,576	3.5	2.1	6	
8	Freestone			17,867	2.1	1.4	4	
8	Hamilton			8,229	2.1	1.4	4	
8	Hill			32,321	2.8	2.1	5	
8	Lampasas			17,762	2.8	2.1	5	
8	Limestone			22,051	2.8	2.1	5	
8	McLennan			213,517	1.4	2.8	4	
8	Milam			24,238	2.8	2.1	5	
8	Mills			5,151	2.8	1.4	4	
8	San Saba			6,186	2.1	1.4	4	
9	Atascosa			38,628	3.5	2.8	6	
9	Bandera			17,645	2.1	0.7	3	
9	Comal			78,021	2.1	3.5	6	
9	Frio			16,252	3.5	2.1	6	
9	Gillespie			20,814	2.8	1.4	4	
9	Guadalupe			89,023	2.1	3.5	6	
9	Karnes			15,446	3.5	1.4	5	
9	Kendall			23,743	3.5	1.4	5	
9	Kerr			43,653	2.8	2.8	6	
9	Medina			39,304	2.8	2.1	5	
9	Wilson			32,408	2.8	1.4	4	
10	Aransas			22,497	2.1	1.4	4	
10	Bee			32,359	3.5	2.8	6	
10	Brooks			7,976	3.5	1.4	5	
10	Calhoun			20,647	2.1	2.1	4	
10	DeWitt			20,013	2.1	1.4	4	
10	Duval			13,120	2.8	2.1	5	
10	Goliad			6,928	2.1	0.7	3	
10	Gonzales			18,628	2.1	2.1	4	
10	Jackson			14,391	2.1	1.4	4	
10	Jim Wells			39,326	2.1	2.8	5	
10	Kleberg			31,549	2.8	2.8	6	
10	Lavaca			19,210	1.4	1.4	3	
10	Live Oak			12,309	2.1	0.7	3	
10	Nueces			313,645	2.8	2.8	6	
10	Refugio			7,828	2.1	0.7	3	
10	San Patricio			67,138	2.1	3.5	6	
10	Victoria			84,088	1.4	3.5	5	
11	Cameron			335,227	2.8	2.8	6	
11	Dimmit			10,248	2.8	2.1	5	
11	Edwards			2,162	2.8	0.7	4	
11	Jim Hogg			5,281	1.4	1.4	3	
11	Kinney			3,379	2.8	0.7	4	
11	La Salle			5,866	2.8	1.4	4	
11	Maverick			47,297	2.8	2.8	6	
11	Real			3,047	2.1	0.7	3	
11	Starr			53,597	3.5	2.8	6	

2005 HOME County Level AHNS

State	Service Region	County	Population	County Need/ County Pop	County Need/ Region Need Points	AHNS
11		Uvalde	25,926	2.1	2.1	4
11		Val Verde	44,856	1.4	2.8	4
11		Webb	193,117	3.5	2.1	6
11		Willacy	20,082	2.8	2.1	5
11		Zapata	12,182	2.8	2.1	5
11		Zavala	11,600	3.5	2.1	6
12		Andrews	13,004	2.1	2.1	4
12		Coke	3,864	2.1	1.4	4
12		Concho	3,966	0.7	1.4	2
12		Crane	3,996	0.7	1.4	2
12		Crockett	4,099	2.8	2.1	5
12		Dawson	14,985	2.8	2.8	6
12		Ector	121,123	2.1	2.8	5
12		Gaines	14,467	2.8	2.1	5
12		Howard	33,627	2.1	2.8	5
12		Irion	1,771	0.7	0.7	1
12		Kimble	4,468	2.8	1.4	4
12		Martin	4,746	2.8	1.4	4
12		Mason	3,738	2.1	1.4	4
12		McCulloch	8,205	3.5	2.1	6
12		Menard	2,360	3.5	1.4	5
12		Midland	116,009	1.4	3.5	5
12		Pecos	16,809	2.8	2.1	5
12		Reagan	3,326	0.7	1.4	2
12		Reeves	13,137	3.5	2.8	6
12		Schleicher	2,935	3.5	1.4	5
12		Sterling	1,393	2.1	0.7	3
12		Sutton	4,077	1.4	1.4	3
12		Terrell	1,081	3.5	0.7	4
12		Tom Green	104,010	1.4	1.4	3
12		Upton	3,404	2.8	1.4	4
12		Ward	10,909	2.1	2.1	4
12		Winkler	7,173	2.1	2.1	4
13		Brewster	8,866	2.1	2.8	5
13		Culberson	2,975	2.1	1.4	4
13		El Paso	679,622	2.1	3.5	6
13		Hudspeth	3,344	3.5	2.1	6
13		Jeff Davis	2,207	1.4	0.7	2
13		Presidio	7,304	2.8	2.8	6



2005 Housing Tax Credit and Housing Trust Fund Affordable Housing Need Scores (AHNS)

(Sorted by Region then Place.)

Use this table to determine an application's AHNS:

- (1) Locate the row that corresponds to the place where the funds will be used.
- (2) Development sites located outside the boundaries of a place (as designated by the U.S. Census) will utilize the score of the place whose boundary is closest to the development site.

If a score for a specific place is not included in the table, then contact TDHCA's Center for Housing Research, Planning, and Communications at 512.475.3976.

All other questions relating to scoring an application under the AHNS should be submitted in writing to:

Housing Trust Fund: Emily Price via facsimile (512) 475-0764 or by email at eprice@tdhca.state.tx.us.

Housing Tax Credit: Jennifer Joyce via facsimile at (512) 475-0764 or by email at jjoyce@tdhca.state.tx.us.

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
1	Abernathy	Rural	2,839	2.8	1.4	4
1	Adrian	Rural	159	0.7	3.5	4
1	Amarillo	Urb./Exurb.	173,627	3.5	2.8	6
1	Amherst	Rural	791	2.1	3.5	6
1	Anton	Rural	1,200	2.8	2.1	5
1	Bishop Hills	Rural	210	3.5	0.7	4
1	Booker	Rural	1,315	0.7	2.8	4
1	Borger	Rural	14,302	2.1	1.4	4
1	Bovina	Rural	1,874	1.4	2.8	4
1	Brownfield	Rural	9,488	2.1	3.5	6
1	Buffalo Springs	Rural	493	3.5	0.7	4
1	Cactus	Rural	2,538	2.1	2.1	4
1	Canadian	Rural	2,233	0.7	2.1	3
1	Canyon	Rural	12,875	3.5	3.5	7
1	Channing	Rural	356	0.7	1.4	2
1	Childress	Rural	6,778	1.4	2.1	4
1	Clarendon	Rural	1,974	0.7	2.1	3
1	Claude	Rural	1,313	0.7	2.8	4
1	Crosbyton	Rural	1,874	1.4	3.5	5
1	Dalhart	Rural	7,237	1.4	2.1	4
1	Darrouzett	Rural	303	0.7	2.8	4
1	Denver City	Rural	3,985	1.4	2.8	4
1	Dickens	Rural	332	0.7	3.5	4
1	Dimmitt	Rural	4,375	1.4	2.8	4
1	Dodson	Rural	115	0.7	3.5	4
1	Dumas	Rural	13,747	2.1	1.4	4
1	Earth	Rural	1,109	2.1	3.5	6
1	Edmonson	Rural	123	2.8	0.7	4
1	Estelline	Rural	168	1.4	3.5	5
1	Farwell	Rural	1,364	1.4	3.5	5
1	Floydada	Rural	3,676	1.4	3.5	5
1	Follett	Rural	412	0.7	1.4	2
1	Friona	Rural	3,854	1.4	2.8	4
1	Fritch	Rural	2,235	2.1	0.7	3
1	Groom	Rural	587	0.7	2.8	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
1	Gruver	Rural	1,162	1.4	2.8	4
1	Hale Center	Rural	2,263	2.8	2.8	6
1	Happy	Rural	647	1.4	1.4	3
1	Hart	Rural	1,198	1.4	2.1	4
1	Hartley	Rural	441	0.7	1.4	2
1	Hedley	Rural	379	0.7	3.5	4
1	Hereford	Rural	14,597	2.1	2.8	5
1	Higgins	Rural	425	0.7	1.4	2
1	Howardwick	Rural	437	0.7	2.8	4
1	Idalou	Rural	2,157	3.5	0.7	4
1	Kress	Rural	826	1.4	2.1	4
1	Lake Tanglewood	Rural	825	3.5	1.4	5
1	Lakeview	Rural	152	1.4	3.5	5
1	Lefors	Rural	559	2.1	0.7	3
1	Levelland	Rural	12,866	2.8	2.8	6
1	Lipscomb	Rural	44	0.7	0.7	1
1	Littlefield	Rural	6,507	2.1	3.5	6
1	Lockney	Rural	2,056	1.4	2.1	4
1	Lorenzo	Rural	1,372	1.4	3.5	5
1	Lubbock	Urb./Exurb.	199,564	3.5	3.5	7
1	Matador	Rural	740	0.7	2.1	3
1	McLean	Rural	830	2.1	2.1	4
1	Meadow	Rural	658	2.1	1.4	4
1	Memphis	Rural	2,479	1.4	2.8	4
1	Miami	Rural	588	0.7	1.4	2
1	Mobeetie	Rural	107	0.7	0.7	1
1	Morse	Rural	172	1.4	0.7	2
1	Morton	Rural	2,249	1.4	3.5	5
1	Muleshoe	Rural	4,530	1.4	1.4	3
1	Nazareth	Rural	356	1.4	0.7	2
1	New Deal	Rural	708	3.5	2.8	6
1	New Home	Rural	320	1.4	1.4	3
1	O'Donnell	Rural	1,011	1.4	2.8	4
1	Olton	Rural	2,288	2.1	2.8	5
1	Opdyke West	Rural	188	2.8	1.4	4
1	Palisades	Rural	352	3.5	2.1	6
1	Pampa	Rural	17,887	2.1	2.1	4
1	Panhandle	Rural	2,589	0.7	0.7	1
1	Perryton	Rural	7,774	1.4	1.4	3
1	Petersburg	Rural	1,262	2.8	2.1	5
1	Plains	Rural	1,450	1.4	2.8	4
1	Plainview	Rural	22,336	2.8	2.8	6
1	Post	Rural	3,708	1.4	3.5	5
1	Quail	Rural	33	0.7	0.7	1
1	Quitaque	Rural	432	0.7	3.5	4
1	Ralls	Rural	2,252	1.4	3.5	5
1	Ransom Canyon	Rural	1,011	3.5	0.7	4
1	Reese Center	Urb./Exurb.	42	3.5	0.7	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
1	Roaring Springs	Rural	265	0.7	1.4	2
1	Ropesville	Rural	517	2.8	0.7	4
1	Samnorwood	Rural	39	0.7	0.7	1
1	Sanford	Rural	203	2.1	3.5	6
1	Seth Ward	Rural	1,926	2.8	3.5	6
1	Shallowater	Rural	2,086	3.5	2.8	6
1	Shamrock	Rural	2,029	0.7	2.8	4
1	Silverton	Rural	771	0.7	3.5	4
1	Skellytown	Rural	610	0.7	0.7	1
1	Slaton	Rural	6,109	3.5	2.8	6
1	Smyer	Rural	480	2.8	2.1	5
1	Spade	Rural	100	2.1	2.1	4
1	Spearman	Rural	3,021	1.4	1.4	3
1	Springlake	Rural	135	2.1	3.5	6
1	Spur	Rural	1,088	0.7	1.4	2
1	Stinnett	Rural	1,936	2.1	1.4	4
1	Stratford	Rural	1,991	0.7	0.7	1
1	Sudan	Rural	1,039	2.1	2.8	5
1	Sundown	Rural	1,505	2.8	1.4	4
1	Sunray	Rural	1,950	2.1	1.4	4
1	Tahoka	Rural	2,910	1.4	2.8	4
1	Texhoma	Rural	371	0.7	2.8	4
1	Texline	Rural	511	1.4	1.4	3
1	Timbercreek Canyon	Rural	406	3.5	0.7	4
1	Tulia	Rural	5,117	1.4	2.1	4
1	Turkey	Rural	494	1.4	3.5	5
1	Vega	Rural	936	0.7	2.1	3
1	Wellington	Rural	2,275	0.7	2.8	4
1	Wellman	Rural	203	2.1	2.1	4
1	Wheeler	Rural	1,378	0.7	0.7	1
1	White Deer	Rural	1,060	0.7	0.7	1
1	Whiteface	Rural	465	1.4	0.7	2
1	Wilson	Rural	532	1.4	2.1	4
1	Wolfforth	Rural	2,554	3.5	2.1	6
2	Abilene	Urb./Exurb.	115,930	3.5	2.1	6
2	Albany	Rural	1,921	0.7	1.4	2
2	Anson	Rural	2,556	1.4	1.4	3
2	Archer City	Rural	1,848	0.7	0.7	1
2	Aspermont	Rural	1,021	0.7	2.1	3
2	Baird	Rural	1,623	1.4	2.1	4
2	Ballinger	Rural	4,243	1.4	2.1	4
2	Bangs	Rural	1,620	2.8	2.1	5
2	Bellevue	Rural	386	0.7	2.1	3
2	Benjamin	Rural	264	0.7	0.7	1
2	Blackwell	Rural	360	2.1	1.4	4
2	Blanket	Rural	402	2.8	3.5	6
2	Bowie	Rural	5,219	2.1	2.1	4
2	Breckenridge	Rural	5,868	0.7	2.1	3

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
2	Brownwood	Rural	18,813	2.8	2.8	6
2	Bryson	Rural	528	0.7	2.1	3
2	Buffalo Gap	Rural	463	3.5	0.7	4
2	Burkburnett	Rural	10,927	3.5	1.4	5
2	Byers	Rural	517	0.7	1.4	2
2	Carbon	Rural	224	2.1	0.7	3
2	Chillicothe	Rural	798	0.7	3.5	4
2	Cisco	Rural	3,851	2.1	3.5	6
2	Clyde	Rural	3,345	1.4	1.4	3
2	Coleman	Rural	5,127	1.4	2.8	4
2	Colorado City	Rural	4,281	0.7	2.8	4
2	Comanche	Rural	4,482	2.1	2.8	5
2	Cross Plains	Rural	1,068	1.4	2.8	4
2	Crowell	Rural	1,141	0.7	2.1	3
2	De Leon	Rural	2,433	2.1	2.8	5
2	Dean	Rural	341	0.7	3.5	4
2	Early	Rural	2,588	2.8	1.4	4
2	Eastland	Rural	3,769	2.1	2.8	5
2	Elbert	Rural	56	0.7	3.5	4
2	Electra	Rural	3,168	3.5	2.8	6
2	Girard	Rural	62	0.7	0.7	1
2	Goree	Rural	321	0.7	2.8	4
2	Gorman	Rural	1,236	2.1	0.7	3
2	Graham	Rural	8,716	2.1	1.4	4
2	Gustine	Rural	457	2.1	3.5	6
2	Hamlin	Rural	2,248	1.4	2.1	4
2	Haskell	Rural	3,106	0.7	3.5	4
2	Hawley	Rural	646	1.4	2.8	4
2	Henrietta	Rural	3,264	0.7	1.4	2
2	Hermleigh	Rural	393	1.4	3.5	5
2	Holliday	Rural	1,632	0.7	0.7	1
2	Impact	Urb./Exurb.	39	3.5	1.4	5
2	Iowa Park	Rural	6,431	3.5	1.4	5
2	Jacksboro	Rural	4,533	0.7	1.4	2
2	Jayton	Rural	513	0.7	0.7	1
2	Jolly	Rural	188	0.7	0.7	1
2	Knox City	Rural	1,219	0.7	2.1	3
2	Lake Brownwood	Rural	1,694	2.8	3.5	6
2	Lakeside City	Urb./Exurb.	984	0.7	0.7	1
2	Lawn	Rural	353	3.5	0.7	4
2	Loraine	Rural	656	0.7	3.5	4
2	Lueders	Rural	300	1.4	2.1	4
2	Megargel	Rural	248	0.7	0.7	1
2	Merkel	Rural	2,637	3.5	1.4	5
2	Miles	Rural	850	1.4	2.1	4
2	Moran	Rural	233	0.7	2.8	4
2	Munday	Rural	1,527	0.7	2.8	4
2	Newcastle	Rural	575	2.1	2.8	5

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
2	Nocona	Rural	3,198	2.1	1.4	4
2	Novice	Rural	142	1.4	0.7	2
2	O'Brien	Rural	132	0.7	0.7	1
2	Olney	Rural	3,396	2.1	2.1	4
2	Paducah	Rural	1,498	0.7	2.1	3
2	Petrolia	Rural	782	0.7	2.8	4
2	Pleasant Valley	Urb./Exurb.	408	3.5	2.1	6
2	Potosi	Urb./Exurb.	1,664	3.5	1.4	5
2	Putnam	Rural	88	1.4	3.5	5
2	Quanah	Rural	3,022	0.7	2.8	4
2	Ranger	Rural	2,584	2.1	1.4	4
2	Rising Star	Rural	835	2.1	2.1	4
2	Roby	Rural	673	0.7	2.1	3
2	Rochester	Rural	378	0.7	3.5	4
2	Roscoe	Rural	1,378	2.1	2.1	4
2	Rotan	Rural	1,611	0.7	2.1	3
2	Rule	Rural	698	0.7	2.1	3
2	Santa Anna	Rural	1,081	1.4	2.1	4
2	Scotland	Rural	438	0.7	0.7	1
2	Seymour	Rural	2,908	0.7	2.1	3
2	Snyder	Rural	10,783	1.4	1.4	3
2	St. Jo	Rural	977	2.1	1.4	4
2	Stamford	Rural	3,636	1.4	2.1	4
2	Sunset	Rural	339	2.1	0.7	3
2	Sweetwater	Rural	11,415	2.1	2.8	5
2	Throckmorton	Rural	905	0.7	1.4	2
2	Trent	Rural	318	3.5	1.4	5
2	Tuscola	Rural	714	3.5	0.7	4
2	Tye	Urb./Exurb.	1,158	3.5	3.5	7
2	Vernon	Rural	11,660	1.4	1.4	3
2	Weinert	Rural	177	0.7	2.8	4
2	Westbrook	Rural	203	0.7	2.1	3
2	Wichita Falls	Urb./Exurb.	104,197	3.5	1.4	5
2	Windthorst	Rural	440	0.7	0.7	1
2	Winters	Rural	2,880	1.4	2.8	4
2	Woodson	Rural	296	0.7	0.7	1
3	Addison	Urb./Exurb.	14,166	3.5	1.4	5
3	Aledo	Rural	1,726	0.7	1.4	2
3	Allen	Urb./Exurb.	43,554	2.8	2.1	5
3	Alma	Rural	302	0.7	3.5	4
3	Alvarado	Rural	3,288	0.7	2.1	3
3	Alvord	Rural	1,007	0.7	2.1	3
3	Angus	Rural	334	0.7	2.8	4
3	Anna	Rural	1,225	2.8	2.8	6
3	Annetta	Rural	1,108	0.7	2.8	4
3	Annetta North	Rural	467	0.7	3.5	4
3	Annetta South	Rural	555	0.7	2.1	3
3	Argyle	Urb./Exurb.	2,365	2.8	1.4	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Arlington	Urb./Exurb.	332,969	3.5	2.8	6
3	Aubrey	Rural	1,500	2.8	2.8	6
3	Aurora	Rural	853	0.7	3.5	4
3	Azle	Urb./Exurb.	9,600	3.5	2.1	6
3	Bailey	Rural	213	0.7	3.5	4
3	Balch Springs	Urb./Exurb.	19,375	3.5	2.8	6
3	Bardwell	Rural	583	0.7	3.5	4
3	Barry	Rural	209	0.7	3.5	4
3	Bartonville	Rural	1,093	2.8	0.7	4
3	Bedford	Urb./Exurb.	47,152	3.5	1.4	5
3	Bells	Rural	1,190	1.4	2.8	4
3	Benbrook	Urb./Exurb.	20,208	3.5	1.4	5
3	Blooming Grove	Rural	833	0.7	2.8	4
3	Blue Mound	Urb./Exurb.	2,388	3.5	1.4	5
3	Blue Ridge	Rural	672	2.8	2.8	6
3	Bonham	Rural	9,990	0.7	2.8	4
3	Boyd	Rural	1,099	0.7	3.5	4
3	Briar	Rural	5,350	3.5	0.7	4
3	Briaroaks	Rural	493	0.7	0.7	1
3	Bridgeport	Rural	4,309	0.7	3.5	4
3	Burleson	Urb./Exurb.	20,976	0.7	2.1	3
3	Caddo Mills	Rural	1,149	0.7	2.8	4
3	Callisburg	Rural	365	0.7	2.8	4
3	Campbell	Rural	734	0.7	2.1	3
3	Carrollton	Urb./Exurb.	109,576	2.8	1.4	4
3	Cedar Hill	Urb./Exurb.	32,093	3.5	2.1	6
3	Celeste	Rural	817	0.7	2.1	3
3	Celina	Urb./Exurb.	1,861	2.8	2.1	5
3	Chico	Rural	947	0.7	2.8	4
3	Cleburne	Urb./Exurb.	26,005	0.7	2.8	4
3	Cockrell Hill	Urb./Exurb.	4,443	3.5	3.5	7
3	Colleyville	Urb./Exurb.	19,636	3.5	0.7	4
3	Collinsville	Rural	1,235	1.4	1.4	3
3	Combine	Rural	1,788	0.7	2.1	3
3	Commerce	Rural	7,669	0.7	3.5	4
3	Cool	Rural	162	0.7	3.5	4
3	Coppell	Urb./Exurb.	35,958	3.5	0.7	4
3	Copper Canyon	Urb./Exurb.	1,216	2.8	2.1	5
3	Corinth	Urb./Exurb.	11,325	2.8	0.7	4
3	Corral City	Rural	89	2.8	0.7	4
3	Corsicana	Rural	24,485	0.7	3.5	4
3	Cottonwood	Rural	181	0.7	2.8	4
3	Crandall	Rural	2,774	0.7	1.4	2
3	Cross Roads	Rural	603	2.8	0.7	4
3	Cross Timber	Rural	277	0.7	3.5	4
3	Crowley	Urb./Exurb.	7,467	3.5	2.1	6
3	Dallas	Urb./Exurb.	1,188,580	3.5	3.5	7
3	Dalworthington Gardens	Urb./Exurb.	2,186	3.5	0.7	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Dawson	Rural	852	0.7	2.8	4
3	Decatur	Rural	5,201	0.7	2.1	3
3	Denison	Urb./Exurb.	22,773	1.4	2.8	4
3	Denton	Urb./Exurb.	80,537	2.8	3.5	6
3	DeSoto	Urb./Exurb.	37,646	3.5	2.1	6
3	Dodd City	Rural	419	0.7	3.5	4
3	Dorchester	Urb./Exurb.	109	1.4	0.7	2
3	Double Oak	Urb./Exurb.	2,179	2.8	2.8	6
3	Dublin	Rural	3,754	0.7	3.5	4
3	Duncanville	Urb./Exurb.	36,081	3.5	2.1	6
3	Eagle Mountain	Urb./Exurb.	6,599	3.5	1.4	5
3	Ector	Rural	600	0.7	2.1	3
3	Edgecliff Village	Urb./Exurb.	2,550	3.5	2.1	6
3	Emhouse	Rural	159	0.7	0.7	1
3	Ennis	Rural	16,045	0.7	2.8	4
3	Eules	Urb./Exurb.	46,005	3.5	1.4	5
3	Eureka	Rural	340	0.7	0.7	1
3	Everman	Urb./Exurb.	5,836	3.5	2.8	6
3	Fairview	Urb./Exurb.	2,644	2.8	2.8	6
3	Farmers Branch	Urb./Exurb.	27,508	3.5	1.4	5
3	Farmersville	Rural	3,118	2.8	2.1	5
3	Fate	Rural	497	0.7	3.5	4
3	Ferris	Rural	2,175	0.7	2.1	3
3	Flower Mound	Urb./Exurb.	50,702	2.8	0.7	4
3	Forest Hill	Urb./Exurb.	12,949	3.5	3.5	7
3	Forney	Rural	5,588	0.7	2.1	3
3	Fort Worth	Urb./Exurb.	534,694	3.5	3.5	7
3	Frisco	Urb./Exurb.	33,714	2.8	2.1	5
3	Frost	Rural	648	0.7	3.5	4
3	Gainesville	Rural	15,538	0.7	3.5	4
3	Garland	Urb./Exurb.	215,768	3.5	2.1	6
3	Garrett	Rural	448	0.7	3.5	4
3	Glen Rose	Rural	2,122	0.7	2.8	4
3	Glenn Heights	Urb./Exurb.	7,224	3.5	2.1	6
3	Godley	Rural	879	0.7	3.5	4
3	Goodlow	Rural	264	0.7	2.1	3
3	Gordon	Rural	451	0.7	3.5	4
3	Graford	Rural	578	0.7	2.1	3
3	Granbury	Rural	5,718	0.7	2.8	4
3	Grand Prairie	Urb./Exurb.	127,427	3.5	2.8	6
3	Grandview	Rural	1,358	0.7	2.8	4
3	Grapevine	Urb./Exurb.	42,059	3.5	1.4	5
3	Grays Prairie	Rural	296	0.7	3.5	4
3	Greenville	Urb./Exurb.	23,960	0.7	3.5	4
3	Gunter	Rural	1,230	1.4	2.1	4
3	Hackberry	Urb./Exurb.	544	2.8	3.5	6
3	Haltom City	Urb./Exurb.	39,018	3.5	2.1	6
3	Haslet	Urb./Exurb.	1,134	3.5	1.4	5

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Hawk Cove	Rural	457	0.7	0.7	1
3	Heath	Urb./Exurb.	4,149	0.7	0.7	1
3	Hebron	Urb./Exurb.	874	2.8	0.7	4
3	Hickory Creek	Urb./Exurb.	2,078	2.8	0.7	4
3	Highland Park	Urb./Exurb.	8,842	3.5	0.7	4
3	Highland Village	Urb./Exurb.	12,173	2.8	1.4	4
3	Honey Grove	Rural	1,746	0.7	2.8	4
3	Howe	Urb./Exurb.	2,478	1.4	2.8	4
3	Hudson Oaks	Rural	1,637	0.7	2.8	4
3	Hurst	Urb./Exurb.	36,273	3.5	2.1	6
3	Hutchins	Urb./Exurb.	2,805	3.5	2.8	6
3	Irving	Urb./Exurb.	191,615	3.5	2.1	6
3	Italy	Rural	1,993	0.7	1.4	2
3	Josephine	Rural	594	2.8	3.5	6
3	Joshua	Urb./Exurb.	4,528	0.7	2.1	3
3	Justin	Rural	1,891	2.8	2.1	5
3	Kaufman	Rural	6,490	0.7	2.8	4
3	Keene	Rural	5,003	0.7	2.1	3
3	Keller	Urb./Exurb.	27,345	3.5	1.4	5
3	Kemp	Rural	1,133	0.7	3.5	4
3	Kennedale	Urb./Exurb.	5,850	3.5	1.4	5
3	Kerens	Rural	1,681	0.7	3.5	4
3	Knollwood	Urb./Exurb.	375	1.4	3.5	5
3	Krugerville	Rural	903	2.8	3.5	6
3	Krum	Rural	1,979	2.8	0.7	4
3	Ladonia	Rural	667	0.7	2.8	4
3	Lake Bridgeport	Rural	372	0.7	1.4	2
3	Lake Dallas	Rural	6,166	2.8	1.4	4
3	Lake Kiowa	Rural	1,883	0.7	0.7	1
3	Lake Worth	Urb./Exurb.	4,618	3.5	2.1	6
3	Lakeside (Tarrant)	Urb./Exurb.	1,040	3.5	2.1	6
3	Lakewood Village	Rural	342	2.8	3.5	6
3	Lancaster	Urb./Exurb.	25,894	3.5	2.1	6
3	Lavon	Rural	387	2.8	0.7	4
3	Leonard	Rural	1,846	0.7	3.5	4
3	Lewisville	Urb./Exurb.	77,737	2.8	2.1	5
3	Lincoln Park	Rural	517	2.8	3.5	6
3	Lindsay (Cooke)	Rural	788	0.7	0.7	1
3	Lipan	Rural	425	0.7	0.7	1
3	Little Elm	Urb./Exurb.	3,646	2.8	2.8	6
3	Lone Oak	Rural	521	0.7	2.1	3
3	Lowry Crossing	Urb./Exurb.	1,229	2.8	2.1	5
3	Lucas	Urb./Exurb.	2,890	2.8	2.1	5
3	Mabank	Rural	2,151	0.7	2.8	4
3	Mansfield	Urb./Exurb.	28,031	3.5	1.4	5
3	Marshall Creek	Rural	431	2.8	3.5	6
3	Maypearl	Rural	746	0.7	2.1	3
3	McKinney	Urb./Exurb.	54,369	2.8	2.8	6

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	McLendon-Chisholm	Rural	914	0.7	3.5	4
3	Melissa	Urb./Exurb.	1,350	2.8	2.1	5
3	Mesquite	Urb./Exurb.	124,523	3.5	2.1	6
3	Midlothian	Urb./Exurb.	7,480	0.7	1.4	2
3	Mildred	Rural	405	0.7	3.5	4
3	Milford	Rural	685	0.7	2.8	4
3	Millsap	Rural	353	0.7	1.4	2
3	Mineral Wells	Rural	16,946	0.7	3.5	4
3	Mingus	Rural	246	0.7	3.5	4
3	Mobile City	Rural	196	0.7	0.7	1
3	Muenster	Rural	1,556	0.7	2.1	3
3	Murphy	Urb./Exurb.	3,099	2.8	1.4	4
3	Mustang	Rural	47	0.7	0.7	1
3	Navarro	Rural	191	0.7	0.7	1
3	Nevada	Rural	563	2.8	0.7	4
3	New Fairview	Rural	877	0.7	2.8	4
3	New Hope	Rural	662	2.8	0.7	4
3	Newark	Rural	887	0.7	3.5	4
3	Neylandville	Rural	56	0.7	0.7	1
3	North Richland Hills	Urb./Exurb.	55,635	3.5	1.4	5
3	Northlake	Urb./Exurb.	921	2.8	2.1	5
3	Oak Grove	Rural	710	0.7	2.8	4
3	Oak Leaf	Rural	1,209	0.7	3.5	4
3	Oak Point	Rural	1,747	2.8	1.4	4
3	Oak Ridge (Cooke)	Rural	224	0.7	2.8	4
3	Oak Ridge (Kaufman)	Rural	400	0.7	3.5	4
3	Oak Trail Shores	Rural	2,475	0.7	2.8	4
3	Oak Valley	Rural	401	0.7	2.1	3
3	Ovilla	Urb./Exurb.	3,405	0.7	2.1	3
3	Palmer	Rural	1,774	0.7	1.4	2
3	Pantego	Urb./Exurb.	2,318	3.5	0.7	4
3	Paradise	Rural	459	0.7	3.5	4
3	Parker	Urb./Exurb.	1,379	2.8	0.7	4
3	Pecan Acres	Rural	2,289	0.7	3.5	4
3	Pecan Hill	Rural	672	0.7	1.4	2
3	Pecan Plantation	Rural	3,544	0.7	1.4	2
3	Pelican Bay	Rural	1,505	3.5	3.5	7
3	Pilot Point	Rural	3,538	2.8	2.1	5
3	Plano	Urb./Exurb.	222,030	2.8	1.4	4
3	Ponder	Rural	507	2.8	1.4	4
3	Post Oak Bend City	Rural	404	0.7	2.1	3
3	Pottsboro	Rural	1,579	1.4	2.1	4
3	Powell	Rural	105	0.7	0.7	1
3	Princeton	Urb./Exurb.	3,477	2.8	2.1	5
3	Prosper	Urb./Exurb.	2,097	2.8	2.1	5
3	Quinlan	Rural	1,370	0.7	3.5	4
3	Ravenna	Rural	215	0.7	3.5	4
3	Red Oak	Urb./Exurb.	4,301	0.7	2.1	3

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	Rendon	Urb./Exurb.	9,022	3.5	1.4	5
3	Reno (Parker)	Rural	2,441	0.7	2.8	4
3	Retreat	Rural	339	0.7	1.4	2
3	Rhome	Rural	551	0.7	2.8	4
3	Rice	Rural	798	0.7	3.5	4
3	Richardson	Urb./Exurb.	91,802	3.5	2.1	6
3	Richland	Rural	291	0.7	3.5	4
3	Richland Hills	Urb./Exurb.	8,132	3.5	2.1	6
3	Rio Vista	Rural	656	0.7	2.1	3
3	River Oaks	Urb./Exurb.	6,985	3.5	2.8	6
3	Roanoke	Urb./Exurb.	2,810	2.8	1.4	4
3	Rockwall	Urb./Exurb.	17,976	0.7	1.4	2
3	Rosser	Rural	379	0.7	3.5	4
3	Rowlett	Urb./Exurb.	44,503	3.5	1.4	5
3	Royse City	Rural	2,957	0.7	2.1	3
3	Runaway Bay	Rural	1,104	0.7	2.1	3
3	Sachse	Urb./Exurb.	9,751	3.5	0.7	4
3	Sadler	Rural	404	1.4	3.5	5
3	Saginaw	Urb./Exurb.	12,374	3.5	2.1	6
3	Sanctuary	Rural	256	0.7	3.5	4
3	Sanger	Rural	4,534	2.8	1.4	4
3	Sansom Park	Urb./Exurb.	4,181	3.5	3.5	7
3	Savoy	Rural	850	0.7	2.1	3
3	Seagoville	Urb./Exurb.	10,823	3.5	2.1	6
3	Shady Shores	Urb./Exurb.	1,461	2.8	0.7	4
3	Sherman	Urb./Exurb.	35,082	1.4	2.8	4
3	Southlake	Urb./Exurb.	21,519	3.5	0.7	4
3	Southmayd	Rural	992	1.4	1.4	3
3	Springtown	Rural	2,062	0.7	3.5	4
3	St. Paul (Collin)	Rural	630	2.8	0.7	4
3	Stephenville	Rural	14,921	0.7	3.5	4
3	Strawn	Rural	739	0.7	2.8	4
3	Sunnyvale	Urb./Exurb.	2,693	3.5	0.7	4
3	Talty	Rural	1,028	0.7	0.7	1
3	Terrell	Rural	13,606	0.7	3.5	4
3	The Colony	Urb./Exurb.	26,531	2.8	0.7	4
3	Tioga	Rural	754	1.4	1.4	3
3	Tolar	Rural	504	0.7	1.4	2
3	Tom Bean	Rural	941	1.4	1.4	3
3	Trenton	Rural	662	0.7	2.8	4
3	Trophy Club	Urb./Exurb.	6,350	2.8	0.7	4
3	University Park	Urb./Exurb.	23,324	3.5	1.4	5
3	Valley View	Rural	737	0.7	2.1	3
3	Van Alstyne	Rural	2,502	1.4	1.4	3
3	Venus	Rural	910	0.7	2.1	3
3	Watauga	Urb./Exurb.	21,908	3.5	1.4	5
3	Waxahachie	Urb./Exurb.	21,426	0.7	2.8	4
3	Weatherford	Rural	19,000	0.7	2.8	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
3	West Tawakoni	Rural	1,462	0.7	3.5	4
3	Westlake	Urb./Exurb.	207	3.5	0.7	4
3	Westminster	Rural	390	2.8	0.7	4
3	Weston	Urb./Exurb.	635	2.8	1.4	4
3	Westover Hills	Urb./Exurb.	658	3.5	0.7	4
3	Westworth Village	Urb./Exurb.	2,124	3.5	1.4	5
3	White Settlement	Urb./Exurb.	14,831	3.5	3.5	7
3	Whitesboro	Rural	3,760	1.4	2.8	4
3	Whitewright	Rural	1,740	1.4	2.8	4
3	Willow Park	Rural	2,849	0.7	0.7	1
3	Wilmer	Rural	3,393	3.5	3.5	7
3	Windom	Rural	245	0.7	0.7	1
3	Wolfe City	Rural	1,566	0.7	3.5	4
3	Wylie	Rural	15,132	2.8	1.4	4
4	Alba	Rural	430	1.4	2.8	4
4	Alto	Rural	1,190	2.8	3.5	6
4	Annona	Rural	282	0.7	3.5	4
4	Arp	Rural	901	3.5	0.7	4
4	Athens	Rural	11,297	2.8	2.8	6
4	Atlanta	Rural	5,745	1.4	2.1	4
4	Avery	Rural	462	0.7	2.1	3
4	Avinger	Rural	464	1.4	3.5	5
4	Beckville	Rural	752	1.4	2.8	4
4	Berryville	Rural	891	2.8	2.1	5
4	Big Sandy	Rural	1,288	1.4	1.4	3
4	Bloomburg	Rural	375	1.4	1.4	3
4	Blossom	Rural	1,439	2.8	1.4	4
4	Bogata	Rural	1,396	0.7	1.4	2
4	Brownsboro	Rural	796	2.8	3.5	6
4	Bullard	Rural	1,150	3.5	1.4	5
4	Caney City	Rural	236	2.8	3.5	6
4	Canton	Rural	3,292	2.1	0.7	3
4	Carthage	Rural	6,664	1.4	1.4	3
4	Chandler	Rural	2,099	2.8	0.7	4
4	Clarksville	Rural	3,883	0.7	2.8	4
4	Clarksville City	Rural	806	3.5	1.4	5
4	Coffee City	Rural	193	2.8	0.7	4
4	Como	Rural	621	1.4	2.8	4
4	Cooper	Rural	2,150	0.7	2.8	4
4	Cumby	Rural	616	1.4	2.1	4
4	Cuney	Rural	145	2.8	3.5	6
4	Daingerfield	Rural	2,517	0.7	3.5	4
4	De Kalb	Rural	1,769	3.5	3.5	7
4	Deport	Rural	718	2.8	1.4	4
4	Detroit	Rural	776	0.7	2.8	4
4	Domino	Rural	52	1.4	0.7	2
4	Douglasville	Rural	175	1.4	0.7	2
4	East Mountain	Rural	580	1.4	1.4	3

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
4	East Tawakoni	Rural	775	0.7	2.8	4
4	Easton	Rural	524	3.5	2.1	6
4	Edgewood	Rural	1,348	2.1	2.1	4
4	Edom	Rural	322	2.1	2.1	4
4	Elkhart	Rural	1,215	2.1	2.8	5
4	Emory	Rural	1,021	0.7	2.1	3
4	Enchanted Oaks	Rural	357	2.8	3.5	6
4	Eustace	Rural	798	2.8	0.7	4
4	Frankston	Rural	1,209	2.1	1.4	4
4	Fruitvale	Rural	418	2.1	1.4	4
4	Gallatin	Rural	378	2.8	2.8	6
4	Gary City	Rural	303	1.4	0.7	2
4	Gilmer	Rural	4,799	1.4	2.8	4
4	Gladewater	Rural	6,078	3.5	2.8	6
4	Grand Saline	Rural	3,028	2.1	1.4	4
4	Gun Barrel City	Rural	5,145	2.8	1.4	4
4	Hallsville	Rural	2,772	2.8	0.7	4
4	Hawkins	Rural	1,331	1.4	2.8	4
4	Henderson	Rural	11,273	2.1	1.4	4
4	Hooks	Rural	2,973	3.5	2.1	6
4	Hughes Springs	Rural	1,856	1.4	2.1	4
4	Jacksonville	Rural	13,868	2.8	2.8	6
4	Jefferson	Rural	2,024	0.7	3.5	4
4	Kilgore	Rural	11,301	3.5	1.4	5
4	Lakeport	Rural	861	3.5	1.4	5
4	Leary	Rural	555	3.5	0.7	4
4	Liberty City	Rural	1,935	3.5	0.7	4
4	Lindale	Rural	2,954	3.5	1.4	5
4	Linden	Rural	2,256	1.4	1.4	3
4	Log Cabin	Rural	733	2.8	3.5	6
4	Lone Star	Rural	1,631	0.7	2.8	4
4	Longview	Urb./Exurb.	73,344	3.5	2.1	6
4	Malakoff	Rural	2,257	2.8	2.8	6
4	Marietta	Rural	112	1.4	0.7	2
4	Marshall	Urb./Exurb.	23,935	2.8	2.8	6
4	Maud	Rural	1,028	3.5	2.8	6
4	Miller's Cove	Rural	120	1.4	3.5	5
4	Mineola	Rural	4,550	1.4	2.1	4
4	Moore Station	Rural	184	2.8	3.5	6
4	Mount Enterprise	Rural	525	2.1	1.4	4
4	Mount Pleasant	Rural	13,935	1.4	2.8	4
4	Mount Vernon	Rural	2,286	0.7	2.1	3
4	Murchison	Rural	592	2.8	1.4	4
4	Naples	Rural	1,410	0.7	3.5	4
4	Nash	Urb./Exurb.	2,169	3.5	1.4	5
4	Nesbitt	Rural	302	2.8	0.7	4
4	New Boston	Rural	4,808	3.5	2.8	6
4	New Chapel Hill	Rural	553	3.5	0.7	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
4	New London	Rural	987	2.1	2.1	4
4	New Summerfield	Rural	998	2.8	2.8	6
4	Noonday	Rural	515	3.5	1.4	5
4	Omaha	Rural	999	0.7	3.5	4
4	Ore City	Rural	1,106	1.4	2.8	4
4	Overton	Rural	2,350	2.1	2.8	5
4	Palestine	Rural	17,598	2.1	2.8	5
4	Paris	Rural	25,898	2.8	2.8	6
4	Payne Springs	Rural	683	2.8	0.7	4
4	Pecan Gap	Rural	214	0.7	2.1	3
4	Pittsburg	Rural	4,347	0.7	2.8	4
4	Point	Rural	792	0.7	3.5	4
4	Poynor	Rural	314	2.8	2.8	6
4	Queen City	Rural	1,613	1.4	2.8	4
4	Quitman	Rural	2,030	1.4	1.4	3
4	Red Lick	Rural	853	3.5	1.4	5
4	Redwater	Rural	872	3.5	2.1	6
4	Reklaw	Rural	327	2.8	1.4	4
4	Reno (Lamar)	Rural	2,767	2.8	0.7	4
4	Rocky Mound	Rural	93	0.7	0.7	1
4	Roxton	Rural	694	2.8	2.8	6
4	Rusk	Rural	5,085	2.8	1.4	4
4	Scottsville	Rural	263	2.8	2.8	6
4	Seven Points	Rural	1,145	2.8	3.5	6
4	Star Harbor	Rural	416	2.8	0.7	4
4	Sulphur Springs	Rural	14,551	1.4	2.1	4
4	Sun Valley	Rural	51	2.8	0.7	4
4	Talco	Rural	570	1.4	3.5	5
4	Tatum	Rural	1,175	2.1	2.8	5
4	Texarkana	Urb./Exurb.	34,782	3.5	2.8	6
4	Tira	Rural	248	1.4	0.7	2
4	Toco	Rural	89	2.8	3.5	6
4	Tool	Rural	2,275	2.8	0.7	4
4	Trinidad	Rural	1,091	2.8	2.1	5
4	Troup	Rural	1,949	3.5	2.1	6
4	Tyler	Urb./Exurb.	83,650	3.5	2.1	6
4	Uncertain	Rural	150	2.8	2.1	5
4	Union Grove	Rural	346	1.4	1.4	3
4	Van	Rural	2,362	2.1	2.1	4
4	Wake Village	Urb./Exurb.	5,129	3.5	1.4	5
4	Warren City	Rural	343	3.5	2.8	6
4	Waskom	Rural	2,068	2.8	2.1	5
4	Wells	Rural	769	2.8	2.8	6
4	White Oak	Urb./Exurb.	5,624	3.5	1.4	5
4	Whitehouse	Rural	5,346	3.5	0.7	4
4	Wills Point	Rural	3,496	2.1	1.4	4
4	Winfield	Rural	499	1.4	2.1	4
4	Winnsboro	Rural	3,584	1.4	1.4	3

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/ Region Need Points	Place Need/ Place Population Points	AHNS
4	Winona	Rural	582	3.5	0.7	4
4	Yantis	Rural	321	1.4	1.4	3
5	Appleby	Rural	444	3.5	1.4	5
5	Beaumont	Urb./Exurb.	113,866	3.5	2.8	6
5	Bevil Oaks	Rural	1,346	3.5	0.7	4
5	Bridge City	Rural	8,651	3.5	1.4	5
5	Broaddus	Rural	189	0.7	3.5	4
5	Browndell	Rural	219	1.4	0.7	2
5	Buna	Rural	2,269	1.4	0.7	2
5	Burke	Rural	315	3.5	3.5	7
5	Center	Rural	5,678	0.7	2.8	4
5	Central Gardens	Rural	4,106	3.5	0.7	4
5	Chester	Rural	265	0.7	0.7	1
5	China	Rural	1,112	3.5	1.4	5
5	Chireno	Rural	405	3.5	2.8	6
5	Coldspring	Rural	691	0.7	2.1	3
5	Colmesneil	Rural	638	0.7	2.1	3
5	Corrigan	Rural	1,721	1.4	3.5	5
5	Crockett	Rural	7,141	0.7	3.5	4
5	Cushing	Rural	637	3.5	2.1	6
5	Deweyville	Rural	1,190	0.7	2.1	3
5	Diboll	Rural	5,470	3.5	2.1	6
5	Evadale	Rural	1,430	1.4	1.4	3
5	Garrison	Rural	844	3.5	2.1	6
5	Goodrich	Rural	243	1.4	2.1	4
5	Grapeland	Rural	1,451	0.7	2.8	4
5	Groves	Urb./Exurb.	15,733	3.5	0.7	4
5	Groveton	Rural	1,107	0.7	3.5	4
5	Hemphill	Rural	1,106	0.7	2.1	3
5	Hudson	Rural	3,792	3.5	1.4	5
5	Huntington	Rural	2,068	3.5	2.8	6
5	Huxley	Rural	298	0.7	0.7	1
5	Jasper	Rural	8,247	1.4	3.5	5
5	Joaquin	Rural	925	0.7	2.8	4
5	Kennard	Rural	317	0.7	3.5	4
5	Kirbyville	Rural	2,085	1.4	2.8	4
5	Kountze	Rural	2,115	1.4	2.8	4
5	Latexo	Rural	272	0.7	1.4	2
5	Livingston	Rural	5,433	1.4	2.8	4
5	Lovelady	Rural	608	0.7	2.8	4
5	Lufkin	Rural	32,709	3.5	2.8	6
5	Lumberton	Rural	8,731	1.4	0.7	2
5	Mauriceville	Rural	2,743	3.5	2.1	6
5	Milam	Rural	1,329	0.7	0.7	1
5	Nacogdoches	Rural	29,914	3.5	3.5	7
5	Nederland	Urb./Exurb.	17,422	3.5	1.4	5
5	Newton	Rural	2,459	0.7	3.5	4
5	Nome	Rural	515	3.5	3.5	7

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
5	Oakhurst	Rural	230	0.7	2.1	3
5	Onalaska	Rural	1,174	1.4	3.5	5
5	Orange	Rural	18,643	3.5	2.8	6
5	Pine Forest	Rural	632	3.5	1.4	5
5	Pinehurst (Orange)	Rural	2,274	3.5	1.4	5
5	Pineland	Rural	980	0.7	2.8	4
5	Pinewood Estates	Rural	1,633	1.4	0.7	2
5	Point Blank	Rural	559	0.7	2.1	3
5	Port Arthur	Urb./Exurb.	57,755	3.5	2.8	6
5	Port Neches	Urb./Exurb.	13,601	3.5	0.7	4
5	Rose City	Rural	519	3.5	2.1	6
5	Rose Hill Acres	Urb./Exurb.	480	1.4	3.5	5
5	San Augustine	Rural	2,475	0.7	2.1	3
5	Seven Oaks	Rural	131	1.4	0.7	2
5	Shepherd	Rural	2,029	0.7	2.1	3
5	Silsbee	Rural	6,393	1.4	2.1	4
5	Sour Lake	Rural	1,667	1.4	1.4	3
5	South Toledo Bend	Rural	576	0.7	0.7	1
5	Tenaha	Rural	1,046	0.7	3.5	4
5	Timpson	Rural	1,094	0.7	3.5	4
5	Trinity	Rural	2,721	0.7	2.8	4
5	Vidor	Rural	11,440	3.5	1.4	5
5	West Livingston	Rural	6,612	1.4	1.4	3
5	West Orange	Rural	4,111	3.5	1.4	5
5	Woodville	Rural	2,415	0.7	2.8	4
5	Zavalla	Rural	647	3.5	3.5	7
6	Aldine	Urb./Exurb.	13,979	3.5	2.8	6
6	Alvin	Urb./Exurb.	21,413	0.7	2.8	4
6	Ames	Rural	1,079	0.7	3.5	4
6	Anahuac	Rural	2,210	0.7	2.8	4
6	Angleton	Rural	18,130	0.7	2.1	3
6	Arcola	Rural	1,048	0.7	3.5	4
6	Atascocita	Urb./Exurb.	35,757	3.5	1.4	5
6	Bacliff	Urb./Exurb.	6,962	1.4	3.5	5
6	Bailey's Prairie	Rural	694	0.7	0.7	1
6	Barrett	Rural	2,872	3.5	3.5	7
6	Bay City	Rural	18,667	0.7	3.5	4
6	Bayou Vista	Rural	1,644	1.4	0.7	2
6	Baytown	Urb./Exurb.	66,430	3.5	2.8	6
6	Beach City	Urb./Exurb.	1,645	0.7	0.7	1
6	Beasley	Rural	590	0.7	2.8	4
6	Bellaire	Urb./Exurb.	15,642	3.5	0.7	4
6	Bellville	Rural	3,794	0.7	1.4	2
6	Blessing	Rural	861	0.7	2.1	3
6	Boling-lago	Rural	1,271	0.7	2.1	3
6	Bolivar Peninsula	Rural	3,853	1.4	2.8	4
6	Bonney	Rural	384	0.7	0.7	1
6	Brazoria	Rural	2,787	0.7	2.8	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
6	Brookshire	Rural	3,450	0.7	3.5	4
6	Brookside Village	Urb./Exurb.	1,960	0.7	2.8	4
6	Bunker Hill Village	Urb./Exurb.	3,654	3.5	2.8	6
6	Channelview	Urb./Exurb.	29,685	3.5	2.8	6
6	Cinco Ranch	Urb./Exurb.	11,196	0.7	1.4	2
6	Clear Lake Shores	Urb./Exurb.	1,205	1.4	0.7	2
6	Cleveland	Rural	7,605	0.7	3.5	4
6	Cloverleaf	Urb./Exurb.	23,508	3.5	3.5	7
6	Clute	Urb./Exurb.	10,424	0.7	2.8	4
6	Columbus	Rural	3,916	0.7	2.1	3
6	Conroe	Urb./Exurb.	36,811	1.4	3.5	5
6	Cove	Rural	323	0.7	2.8	4
6	Crosby	Rural	1,714	3.5	2.1	6
6	Cummings	Urb./Exurb.	683	0.7	2.8	4
6	Cut and Shoot	Urb./Exurb.	1,158	1.4	2.1	4
6	Daisetta	Rural	1,034	0.7	2.8	4
6	Damon	Rural	535	0.7	3.5	4
6	Danbury	Rural	1,611	0.7	2.1	3
6	Dayton	Rural	5,709	0.7	3.5	4
6	Dayton Lakes	Rural	101	0.7	3.5	4
6	Deer Park	Urb./Exurb.	28,520	3.5	1.4	5
6	Devers	Rural	416	0.7	3.5	4
6	Dickinson	Urb./Exurb.	17,093	1.4	2.8	4
6	Eagle Lake	Rural	3,664	0.7	2.8	4
6	East Bernard	Rural	1,729	0.7	2.1	3
6	El Campo	Rural	10,945	0.7	3.5	4
6	El Lago	Urb./Exurb.	3,075	3.5	0.7	4
6	Fairchilds	Rural	678	0.7	0.7	1
6	Fifth Street	Urb./Exurb.	2,059	0.7	3.5	4
6	Four Corners	Urb./Exurb.	2,954	0.7	2.8	4
6	Freeport	Urb./Exurb.	12,708	0.7	3.5	4
6	Fresno	Urb./Exurb.	6,603	0.7	3.5	4
6	Friendswood	Urb./Exurb.	29,037	1.4	1.4	3
6	Fulshear	Rural	716	0.7	3.5	4
6	Galena Park	Urb./Exurb.	10,592	3.5	3.5	7
6	Galveston	Urb./Exurb.	57,247	1.4	3.5	5
6	Greatwood	Urb./Exurb.	6,640	0.7	1.4	2
6	Hardin	Rural	755	0.7	1.4	2
6	Hedwig Village	Urb./Exurb.	2,334	3.5	1.4	5
6	Hempstead	Rural	4,691	0.7	3.5	4
6	Highlands	Urb./Exurb.	7,089	3.5	1.4	5
6	Hillcrest	Urb./Exurb.	722	0.7	2.1	3
6	Hilshire Village	Urb./Exurb.	720	3.5	3.5	7
6	Hitchcock	Urb./Exurb.	6,386	1.4	3.5	5
6	Holiday Lakes	Rural	1,095	0.7	3.5	4
6	Houston	Urb./Exurb.	1,953,631	3.5	3.5	7
6	Humble	Urb./Exurb.	14,579	3.5	2.8	6
6	Hungerford	Rural	645	0.7	0.7	1

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
6	Hunters Creek Village	Urb./Exurb.	4,374	3.5	0.7	4
6	Huntsville	Rural	35,078	0.7	3.5	4
6	Industry	Rural	304	0.7	1.4	2
6	Iowa Colony	Urb./Exurb.	804	0.7	2.8	4
6	Jacinto City	Urb./Exurb.	10,302	3.5	2.8	6
6	Jamaica Beach	Urb./Exurb.	1,075	1.4	3.5	5
6	Jersey Village	Urb./Exurb.	6,880	3.5	0.7	4
6	Jones Creek	Rural	2,130	0.7	2.1	3
6	Katy	Urb./Exurb.	11,775	3.5	2.1	6
6	Kemah	Urb./Exurb.	2,330	1.4	2.8	4
6	Kendleton	Rural	466	0.7	2.1	3
6	Kenefick	Rural	667	0.7	1.4	2
6	La Marque	Urb./Exurb.	13,682	1.4	3.5	5
6	La Porte	Urb./Exurb.	31,880	3.5	1.4	5
6	Lake Jackson	Urb./Exurb.	26,386	0.7	2.1	3
6	League City	Urb./Exurb.	45,444	1.4	1.4	3
6	Liberty	Rural	8,033	0.7	2.8	4
6	Liverpool	Rural	404	0.7	2.8	4
6	Louise	Rural	977	0.7	2.1	3
6	Magnolia	Rural	1,111	1.4	2.1	4
6	Manvel	Urb./Exurb.	3,046	0.7	0.7	1
6	Markham	Rural	1,138	0.7	0.7	1
6	Meadows Place	Urb./Exurb.	4,912	0.7	1.4	2
6	Mission Bend	Urb./Exurb.	30,831	0.7	1.4	2
6	Missouri City	Urb./Exurb.	52,913	0.7	1.4	2
6	Mont Belvieu	Rural	2,324	0.7	1.4	2
6	Montgomery	Rural	489	1.4	3.5	5
6	Morgan's Point	Urb./Exurb.	336	3.5	0.7	4
6	Nassau Bay	Urb./Exurb.	4,170	3.5	2.1	6
6	Needville	Rural	2,609	0.7	1.4	2
6	New Territory	Urb./Exurb.	13,861	0.7	0.7	1
6	New Waverly	Rural	950	0.7	3.5	4
6	North Cleveland	Rural	263	0.7	1.4	2
6	Oak Ridge North	Urb./Exurb.	2,991	1.4	1.4	3
6	Old River-Winfree	Rural	1,364	0.7	2.1	3
6	Orchard	Rural	408	0.7	0.7	1
6	Oyster Creek	Rural	1,192	0.7	3.5	4
6	Palacios	Rural	5,153	0.7	3.5	4
6	Panorama Village	Urb./Exurb.	1,965	1.4	1.4	3
6	Pasadena	Urb./Exurb.	141,674	3.5	3.5	7
6	Pattison	Rural	447	0.7	2.1	3
6	Patton Village	Rural	1,391	1.4	3.5	5
6	Pearland	Urb./Exurb.	37,640	0.7	2.1	3
6	Pecan Grove	Rural	13,551	0.7	0.7	1
6	Pine Island	Rural	849	0.7	2.1	3
6	Pinehurst (Montgomery)	Rural	4,266	1.4	1.4	3
6	Piney Point Village	Urb./Exurb.	3,380	3.5	0.7	4
6	Pleak	Rural	947	0.7	2.8	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
6	Plum Grove	Rural	930	0.7	1.4	2
6	Porter Heights	Rural	1,490	1.4	0.7	2
6	Prairie View	Rural	4,410	0.7	3.5	4
6	Quintana	Rural	38	0.7	1.4	2
6	Richmond	Urb./Exurb.	11,081	0.7	3.5	4
6	Richwood	Urb./Exurb.	3,012	0.7	2.1	3
6	Riverside	Rural	425	0.7	3.5	4
6	Roman Forest	Rural	1,279	1.4	0.7	2
6	Rosenberg	Urb./Exurb.	24,043	0.7	3.5	4
6	San Felipe	Rural	868	0.7	2.8	4
6	San Leon	Urb./Exurb.	4,365	1.4	3.5	5
6	Santa Fe	Urb./Exurb.	9,548	1.4	1.4	3
6	Seabrook	Urb./Exurb.	9,443	3.5	0.7	4
6	Sealy	Rural	5,248	0.7	2.1	3
6	Sheldon	Rural	1,831	3.5	1.4	5
6	Shenandoah	Urb./Exurb.	1,503	1.4	1.4	3
6	Shoreacres	Urb./Exurb.	1,488	3.5	2.8	6
6	Sienna Plantation	Urb./Exurb.	1,896	0.7	2.1	3
6	Simonton	Rural	718	0.7	2.1	3
6	South Houston	Urb./Exurb.	15,833	3.5	3.5	7
6	Southside Place	Urb./Exurb.	1,546	3.5	2.1	6
6	Splendora	Rural	1,275	1.4	3.5	5
6	Spring	Urb./Exurb.	36,385	3.5	1.4	5
6	Spring Valley	Urb./Exurb.	3,611	3.5	0.7	4
6	Stafford	Urb./Exurb.	15,681	0.7	2.1	3
6	Stagecoach	Rural	455	1.4	0.7	2
6	Stowell	Rural	1,572	0.7	2.1	3
6	Sugar Land	Urb./Exurb.	63,328	0.7	1.4	2
6	Surfside Beach	Rural	763	0.7	2.1	3
6	Sweeny	Rural	3,624	0.7	1.4	2
6	Taylor Lake Village	Urb./Exurb.	3,694	3.5	0.7	4
6	Texas City	Urb./Exurb.	41,521	1.4	3.5	5
6	The Woodlands	Urb./Exurb.	55,649	1.4	2.1	4
6	Thompsons	Urb./Exurb.	236	0.7	2.8	4
6	Tiki Island	Urb./Exurb.	1,016	1.4	0.7	2
6	Tomball	Rural	9,089	3.5	2.1	6
6	Van Vleck	Rural	1,411	0.7	0.7	1
6	Waller	Rural	2,092	0.7	3.5	4
6	Wallis	Rural	1,172	0.7	1.4	2
6	Webster	Urb./Exurb.	9,083	3.5	2.1	6
6	Weimar	Rural	1,981	0.7	2.1	3
6	West Columbia	Rural	4,255	0.7	3.5	4
6	West University Place	Urb./Exurb.	14,211	3.5	0.7	4
6	Wharton	Rural	9,237	0.7	3.5	4
6	Wild Peach Village	Rural	2,498	0.7	0.7	1
6	Willis	Rural	3,985	1.4	3.5	5
6	Winnie	Rural	2,914	0.7	2.1	3
6	Woodbranch	Rural	1,305	1.4	1.4	3

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
6	Woodloch	Rural	247	1.4	2.1	4
7	Anderson Mill	Urb./Exurb.	8,953	2.1	2.1	4
7	Austin	Urb./Exurb.	656,562	3.5	3.5	7
7	Bartlett	Rural	1,675	2.1	3.5	6
7	Barton Creek	Urb./Exurb.	1,589	3.5	2.1	6
7	Bastrop	Rural	5,340	1.4	2.1	4
7	Bear Creek	Rural	360	2.1	0.7	3
7	Bee Cave	Rural	656	3.5	1.4	5
7	Bertram	Rural	1,122	0.7	2.1	3
7	Blanco	Rural	1,505	0.7	2.8	4
7	Briarcliff	Rural	895	3.5	1.4	5
7	Brushy Creek	Urb./Exurb.	15,371	2.1	1.4	4
7	Buchanan Dam	Rural	1,688	0.7	2.1	3
7	Buda	Urb./Exurb.	2,404	2.1	0.7	3
7	Burnet	Rural	4,735	0.7	2.8	4
7	Camp Swift	Rural	4,731	1.4	0.7	2
7	Carmine	Rural	228	0.7	3.5	4
7	Cedar Park	Urb./Exurb.	26,049	2.1	2.1	4
7	Circle D-KC Estates	Rural	2,010	1.4	0.7	2
7	Cottonwood Shores	Rural	877	0.7	2.8	4
7	Creedmoor	Rural	211	3.5	0.7	4
7	Dripping Springs	Rural	1,548	2.1	2.8	5
7	Elgin	Rural	5,700	1.4	3.5	5
7	Fayetteville	Rural	261	0.7	2.1	3
7	Flatonia	Rural	1,377	0.7	3.5	4
7	Florence	Rural	1,054	2.1	3.5	6
7	Garfield	Rural	1,660	3.5	2.1	6
7	Georgetown	Urb./Exurb.	28,339	2.1	2.1	4
7	Giddings	Rural	5,105	0.7	2.1	3
7	Granger	Rural	1,299	2.1	2.8	5
7	Granite Shoals	Rural	2,040	0.7	3.5	4
7	Hays	Rural	233	2.1	0.7	3
7	Highland Haven	Rural	450	0.7	3.5	4
7	Horseshoe Bay	Rural	3,337	0.7	1.4	2
7	Hudson Bend	Urb./Exurb.	2,369	3.5	1.4	5
7	Hutto	Rural	1,250	2.1	1.4	4
7	Johnson City	Rural	1,191	0.7	2.1	3
7	Jollyville	Urb./Exurb.	15,813	2.1	1.4	4
7	Jonestown	Rural	1,681	3.5	2.8	6
7	Kingsland	Rural	4,584	0.7	2.8	4
7	Kyle	Rural	5,314	2.1	2.8	5
7	La Grange	Rural	4,478	0.7	2.8	4
7	Lago Vista	Rural	4,507	3.5	2.8	6
7	Lakeway	Rural	8,002	3.5	1.4	5
7	Leander	Urb./Exurb.	7,596	2.1	2.1	4
7	Lexington	Rural	1,178	0.7	2.8	4
7	Liberty Hill	Rural	1,409	2.1	1.4	4
7	Llano	Rural	3,325	0.7	2.8	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
7	Lockhart	Rural	11,615	0.7	2.8	4
7	Lost Creek	Urb./Exurb.	4,729	3.5	0.7	4
7	Luling	Rural	5,080	0.7	3.5	4
7	Manor	Urb./Exurb.	1,204	3.5	2.8	6
7	Marble Falls	Rural	4,959	0.7	3.5	4
7	Martindale	Rural	953	0.7	3.5	4
7	Meadowlakes	Rural	1,293	0.7	2.1	3
7	Mountain City	Rural	671	2.1	3.5	6
7	Mustang Ridge	Rural	785	0.7	1.4	2
7	Niederwald	Rural	584	2.1	1.4	4
7	Onion Creek	Urb./Exurb.	2,116	3.5	0.7	4
7	Pflugerville	Urb./Exurb.	16,335	3.5	1.4	5
7	Rollingwood	Urb./Exurb.	1,403	3.5	1.4	5
7	Round Mountain	Rural	111	0.7	0.7	1
7	Round Rock	Urb./Exurb.	61,136	2.1	2.1	4
7	Round Top	Rural	77	0.7	0.7	1
7	San Leanna	Urb./Exurb.	384	3.5	3.5	7
7	San Marcos	Urb./Exurb.	34,733	2.1	3.5	6
7	Schulenburg	Rural	2,699	0.7	2.8	4
7	Serenada	Urb./Exurb.	1,847	2.1	3.5	6
7	Shady Hollow	Urb./Exurb.	5,140	3.5	0.7	4
7	Smithville	Rural	3,901	1.4	3.5	5
7	Sunrise Beach Village	Rural	704	0.7	2.1	3
7	Sunset Valley	Urb./Exurb.	365	3.5	2.1	6
7	Taylor	Rural	13,575	2.1	2.8	5
7	The Hills	Rural	1,492	3.5	0.7	4
7	Thrall	Rural	710	2.1	3.5	6
7	Uhland	Rural	386	2.1	3.5	6
7	Weir	Rural	591	2.1	1.4	4
7	Wells Branch	Urb./Exurb.	11,271	3.5	1.4	5
7	West Lake Hills	Urb./Exurb.	3,116	3.5	0.7	4
7	Wimberley	Rural	3,797	2.1	1.4	4
7	Windemere	Urb./Exurb.	6,868	3.5	2.1	6
7	Woodcreek	Rural	1,274	2.1	2.1	4
7	Wydwood	Rural	2,310	1.4	0.7	2
8	Abbott	Rural	300	1.4	1.4	3
8	Anderson	Rural	257	1.4	0.7	2
8	Aquilla	Rural	136	1.4	2.1	4
8	Bellmead	Urb./Exurb.	9,214	3.5	2.1	6
8	Belton	Urb./Exurb.	14,623	3.5	2.1	6
8	Beverly Hills	Urb./Exurb.	2,113	3.5	2.1	6
8	Blum	Rural	399	1.4	2.8	4
8	Bremond	Rural	876	1.4	2.1	4
8	Brenham	Rural	13,507	1.4	2.8	4
8	Bruceville-Eddy	Rural	1,490	3.5	1.4	5
8	Bryan	Urb./Exurb.	65,660	3.5	3.5	7
8	Buckholts	Rural	387	1.4	3.5	5
8	Buffalo	Rural	1,804	0.7	3.5	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
8	Burton	Rural	359	1.4	1.4	3
8	Bynum	Rural	225	1.4	3.5	5
8	Caldwell	Rural	3,449	0.7	2.1	3
8	Calvert	Rural	1,426	1.4	3.5	5
8	Cameron	Rural	5,634	1.4	2.8	4
8	Carl's Corner	Rural	134	1.4	2.1	4
8	Centerville	Rural	903	0.7	2.1	3
8	Clifton	Rural	3,542	0.7	1.4	2
8	College Station	Urb./Exurb.	67,890	3.5	3.5	7
8	Coolidge	Rural	848	1.4	2.8	4
8	Copperas Cove	Urb./Exurb.	29,592	2.1	1.4	4
8	Covington	Rural	282	1.4	0.7	2
8	Cranfills Gap	Rural	335	0.7	2.1	3
8	Crawford	Rural	705	3.5	0.7	4
8	Evant	Rural	393	2.1	3.5	6
8	Fairfield	Rural	3,094	0.7	2.1	3
8	Fort Hood	Urb./Exurb.	33,711	3.5	0.7	4
8	Franklin	Rural	1,470	1.4	2.1	4
8	Gatesville	Rural	15,591	2.1	1.4	4
8	Gholson	Rural	922	3.5	0.7	4
8	Goldthwaite	Rural	1,802	0.7	2.1	3
8	Golinda	Rural	423	1.4	1.4	3
8	Groesbeck	Rural	4,291	1.4	2.8	4
8	Hallsburg	Rural	518	3.5	1.4	5
8	Hamilton	Rural	2,977	0.7	2.1	3
8	Harker Heights	Urb./Exurb.	17,308	3.5	1.4	5
8	Hearne	Rural	4,690	1.4	3.5	5
8	Hewitt	Urb./Exurb.	11,085	3.5	0.7	4
8	Hico	Rural	1,341	0.7	2.1	3
8	Hillsboro	Rural	8,232	1.4	3.5	5
8	Holland	Rural	1,102	3.5	3.5	7
8	Hubbard	Rural	1,586	1.4	2.8	4
8	Iredell	Rural	360	0.7	2.8	4
8	Itasca	Rural	1,503	1.4	2.1	4
8	Jewett	Rural	861	0.7	3.5	4
8	Kempner	Rural	1,004	0.7	1.4	2
8	Killeen	Urb./Exurb.	86,911	3.5	2.1	6
8	Kirvin	Rural	122	0.7	0.7	1
8	Kosse	Rural	497	1.4	3.5	5
8	Lacy-Lakeview	Urb./Exurb.	5,764	3.5	2.1	6
8	Lampasas	Rural	6,786	0.7	2.8	4
8	Leona	Rural	181	0.7	2.8	4
8	Leroy	Rural	335	3.5	0.7	4
8	Little River-Academy	Rural	1,645	3.5	2.1	6
8	Lometa	Rural	782	0.7	2.8	4
8	Lorena	Rural	1,433	3.5	0.7	4
8	Lott	Rural	724	1.4	3.5	5
8	Madisonville	Rural	4,159	0.7	2.1	3

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
8	Malone	Rural	278	1.4	2.1	4
8	Marlin	Rural	6,628	1.4	3.5	5
8	Marquez	Rural	220	0.7	3.5	4
8	Mart	Rural	2,273	3.5	2.8	6
8	McGregor	Urb./Exurb.	4,727	3.5	2.1	6
8	Meridian	Rural	1,491	0.7	2.1	3
8	Mertens	Rural	146	1.4	3.5	5
8	Mexia	Rural	6,563	1.4	2.8	4
8	Midway	Rural	288	0.7	0.7	1
8	Milano	Rural	400	1.4	2.1	4
8	Millican	Rural	108	3.5	0.7	4
8	Moody	Rural	1,400	3.5	2.8	6
8	Morgan	Rural	485	0.7	2.1	3
8	Morgan's Point Resort	Rural	2,989	3.5	0.7	4
8	Mount Calm	Rural	310	1.4	1.4	3
8	Mullin	Rural	175	0.7	3.5	4
8	Navasota	Rural	6,789	1.4	2.8	4
8	Nolanville	Rural	2,150	3.5	2.1	6
8	Normangee	Rural	719	0.7	2.1	3
8	Oakwood	Rural	471	0.7	2.1	3
8	Oglesby	Rural	458	2.1	2.8	5
8	Penelope	Rural	211	1.4	3.5	5
8	Richland Springs	Rural	350	0.7	0.7	1
8	Riesel	Rural	973	3.5	3.5	7
8	Robinson	Urb./Exurb.	7,845	3.5	0.7	4
8	Rockdale	Rural	5,439	1.4	2.8	4
8	Rogers	Rural	1,117	3.5	2.1	6
8	Rosebud	Rural	1,493	1.4	2.8	4
8	Ross	Rural	228	3.5	0.7	4
8	Salado	Rural	3,475	3.5	0.7	4
8	San Saba	Rural	2,637	0.7	2.8	4
8	Snook	Rural	568	0.7	2.8	4
8	Somerville	Rural	1,704	0.7	2.8	4
8	South Mountain	Rural	412	2.1	1.4	4
8	Streetman	Rural	203	0.7	0.7	1
8	Teague	Rural	4,557	0.7	1.4	2
8	Tehuacana	Rural	307	1.4	1.4	3
8	Temple	Urb./Exurb.	54,514	3.5	2.1	6
8	Thorndale	Rural	1,278	1.4	1.4	3
8	Thornton	Rural	525	1.4	2.8	4
8	Todd Mission	Rural	146	1.4	0.7	2
8	Troy	Rural	1,378	3.5	2.1	6
8	Valley Mills	Rural	1,123	0.7	0.7	1
8	Waco	Urb./Exurb.	113,726	3.5	3.5	7
8	Walnut Springs	Rural	755	0.7	2.8	4
8	West	Rural	2,692	3.5	2.1	6
8	Whitney	Rural	1,833	1.4	2.8	4
8	Wixon Valley	Rural	235	3.5	2.8	6

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
8	Woodway	Urb./Exurb.	8,733	3.5	0.7	4
8	Wortham	Rural	1,082	0.7	2.8	4
9	Alamo Heights	Urb./Exurb.	7,319	3.5	1.4	5
9	Balcones Heights	Urb./Exurb.	3,016	3.5	3.5	7
9	Bandera	Rural	957	0.7	2.1	3
9	Bigfoot	Rural	304	0.7	1.4	2
9	Boerne	Rural	6,178	0.7	2.8	4
9	Bulverde	Rural	3,761	0.7	0.7	1
9	Canyon Lake	Rural	16,870	0.7	1.4	2
9	Castle Hills	Urb./Exurb.	4,202	3.5	2.1	6
9	Castroville	Rural	2,664	0.7	1.4	2
9	Charlotte	Rural	1,637	0.7	2.8	4
9	China Grove	Rural	1,247	3.5	0.7	4
9	Christine	Rural	436	0.7	3.5	4
9	Cibolo	Rural	3,035	0.7	2.1	3
9	Comfort	Rural	2,358	0.7	3.5	4
9	Converse	Urb./Exurb.	11,508	3.5	1.4	5
9	Cross Mountain	Urb./Exurb.	1,524	3.5	0.7	4
9	Devine	Rural	4,140	0.7	2.8	4
9	Dilley	Rural	3,674	0.7	3.5	4
9	Elmendorf	Rural	664	3.5	3.5	7
9	Fair Oaks Ranch	Urb./Exurb.	4,695	3.5	1.4	5
9	Falls City	Rural	591	0.7	2.1	3
9	Floresville	Rural	5,868	0.7	2.8	4
9	Fredericksburg	Rural	8,911	0.7	2.1	3
9	Garden Ridge	Rural	1,882	0.7	2.1	3
9	Geronimo	Urb./Exurb.	619	0.7	0.7	1
9	Grey Forest	Rural	418	3.5	1.4	5
9	Harper	Rural	1,006	0.7	2.1	3
9	Helotes	Urb./Exurb.	4,285	3.5	0.7	4
9	Hill Country Village	Urb./Exurb.	1,028	3.5	0.7	4
9	Hilltop	Rural	300	0.7	3.5	4
9	Hollywood Park	Urb./Exurb.	2,983	3.5	3.5	7
9	Hondo	Rural	7,897	0.7	2.8	4
9	Ingram	Rural	1,740	0.7	2.1	3
9	Jourdanton	Rural	3,732	0.7	2.8	4
9	Karnes City	Rural	3,457	0.7	2.8	4
9	Kenedy	Rural	3,487	0.7	2.8	4
9	Kerrville	Rural	20,425	0.7	2.8	4
9	Kingsbury	Rural	652	0.7	0.7	1
9	Kirby	Urb./Exurb.	8,673	3.5	2.1	6
9	La Vernia	Rural	931	0.7	2.8	4
9	Lackland AFB	Urb./Exurb.	7,123	3.5	0.7	4
9	LaCoste	Rural	1,255	0.7	2.1	3
9	Lakehills	Rural	4,668	0.7	2.8	4
9	Leon Valley	Urb./Exurb.	9,239	3.5	2.1	6
9	Live Oak	Urb./Exurb.	9,156	3.5	1.4	5
9	Lytle	Rural	2,383	0.7	2.1	3

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
9	Marion	Rural	1,099	0.7	2.1	3
9	McQueeney	Urb./Exurb.	2,527	0.7	0.7	1
9	Moore	Rural	644	0.7	1.4	2
9	Natalia	Rural	1,663	0.7	3.5	4
9	New Berlin	Rural	467	0.7	0.7	1
9	New Braunfels	Urb./Exurb.	36,494	0.7	2.1	3
9	North Pearsall	Rural	561	0.7	1.4	2
9	Northcliff	Rural	1,819	0.7	1.4	2
9	Olmos Park	Urb./Exurb.	2,343	3.5	0.7	4
9	Pearsall	Rural	7,157	0.7	3.5	4
9	Pleasanton	Rural	8,266	0.7	3.5	4
9	Poteet	Rural	3,305	0.7	3.5	4
9	Poth	Rural	1,850	0.7	2.8	4
9	Redwood	Rural	3,586	0.7	2.8	4
9	Runge	Rural	1,080	0.7	3.5	4
9	San Antonio	Urb./Exurb.	1,144,646	3.5	2.8	6
9	Santa Clara	Rural	889	0.7	3.5	4
9	Scenic Oaks	Urb./Exurb.	3,279	3.5	0.7	4
9	Schertz	Urb./Exurb.	18,694	0.7	1.4	2
9	Seguin	Urb./Exurb.	22,011	0.7	2.8	4
9	Selma	Urb./Exurb.	788	3.5	2.1	6
9	Shavano Park	Urb./Exurb.	1,754	3.5	0.7	4
9	Somerset	Rural	1,550	3.5	3.5	7
9	St. Hedwig	Rural	1,875	3.5	2.1	6
9	Stockdale	Rural	1,398	0.7	2.1	3
9	Stonewall	Rural	469	0.7	2.1	3
9	Terrell Hills	Urb./Exurb.	5,019	3.5	1.4	5
9	Timberwood Park	Urb./Exurb.	5,889	3.5	0.7	4
9	Universal City	Rural	14,849	3.5	1.4	5
9	West Pearsall	Rural	349	0.7	3.5	4
9	Windcrest	Urb./Exurb.	5,105	3.5	2.1	6
9	Zuehl	Rural	346	0.7	0.7	1
10	Agua Dulce (Nueces)	Rural	737	3.5	2.8	6
10	Airport Road Addition	Rural	132	1.4	2.8	4
10	Alfred-South La Paloma	Rural	451	2.1	0.7	3
10	Alice	Rural	19,010	2.1	2.1	4
10	Alice Acres	Rural	491	2.1	1.4	4
10	Aransas Pass	Rural	8,138	2.8	2.1	5
10	Austwell	Rural	192	0.7	2.8	4
10	Bayside	Rural	360	0.7	3.5	4
10	Beeville	Rural	13,129	2.1	2.8	5
10	Benavides	Rural	1,686	1.4	2.8	4
10	Bishop	Rural	3,305	3.5	1.4	5
10	Bloomington	Rural	2,562	2.8	2.8	6
10	Blue Berry Hill	Rural	982	2.1	3.5	6
10	Cantu Addition	Rural	217	1.4	1.4	3
10	Concepcion	Rural	61	1.4	0.7	2
10	Corpus Christi	Urb./Exurb.	277,454	3.5	2.1	6

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
10	Coyote Acres	Rural	389	2.1	3.5	6
10	Cuero	Rural	6,571	1.4	2.8	4
10	Del Sol-Loma Linda	Rural	726	2.8	1.4	4
10	Doyle	Urb./Exurb.	285	2.8	0.7	4
10	Driscoll	Rural	825	3.5	2.1	6
10	Edgewater-Paisano	Rural	182	2.8	3.5	6
10	Edna	Rural	5,899	0.7	2.1	3
10	Edroy	Rural	420	2.8	0.7	4
10	Encino	Rural	177	1.4	0.7	2
10	Falfurrias	Rural	5,297	1.4	3.5	5
10	Falman-County Acres	Rural	289	2.8	3.5	6
10	Flowella	Rural	134	1.4	3.5	5
10	Freer	Rural	3,241	1.4	2.1	4
10	Fulton	Rural	1,553	1.4	1.4	3
10	Ganado	Rural	1,915	0.7	1.4	2
10	George West	Rural	2,524	0.7	0.7	1
10	Goliad	Rural	1,975	0.7	2.1	3
10	Gonzales	Rural	7,202	1.4	2.1	4
10	Gregory	Rural	2,318	2.8	2.1	5
10	Hallettsville	Rural	2,345	1.4	1.4	3
10	Inez	Rural	1,787	2.8	0.7	4
10	Ingleside	Urb./Exurb.	9,388	2.8	1.4	4
10	Ingleside on the Bay	Urb./Exurb.	659	2.8	2.1	5
10	K-Bar Ranch	Rural	350	2.1	3.5	6
10	Kingsville	Rural	25,575	2.8	2.8	6
10	La Paloma-Lost Creek	Rural	323	3.5	3.5	7
10	La Ward	Rural	200	0.7	1.4	2
10	Lake City	Rural	526	2.8	0.7	4
10	Lakeshore Gardens-Hidden Acres	Rural	720	2.8	0.7	4
10	Lakeside (San Patricio)	Rural	333	2.8	2.1	5
10	Lolita	Rural	548	0.7	0.7	1
10	Loma Linda East	Rural	214	2.1	1.4	4
10	Mathis	Rural	5,034	2.8	3.5	6
10	Morgan Farm Area	Rural	484	2.8	2.8	6
10	Moulton	Rural	944	1.4	1.4	3
10	Nixon	Rural	2,186	1.4	2.8	4
10	Nordheim	Rural	323	1.4	0.7	2
10	Normanna	Rural	121	2.1	0.7	3
10	North San Pedro	Rural	920	3.5	2.1	6
10	Odem	Rural	2,499	2.8	2.1	5
10	Orange Grove	Rural	1,288	2.1	2.1	4
10	Owl Ranch-Amargosa	Rural	527	2.1	3.5	6
10	Pawnee	Rural	201	2.1	2.1	4
10	Pernitas Point	Rural	269	0.7	2.1	3
10	Petronila	Rural	83	3.5	0.7	4
10	Pettus	Rural	608	2.1	1.4	4
10	Point Comfort	Rural	781	1.4	1.4	3
10	Port Aransas	Urb./Exurb.	3,370	3.5	1.4	5

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
10	Port Lavaca	Rural	12,035	1.4	2.1	4
10	Portland	Urb./Exurb.	14,827	2.8	0.7	4
10	Premont	Rural	2,772	2.1	3.5	6
10	Rancho Alegre	Rural	1,775	2.1	3.5	6
10	Rancho Banquete	Rural	469	3.5	1.4	5
10	Rancho Chico	Rural	309	2.8	3.5	6
10	Realitos	Rural	209	1.4	2.8	4
10	Refugio	Rural	2,941	0.7	1.4	2
10	Robstown	Rural	12,727	3.5	3.5	7
10	Rockport	Rural	7,385	1.4	1.4	3
10	San Diego	Rural	4,753	1.4	2.8	4
10	San Patricio	Rural	318	2.8	3.5	6
10	Sandia	Rural	431	2.1	0.7	3
10	Sandy Hollow-Escondidas	Rural	433	3.5	1.4	5
10	Seadrift	Rural	1,352	1.4	2.8	4
10	Shiner	Rural	2,070	1.4	1.4	3
10	Sinton	Rural	5,676	2.8	2.8	6
10	Skidmore	Rural	1,013	2.1	2.8	5
10	Smiley	Rural	453	1.4	2.8	4
10	Spring Garden-Terra Verde	Rural	693	3.5	3.5	7
10	St. Paul (San Patricio)	Rural	542	2.8	0.7	4
10	Taft	Rural	3,396	2.8	2.8	6
10	Taft Southwest	Rural	1,721	2.8	2.8	6
10	Three Rivers	Rural	1,878	0.7	2.1	3
10	Tierra Grande	Rural	362	3.5	3.5	7
10	Tradewinds	Rural	163	2.8	3.5	6
10	Tuleta	Rural	292	2.1	0.7	3
10	Tulsita	Rural	20	2.1	3.5	6
10	Tynan	Rural	301	2.1	3.5	6
10	Vanderbilt	Rural	411	0.7	0.7	1
10	Victoria	Urb./Exurb.	60,603	2.8	1.4	4
10	Waelder	Rural	947	1.4	2.1	4
10	Westdale	Rural	295	2.1	2.1	4
10	Woodsboro	Rural	1,685	0.7	2.1	3
10	Yoakum	Rural	5,731	1.4	2.1	4
10	Yorktown	Rural	2,271	1.4	2.1	4
11	Abram-Perezville	Rural	5,444	3.5	2.8	6
11	Alamo	Urb./Exurb.	14,760	3.5	1.4	5
11	Alto Bonito	Rural	569	2.1	2.1	4
11	Alton	Rural	4,384	3.5	2.8	6
11	Alton North	Rural	5,051	3.5	3.5	7
11	Arroyo Alto	Rural	320	3.5	2.8	6
11	Arroyo Colorado Estates	Rural	755	3.5	2.8	6
11	Arroyo Gardens-La Tina Ranch	Rural	732	3.5	0.7	4
11	Asherton	Rural	1,342	1.4	2.1	4
11	Batesville	Rural	1,298	1.4	2.8	4
11	Bausell and Ellis	Rural	112	1.4	1.4	3
11	Bayview	Rural	323	3.5	0.7	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
11	Big Wells	Rural	704	1.4	2.8	4
11	Bixby	Rural	356	3.5	0.7	4
11	Bluetown-Iglesia Antigua	Rural	692	3.5	2.8	6
11	Botines	Rural	132	2.8	3.5	6
11	Box Canyon-Amistad	Rural	76	2.1	0.7	3
11	Brackettville	Rural	1,876	0.7	2.1	3
11	Brownsville	Urb./Exurb.	139,722	3.5	2.1	6
11	Brundage	Rural	31	1.4	3.5	5
11	Bruni	Rural	412	2.8	0.7	4
11	Cameron Park	Urb./Exurb.	5,961	3.5	3.5	7
11	Camp Wood	Rural	822	0.7	2.1	3
11	Carrizo Hill	Rural	548	1.4	3.5	5
11	Carrizo Springs	Rural	5,655	1.4	2.1	4
11	Catarina	Rural	135	1.4	0.7	2
11	Cesar Chavez	Urb./Exurb.	1,469	3.5	2.1	6
11	Chula Vista-Orason	Rural	394	3.5	3.5	7
11	Chula Vista-River Spur	Rural	400	1.4	1.4	3
11	Cienegas Terrace	Rural	2,878	2.1	3.5	6
11	Citrus City	Rural	941	3.5	1.4	5
11	Combes	Urb./Exurb.	2,553	3.5	0.7	4
11	Cotulla	Rural	3,614	0.7	1.4	2
11	Crystal City	Rural	7,190	1.4	2.8	4
11	Cuevitas	Rural	37	3.5	3.5	7
11	Del Mar Heights	Rural	259	3.5	2.8	6
11	Del Rio	Rural	33,867	2.1	1.4	4
11	Doffing	Rural	4,256	3.5	2.8	6
11	Donna	Rural	14,768	3.5	2.8	6
11	Doolittle	Urb./Exurb.	2,358	3.5	1.4	5
11	Eagle Pass	Rural	22,413	2.1	2.1	4
11	Edcouch	Rural	3,342	3.5	2.8	6
11	Edinburg	Urb./Exurb.	48,465	3.5	1.4	5
11	Eidson Road	Rural	9,348	2.1	2.1	4
11	El Camino Angosto	Urb./Exurb.	254	3.5	2.1	6
11	El Cenizo	Rural	3,545	2.8	3.5	6
11	El Indio	Rural	263	2.1	2.1	4
11	El Refugio	Rural	221	2.1	3.5	6
11	Elm Creek	Rural	1,928	2.1	1.4	4
11	Elsa	Rural	5,549	3.5	2.8	6
11	Encantada-Ranchito El Calaboz	Rural	2,100	3.5	1.4	5
11	Encinal	Rural	629	0.7	2.8	4
11	Escobares	Rural	1,954	2.1	2.8	5
11	Falcon Heights	Rural	335	2.1	2.8	5
11	Falcon Lake Estates	Rural	830	1.4	0.7	2
11	Falcon Mesa	Rural	506	1.4	0.7	2
11	Falcon Village	Rural	78	2.1	0.7	3
11	Faysville	Urb./Exurb.	348	3.5	1.4	5
11	Fowlerton	Rural	62	0.7	0.7	1
11	Fronton	Rural	599	2.1	1.4	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
11	Garceno	Rural	1,438	2.1	3.5	6
11	Grand Acres	Rural	203	3.5	0.7	4
11	Granjeno	Urb./Exurb.	313	3.5	2.8	6
11	Green Valley Farms	Rural	720	3.5	3.5	7
11	Guerra	Rural	8	0.7	0.7	1
11	Harlingen	Urb./Exurb.	57,564	3.5	1.4	5
11	Havana	Rural	452	3.5	2.1	6
11	Hebbronville	Rural	4,498	0.7	1.4	2
11	Heidelberg	Rural	1,586	3.5	2.8	6
11	Hidalgo	Rural	7,322	3.5	2.8	6
11	Indian Hills	Rural	2,036	3.5	3.5	7
11	Indian Lake	Rural	541	3.5	2.1	6
11	Knippa	Rural	739	2.1	0.7	3
11	La Blanca	Rural	2,351	3.5	2.8	6
11	La Casita-Garciasville	Rural	2,177	2.1	3.5	6
11	La Feria	Rural	6,115	3.5	2.1	6
11	La Feria North	Rural	168	3.5	3.5	7
11	La Grulla	Rural	1,211	2.1	2.1	4
11	La Homa	Urb./Exurb.	10,433	3.5	3.5	7
11	La Joya	Rural	3,303	3.5	2.8	6
11	La Paloma	Rural	354	3.5	3.5	7
11	La Presa	Rural	508	2.8	1.4	4
11	La Pryor	Rural	1,491	1.4	2.8	4
11	La Puerta	Rural	1,636	2.1	2.1	4
11	La Rosita	Rural	1,729	2.1	3.5	6
11	La Victoria	Rural	1,683	2.1	2.1	4
11	La Villa	Rural	1,305	3.5	2.8	6
11	Lago	Rural	246	3.5	3.5	7
11	Laguna Heights	Rural	1,990	3.5	2.8	6
11	Laguna Seca	Rural	251	3.5	0.7	4
11	Laguna Vista	Rural	1,658	3.5	0.7	4
11	Lake View	Rural	167	2.1	0.7	3
11	Laredo	Urb./Exurb.	176,576	2.8	2.1	5
11	Laredo Ranchettes	Rural	1,845	2.8	2.1	5
11	Larga Vista	Urb./Exurb.	742	2.8	3.5	6
11	Las Colonias	Rural	283	1.4	3.5	5
11	Las Lomas	Rural	2,684	2.1	3.5	6
11	Las Lomitas	Rural	267	0.7	2.8	4
11	Las Palmas-Juarez	Rural	1,666	3.5	2.1	6
11	Las Quintas Fronterizas	Rural	2,030	2.1	2.1	4
11	Lasana	Urb./Exurb.	135	3.5	0.7	4
11	Lasara	Rural	1,024	1.4	2.1	4
11	Laughlin AFB	Rural	2,225	2.1	0.7	3
11	Laureles	Rural	3,285	3.5	2.8	6
11	Leakey	Rural	387	0.7	1.4	2
11	Llano Grande	Urb./Exurb.	3,333	3.5	2.8	6
11	Lopeno	Rural	140	1.4	3.5	5
11	Lopezville	Urb./Exurb.	4,476	3.5	2.8	6

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
11	Los Alvarez	Rural	1,434	2.1	1.4	4
11	Los Angeles Subdivision	Rural	86	1.4	3.5	5
11	Los Ebanos	Rural	403	3.5	3.5	7
11	Los Fresnos	Rural	4,512	3.5	1.4	5
11	Los Indios	Rural	1,149	3.5	2.1	6
11	Los Villareales	Rural	930	2.1	1.4	4
11	Lozano	Rural	324	3.5	0.7	4
11	Lyford	Rural	1,973	1.4	2.1	4
11	Lyford South	Rural	172	1.4	3.5	5
11	McAllen	Urb./Exurb.	106,414	3.5	1.4	5
11	Medina	Rural	2,960	1.4	2.8	4
11	Mercedes	Rural	13,649	3.5	2.8	6
11	Midway North	Urb./Exurb.	3,946	3.5	1.4	5
11	Midway South	Urb./Exurb.	1,711	3.5	2.8	6
11	Mila Doce	Rural	4,907	3.5	3.5	7
11	Mirando City	Rural	493	2.8	2.8	6
11	Mission	Urb./Exurb.	45,408	3.5	1.4	5
11	Monte Alto	Rural	1,611	3.5	2.1	6
11	Morales-Sanchez	Rural	95	1.4	0.7	2
11	Muniz	Rural	1,106	3.5	3.5	7
11	New Falcon	Rural	184	1.4	3.5	5
11	North Alamo	Urb./Exurb.	2,061	3.5	2.8	6
11	North Escobares	Rural	1,692	2.1	3.5	6
11	Nurillo	Urb./Exurb.	5,056	3.5	2.8	6
11	Oilton	Rural	310	2.8	0.7	4
11	Olivarez	Rural	2,445	3.5	2.8	6
11	Olmito	Urb./Exurb.	1,198	3.5	3.5	7
11	Palm Valley	Urb./Exurb.	1,298	3.5	0.7	4
11	Palmhurst	Urb./Exurb.	4,872	3.5	2.1	6
11	Palmview	Urb./Exurb.	4,107	3.5	1.4	5
11	Palmview South	Urb./Exurb.	6,219	3.5	2.8	6
11	Penitas	Rural	1,167	3.5	2.1	6
11	Pharr	Urb./Exurb.	46,660	3.5	2.1	6
11	Port Isabel	Rural	4,865	3.5	1.4	5
11	Port Mansfield	Rural	415	1.4	0.7	2
11	Primera	Urb./Exurb.	2,723	3.5	1.4	5
11	Progreso	Rural	4,851	3.5	2.8	6
11	Progreso Lakes	Rural	234	3.5	0.7	4
11	Quemado	Rural	243	2.1	2.1	4
11	Radar Base	Rural	162	2.1	2.8	5
11	Ranchette Estates	Rural	133	1.4	2.1	4
11	Ranchitos Las Lomas	Rural	334	2.8	2.1	5
11	Rancho Viejo	Urb./Exurb.	1,754	3.5	0.7	4
11	Ranchos Penitas West	Urb./Exurb.	520	2.8	0.7	4
11	Rangerville	Rural	203	3.5	2.1	6
11	Ratamosa	Rural	218	3.5	0.7	4
11	Raymondville	Rural	9,733	1.4	1.4	3
11	Reid Hope King	Urb./Exurb.	802	3.5	3.5	7

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
11	Relampago	Rural	104	3.5	2.1	6
11	Rio Bravo	Urb./Exurb.	5,553	2.8	2.8	6
11	Rio Grande City	Rural	11,923	2.1	2.8	5
11	Rio Hondo	Rural	1,942	3.5	1.4	5
11	Rocksprings	Rural	1,285	0.7	2.1	3
11	Roma	Rural	9,617	2.1	3.5	6
11	Roma Creek	Rural	610	2.1	3.5	6
11	Rosita North	Rural	3,400	2.1	2.8	5
11	Rosita South	Rural	2,574	2.1	2.8	5
11	Sabinal	Rural	1,586	2.1	2.1	4
11	Salineno	Rural	304	2.1	0.7	3
11	San Benito	Urb./Exurb.	23,444	3.5	2.1	6
11	San Carlos	Rural	2,650	3.5	3.5	7
11	San Ignacio	Rural	853	1.4	2.8	4
11	San Isidro	Rural	270	2.1	2.8	5
11	San Juan	Urb./Exurb.	26,229	3.5	2.1	6
11	San Manuel-Linn	Rural	958	3.5	0.7	4
11	San Pedro	Rural	668	3.5	0.7	4
11	San Perlita	Rural	680	1.4	3.5	5
11	Santa Cruz	Rural	630	2.1	3.5	6
11	Santa Maria	Rural	846	3.5	2.8	6
11	Santa Monica	Rural	78	1.4	1.4	3
11	Santa Rosa	Rural	2,833	3.5	2.8	6
11	Scissors	Rural	2,805	3.5	2.8	6
11	Sebastian	Rural	1,864	1.4	0.7	2
11	Siesta Shores	Rural	890	1.4	0.7	2
11	Solis	Rural	545	3.5	0.7	4
11	South Alamo	Rural	3,101	3.5	3.5	7
11	South Fork Estates	Rural	47	0.7	0.7	1
11	South Padre Island	Rural	2,422	3.5	0.7	4
11	South Point	Rural	1,118	3.5	3.5	7
11	Spofford	Rural	75	0.7	0.7	1
11	Sullivan City	Rural	3,998	3.5	2.8	6
11	Tierra Bonita	Rural	160	3.5	0.7	4
11	Utopia	Rural	241	2.1	1.4	4
11	Uvalde	Rural	14,929	2.1	2.1	4
11	Uvalde Estates	Rural	1,972	2.1	2.1	4
11	Val Verde Park	Rural	1,945	2.1	1.4	4
11	Villa del Sol	Rural	132	3.5	2.1	6
11	Villa Pancho	Urb./Exurb.	386	3.5	3.5	7
11	Villa Verde	Urb./Exurb.	891	3.5	2.8	6
11	Weslaco	Urb./Exurb.	26,935	3.5	2.1	6
11	West Sharyland	Rural	2,947	3.5	1.4	5
11	Willamar	Rural	15	1.4	0.7	2
11	Yznaga	Rural	103	3.5	0.7	4
11	Zapata	Rural	4,856	1.4	2.8	4
11	Zapata Ranch	Rural	88	1.4	0.7	2
12	Ackerly	Rural	245	2.1	2.1	4

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
12	Andrews	Rural	9,652	2.1	1.4	4
12	Balmorhea	Rural	527	2.1	3.5	6
12	Barstow	Rural	406	2.1	3.5	6
12	Big Lake	Rural	2,885	0.7	1.4	2
12	Big Spring	Rural	25,233	2.8	2.8	6
12	Brady	Rural	5,523	2.1	2.8	5
12	Bronte	Rural	1,076	1.4	2.8	4
12	Christoval	Rural	422	3.5	2.8	6
12	Coahoma	Rural	932	2.8	0.7	4
12	Coyanosa	Rural	138	2.1	3.5	6
12	Crane	Rural	3,191	1.4	1.4	3
12	Eden	Rural	2,561	0.7	1.4	2
12	Eldorado	Rural	1,951	1.4	2.1	4
12	Forsan	Rural	226	2.8	1.4	4
12	Fort Stockton	Rural	7,846	2.1	2.1	4
12	Gardendale	Rural	1,197	3.5	0.7	4
12	Goldsmith	Rural	253	3.5	0.7	4
12	Grandfalls	Rural	391	2.1	2.8	5
12	Grape Creek	Rural	3,138	3.5	1.4	5
12	Imperial	Rural	428	2.1	1.4	4
12	Iraan	Rural	1,238	2.1	0.7	3
12	Junction	Rural	2,618	1.4	2.8	4
12	Kermit	Rural	5,714	1.4	1.4	3
12	Lamesa	Rural	9,952	2.1	2.8	5
12	Lindsay (Reeves)	Rural	394	2.1	2.8	5
12	Los Ybanez	Rural	32	2.1	3.5	6
12	Mason	Rural	2,134	1.4	2.1	4
12	McCamey	Rural	1,805	1.4	2.8	4
12	Melvin	Rural	155	2.1	3.5	6
12	Menard	Rural	1,653	0.7	3.5	4
12	Mertzson	Rural	839	0.7	0.7	1
12	Midland	Urb./Exurb.	94,996	3.5	1.4	5
12	Monahans	Rural	6,821	2.1	2.1	4
12	Odessa	Urb./Exurb.	90,943	3.5	2.8	6
12	Ozona	Rural	3,436	1.4	2.8	4
12	Paint Rock	Rural	320	0.7	2.8	4
12	Pecos	Rural	9,501	2.1	2.8	5
12	Pyote	Rural	131	2.1	0.7	3
12	Rankin	Rural	800	1.4	0.7	2
12	Robert Lee	Rural	1,171	1.4	2.8	4
12	San Angelo	Urb./Exurb.	88,439	3.5	2.1	6
12	Sanderson	Rural	861	0.7	3.5	4
12	Seagraves	Rural	2,334	2.1	3.5	6
12	Seminole	Rural	5,910	2.1	1.4	4
12	Sonora	Rural	2,924	1.4	1.4	3
12	Stanton	Rural	2,556	1.4	2.8	4
12	Sterling City	Rural	1,081	0.7	1.4	2
12	Thorntonville	Rural	442	2.1	0.7	3

2005 HTC and HTF AHNS

State Service Region	Place Name	Geography Type	Population	County Need/Region Need Points	Place Need/Place Population Points	AHNS
12	Toyah	Rural	100	2.1	3.5	6
12	West Odessa	Urb./Exurb.	17,799	3.5	2.1	6
12	Wickett	Rural	455	2.1	3.5	6
12	Wink	Rural	919	1.4	0.7	2
13	Agua Dulce (El Paso)	Rural	738	3.5	1.4	5
13	Alpine	Rural	5,786	0.7	2.1	3
13	Anthony	Urb./Exurb.	3,850	3.5	2.1	6
13	Butterfield	Rural	61	3.5	1.4	5
13	Canutillo	Urb./Exurb.	5,129	3.5	2.8	6
13	Clint	Rural	980	3.5	2.1	6
13	Dell City	Rural	413	0.7	2.8	4
13	El Paso	Urb./Exurb.	563,662	3.5	2.1	6
13	Fabens	Rural	8,043	3.5	3.5	7
13	Fort Bliss	Urb./Exurb.	8,264	3.5	0.7	4
13	Fort Davis	Rural	1,050	0.7	1.4	2
13	Fort Hancock	Rural	1,713	0.7	3.5	4
13	Homestead Meadows North	Rural	4,232	3.5	2.1	6
13	Homestead Meadows South	Rural	6,807	3.5	2.1	6
13	Horizon City	Rural	5,233	3.5	0.7	4
13	Marathon	Rural	455	0.7	1.4	2
13	Marfa	Rural	2,121	0.7	2.1	3
13	Morning Glory	Rural	627	3.5	0.7	4
13	Prado Verde	Urb./Exurb.	200	3.5	0.7	4
13	Presidio	Rural	4,167	0.7	2.8	4
13	Redford	Rural	132	0.7	3.5	4
13	San Elizario	Urb./Exurb.	11,046	3.5	2.8	6
13	Sierra Blanca	Rural	533	0.7	1.4	2
13	Socorro	Urb./Exurb.	27,152	3.5	2.8	6
13	Sparks	Rural	2,974	3.5	2.8	6
13	Study Butte-Terlingua	Rural	267	0.7	1.4	2
13	Tornillo	Rural	1,609	3.5	2.8	6
13	Valentine	Rural	187	0.7	0.7	1
13	Van Horn	Rural	2,435	0.7	2.1	3
13	Vinton	Rural	1,892	3.5	2.8	6
13	Westway	Urb./Exurb.	3,829	3.5	2.8	6

CENTER FOR HOUSING RESEARCH, PLANNING, AND COMMUNICATIONS

BOARD ACTION ITEM

November 12, 2004

Action Item

2005 State of Texas Low Income Housing Plan and Annual Report

Required Action

Approval of the *2005 State of Texas Low Income Housing Plan and Annual Report*

Background

The *2005 State of Texas Low Income Housing Plan and Annual Report* (SLIHP or Plan) is one of three comprehensive planning documents the Texas Department of Housing and Community Affairs is required to submit annually. The SLIHP provides an overview of TDHCA housing and housing-related priorities and policies; outlines statewide housing needs; provides TDHCA's programs funding levels and performance measures; and reports on the Department's activities during the preceding fiscal year (September 1, 2003–August 31, 2004).

At the September 9, 2004 Board Meeting, the Board approved the draft SLIHP. The draft SLIHP was subsequently made available to the public for a 32-day comment period. The documents were published on the TDHCA web site and the item was on the agenda at the 13 Consolidated public hearings held around the state (Amarillo, Austin, Dallas, El Paso, Harlingen, Houston, Lufkin, San Angelo, San Antonio, Tyler, Victoria, Waco, and Wichita Falls). These hearings were attended by approximately 196 people.

Summary of Changes from 2004 State of Texas Low Income Housing Plan and Annual Report

- Program performance figures reflect new organizational structure and new performance measures
- Statewide and regional needs assessments contain newly released CHAS data based on 2000 Census
- 2005 Regional Allocation Formula
- 2005 Affordable Housing Needs Score
- HOME Program:
 - Will be limiting single family funding solely to non participating jurisdictions.
 - The five percent disability set aside will now be subject to the Regional Allocation Formula.

Summary of Proposed Changes from the Draft Version of the 2005 State of Texas Low Income Housing Plan and Annual Report

- Updated performance information for FY 2004
- Adjustments to the Regional Allocation Formula as a result of receiving final available resources information
- HOME Program:
 - Single family funding may serve participating jurisdictions, although there will be a scoring preference for non participating jurisdictions
 - Scoring preference for tenant based rental applications serving people with disabilities (includes those affected by the Olmstead Supreme Court decision)
 - Continuation of the Home of Your Own (HOYO) allocation

See Attachment A for summary of comments received during the public comment period and the Department's responses. Please see the TDHCA website, Center for Housing Research, Planning, and Communications publications page (<http://www.tdhca.state.tx.us/hrcpub.htm>), for the complete *2005 State of Texas Low Income Housing Plan and Annual Report* and the complete comments received during the public comment period.

Attachment A: SLIHP Public Comment

Comment: Regional Advisory Committee Meeting

Comment states that the State Low Income Housing Plan and Annual Report says, “the regional advisory committee meeting attendees (in Region 5) agreed that there has been no progress made in addressing the housing crisis since the RAC last year. If anything, the regions' needs are greater, and the resources are more limited. A local organization reported that a recent homeless count in the region indicates that homelessness has risen significantly since last year. It was observed that until mayors, county judges, commissioners, and council members attend the RAC, very little will be accomplished. The group felt that there is not the social awareness nor the political will to address the housing issues.” Comment indicates that the summary does not accurately represent the feeling of the region.

- **Department Response**

The Regional Advisory Committee meetings reflect the opinions of the persons present and may not be a reflection of the region as a whole. The SLIHP’s comments are taken from the written committee report provided by the Regional Development Coordinator who facilitated the meeting. The intention of the Regional Advisory Committee is to provide a forum for discussion of the local affordable housing and community service needs and available resources. The Department encourages the continued participation of the public at the Regional Advisory Committee meetings in 2005.

Comment: State Service Regions

Comment suggests that adjacent counties in regions 3, 4, 5, and 8 should have their own region to ensure better representation of their unique rural needs.

- **Department Response**

The Department utilizes the Uniform State Service Regions as established by the Texas Comptroller of Public Accounts and required by 2306.111. The Department is dedicated to serving populations with the highest need for assistance yet remain underserved, including rural areas. The rural focus of the Department is considered in the development of all programs and the distribution of associated funds, i.e. the rural allocation in the Regional Allocation Formula used for distributing Housing Trust Fund, HOME, and Housing Tax Credit funds. The Department utilizes scoring criteria or set-asides in applications and program rules to encourage participation in rural areas.

Comment: Texas Basic Accessibility Rules

Comment strongly encourages TDHCA to use the Texas Basic Accessibility Rules that allow the house to be easily adapted as occupants age and need help in coping with disabilities. The double studding around the shower, the lowering of a light switch, or the raising of a receptacle, or ensuring that one of the doors be a three-foot door with a zero grade, as no cost to the developer. It's a big savings to a consumer that has disabilities. These rules have been in place for more than five years. Comment strongly encourages TDHCA to continue to use dollars for development of affordable housing that the Basic Accessibility Act rules remain in place.

- **Department Response**

The Department concurs that basic accessibility is an important feature with regard to housing. TDHCA is currently required to include basic accessibility features with all new single family construction per Section 2306.514. The Department will research the differences between the accessibility features it currently uses and those identified by the comment to determine if changes need to be made.

Comment: Public Participation

Comment encourages relationship building between the Department and the public, encouraging more public participation in the process. Comment states that there is a disconnect between regional organizations and the Department.

- **Department Response**

The Department has an extensive public comment process and values public comment to help direct resources to meet its goals and objectives. The citizen participation process is constantly undergoing expansion and modification. As this was a frequently expressed comment in the annual Regional Advisory Committees as well, the Department will continue to explore ways to improve how it works with, and includes local organizations in the development of programs and policies.

Note: All Department programs follow the citizen participation and public hearing process outlined by the Texas Government Code. Hearing locations are accessible to all who choose to attend and are held at times convenient to both working and non-working persons. The Department notifies all citizen and nonprofit organizations, local governments, state legislators, public housing authorities, and local public libraries when a public hearing or public comment period is scheduled. Additional, pertinent information is posted in the Texas Register, in Breaking Ground (the Department's newsletter), and on the Department's website.

Comment: Fair Housing

Comment states that the Department's current Analysis of Impediments to Fair Housing does not use the most recent data available at the time and "fails to do any significant analysis of housing problems by race/ethnicity, either in terms of demographic analysis of housing need or effect of actions taken." Comment urges "the Department to acknowledge both its recognition of these shortcomings, and its commitment to undertake a more thorough and useful fair housing planning process in the upcoming year." Related comment states that the Department has not adequately acted to affirmatively further Fair Housing in the Department's programs.

- **Department Response**

The Analysis of Impediments to Fair Housing was last updated in January 2003 utilizing the most recent Census data available at the time, 1990 data. The 2000 Comprehensive Housing Affordability Strategy (CHAS) database of Census housing data delineated by income groups became available on HUD's website in September 2003 (<http://www.huduser.org/datasets/cp.html>). The Department is committed to updating the Analysis of Impediments beginning early 2005 with a planning process involving a workgroup of interested members of the public. The Department will utilize 2000 Census data and include analysis on race/ethnicity in the updated Analysis of Impediments to Fair Housing. The Department is proposing several fair housing point factors in the 2005 Qualified Allocation Plan (QAP) for the Housing Tax Credit Program; see the responses to public comment for the QAP.

Note: The current Analysis of Impediments to Fair Housing meets the requirements established by the US Department of Housing and Urban Development (HUD) for the 2005-2009 State of Texas Consolidated Plan.

Comment: Geographic Distribution of Funding

Comment requests more funding in Bell and Coryell counties. Comment says that the State should allocate funding to subrecipients that distribute funding to those most in need.

- **Department Response**

A majority of the funding available through the Department is distributed geographically by allocation formulas. These allocation formulas are based on need data provided by the US Bureau of the Census; for instance the number of individuals in poverty, and the number of households with housing cost burden, overcrowding, or living in substandard housing conditions. The housing and community service funding available through the Department is limited to eligible households and individuals. Program rules, the application process, and the subsequent monitoring of entities receiving the funding awards ensure that the assistance is available to those most in need.

Comment: Special Needs Categories

Comment suggests the addition of 3 categories of persons with special needs: street youth, young adults recently aged out of foster care; and homeless young mothers (may or may not include aged-out foster youth or victims of domestic violence).

- **Department Response**

The Department concurs and will add various identified homeless subpopulations to the 2005 State of Texas Low Income Housing Plan and Annual Report.

Comment: Release of NOFA's for Public Comment

Public comments were submitted noting an interest in releasing NOFAs for public comment prior to official release. It was noted that past NOFAs, including the 2004 HTF Rental Development NOFA, included limitations on applicants that reduced the effectiveness of the funding cycles.

- **Department Response**

Department staff understands that limitations placed in a NOFA may have a negative impact on certain applicants. The Department will make an effort to gather more input in the NOFA development process.

Comment: Persons with Disabilities Staff Member

Comment suggests the Department formalize its commitment to persons with disabilities and fund a staff person to provide internal and external leadership on issues related to persons with disabilities.

- **Department Response**

The Department is committed to serving people with disabilities and will continue to name a central coordinator who will be responsible for the disability issues at the Department.

Comment: State Public Housing Authority

Comment encourages the Department to continue its role as a Public Housing Authority and continue with initiatives such as the Project Access vouchers for people wishing to transition out of institutions.

- **Department Response**

The Department appreciates the comment. At this point in time, the Department will continue in its role as Public Housing Authority and will continue to administer the Project Access vouchers in the current capacity.

COMMENTS REGARDING THE EMERGENCY SHELTER GRANTS PROGRAM

Comment

Comment commends Project BRAVO for the services that have been provided including utility assistance, food, medical, and appliances.

- **Department Response**

The Department appreciates the comments regarding the assistance received from El Paso Community Action Program, Project BRAVO.

Comment

Comment originates from an organization that feeds the hungry and trains and places in jobs people in need, primarily homeless, indigent, and of late those that have been displaced by the offshore plight of industries in the area. Comment commends the Department for the assistance provided through the ESG program for the past 4 or 5 years and points out the importance of the program, especially for small cities. Comment requests that the Department reconsider funding the organization.

- **Department Response**

The Department appreciates the work done by Loaves and Fishes to assist low-income citizens become self-sufficient and recognizes the great need in their community. At this time though, the Department has awarded all fiscal year 2004 ESGP funds. However, the Department reviewed a recent request for CSBG funds and awarded Loaves and Fishes a \$30,000 CSBG Special Project Demonstration Fund grant to assist with efforts to transition persons out of poverty in the Harlingen area. The Department will continue to notify Loaves and Fishes of future ESGP funding opportunities.

Comment

Comment requests that the State of Texas Low Income Housing Plan and Annual Report (SLIHP) place emphasis on the provisions essential services for homeless youth and young adults including education, job training, and employment.

- **Department Response**

The Department will add language in the 2005 State of Texas Low Income Housing Plan and Annual Report that discusses the importance of essential services for homeless youth and young adults.

Comment

Comment requests funding for homeless programs and requests more flexibility in the use of ESGP funds.

- **Department Response**

The federal regulations governing the ESGP grant, 42 USC Sec. 11374 (a) provides limitations on the use of ESGP funds. The Department does not focus on funding expenditures related to the physical facilities. In making funding distribution decisions, the Department must comply with limitations set forth by the ESGP federal regulations. Expenditures of ESGP grant funds for essential services and for homelessness prevention are limited to no more than 30% of the aggregate amount of the State's allocation for each activity.

Comment

Comment points out the need for transitional housing. Other comment states that the responses to the Community Needs Survey in their area only represents the need in the cities, not a need for transitional housing that exists in the other counties.

- **Department Response**

The Department appreciates the information provided regarding the needs in the community. Unfortunately, the ESGP funds administered by the Department are very limited. In fiscal year 2004 the Department received \$4.9 million dollars and Region 4 was allocated \$228,082, based on the poverty population of the region. ESGP funds support organizations that provide emergency services, shelter, and transitional housing. The Department will notify your organization of availability of fiscal year 2005

ESGP funds. Of the housing programs, the Housing Tax Credit program can be used for transitional housing.

The 2003 Community Needs Survey was sent to all local jurisdictions, including county judges and city mayors. The report accurately reflects the surveys returned to the Department, and may not reflect the opinions of the area as a whole.

Comment

Comment supports long-term solutions that enable the participants to obtain the education, job skills and life skills needed to pull themselves out of poverty. These programs typically take one to two years.

- **Department Response**

The Department provides Community Services Block Grant (CSBG) funds to 48 CSBG eligible entities. These entities must offer case management programs to assist low-income persons to transition out of poverty. The Department sets no limitation on the length of time that a client can be enrolled in a case management program; each CSBG eligible entity sets the guidelines for enrollment and maintenance in a case management program. In the Houston area, the CSBG eligible entity is Gulf Coast Community Services Association.

COMMENTS REGARDING WEATHERIZATION ACTIVITIES

Comment

Comment points out that System Benefit Fund (SBF) monies working with weatherization funds enabled them to have the additional dollars needed to help the very poor clients make their homes energy efficient. These are the clients that now must be denied because the federal weatherization program limits weatherization funds that can be spent on any one home. Comment also points out that only electric customers in deregulated areas have to pay into the SBF account and yet are denied the energy efficient work afforded to electric customers living in regulated areas.

- **Department Response**

The Department concurs with the need for the SBF program and has requested funding in its Legislative Appropriations Request.

Comment

Comment states that only one utility assistance program is listed for Bell County and that in order to qualify for assistance, the client must be a single mother.

- **Department Response**

The Department administers the Comprehensive Energy Assistance Program funded through the LIHEAP grant from the US Department of Health and Human Services. In Bell and Coryell counties this program is operated through the Hill Country Community Action Association. This is not an entitlement program. In order to be eligible, the household must have an income level is at or below 125% of poverty and possess a documented need. Priority is given to households with elderly persons, households with one or more disabled persons, households with one or more children under 6 years of age, households with high energy burdens, and households that consume a lot of energy. The Department encourages the application for funding. The toll free number is 1-877-399-8939.

COMMENTS REGARDING THE HOME PROGRAM

Comment: Length of Program Supports

Comments were collected regarding the length of program supports, specifically in Tenant Based Rental programs. It was noted that these types of support should be provided on a “longer-term” basis to enable participants the ability to secure jobs, educations and life skills that will allow them to reach self-sufficiency. A term limit on TBRA of two-years was specifically mentioned as being too short to properly assist special needs and other populations.

- **Department Response**

The term of 2 years of Tenant Based Rental Assistance is a federally mandated timeline. No changes recommended.

Comment: Olmstead Set Aside

Several comments were collected on the Department’s use of Tenant Based Rental Assistance funding through the Olmstead Set Aside. It was noted that while applications to the program had lagged since its inception, that the program was critical and that demand remained significant. Public input highlighted that the program was still “young” and that organizational capacity by social service agencies and nonprofits was building and would soon be able to fulfill the demands of the target population.

- **Department Response**

A total of \$4 million dollars was set aside for those persons affected by the *Olmstead* Decision for Tenant Based Rental Assistance. Two separate NOFAs were released for these particular funds, one for \$2 million dollars in 2003 and another in 2004. Only five applications have been submitted, with all five receiving funding awards. To date only \$545,875 out of the \$4 million has been awarded. If an applicant wishes to assist persons that qualify under the Olmstead population definition, they may do so by applying for Tenant Based Rental Assistance funds under the Department’s general funding cycle. In an effort to continue serving this population, extra points will be awarded to those applicants choosing to assist persons with disabilities, including persons affected by the *Olmstead* Decision, in the application scoring process.

Comment: Disability Advisory Committee

Comments were collected recommending that the Department expand the membership of the Disability Advisory Committee, that a regular meeting schedule be established, and that the committee become proactive in addressing the housing needs of people with disabilities. It was noted that the DAC had great potential in evolving toward providing a clear voice to the Department’s Board on disability issues.

- **Department Response**

TDHCA continues to have a strong interest in meeting the housing and community service needs of persons with disabilities. The Department will review the membership of the DAC and work with committee members to ensure a more regular meeting schedule.

Comment: Threshold Criteria

A question was asked through public comment regarding the application of Qualified Allocation Plan (QAP) requirements for both experience certifications, and units and site amenities required of multifamily developments. It was noted that these threshold criteria were onerous to small developments through the HOME and HTF programs.

- **Department Response**

The Department has worked to reduce the impact on small developments that were due to the universal application of QAP requirements on all rental developments. Staff believes that many of these issues have been dealt with through revisions to program rules.

Comment: Responses to Applicant Inquiries

A comment was submitted regarding an applicants attempts to communicate with Department staff regarding contract issues. The comment noted that it was difficult to contact Department staff until the division director was contacted.

- **Department Response**

Since its reorganization, the Department has instituted standard operating procedures to clarify the roles and responsibilities of staff and worked towards having single points of contact for each program area. It is believed that these changes will improve communication between applicants and TDHCA.

Comment: Contract Effective Dates

It has been noted that contract effective dates are often set for dates prior to the actual signing of the agreements. It was noted that applicants had concerns about monitoring and fulfillment of contract performance measures under these circumstances.

- **Department Response**

It should be noted that contract effective dates are often set by program funding requirements. Department staff strives to keep the difference between the signing date and effective date of agreements as minimal as possible. Applicants are also asked to contact their primary program contact to assure that agreements are amended to reflect any delays on behalf of the Department.

Comment: Training Requirements

Comments were submitted regarding the training requirements placed on administrators prior to being able to draw funds and begin programs. It was noted that the administrators are often delayed due to unavoidable circumstances and do not have sufficient staff resources to attend trainings while providing critical services to clients.

- **Department Response**

The Department provides compliance and financial management training upon receiving an award, or when so requested. The Department strives to make its training programs available in a flexible manner and will continue to institute new avenues for administrators to fulfill training requirements, including online training resources and manuals.

Comment: Match Requirements

Public comments were provided on the use of matching funds as a scoring criteria in the HOME application process. Match as a scoring criteria is often inequitable and most effects small versus larger municipalities across the state. It was noted that larger municipalities are better able to provide matching funds than smaller municipalities. It was also recommended that the Department consider using a per capita scale if match is to continue as a scoring criteria.

- **Department Response**

The Department is required to report 12.5% of the annual allocation in matching funds to HUD. The Department realizes the difficulty for any applicant to provide matching funds, much less the smaller, less prosperous municipalities. The Department has struggled in years past in remedying the possible inequities and is currently in the process of reviewing this scoring criteria.

Comment: Contractor Qualifications

Comments regarding the qualification requirements for building contractors often exclude local builders from being included in HOME contracts. In these cases administrators are often forced to find contractors from outside communities which can be costly and cause delays. However, it was noted that outside contractor also often hire local subcontractors and buy supplies locally, but that these impacts are not included in program reporting. It was requested that the Department reconsider its stance on the use of local contractors.

- **Department Response**

The Department encourages HOME administrators to use local contractors when possible, and feels it important for the local economy to benefit from receiving funds. Points are given to those applicants that use local contractors interested in participating in a HOME contract. The Department realizes that finding local contractors in the rural areas of the state can be difficult, and at times not cost effective. This scoring criteria regarding local contractors is important to the application process and the manner in which it is scored is to be reviewed. In years past applicants received points for finding contractors within 150 miles of the proposed activity. In the most current funding cycle, the Department broadened the scope to contractors within the region, in hopes that many applicants could find more interested parties. The Department will be holding a single family roundtable in the near future to evaluate applications and scoring criteria.

Note: Under Section 3 of the HUD Act of 1968, wherever HUD financial assistance is expended for housing or community development, to the greatest extent feasible, economic opportunities will be given to Section 3 residents and businesses in that area.

Comment: Administrator Funds

Public comment recommended that the 4% cap on administrative funds be raised to levels similar to those used by ORCA and the CDBG program.

- **Department Response**

The Department feels that 4% in administrative dollars of the project funds awarded is sufficient to execute a HOME Single Family contract. The Department works to provide other forms of assistance to nonprofit administrators including Capacity Building and CHDO Operating Support funding.

Comment: Grant vs. Loan in the Owner-Occupied Assistance Program

Public comments were submitted in regards to the Owner-Occupied Assistance Program requesting that the Department consider making only grants to participants that earn 50% or less than the area medium family income.

- **Department Response**

Program staff continues to work closely with the Board in developing a policy regarding HOME Owner Occupied Housing Assistance funds as grants and/or loans to qualifying households. The Department appreciates the suggestion that individuals earning 50% or less AMFI and receiving assistance should be granted funds. This topic will be explored in the upcoming single family application roundtable.

Comment: AMFI Levels Served

Comment received proposed awarding applicants the same number of points for serving households at 50% or below.

- **Department Response**

Currently, in an effort to meet Rider 3 (as required by the Texas Legislature) the Department awards more points to applicants proposing to serve populations at lower AMFI levels, with the most points

received for serving those at 30% AMFI. The Department does not prohibit an applicant from serving households above this level. However, they do not receive as many points as an applicant proposing to serve those individuals at lower AMFI levels. The Department proposes no change.

Comment: Activity Award Allocations and Subscription Rates

Comment received requested more funds be allocated for activities that get the most subscription.

- **Department Response**

The Department has evaluated subscription rates of the various HOME activities and believe that the activities put forth in the 2005 Action Plan are reflective of the subscription rates (based on the most current funding cycle).

NOTE: A total of \$6 million for Homebuyer Assistance will be available through the American Dream Downpayment Initiative (ADDI) for 2005. Of the remaining funds allocated for Single Family activities, 80% of funds will be for Owner Occupied Housing Assistance, the Department's most oversubscribed activity, and 20% will be for Tenant Based Rental Assistance.

Comment: Barrier Removal

Comment says the Department needs to publicize the Barrier Removal Program. The program should allow clients' input on the type of barrier removal and not rely on the physician's recommendations. The program's extensive paperwork requirements lead to burdensome delays for the recipients of program funds.

- **Department Response**

The Department is aware that oftentimes the application and administration of federal programs seems onerous, and is continually working to improve the application and funding process. The Department also agrees that consumer driven changes with regard to barrier removal is an integral part of a successful barrier removal program, and will explore avenues to encourage providers to include clients in the development of their work plans.

Comment: Persons with Disabilities Set Aside

The Department received numerous comments regarding the amount of assistance going to persons with disabilities should be increased, and the use of such funds being awarded in participating jurisdictions.

- **Department Response**

The Department is committed to assisting persons with disabilities. In an effort to assist more individuals with a disability, additional points will be awarded to applicants choosing to serve 100% persons with disabilities during the application scoring phase.

According to §2306.111(c) of the Texas Government Code, the Department shall expend at least 95% of HOME funds for the benefit of nonparticipating jurisdictions. The remaining 5% may be expended in a participating jurisdiction, but only if such funds assist persons with disabilities. Both Multifamily and Single Family HOME activities will be available under this 5% provision. However, it is important to note that applications proposing to serve nonparticipating jurisdictions will be given priority.

Comment: Home of Your Own (HOYO) Award

The Department received overwhelming support for the reinstatement of the Department's commitment to the Home of Your Own (HOYO) program.

- **Department Response**

The Department concurs with public comment, and agrees that providing homebuyer assistance to the persons with disabilities is essential. Given HOYO's past performance and current capacity to serve this need, the \$500,000 commitment for Homebuyer Assistance to the disability community will be reinstated for the 2005 HOME Program year. To ensure good governance, however, it is the Department's intention to reevaluate this award for future funding cycles. The Department desires to make funding for this specific activity serving the disability community open to all interested entities on a competitive basis.

CENTER FOR HOUSING RESEARCH, PLANNING, AND COMMUNICATIONS

BOARD ACTION ITEM

November 12, 2004

Action Item

2005-2009 State of Texas Consolidated Plan

Required Action

Approval of the *2005-2009 State of Texas Consolidated Plan*.

Background

The *2005-2009 State of Texas Consolidated Plan* (the Plan) is submitted in compliance with 24 CFR Part 91 Consolidated Plan Submissions for Community Planning and Development Programs.

The Plan describes the federal resources expected to be available for the following programs: The Community Development Block Grant (CDBG) Program, the HOME Investment Partnerships (HOME) Program, The Emergency Shelter Grants (ESG) Program, and the Housing Opportunities for Persons with AIDS (HOPWA) Program. The State's method for distributing these funds is also set out in the Plan.

The Plan also gives an overview of activities which:

- address the needs of the homeless, including emergency shelter and transitional housing;
- address obstacles to meeting underserved needs;
- foster and maintain affordable housing;
- remove barriers to affordable housing;
- evaluate and reduce lead-based paint hazards;
- reduce the number of poverty level families;
- develop institutional structure;
- enhance coordination between public and private housing and social service agencies; and
- foster public housing resident initiatives.

In addition, the Plan includes the following specific information: Regarding CDBG, the Plan includes "urgent needs" activities and the method of distribution and description of all selection criteria. Concerning the HOME program, the Plan describes other forms of investment that are not described in section 92.205(b). In addition, the HOME program states the guidelines for resale or recapture if the HOME funds are used for homebuyers. Concerning ESG, the Plan states the process for awarding grants and describes how the State intends to make allocations available to units of local government and nonprofit organizations. Lastly, concerning HOPWA, the Plan states the method of selecting project sponsors.

At the September 9, 2004 Board Meeting, the Board approved the draft Consolidated Plan. The draft Consolidated Plan was subsequently made available to the public for a 32-day comment period. The documents were published on the TDHCA web site and the item was on the agenda at the 13

Consolidated public hearings held around the state (Amarillo, Austin, Dallas, El Paso, Harlingen, Houston, Lufkin, San Angelo, San Antonio, Tyler, Victoria, Waco, and Wichita Falls). These hearings were attended by approximately 196 people.

Summary of Changes from 2004 State of Texas Consolidated Plan – One-Year Action Plan

- Program performance figures reflect new organizational structure and new performance measures (as approved by the LBB)
- Statewide and regional needs assessments contain newly released CHAS data based on 2000 Census
- 2005 Regional Allocation Formula
- 2005 Affordable Housing Needs Score
- HOME Program:
 - Will be limiting single family funding solely to non participating jurisdictions. (Multifamily will continue to reserve the right to allocate in PJs so long as they do not exceed 5 percent of the total HOME allocation, serve persons with disabilities, and are in compliance with the Department’s Integrated Housing Rule)
 - The five percent disability set aside will now be subject to the Regional Allocation Formula. (The allocation will be handled similarly to the way the Housing Tax Credit Program does their nonprofit set aside).

Summary of Proposed Changes from the Draft Version of the 2005-2009 Consolidated Plan

- Adjustments to the Regional Allocation Formula
- HOME Program:
 - Single family funding may serve participating jurisdictions, although there will be a scoring preference for non participating jurisdictions
 - Scoring preference for tenant based rental applications serving people with disabilities (includes those affected by the Olmstead Supreme Court decision)
 - Continuation of the Home of Your Own (HOYO) allocation

See Attachment A for summary of comments received during the public comment period and the Department’s responses. Please see the TDHCA website, Center for Housing Research, Planning, and Communications publications page (<http://www.tdhca.state.tx.us/hrcpub.htm>), for the complete 2005-2009 State of Texas Consolidated Plan and the complete comments received during the public comment period.

Attachment A: Consolidated Plan Public Comment

Comment: Public Participation

Comment encourages relationship building between the Department and the public, encouraging more public participation in the process. Comment states that there is a disconnect between regional organizations and the Department.

- **Department Response**

The Department has an extensive public comment process and values public comment to help direct resources to meet its goals and objectives. The citizen participation process is constantly undergoing expansion and modification. As this was a frequently expressed comment in the annual Regional Advisory Committees as well, the Department will continue to explore ways to improve how it works with, and includes local organizations in the development of programs and policies.

Note: All Department programs follow the citizen participation and public hearing process outlined by the Texas Government Code. Hearing locations are accessible to all who choose to attend and are held at times convenient to both working and non-working persons. The Department notifies all citizen and nonprofit organizations, local governments, state legislators, public housing authorities, and local public libraries when a public hearing or public comment period is scheduled. Additional, pertinent information is posted in the Texas Register, in Breaking Ground (the Department's newsletter), and on the Department's website.

Comment: Fair Housing

Comment states that the Department's current Analysis of Impediments to Fair Housing does not use the most recent data available at the time and "fails to do any significant analysis of housing problems by race/ethnicity, either in terms of demographic analysis of housing need or effect of actions taken." Comment urges "the Department to acknowledge both its recognition of these shortcomings, and its commitment to undertake a more thorough and useful fair housing planning process in the upcoming year." Related comment states that the Department has not adequately acted to affirmatively further Fair Housing in the Department's programs.

- **Department Response**

The Analysis of Impediments to Fair Housing was last updated in January 2003 utilizing the most recent Census data available at the time, 1990 data. The 2000 Comprehensive Housing Affordability Strategy (CHAS) database of Census housing data delineated by income groups became available on HUD's website in September 2003 (<http://www.huduser.org/datasets/cp.html>). The Department is committed to updating the Analysis of Impediments beginning early 2005 with a planning process involving a workgroup of interested members of the public. The Department will utilize 2000 Census data and include analysis on race/ethnicity in the updated Analysis of Impediments to Fair Housing. The Department is proposing several fair housing point factors in the 2005 Qualified Allocation Plan (QAP) for the Housing Tax Credit Program; see the responses to public comment for the QAP.

Note: The current Analysis of Impediments to Fair Housing meets the requirements established by the US Department of Housing and Urban Development (HUD) for the 2005-2009 State of Texas Consolidated Plan.

Comment: Persons with Disabilities Staff Member

Comment suggests the Department formalize its commitment to persons with disabilities and fund a staff person to provide internal and external leadership on issues related to persons with disabilities.

- **Department Response**

The Department is committed to serving people with disabilities and will continue to name a central coordinator who will be responsible for the disability issues at the Department.

COMMENTS REGARDING THE EMERGENCY SHELTER GRANTS PROGRAM

Comment

Comment commends Project BRAVO for the services that have been provided including utility assistance, food, medical, and appliances.

- **Department Response**

The Department appreciates the comments regarding the assistance received from El Paso Community Action Program, Project BRAVO.

Comment

Comment originates from an organization that feeds the hungry and trains and places in jobs people in need, primarily homeless, indigent, and of late those that have been displaced by the offshore plight of industries in the area. Comment commends the Department for the assistance provided through the ESG program for the past 4 or 5 years and points out the importance of the program, especially for small cities. Comment requests that the Department reconsider funding the organization.

- **Department Response**

The Department appreciates the work done by Loaves and Fishes to assist low-income citizens become self-sufficient and recognizes the great need in their community. At this time though, the Department has awarded all fiscal year 2004 ESGP funds. However, the Department reviewed a recent request for CSBG funds and awarded Loaves and Fishes a \$30,000 CSBG Special Project Demonstration Fund grant to assist with efforts to transition persons out of poverty in the Harlingen area. The Department will continue to notify Loaves and Fishes of future ESGP funding opportunities.

Comment

Comment requests that the State of Texas Low Income Housing Plan and Annual Report (SLIHP) place emphasis on the provisions essential services for homeless youth and young adults including education, job training, and employment.

- **Department Response**

The Department will add language in the 2005 State of Texas Low Income Housing Plan and Annual Report that discusses the importance of essential services for homeless youth and young adults.

Comment

Comment requests funding for homeless programs and requests more flexibility in the use of ESGP funds.

- **Department Response**

The federal regulations governing the ESGP grant, 42 USC Sec. 11374 (a) provides limitations on the use of ESGP funds. The Department does not focus on funding expenditures related to the physical

facilities. In making funding distribution decisions, the Department must comply with limitations set forth by the ESGP federal regulations. Expenditures of ESGP grant funds for essential services and for homelessness prevention are limited to no more than 30% of the aggregate amount of the State's allocation for each activity.

Comment

Comment points out the need for transitional housing. Other comment states that the responses to the Community Needs Survey in their area only represents the need in the cities, not a need for transitional housing that exists in the other counties.

- **Department Response**

The Department appreciates the information provided regarding the needs in the community. Unfortunately, the ESGP funds administered by the Department are very limited. In fiscal year 2004 the Department received \$4.9 million dollars and Region 4 was allocated \$228,082, based on the poverty population of the region. ESGP funds support organizations that provide emergency services, shelter, and transitional housing. The Department will notify your organization of availability of fiscal year 2005 ESGP funds. Of the housing programs, the Housing Tax Credit program can be used for transitional housing.

The 2003 Community Needs Survey was sent to all local jurisdictions, including county judges and city mayors. The report accurately reflects the surveys returned to the Department, and may not reflect the opinions of the area as a whole.

Comment

Comment supports long-term solutions that enable the participants to obtain the education, job skills and life skills needed to pull themselves out of poverty. These programs typically take one to two years.

- **Department Response**

The Department provides Community Services Block Grant (CSBG) funds to 48 CSBG eligible entities. These entities must offer case management programs to assist low-income persons to transition out of poverty. The Department sets no limitation on the length of time that a client can be enrolled in a case management program; each CSBG eligible entity sets the guidelines for enrollment and maintenance in a case management program. In the Houston area, the CSBG eligible entity is Gulf Coast Community Services Association.

COMMENTS REGARDING THE HOME PROGRAM

Comment: Length of Program Supports

Comments were collected regarding the length of program supports, specifically in Tenant Based Rental programs. It was noted that these types of support should be provided on a "longer-term" basis to enable participants the ability to secure jobs, educations and life skills that will allow them to reach self-sufficiency. A term limit on TBRA of two-years was specifically mentioned as being too short to properly assist special needs and other populations.

- **Department Response**

The term of 2 years of Tenant Based Rental Assistance is a federally mandated timeline. No changes recommended.

Comment: Olmstead Set Aside

Several comments were collected on the Department's use of Tenant Based Rental Assistance funding through the Olmstead Set Aside. It was noted that while applications to the program had lagged since its inception, that the program was critical and that demand remained significant. Public input highlighted that the program was still "young" and that organizational capacity by social service agencies and nonprofits was building and would soon be able to fulfill the demands of the target population.

- **Department Response**

A total of \$4 million dollars was set aside for those persons affected by the *Olmstead* Decision for Tenant Based Rental Assistance. Two separate NOFAs were released for these particular funds, one for \$2 million dollars in 2003 and another in 2004. Only five applications have been submitted, with all five receiving funding awards. To date only \$545,875 out of the \$4 million has been awarded. If an applicant wishes to assist persons that qualify under the Olmstead population definition, they may do so by applying for Tenant Based Rental Assistance funds under the Department's general funding cycle. In an effort to continue serving this population, extra points will be awarded to those applicants choosing to assist persons with disabilities, including persons affected by the *Olmstead* Decision, in the application scoring process.

Comment: Disability Advisory Committee

Comments were collected recommending that the Department expand the membership of the Disability Advisory Committee, that a regular meeting schedule be established, and that the committee become proactive in addressing the housing needs of people with disabilities. It was noted that the DAC had great potential in evolving toward providing a clear voice to the Department's Board on disability issues.

- **Department Response**

TDHCA continues to have a strong interest in meeting the housing and community service needs of persons with disabilities. The Department will review the membership of the DAC and work with committee members to ensure a more regular meeting schedule.

Comment: Threshold Criteria

A question was asked through public comment regarding the application of Qualified Allocation Plan (QAP) requirements for both experience certifications, and units and site amenities required of multifamily developments. It was noted that these threshold criteria were onerous to small developments through the HOME and HTF programs.

- **Department Response**

The Department has worked to reduce the impact on small developments that were due to the universal application of QAP requirements on all rental developments. Staff believes that many of these issues have been dealt with through revisions to program rules.

Comment: Responses to Applicant Inquiries

A comment was submitted regarding an applicants attempts to communicate with Department staff regarding contract issues. The comment noted that it was difficult to contact Department staff until the division director was contacted.

- **Department Response**

Since its reorganization, the Department has instituted standard operating procedures to clarify the roles and responsibilities of staff and worked towards having single points of contact for each program area. It is believed that these changes will improve communication between applicants and TDHCA.

Comment: Contract Effective Dates

It has been noted that contract effective dates are often set for dates prior to the actual signing of the agreements. It was noted that applicants had concerns about monitoring and fulfillment of contract performance measures under these circumstances.

- **Department Response**

It should be noted that contract effective dates are often set by program funding requirements. Department staff strives to keep the difference between the signing date and effective date of agreements as minimal as possible. Applicants are also asked to contact their primary program contact to assure that agreements are amended to reflect any delays on behalf of the Department.

Comment: Training Requirements

Comments were submitted regarding the training requirements placed on administrators prior to being able to draw funds and begin programs. It was noted that the administrators are often delayed due to unavoidable circumstances and do not have sufficient staff resources to attend trainings while providing critical services to clients.

- **Department Response**

The Department provides compliance and financial management training upon receiving an award, or when so requested. The Department strives to make its training programs available in a flexible manner and will continue to institute new avenues for administrators to fulfill training requirements, including online training resources and manuals.

Comment: Match Requirements

Public comments were provided on the use of matching funds as a scoring criteria in the HOME application process. Match as a scoring criteria is often inequitable and most effects small versus larger municipalities across the state. It was noted that larger municipalities are better able to provide matching funds than smaller municipalities. It was also recommended that the Department consider using a per capita scale if match is to continue as a scoring criteria.

- **Department Response**

The Department is required to report 12.5% of the annual allocation in matching funds to HUD. The Department realizes the difficulty for any applicant to provide matching funds, much less the smaller, less prosperous municipalities. The Department has struggled in years past in remedying the possible inequities and is currently in the process of reviewing this scoring criteria.

Comment: Contractor Qualifications

Comments regarding the qualification requirements for building contractors often exclude local builders from being included in HOME contracts. In these cases administrators are often forced to find contractors from outside communities which can be costly and cause delays. However, it was noted that outside contractor also

often hire local subcontractors and buy supplies locally, but that these impacts are not included in program reporting. It was requested that the Department reconsider its stance on the use of local contractors.

- **Department Response**

The Department encourages HOME administrators to use local contractors when possible, and feels it important for the local economy to benefit from receiving funds. Points are given to those applicants that use local contractors interested in participating in a HOME contract. The Department realizes that finding local contractors in the rural areas of the state can be difficult, and at times not cost effective. This scoring criteria regarding local contractors is important to the application process and the manner in which it is scored is to be reviewed. In years past applicants received points for finding contractors within 150 miles of the proposed activity. In the most current funding cycle, the Department broadened the scope to contractors within the region, in hopes that many applicants could find more interested parties. The Department will be holding a single family roundtable in the near future to evaluate applications and scoring criteria.

Note: Under Section 3 of the HUD Act of 1968, wherever HUD financial assistance is expended for housing or community development, to the greatest extent feasible, economic opportunities will be given to Section 3 residents and businesses in that area.

Comment: Administrator Funds

Public comment recommended that the 4% cap on administrative funds be raised to levels similar to those used by ORCA and the CDBG program.

- **Department Response**

The Department feels that 4% in administrative dollars of the project funds awarded is sufficient to execute a HOME Single Family contract. The Department works to provide other forms of assistance to nonprofit administrators including Capacity Building and CHDO Operating Support funding.

Comment: Grant vs. Loan in the Owner-Occupied Assistance Program

Public comments were submitted in regards to the Owner-Occupied Assistance Program requesting that the Department consider making only grants to participants that earn 50% or less than the area medium family income.

- **Department Response**

Program staff continues to work closely with the Board in developing a policy regarding HOME Owner Occupied Housing Assistance funds as grants and/or loans to qualifying households. The Department appreciates the suggestion that individuals earning 50% or less AMFI and receiving assistance should be granted funds. This topic will be explored in the upcoming single family application roundtable.

Comment: AMFI Levels Served

Comment received proposed awarding applicants the same number of points for serving households at 50% or below.

- **Department Response**

Currently, in an effort to meet Rider 3 (as required by the Texas Legislature) the Department awards more points to applicants proposing to serve populations at lower AMFI levels, with the most points received for serving those at 30% AMFI. The Department does not prohibit an applicant from serving households above this level. However, they do not receive as many points as an applicant proposing to serve those individuals at lower AMFI levels. The Department proposes no change.

Comment: Activity Award Allocations and Subscription Rates

Comment received requested more funds be allocated for activities that get the most subscription.

- **Department Response**

The Department has evaluated subscription rates of the various HOME activities and believe that the activities put forth in the 2005 Action Plan are reflective of the subscription rates (based on the most current funding cycle).

NOTE: A total of \$6 million for Homebuyer Assistance will be available through the American Dream Downpayment Initiative (ADDI) for 2005. Of the remaining funds allocated for Single Family activities, 80% of funds will be for Owner Occupied Housing Assistance, the Department's most oversubscribed activity, and 20% will be for Tenant Based Rental Assistance.

Comment: Barrier Removal

Comment says the Department needs to publicize the Barrier Removal Program. The program should allow clients' input on the type of barrier removal and not rely on the physician's recommendations. The program's extensive paperwork requirements lead to burdensome delays for the recipients of program funds.

- **Department Response**

The Department is aware that oftentimes the application and administration of federal programs seems onerous, and is continually working to improve the application and funding process. The Department also agrees that consumer driven changes with regard to barrier removal is an integral part of a successful barrier removal program, and will explore avenues to encourage providers to include clients in the development of their work plans.

Comment: Persons with Disabilities Set Aside

The Department received numerous comments regarding the amount of assistance going to persons with disabilities should be increased, and the use of such funds being awarded in participating jurisdictions.

- **Department Response**

The Department is committed to assisting persons with disabilities. In an effort to assist more individuals with a disability, additional points will be awarded to applicants choosing to serve 100% persons with disabilities during the application scoring phase.

According to §2306.111(c) of the Texas Administrative Code, the Department shall expend at least 95% of HOME funds for the benefit of nonparticipating jurisdictions. The remaining 5% may be expended in a participating jurisdiction, but only if such funds assist persons with disabilities. Both Multifamily and Single Family HOME activities will be available under this 5% provision. However, it is important to note that applications proposing to serve nonparticipating jurisdictions will be given priority.

Comment: Home of Your Own (HOYO) Award

The Department received overwhelming support for the reinstatement of the Department's commitment to the Home of Your Own (HOYO) program.

- **Department Response**

The Department concurs with public comment, and agrees that providing homebuyer assistance to the persons with disabilities is essential. Given HOYO's past performance and current capacity to serve this need, the \$500,000 commitment for Homebuyer Assistance to the disability community will be reinstated for the 2005 HOME Program year. To ensure good governance, however, it is the Department's intention to reevaluate this award for future funding cycles. The Department desires to make funding for this specific activity serving the disability community open to all interested entities on a competitive basis.

SINGLE FAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST NOVEMBER 12, 2004

Action Items

Request approval of funding recommendation to Community Action Council of South Texas for HOME project funds totaling \$500,000.

Required Action

Consider HOME Program Recommendation.

Background and Recommendation

Summary

The Department received a funding consideration request on September 29, 2004 for \$750,000 from Community Action Council of South Texas (CACST) to assist in the Weatherization, Rehabilitation and Asset Preservation Partnership (WRAP). CACST submitted a 2004 HOME Single Family application requesting \$500,000 to administer an Owner Occupied Housing Assistance (OCC) contract in Zapata, Starr, and Jim Hogg Counties located in Region 11 to assist in carrying out the goals of WRAP. This application ranked competitively, receiving the fourth highest score. CACST would have been the next applicant to be recommended for funding had this region had more funds available for the OCC activity.

This request is worthy of special consideration for the following reasons:

- TDHCA recommended that the Ford Foundation select CACST to operate the Texas border pilot known as WRAP.
- This funding will enable CACST to receive \$132,000 in matching funds from the Ford Foundation, possibly triggering other private sector donors.
- TDHCA's Energy Assistance Section, in the Community Affairs Division, has previously invested \$250,000 of Investor-Owned Utility funding. This money was used for weatherization services on WRAP homes that are pending rehabilitation before being considered complete.
- WRAP is a project of national importance. CACST has set up a database to organize statistical information on WRAP that will be analyzed by the University of North Carolina/Chapel Hill - Center for Urban and Regional Studies (UNC), which is conducting a short-term and longitudinal evaluation of the entire program. The data collected and lessons learned will have an impact on future Federal funding, giving Texas a voice in the decision-making process.
- Funds will target four of the neediest colonias on the Texas Water Development Board list, and will assist in improving 60 to 70 homes.

- CACST has a waiting list of 150 fully documented applicants to work with, enabling them to expend the funds in an expeditious manner.
- CACST has successfully administered numerous HOME awards in the past and operates outstanding programs in the community services, weatherization, and energy assistance areas. CACST was one of two community based organizations in the nation to receive a 2004 National Excellence in Community Action Award, indicating the agency's capacity and structure to administer federal funds.

The Department proposes that the request be funded with deobligated HOME funds. Sufficient deobligated HOME funds are available to fund this request. The Department, with approval of the Board, may elect to reassign funds following the Deobligation Policy, adopted by the Board on January 17, 2002, in the order prioritized as follows:

- (A) Successful appeals (as allowable under program rules and regulations), or
- (B) Disaster Relief (disaster declarations or documented extenuating circumstances such as imminent threat to health and safety), or
- (C) Special Needs, or
- (D) Colonias, or
- (E) Other projects/uses as determined by the Executive Director and/or Board including the next year's funding cycle for each respective program.

Priority (D) enables the Department to reassign these funds to projects such as the project proposed by CACST.

Recommendation

Contingent upon submittal of a satisfactory single audit, staff recommends approval of this colonia funding request in the amount of \$500,000 to Community Action Council of South Texas utilizing deobligated HOME Investment Partnerships Program funds. Staff also recommends and requests approval of 4% administrative funds, equaling \$20,000, based on the amount of project dollars recommended. It is important to note, according to 10 TAC §53.53(1), the award amount for Owner Occupied Housing Assistance shall not exceed \$500,000, except as otherwise allowed by the Board. Given the availability of deobligated funds and this rule, the Department is not recommending the full request of \$750,000.

PORTFOLIO MANAGEMENT AND COMPLIANCE

BOARD ACTION REQUEST

November 12, 2004

Action Item

Cedar Ridge Apartments
File #2002-005P

The owner of the project is Magnolia Village LTD with the principals being Mr. Larry Washburn, Mr. Charles Washburn and Mr. James Washburn. The complex is located in Dayton, Texas, which is in Liberty County. This is a rehabilitation activity of a multifamily complex with a total of 80 units. There are existing affordable use restrictions through USDA - Rural Development 515 Program for low to moderate income families. The existing loan through USDA is in the amount of \$1,690,000 and matures in 2035.

Required Action

Review and approve recommendation to amend current contract to increase the amount of Preservation Incentive Program funds allocated to this project by \$250,000.

Background

On August 25, 2003, the Department made a loan to the above named applicant under the following terms and conditions:

- Loan Amount: \$1,000,000
- Term: One Year Construction followed by thirty (30) years
- Interest Rate: 0% during construction followed by 3% payable monthly
- Provisions made for escrow, taxes and insurance.
- Rent restrictions: 80 units restricted to 40% of AMFI
- Occupancy restrictions: 80 units restricted to households at or below 60% AMFI.

On August 8, 2004, the owner of the above-mentioned development requested additional funding in the amount of \$250,000 from the Department to offset additional costs experienced by the development due to required and unforeseen increases in the scope of the work.

The applicant expanded the scope of their work by using plywood for second story flooring rather than re-floating cracked gyp-crete, replaced the siding of the building with Hardiplank rather than repair as needed, install all new plumbing fixtures and replace major electrical components to meet code requirements. The estimated costs to complete the improvements will take an additional \$250,000. The Portfolio Management and Compliance, Real Estate Analysis and Multifamily Finance Production Divisions worked together in analyzing the problems and developing a solution.

Recommendation

Increase the loan amount from \$1,000,000 to \$1,250,000. Source of funds for the additional \$250,000 will come from the Preservation Incentives Program. Funds remaining in the Preservation Incentive Program are currently \$543,389. Also, increase the term of the construction period for an additional year without interest accrual. Amortize the debt over 29 year period, permanent term will remain the same.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING ANALYSIS ADDENDUM**

DATE: October 7, 2004

PROGRAM: Multifamily Housing
Preservation Incentives
Program (PIP)

FILE NUMBER: 2002-005P

COPY

DEVELOPMENT NAME

Cedar Ridge Apartments

APPLICANT

Name: New Magnolia Village, Ltd **Type:** For Profit Non-Profit Municipal Other
Address: 19276 F.M. 1485 **City:** New Caney **State:** TX
Zip: 77357 **Contact:** James E. Washburn **Phone:** (281) 689-2030 **Fax:** (281) 689-0103

PROPERTY LOCATION

Location: 1907 North Winfree Street QCT DDA
City: Dayton **County:** Liberty **Zip:** 77535

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
1) \$1,000,000	3%	30 yrs	18 yrs
2) \$250,000	3%	30 yrs	18 yrs

Other Requested Terms:
 1) Previously awarded preservation loan funds
 2) Currently requested additional preservation loan funds
 Negotiation with USDA-RD required regarding lien positioning

Proposed Use of Funds: Rehabilitation

RECOMMENDATION

RECOMMEND APPROVAL OF AN INCREASE IN PRESERVATION INCENTIVES PROGRAM AWARD NOT TO EXCEED \$250,000 (FOR A TOTAL OF \$1,250,000), STRUCTURED AS AN 18-YEAR TERM LOAN, AMORTIZING OVER 30 YEARS AT 3% INTEREST.

CONDITIONS

1. Receipt, review, and acceptance of documentation from USDA-RD approving an increase in the unit rents to the levels proposed in the submitted rent schedule;
2. Receipt, review, and acceptance of a personal financial statement for R.A. Washburn, 95% principal/limited partner of the Applicant.

ADDENDUM

Background: The Applicant applied for and was awarded a loan of \$1,000,000 under the TDHCA Multifamily Housing Preservation Incentives Program in November 2002. In August 2004 the Applicant requested an additional \$250,000 in preservation loan funds to fund "...cost overruns that are attributed to exceeding the original Scope of Work without verification of available funds" (Washburn Group letter dated

8/11/2004). The Applicant provided numerous revisions to explain the differences and the project's Profit and Loss ledger to document actual project costs. While these documents were not audited, they appeared to be credible and reasonable and the Underwriter used them as the basis for the analysis herein.

(NOTE: The Applicant's name has changed from Magnolia Village, Ltd. to New Magnolia Village, Ltd. since the original underwriting report due to unavailability of the original name.)

Analysis: The Underwriter reviewed the Applicant's original construction budget, amended construction budgets from April 2003 and August 2004, a detailed profit and loss statement showing itemized expenditures said to have been paid, the proposed USDA rent schedule and operating budget for 2005, and other materials submitted by the Applicant and TDHCA staff.

Construction Costs: Significant (\$10K+) cost changes between the most recent construction budget and the original budget were noted in the following cost line items: stairs (+\$10.8K), plumbing (+\$55.8K), playground (-\$27.1K), electrical (+\$25.9K), finish carpentry (+\$39.4K), roofing (-\$25.8K), windows (+\$14.8K), VCT flooring (-\$18K), painting and decorating (+\$58.1K), cabinets and countertops (+\$22.7K), foundation repair (+\$18.4K), trash disposal (+\$33.3K), and general requirements (+\$22.7K). In response to the Underwriter's query regarding the reasons for the overruns the Applicant responded, "There was a three-month delay in getting started...LCJ Construction went way beyond the original scope of work that was intended. Major cost overruns were incurred in rough carpentry (comprised of replacing all second story flooring with plywood instead of re-floating the cracked gyp-crete, this also required replacing all trim in second story units as the plywood created the need to remove all old trim); the entire exterior was also replaced with Hardiplank and we were only required to repair/replace bad siding; plumbing (replaced all fixtures in kitchens, baths, and vanities); electrical (had major electrical problems in bringing all units to code, replaced all devices, receptacles, and fixtures); painting (replacement of all exterior wood required painting, all interiors repainted); replaced all windows as well." (James Washburn 9/27/2004 e-mail). The Underwriter reconciled the Applicant's claimed costs spent to date with the profit and loss statement, and reviewed the Applicant's estimated completion costs to conclude that the probable additional funding requirement appears to be approximately \$300,000; the Applicant will presumably fund the difference between the requested amount and this estimate with internal funding sources such as deferral of contractor fees. Although the Applicant's contractors' general requirements and overhead costs have increased 47% and 58%, respectively, from the amounts in the original application, the contractor profit amount remains unchanged. The contractor's general requirements and general administration costs that have already been paid out by the developer to vendors as identified in the profit and loss ledger exceed the Department's guidelines by a total of \$9,374, but contractor profit is \$14,467 less than the maximum allowable based on the revised costs. Moreover, no developer fees were included in the original or amended budgets. Since the contractor fees in total did not exceed the Department's guidelines, no adjustments were made to the recommended funding amount.

Total Development Costs: The Applicant provided several attempts at reconciliation of the project costs, concluding total costs of between \$1.279M to \$1.319M. The Underwriter conducted an independent reconciliation based on the itemized Profit and Loss ledger. The ledger reflects total hard costs of \$862,093 plus soft costs of \$59,663 plus paid contractor fees (general and administrative and general requirements) of \$96,838, for total developer-paid costs to date of \$1,018,594. The Applicant also identified \$46,387 in outstanding bills and retention owed to subcontractors, \$51,130 in developer profit, and \$184,816 in estimated additional costs to complete the development, for a total revised development cost of \$1,300,927. From the original \$1M HOME loan \$905,966 has been drawn and the developer has had to cover \$112,628 in short term internal loans to the development. It should be noted that while the developer has technically drawn on his contractor profit from the HOME funds, he has not realized these funds as profit, using them instead to pay outstanding subcontractor bills. The drawn funds plus developer loans, combined with the outstanding bills, retention to subcontractors, cost to complete and contractor profit to be realized total \$394,961 in outstanding costs. The Applicant is requesting payment of the Department's remaining retention of \$94,034 plus an additional \$250,000, which will still leave a gap of \$50,927 based upon the revised development costs. This gap will necessarily be filled by a deferral of contractor profit, leaving a net paid contractor profit at completion of \$203. It is again worth noting that no developer fee was originally requested and none has been identified as a result of the subject request. Thus, the developer's total profit for conducting this rehabilitation will be almost exclusively imbedded in the value of the improvements and will only be realized in the nominal cash flow/ return on equity allowed by USDA or in the ultimate sale of

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS ADDENDUM

the property.

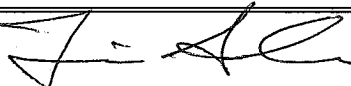
Operating Proforma: The Underwriter used the Applicant's proposed but unapproved USDA rents and utility allowances to conclude an effective gross income 3.2% higher than the Applicant's, the difference being attributable to the Applicant's use of a vacancy and collection loss factor of 9.9% and a secondary income estimate of \$2.60/unit/month. It is a condition of this report that the Applicant provide the new USDA-approved rents and utility allowances. The Applicant's total operating expense estimate of \$3,216 per unit is 2.6% lower than the Underwriter's database-derived estimate of \$3,303 per unit for comparably-sized developments in this area. The Applicant's estimates for general and administrative and payroll were significantly (\$14.3K and \$10.7K, respectively) lower than the Underwriter's estimates, and the water, sewer, and trash estimate was significantly (\$21.6K) higher. As the Applicant's estimated income is consistent with the Underwriter's expectations and the total operating expense and net operating income (NOI) estimates are within 5% of the Underwriter's estimates, the Applicant's NOI will be used to evaluate debt service capacity.

Conclusion: The Applicant has provided acceptable (although not third party) documentation of the requirement for the additional funds requested. Due to the relatively minor differences in income and expense estimates, the Applicant's estimated debt coverage ratio (DCR) of 1.08 is slightly less than the program minimum standard of 1.10. As the Applicant's income and expense estimates are acceptable and the Applicant's proforma indicates a DCR of 1.18 by year two with steady improvement throughout the remainder of the 30-year period, the Applicant's DCR estimate is acceptable and indicates an ability to satisfactorily service the \$250,000 additional loan funds at the terms requested.

SUMMARY OF SALIENT RISKS AND ISSUES

- The additional anticipated rehabilitation costs are solely dependent upon the estimate made by the Applicant.

Underwriter:



Jim Anderson

Date: October 7, 2004

Director of Credit Underwriting:



Tom Gouris

Date: October 7, 2004

MULTIFAMILY COMPARATIVE ANALYSIS

Cedar Ridge Apartments, Dayton, MFPIP #2002-005P

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trsh
PR (40%)	79	2	1.5	760	\$345	\$434	\$34,286	\$0.57	\$82.00	\$23.32
EO	1	2	1.5	760	345	0	0	0.00	82.00	23.32
TOTAL:	80		AVERAGE:	760	\$345	\$429	\$34,286	\$0.56	\$82.00	\$23.32

INCOME

Total Net Rentable Sq Ft: **60,800**

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$5.00
 Other Support Income:

POTENTIAL GROSS INCOME

Vacancy & Collection Loss % of Potential Gross Income: -7.50%
 Employee or Other Non-Rental Units or Concessions

EFFECTIVE GROSS INCOME

EXPENSES

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	7.46%	\$359	0.47
Management	5.98%	288	0.38
Payroll & Payroll Tax	16.27%	783	1.03
Repairs & Maintenance	8.77%	422	0.56
Utilities	5.21%	251	0.33
Water, Sewer, & Trash	5.81%	280	0.37
Property Insurance	5.86%	282	0.37
Property Tax 2.8455	6.50%	313	0.41
Reserve for Replacements	6.23%	300	0.39
Other: compl fees	0.52%	25	0.03
TOTAL EXPENSES	68.62%	\$3,303	\$4.35
NET OPERATING INC	31.38%	\$1,510	\$1.99

DEBT SERVICE

	%	PER UNIT	PER SQ FT
USDA Loan	9.75%	\$469	\$0.62
USDA Loan	1.60%	\$77	\$0.10
TDHCA Loan	16.43%	\$791	\$1.04
NET CASH FLOW	3.60%	\$173	\$0.23

AGGREGATE DEBT COVERAGE RATIO

RECOMMENDED DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		0.00%	\$0	\$0.00
Off-Sites		0.00%	0	0.00
Sitework		7.89%	986	1.30
Direct Construction		72.50%	9,062	11.92
Contingency	0.12%	0.00%	0	0.00
General Req'ts	6.00%	4.82%	603	0.79
Contractor's G & A	2.00%	1.70%	213	0.28
Contractor's Profit	6.00%	5.11%	639	0.84
Indirect Construction		5.68%	710	0.93
Ineligible Costs		0.00%	0	0.00
Developer's G & A	0.00%	0.00%	0	0.00
Developer's Profit	0.00%	0.00%	0	0.00
Interim Financing		2.29%	286	0.38
Reserves		0.00%	0	0.00
TOTAL COST		100.00%	\$12,500	\$16.45
Recap-Hard Construction Costs		92.03%	\$11,504	\$15.14

	TDHCA	APPLICANT			
	\$411,432	\$411,432			
	4,800	2,500	\$2.60		
	0	0			
	\$416,232	\$413,932			
	(31,217)	(41,143)	-9.94%		
	0	0			
	\$385,015	\$372,789			
	\$28,725	\$14,400	\$0.24	\$180	3.86%
	23,040	34,560	0.57	432	9.27%
	62,624	51,876	0.85	648	13.92%
	33,760	33,800	0.56	423	9.07%
	20,074	12,300	0.20	154	3.30%
	22,387	44,000	0.72	550	11.80%
	22,559	22,200	0.37	278	5.96%
	25,040	20,950	0.34	262	5.62%
	24,000	23,232	0.38	290	6.23%
	2,000	0	0.00	0	0.00%
	\$264,210	\$257,318	\$4.23	\$3,216	69.03%
	\$120,805	\$115,471	\$1.90	\$1,443	30.97%
	\$37,524	\$44,088	\$0.73	\$551	11.83%
	6,173	0	\$0.00	\$0	0.00%
	63,241	63,240	\$1.04	\$791	16.96%
	\$13,867	\$8,143	\$0.13	\$102	2.18%
	1.13	1.08			

Comptroller's Region 6

IREM Region

Per Unit Per Month

% of Potential Gross Rent

PER SQ FT PER UNIT % OF EGI

SOURCES OF FUNDS

Original TDHCA PIP Loan	100.00%	\$12,500	\$16.45
Additional Requested PIP Loan	25.00%	\$3,125	\$4.11
Additional Financing	0.00%	\$0	\$0.00
Deferred Contractor Fees	0.00%	\$0	\$0.00
Additional (excess) Funds Required	-25.00%	(\$3,125)	(\$4.11)
TOTAL SOURCES			

	ORIG. APPL.	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
	\$0	\$0	\$0.00	\$0	0.00%
	0	0	0.00	0	0.00%
	78,912	62,625	1.03	783	4.81%
	724,997	1,030,671	16.95	12,883	79.23%
	0	990	0.02	12	0.08%
	48,240	69,940	1.15	874	5.38%
	17,040	26,898	0.44	336	2.07%
	51,131	51,130	0.84	639	3.93%
	56,768	58,673	0.97	733	4.51%
	0	0	0.00	0	0.00%
	0	0	0.00	0	0.00%
	0	0	0.00	0	0.00%
	22,912	0	0.00	0	0.00%
	0	0	0.00	0	0.00%
	\$1,000,000	\$1,300,927	\$21.40	\$16,262	100.00%
	\$920,320	\$1,242,254	\$20.43	\$15,528	95.49%

RECOMMENDED

	\$1,000,000	\$1,000,000	\$1,000,000	Developer Fee Available
	250,000	250,000	250,000	\$0
	0	0	0	% of Contr. Fee Deferred
	0	0	50,927	99.6%
	(250,000)	50,927	0	15-Yr Cumulative Cash Flow
	\$1,000,000	\$1,300,927	\$1,300,927	\$380,927

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Cedar Ridge Apartments, Dayton, MFPIP #2002-005P

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook
Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost				\$0
Adjustments				
Exterior Wall Finish			\$0.00	\$0
Elderly/9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			(2.03)	(123,424)
Floor Cover			2.00	121,600
Porches/Balconies	\$16.71		0.00	0
Plumbing	\$605		0.00	0
Built-In Appliances	\$1,650	80	2.17	132,000
Stairs/Fireplaces			0.00	0
Floor Insulation			0.00	0
Heating/Cooling			1.53	93,024
Garages/Carports		0	0.00	0
Comm &/or Aux Bldgs			0.00	0
Other:			0.00	0
SUBTOTAL			3.67	223,200
Current Cost Multiplier	1.08		0.29	17,856
Local Multiplier			(3.67)	(223,200)
TOTAL DIRECT CONSTRUCTION COSTS			\$0.29	\$17,856
Plans, specs, survy, bld prm	3.90%		(\$0.01)	(\$696)
Interim Construction Interest	3.38%		(0.01)	(603)
Contractor's OH & Profit	11.50%		(0.03)	(2,053)
NET DIRECT CONSTRUCTION COSTS			\$0.24	\$14,504

PAYMENT COMPUTATION

Primary	\$1,476,000	Term	600
Int Rate	1.00%	DCR	3.22

Secondary	\$242,800	Term	600
Int Rate	1.00%	Subtotal DCR	2.76

Additional	\$1,250,000	Term	360
Int Rate	3.00%	Aggregate DCR	1.13

RECOMMENDED FINANCING STRUCTURE APPLICANT'S NO

Primary Debt Service	\$37,524
Secondary Debt Service	6,173
Additional Debt Service	63,241
NET CASH FLOW	\$8,533

Primary	\$1,476,000	Term	600
Int Rate	1.00%	DCR	3.08

Secondary	\$242,800	Term	600
Int Rate	1.00%	Subtotal DCR	2.64

Additional	\$1,250,000	Term	360
Int Rate	3.00%	Aggregate DCR	1.08

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NO)

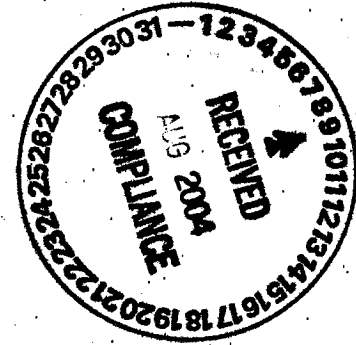
INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$411,432	\$423,775	\$436,488	\$449,583	\$463,070	\$536,825	\$622,328	\$721,449	\$969,566
Secondary Income	2,500	2,575	2,652	2,732	2,814	3,262	3,781	4,384	5,891
Contractor's Profit	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	413,932	426,350	439,140	452,315	465,884	540,087	626,109	725,832	975,458
Vacancy & Collection Loss	(41,143)	(31,976)	(32,936)	(33,924)	(34,941)	(40,507)	(46,958)	(54,437)	(73,159)
Developer's G & A	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$372,789	\$394,374	\$406,205	\$418,391	\$430,943	\$499,581	\$579,151	\$671,395	\$902,299
EXPENSES at 4.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
General & Administrative	\$14,400	\$14,976	\$15,575	\$16,198	\$16,846	\$20,496	\$24,936	\$30,339	\$44,909
Management	34,560	36561.0453	37657.87667	38787.61297	39951.24136	46314.43835	53691.12764	62242.73229	83649.02743
Payroll & Payroll Tax	51,876	53,951	56,109	58,353	60,688	73,836	89,832	109,295	161,783
Repairs & Maintenance	33,800	35,152	36,558	38,020	39,541	48,108	58,531	71,212	105,410
Utilities	12,300	12,792	13,304	13,836	14,389	17,507	21,300	25,914	38,359
Water, Sewer & Trash	44,000	45,760	47,590	49,494	51,474	62,626	76,194	92,701	137,221
Insurance	22,200	23,088	24,012	24,972	25,971	31,598	38,443	46,772	69,234
Property Tax	20,950	21,788	22,660	23,566	24,509	29,818	36,279	44,138	65,336
Reserve for Replacements	23,232	24,161	25,128	26,133	27,178	33,066	40,230	48,946	72,453
Other	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES	\$257,318	\$268,229	\$278,593	\$289,360	\$300,547	\$363,369	\$439,436	\$531,560	\$778,354
NET OPERATING INCOME	\$115,471	\$126,144	\$127,612	\$129,031	\$130,396	\$136,212	\$139,715	\$139,835	\$123,945
DEBT SERVICE									
First Lien Financing	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524	\$37,524
Second Lien	6,173	6,173	6,173	6,173	6,173	6,173	6,173	6,173	6,173
Other Financing	63,241	63,241	63,241	63,241	63,241	63,241	63,241	63,241	63,241
NET CASH FLOW	\$8,533	\$19,207	\$20,674	\$22,093	\$23,458	\$29,274	\$32,777	\$32,897	\$17,007
DEBT COVERAGE RATIO	1.08	1.18	1.19	1.21	1.22	1.27	1.31	1.31	1.16



THE
WASHBURN
G·R·O·U·P

August 8, 2004

Attn: Cristy Roberts
Texas Department of Housing and Community Affairs
507 Sabine
Austin, TX 78701



Re: Magnolia Village, Ltd.; Cedar Ridge Apartments
Preservation Loan No. 2002-005P

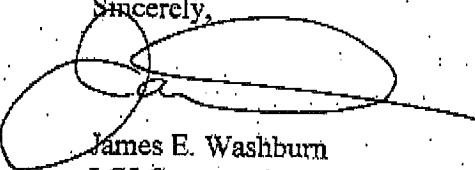
Dear Ms. Roberts,

Attached is the revised AIA Form G703 we discussed showing the actual amounts spent on the rehabilitation. "Column D" represents all amounts paid and currently owed on the job. Any construction profit shown to have been drawn has been used to pay for cost overruns and materials. "Column E" was not changed from the original draw in an effort to provide a clear picture of what is available to draw to date. "Column F" was changed to show estimated cost to complete for each line item on the draw. "Column G" and "Column H" represent the sum of "Columns D, E and F", thus providing a clearer picture of where items were over/under budget.

Based on my observations, if you reduce the total of "Column D" by the amount of bills currently owed (about \$75,000), and also remove Retention held through Draw #10 (\$87,703), then you will see that LCJ Management, Inc ("LCJ"), had to make capital contributions to pay cost associated with the job. However, I was in error when calculating originally that we would be over budget by about \$325,000, as the capital contributions by LCJ were included already in bills paid to date. As a result, my current estimate of total cost overruns is approximately \$250,000.

Please contact me should you require further explanation or additional information. I look forward to working with the Department in an effort to find resolution to this difficult situation. Thanks for your help.

Sincerely,


James E. Washburn
LCJ Construction, Inc.

LCJ MANAGEMENT ■ LCJ CONSTRUCTION ■ WASHBURN & CO.

19276 FM 1485 ■ P.O. Box 489 ■ New Caney, Texas 77357
281.689.2030 ■ 800.689.0103 ■ Fax: 281.689.0103

PROGRAMS COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Senate Finance Committee Room E1.038, State Capitol Extension, 1100 Congress,
Austin, Texas 78701
Friday, November 12, 2004 9 15 a.m.

A G E N D A

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

C. Kent Conine
Committee Chair

PUBLIC COMMENT

The Programs Committee of the Board of the Texas Department of Housing and Community Affairs will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Committee.

The Programs Committee of the Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:

- | | | |
|--------|--|-------------------|
| Item 1 | Presentation, Discussion and Possible Approval of Minutes of Programs Committee Meeting of August 19, 2004 | C. Kent Conine |
| Item 1 | Approval to Rescind General Policy Issuance #04-3.3, Regarding Documentation of Income for 90 days Prior to the Application and Allow Annualization of Income for 30 Days Prior to Application with Regards To the Community Services Block Grant (CSBG), Comprehensive Energy Assistance Program (CEAP) and Weatherization Assistance Program (WAP) | Edwina Carrington |
| Item 3 | Approval of Resolution Concerning Section 8 Payment Standards | Edwina Carrington |
| Item 4 | Discussion on Section 8 Housing Assistance Program as Administered by the Texas Department of Housing and Community Affairs | Edwina Carrington |

EXECUTIVE SESSION

If permitted by law, the Committee may discuss any item listed on this agenda in Executive Session

C. Kent Conine

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

C. Kent Conine

ADJOURN

C. Kent Conine

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Delores Groneck, 512-475-3934 at least three days before the meeting so that appropriate arrangements can be made.

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

**PROGRAMS COMMITTEE MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
1100 Congress, State Capitol Extension Auditorium, Austin, Texas 78701
August 19, 2004 9:30 am**

Summary of Minutes

CALL TO ORDER

CERTIFICATION OF QUORUM

The Programs Committee Meeting of the Board of the Texas Department of Housing and Community Affairs of August 19, 2004 was called to order by Chairman C. Kent Conine at 9:47 a.m. It was held at the State Capitol Extension Auditorium, 1100 Congress, Austin, Texas 78701. Roll Call certified a quorum was present.

Members present:

C. Kent Conine, Chairman

Vidal Gonzalez, Member

Elizabeth Anderson, Member (joined the meeting in progress)

PUBLIC COMMENT

Public comments were requested to be given during the presentation of agenda items.

ACTION ITEMS

(1) Presentation, Discussion and Possible Approval of Minutes of Programs Committee Meeting of June 10, 2004

Motion made by Beth Anderson and seconded by Vidal Gonzalez to approve the minutes of the June 10, 2004 Programs Committee Meeting.

Passed Unanimously

(2) Update and Discussion on Section 8 Program

Ms. Carrington stated at the June 10, 2004 Committee Meeting staff presented an overview of the Section 8 program. At this meeting the members asked staff to provide more information on the administration of the Section 8 program including the impact of eliminating or relinquishing the program from the department. The department administers Section 8 in 37 counties and 63 Texas cities. TDHCA is allocated 2100 vouchers of which 35 are for the project access program. Brazoria County has requested that they be allowed to administer their 576 vouchers.

Diana Kile, Congress Ron Paul's Office, Brazoria County, Texas

Ms. Kile spoke on behalf of Congressman Ron Paul and requested that the Board allow Brazoria County to become its own housing authority in order to provide service to the residents of Brazoria County.

John Willy, County Judge, Brazoria County, Texas

Judge Willy stated Brazoria County is a growing county with a population of 263,000. They have been approved by HUD as a Public Housing Authority and are fully prepared to received the requested vouchers and have added additional staff to make this transfer. In addition to the Section 8 program, they have in place to begin the housekeeping classes, budgeting classes and childcare classes.

Jim Wigginton, District Attorneys Office, Brazoria County, Texas

Mr. Wigginton asked who their contact person at the department will be and was advised that Ms. Carrington will be that person.

John Henneberger, Co-Director, Texas Low Income Housing Information Service, Austin, Texas

Mr. Henneberger stated he believed that the operation of the Section 8 program by local operators is the

best possible outcome that can be achieved. He was concerned though and was not supportive of the notice of having adjacent local operators service to provide the Section 8 program and stated the reason for this was the portability of the voucher certificates. He was concerned that if an operator was 2 to 3 counties away that these vouchers would be lost to the local community where the operator was located. He also felt that the State has an essential role as a public housing authority which needs to be fulfilled. They are a large number of counties that have no Section 8 authority. If the state withdraws from participation on the Section 8 program there would be no one to apply to HUD for additional certificates. These vouchers need to be requested by the state housing authority for areas that are not serviced by anyone else.

Mr. Conine had questions on the number of vouchers involved and was advised by Eddie Fariss, Director of Community Affairs, that the part of the difference in what Brazoria County had listed and TDHCA had was the difference between the number of vouchers administered by Brazoria County welfare department and those that are administered by the City of Sweeney as a local operator. It was noted that there are approximately 140,000 Section 8 vouchers in the State of Texas.

Mr. David Cervantes of the Financial Division stated that Brazoria County Section 8 brings in about \$383,000 in administrative fees for the department.

Motion made by Ms. Anderson and seconded by Vidal Gonzalez to direct staff to provide a resolution or the appropriate vehicle to the next meeting for board action to relinquish the vouchers for Brazoria County on as expedited basis as possible.
Passed Unanimously

Mr. Conine asked that the Section 8 program listed on the agenda for the next Board meeting so the full board can be involved in the discussions as well as any follow-up issues from the Programs Committee Meeting. Mr. Conine was concerned about the Rider 3 issues and he wanted to explore the PHA status issue more. The Committee members agreed with him.

(3) Presentation and Discussion of 30-90 Day Rule Relating to the Weatherization Assistance Program (WAP), Comprehensive Energy Assistance Program (CEAP) and Community Services Block Grant (CSBG)

Ms. Carrington stated at the last Programs Committee Meeting, there was testimony presented from the industry relating to the implementation of a suggestion in the state auditors report on selected assistance programs of the department. That recommendation revolved around the Department that rather than using 30 days of income for verification for the weatherization assistance program, the CEAP program and the CSBG program that TDHCA had issued a policy issuance stating the department would look at 90 days to determine an applicant's eligibility income.

Dan Boyd, Deputy Director, Galveston County Community Action Council, Galveston, Texas

Mr. Boyd stated he felt the intent of the policy issuance was to more accurately certify clients and not miss those who would be eligible and not certify those who should not be certified. He fully agrees with the intent but the implementation of such now has a 7 month track record in the field and it is not working. He stated that TDHCA is denying needy persons who have lost their jobs recently. It is causing long-term eligibility for people who are certified now yet their situation is improving such that three months from now they really should not be eligible but still are. It is causing hardships with respect to utilities and housing and it affects urban and rural areas alike. He asked the department to either rescind policy issuance No. 04-3.3 or to collaborate with agencies in a focus group to come up with a compromise because the issuance as it stands is not doing the job.

Jan McMullen, Ft. Worth Community Action Agency, Ft. Worth, Texas

Ms. McMullen stated many people have come to their offices who were formerly two income families and because of the change in their economy they now only have one income. If they have to wait until 90 days to certify them the people are spiraling down and it is hard to bring them out of the spiral. They

would like to serve them at the beginning of the crisis, at 30 days rather than at 90 days.

Phyllis Cook, Panhandle Community Services, Amarillo, Texas

Ms. Cook stated they have tried to work with the 90 day rule and it is hurting people they serve. With the loss of income people can not pay their utility bills and if one loses their utilities they lose their HUD subsidy. If they lose their place of residence they lose their food stamps and with the loss of the stamps, they have hungry children who many times do not attend school. She asked the Board to reinstate the 30 days instead of 90 days. She stated there are a small number of people who do abuse the system but something needs to be done to make this program work and not punish the people who really need their help in 30 days.

Mr. Fariss stated they conducted a survey with other states and about 1/3 of the states used the 30 days, another 1/3 used 90 days and the other 1/3 varied from 6 months to 12 months.

Mr. Conine stated he felt one idea is to ask staff to temporarily rescind back to 30 days until TDHCA can get people who actually deal with the issues on a daily basis to come back with a recommendation that makes sense since he felt the department needs a more tiered structure in the system than just either the 30-90 days to make this program work.

Ms. Anderson stated TDHCA needs to look for tiers or some sort of structure other than straight 30 or straight 90 days. She stated by leaving the rule in place while the department comes up with a better solution might have the effect of creating a little more urgency for a better solution.

Ms. Carrington stated the department will hold a meeting on September 15, with a focus group of community action agencies and this topic will be put on the agenda for discussion at this meeting.

Mr. Conine requested a report back to the Programs Committee and the Board at the October Board Meeting.

EXECUTIVE SESSION

If permitted by law, the Committee may discuss any item listed on this agenda in Executive Session

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

There was no Executive Session held.

ADJOURN

Mr. Conine adjourned the meeting at 10:55 a.m.

Respectfully submitted,

Delores Groneck
Board Secretary

Dg/p/cminaug

**COMMUNITY AFFAIRS DIVISION
COMMUNITY SERVICES SECTION
BOARD ACTION REQUEST
November 12, 2004**

Action Item

Discussion and possible rescission of the Community Affairs Division's General Policy Issuance #04-3.3, requiring Community Services Block Grant (CSBG), Comprehensive Energy Assistance Program (CEAP), and Weatherization Assistance Program (WAP) subrecipients to base annualized eligibility determinations on income documentation for the 90 day period prior to the date of application.

Required Action

The Community Affairs Division recommends that the Department rescind General Policy Issuance #04-3.3, which requires that clients provide documentation of income for the 90 days prior to the application, and allow WAP, CEAP, and CSBG subrecipients to annualize applicant income based on documentation of income for the 30 days prior to application.

Background

In November 2003, in response to a recommendation from the State Auditors Office (SAO) that the Department obtain information for household income for a period that is longer than 30 days to determine an applicant's eligibility, the Department issued General Policy Issuance #04-3.3, requiring CSBG, CEAP, and WAP subrecipients to base annualized eligibility determinations on household information from the 90 day period prior to the date of application.

Prior to the change in policy, subrecipients primarily utilized a 30 day period prior to the date of application to determine eligibility. The 90 day requirement has posed many challenges both to subrecipients and to persons applying for assistance in the CSBG, CEAP, or WAP programs.

On September 14, 2004, the Community Affairs Division held a meeting with CSBG, CEAP, and WAP subrecipients to discuss the Department's requirements as outlined in General Policy Issuance #04-3.3 which requires that clients provide documentation of income for the 90 days prior to the application. The recommendation presented to the Department by the 45 subrecipient organizations present at the meeting was that the Department rescind General Policy Issuance #04-3.3, which requires that clients provide documentation of income for the 90 days prior to the application, and allow WAP, CEAP, and CSBG subrecipients to annualize applicant income based on documentation of income for the 30 days prior to application.

Community Affairs Division Program Income Guidelines Meeting

On September 14, 2004, the Community Affairs Division of the Texas Department of Housing and Community Affairs held a meeting with subrecipients that administer the Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP), and Community Services Block Grant (CSBG). The Division held the meeting to discuss the Department's policy for annualizing income as outlined in General Policy Issuance #04-3.3, which requires that clients provide documentation of income for the 90 days prior to the application. Approximately 90 persons from 45 subrecipient organizations were present at the meeting. Staff asked subrecipients to submit written comments and recommendations regarding the annualization policy. The Department received 13 proposals from 15 subrecipients (some of the proposals were submitted jointly by more than one subrecipient). The proposals included recommendations that the Department return to the 30 day policy and that the Department consider a 45 day, and 60 day or a 90 day policy.

At the meeting, the group was divided among ten tables and each person was presented with a copy of the TDHCA Board's Programs Committee Meeting minutes of August 19, 2004, a copy of Community Affairs Division General Memorandum #05-11.17, and copies of the alternative income documentation proposals/recommendations submitted by subrecipients. Groups were directed to meet and discuss the proposals/recommendations and the current policy and, as a group, present an oral report on their recommendation. A Department representative facilitated the discussions at each table.

Each group presented their recommendation and the results were as follows:

- 4 tables supported 30 days
- 3 tables supported 90 days
- 2 tables supported 60 days
- 1 tables supported 45 days

However, no one proposal got a majority of the votes, and the individuals in each group felt constrained by the instructions that each table reach consensus. As a result, the groups requested additional time for further discussion of the issue and the group consensus was to allow each subrecipient that was present to vote on a recommendation that their organization would support.

After additional vigorous discussion, the second vote was virtually unanimous that the Department recommend that the TDHCA Board approve the use of the 30 days of income prior to application for assistance for annualizing income and determining eligibility.

Some of the reasons given by subrecipients for supporting the use of a 30 day time period are as follows:

- Families who have had a change in the household composition during the past 90 days, due to the loss a spouse or abandonment, are required to provide documentation of income that is no longer supporting the household and often times results in the applicant being determined ineligible. In other cases, persons have become unemployed recently are deemed ineligible.
- Clients who meet the income guidelines are deemed ineligible due to their inability to provide income documentation for 90 days. These problems have generated complaints directed at the Department from elected officials. Additionally, delaying assistance to these households often times compounds the family's crisis and increases the amount of assistance needed. Instead of needing assistance with 30 days rent or utility assistance, they need assistance for 60 or 90 days or more.
- Families seeking assistance are the most vulnerable and are more susceptible to crisis. An event such as a serious illness, an accident, or the loss of a job can leave the family on the verge of homelessness or homeless. Families in these situations seek assistance and are overwhelmed by documentation requirements which require income documentation for the past 90 days. In many cases, it is not an easy task to obtain the income documentation.
- Many applicants work odd jobs or seasonal work and get paid in cash and do not receive documentation of the income earned. It is difficult to get a past "employer" who paid in cash to complete an income verification form.

Examples of cases where clients were denied assistance are as follows:

- A woman who cleans houses for a living is paid in cash and one of her employers moved away so she's unable to obtain complete income documentation. A month later she is in need of assistance but the CAA is unable to provide assistance because of lack of income documentation for 90 days.
- A woman left her abusive husband. She now works at a Dollar Store earning \$5.15 an hour for 20 hours a week. She and her three children are broke and they need assistance now. However, they're ineligible due to the policy.
- Uncertain employment makes stable and long term housing a vague and distant reality. Often families relocate in order to trail gainful employment. Often the new arrival in a new place requires assistance with housing and basic necessities. The 90 day income documentation requirement often times makes them ineligible.

- A broken alternator on the family's car, back to school expenses or an unexpected increase in the cost of a maintenance prescription can quickly deplete financial reserves, providing any exist. Requiring a family to come up with income documentation for the past 90 days (13 weeks) is frequently overwhelming.
- There are many cases where a household that used to be a two income family is now a one income family due to the loss of a job. Under the 90 day rule they're ineligible because the previous income of the person who is now unemployed has to be considered. The household will have to wait 90 days or more to become eligible. This delay causes a further spiraling down of the family's situation. CAA's would rather help them at the beginning of the crisis, 30 days into it, where they can get a safety net under the family and prevent them from spiraling into poverty.
- A woman who lost her spouse and came in for assistance was deemed ineligible because of her deceased husband's income. After 90 days they're eligible for assistance, but now instead of them needing help with just a utility bill, they need a reconnect fee paid and a utility bill paid that is now 90 days in arrears. In this case, if the family is in HUD housing they will lose their housing due to a requirement to maintain utilities. Also, if you don't have a permanent residence you can lose food stamp assistance.

Community Affairs Division's Proposal Regarding Program Income Guideline

The Community Affairs Division recommends that the Department rescind General Policy Issuance #04-3.3, which requires that clients provide documentation of income for the 90 days prior to the application, and allow WAP, CEAP, and CSBG subrecipients to annualize applicant income based on documentation of income for the 30 days prior to application. The reasons the Department is supporting the 30 day proposal are as follows:

1. During its PY 2003 monitoring visits, the Community Affairs Division found that less than 1% of clients assisted were ineligible.
 - In PY 2003, the Community Services Section monitored 37 of 48 CSBG eligible entities. During those monitoring visits, the CS staff reviewed of 751 client files and found only 7 (.93%) to be ineligible. The disallowed costs related to these 7 ineligible applicants was \$1,042 out of the \$28.8 million in funding administered by subrecipients. The Department recovered all disallowed costs.
 - In PY 2003, the Energy Assistance Section monitored 50 of 50 CEAP subrecipients. During those monitoring visits, the EA staff reviewed 484 client files and found only 2 (.41%) to be ineligible. The Department recovered all disallowed costs.
 - In PY 2003, the Energy Assistance Section monitored 34 of 34 WAP subrecipients. The EA staff reviewed of 445 client files and found zero to be ineligible.
2. The Department did not have the opportunity to review the client files that the SAO determined to be ineligible.
3. The SAO used data from the Texas Workforce Commission (TWC) database 12 months after the time period that the intake worker annualized the client's income to determine eligibility. The Department's subrecipients take information that is current and annualize it to predict what the applicant's income will be during a 12 month period. It is logical that an applicant's actual income might be higher in hindsight than at the time of application when an intake worker annualizes the income based on a fixed period of time. If the SAO audits our subrecipients and determines financial eligibility based on data one year after the assistance has occurred, they will likely find ineligible clients.

It is the goal of the Department to assist clients to become self-sufficient. If we are doing our job, the client's income will be higher a year from income annualization and eligibility determination and enrollment in one of the Community Affairs programs.

Texas Department of Housing and Community Affairs

90-Day Program Income Guideline Meeting

September 14, 2004

Organization-Attendees

- 1. Alamo Area Council of Governments**
- 2. Austin, City of, Health & Human Services Department**
- 3. Bee Community Action Agency**
- 4. Bexar County Housing and Human Services**
- 5. Big Bend Community Action Committee, Inc.**
- 6. Brazos Valley Community Action Agency**
- 7. Cameron & Willacy Counties Community Projects, Inc.**
- 8. Caprock Community Action Association, Inc.**
- 9. Central Texas Opportunities, Inc.**
- 10. Combined Community Action, Inc.**
- 11. Community Action Committee of Victoria Texas**
- 12. Community Action Corporation of South Texas**
- 13. Community Action Council of South Texas**
- 14. Community Action Inc., of Hays, Caldwell & Blanco Counties**
- 15. Community Action Program, Inc.**

- 16. Community Council of Reeves County**
- 17. Community Services of Northeast Texas, Inc.**
- 18. Community Services, Inc.**
- 19. Concho Valley Community Action Agency**
- 20. Economic Action Committee of the Gulf Coast**
- 21. Economic Opportunities Advancement Corporation of Planning Region XI**
- 22. El Paso Community Action Program, Project BRAVO, Inc**
- 23. Fort Worth, City of, Department of Housing**
- 24. Fort Worth, City of, Parks & Community Services Department**
- 25. Galveston County Community Action Council, Inc.**
- 26. Greater East Texas Community Action Program**
- 27. Gulf Coast Community Services Association**
- 28. Hidalgo County Community Services Agency**
- 29. Hill Country Community Action Association, Inc.**
- 30. Kleberg County Human Services**
- 31. Lubbock, City of, Community Development Department**
- 32. Northeast Texas Opportunities, Inc.**
- 33. Nueces County Community Action Agency**
- 34. Panhandle Community Services**
- 35. Rolling Plains Management Corporation**
- 36. San Angelo-Tom Green County Health Department**
- 37. South Plains Community Action Association, Inc.**
- 38. Southeast Texas Regional Planning Commission**

- 39. Texas Association of Community Action Agencies**
- 40. Texas Neighborhood Services**
- 41. Texoma Council of Governments**
- 42. Travis County Health and Human Services Department**
- 43. Tri-County Community Action, Inc.**
- 44. Webb County Community Action Agency**
- 45. West Texas Opportunities, Inc.**

**COMMUNITY AFFAIRS DIVISION
SECTION 8 PROGRAM**

**BOARD ACTION REQUEST
November 12, 2004**

Action Item

Approval of Section 8 Payment Standards for Housing Choice Vouchers.

Required Action

Staff recommends approval of these Section 8 Payment Standards for Housing Choice Vouchers in accordance with 24 CFR Section 982.503.

Background

The U.S. Department of Housing and Urban Development (HUD) at 24 CFR 982.503, requires Public Housing Authorities (PHAs), such as the Texas Department of Housing and Community Affairs (TDHCA), to adopt a payment standard schedule that estimates voucher payment standard amounts for each Fair Market Rent (FMR) area in the PHA jurisdiction. HUD requires the governing board of TDHCA to adopt this payment standard annually. The PHA must establish payment standard amounts for each "unit size." "Unit size" is measured by the number of bedrooms (one-bedroom, two-bedrooms, etc.).

HUD published its proposed FY 2005 FMRs on August 6, 2004. The proposed FMRs were calculated for the first time using 2000 Census data and new Office of Management and Budget (OMB) metropolitan area definitions. Both changes in how FMRs were calculated had significant impacts.

TDHCA, operating as a PHA, may establish the payment standard amount at any level between 90 percent and 110 percent of the published FMR for that size unit. Due to budget constraints and the effects of HUD's change in calculating the FY 2005 FMRs, TDHCA staff recommends establishing its payment standard at 90 percent of FMR for some jurisdictions and 100 percent of FMR for other jurisdictions experiencing higher updated utility allowance rates and fewer affordable housing units. The payment standard for each jurisdiction is detailed in the attached Exhibit A.

The staff's goal in recommending the change in payment standards is to continue to assist the same number of tenants currently receiving rental subsidies while staying within the budget that we expect. Exhibit B includes the counties in which we currently have Section 8 tenants, the current payment standards for each county, the total rent payment (tenant share plus Department's share), and the recently published HUD payment standards. Staff compared the current total payment for a two bedroom unit to the payment standards and recommended a payment standard for each county that will be equal to or slightly greater than the current total payment standard in each county.

RESOLUTION NUMBER 04-098

**RESOLUTION OF THE BOARD OF DIRECTORS ADOPTING PAYMENT
STANDARD FOR SECTION 8 HOUSING CHOICE VOUCHERS**

WHEREAS, the Texas Department of Housing and Community Affairs (the “Department”) has been duly created and organized pursuant to Chapter 2306, Texas Government Code, as amended (the “Act”), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the “Board”) from time to time);

WHEREAS, 24 CFR Section 982.503, Voucher tenancy, states that a Public Housing Authority (PHA) must adopt a payment standard schedule that establishes voucher payment amounts for each Fair Market Rent (FMR) area in the PHA jurisdiction. The PHA must establish payment standard amounts for each “unit size.”

WHEREAS, the PHA’s voucher payment standard schedule shall establish a single payment standard for each unit size in an FMR area;

WHEREAS, the Department in operating as a PHA may establish the payment standard amount for a unit size at any level between 90 percent and 110 percent of the published FMR for that size unit;

WHEREAS, the payment standard amounts on the PHA schedule are used to calculate the monthly housing assistance payment for a family;

WHEREAS, the Department has reviewed the Payment Standards by geographic area, and wishes to establish a Payment Standard at 90 percent of FMR in the areas so referenced in the attached Payment Standards;

WHEREAS, the Department wishes to establish payment standards at 100 percent of FMR in the referenced areas experiencing higher updated utility allowance rates and fewer affordable housing units; and

WHEREAS, such Payment Standards meet the guidelines of the Federal Registers, HUD Handbooks, Notices, Transmittals, and the needs of these communities.

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

Resolution 1: Approval and Adoption of the Section 8 Payment Standards for Housing Choice Vouchers. The Governing Board hereby approves and adopts the attached Section 8 Payments Standards for Housing Choice Vouchers for each non-participating jurisdiction in which the Department participates as a PHA. The Payment Standards are attached as Exhibit A.

Resolution 2: Effective Date. This Resolution shall be in full force and effect from and upon their adoption. The Department shall initiate the Payment Standards effective January 1, 2005.

Resolution 3: Declaration as to Open Meetings; Open Records. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted for at least seven (7) days preceding the convening of such meeting, on a bulletin board in the main office of the Secretary of State located at a place convenient to the public; that such place was readily accessible to the general public at all times from the time of such posting until the convening of such meeting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the *Texas Register* at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure Act and Texas Register and Administrative Code, Chapters 2001 and 2002, Texas Government Code, respectively.

PASSED AND APPROVED this 12th day of November, 2004.

Chair of the Governing Board

ATTEST:

Secretary to the Board

Exhibit A to Resolution No. 04-098
VOUCHER PAYMENT STANDARDS
Dallas Region

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Bosque County:</u>		387387100%			
HUD FMR	386		465	565	677
Payment Standard	386		465	565	677
% of Payment Standard	100%		100%	100%	100%
<u>Comanche County:</u>					
HUD FMR	380	408	483	615	642
Payment Standard	342	367	435	554	578
% of Payment Standard	90%	90%	90%	90%	90%
<u>Crockett County:</u>					
HUD FMR	356	357	431	556	574
Payment Standard	356	357	431	556	574
% of Payment Standard	100%	100%	100%	100%	100%
<u>Denton County:</u>					
HUD FMR	633	713	868	1147	1412
Payment Standard	633	713	868	1147	1412
% of Payment Standard	100%	100%	100%	100%	100%
<u>Ellis County:</u>					
HUD FMR	633	713	868	1147	1412
Payment Standard	570	642	781	1032	1271
% of Payment Standard	90%	90%	90%	90%	90%
<u>Erath County:</u>					
HUD FMR	379	411	513	626	645
Payment Standard	379	411	513	626	645
% of Payment Standard	100%	100%	100%	100%	100%
<u>Falls County:</u>					
HUD FMR	309	422	475	606	629
Payment Standard	309	422	475	606	629
% of Payment Standard	100%	100%	100%	100%	100%
<u>Freestone County:</u>					
HUD FMR	309	422	475	621	640
Payment Standard	309	422	475	621	640
% of Payment Standard	100%	100%	100%	100%	100%
<u>Johnson County:</u>					
HUD FMR	558	597	732	995	1125
Payment Standard	558	597	732	995	1125
% of Payment Standard	100%	100%	100%	100%	100%

Exhibit A to Resolution No. 04-098

Dallas Region (continued)

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Limestone County:</u>					
HUD FMR	300	417	461	590	611
Payment Standard	270	375	415	531	550
% of Payment Standard	90%	90%	90%	90%	90%
<u>Mason County:</u>					
HUD FMR	356	357	431	556	574
Payment Standard	356	357	431	556	574
% of Payment Standard	100%	100%	100%	100%	100%
<u>McLennan County:</u>					
HUD FMR	472	473	588	736	760
Payment Standard	472	473	588	736	760
% of Payment Standard	100%	100%	100%	100%	100%
<u>Menard County:</u>					
HUD FMR	356	357	431	556	574
Payment Standard	356	357	431	556	574
% of Payment Standard	100%	100%	100%	100%	100%
<u>Navarro County:</u>					
HUD FMR	439	447	540	656	677
Payment Standard	439	447	540	656	677
% of Payment Standard	100%	100%	100%	100%	100%
<u>Schleicher County:</u>					
HUD FMR	356	357	431	556	574
Payment Standard	356	357	431	556	574
% of Payment Standard	100%	100%	100%	100%	100%

Exhibit A to Resolution No. 04-098
VOUCHER PAYMENT STANDARDS
Houston Region

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Austin County:</u>	467	468	563	747	771
HUD FMR	420	421	507	672	694
Payment Standard	90%	90%	90%	90%	90%
% of Payment Standard					
<u>Brazoria County:</u>					
HUD FMR	492	548	630	869	933
Payment Standard	492	548	630	869	9933
% of Payment Standard	100%	100%	100%	100%	100%
<u>Chambers, Fort Bend & Waller Counties:</u>					
HUD FMR	589	657	801	1071	1347
Payment Standard	530	591	721	964	1212
% of Payment Standard	90%	90%	90%	90%	90%
<u>Colorado County:</u>					
HUD FMR	366	404	458	605	622
Payment Standard	366	404	458	605	622
% of Payment Standard	100%	100%	100%	100%	100%
<u>Galveston County:</u>					
HUD FMR	518	599	730	930	1000
Payment Standard	466	539	657	837	900
% of Payment Standard	90%	90%	90%	90%	90%
<u>Robertson County:</u>					
HUD FMR	417	458	510	664	684
Payment Standard	375	412	459	598	616
% of Payment Standard	90%	90%	90%	90%	90%
<u>Wharton County:</u>					
HUD FMR	365	410	455	602	620
Payment Standard	365	410	455	602	620
% of Payment Standard	100%	100%	100%	100%	100%

Exhibit A to Resolution No. 04-098
VOUCHER PAYMENT STANDARDS
San Antonio Region

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Aransas County:</u>					
HUD FMR	352	437	520	758	781
Payment Standard	317	393	468	682	703
% of Payment Standard	90%	90%	90%	90%	90%
<u>Atacosa County:</u>					
HUD FMR	304	354	467	590	607
Payment Standard	304	354	467	590	607
% of Payment Standard	100%	100%	100%	100%	100%
<u>Burnet County:</u>					
HUD FMR	381	446	586	737	758
Payment Standard	381	446	586	737	758
% of Payment Standard	100%	100%	100%	100%	100%
<u>Caldwell County:</u>					
HUD FMR	656	747	912	1240	1435
Payment Standard	590	672	821	1116	1292
% of Payment Standard	90%	90%	90%	90%	90%
<u>Guadalupe County:</u>					
HUD FMR	519	574	716	957	1139
Payment Standard	467	517	644	861	1025
% of Payment Standard	90%	90%	90%	90%	90%
<u>Hidalgo County:</u>					
HUD FMR	370	407	480	576	661
Payment Standard	370	407	480	576	661
% of Payment Standard	100%	100%	100%	100%	100%
<u>Jim Wells County:</u>					
HUD FMR	299	402	447	594	613
Payment Standard	269	362	402	535	552
% of Payment Standard	90%	90%	90%	90%	90%
<u>Kerr County:</u>					
HUD FMR	472	511	575	742	765
Payment Standard	472	511	575	742	765
% of Payment Standard	100%	100%	100%	100%	100%
<u>Lee County:</u>					
HUD FMR	376	428	475	650	670
Payment Standard	376	428	475	650	670
% of Payment Standard	100%	100%	100%	100%	100%

Exhibit A to Resolution No. 04-098

San Antonio Region (continued)

	Bedroom Size				
	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Live Oak County:</u>					
HUD FMR	322	405	467	622	662
Payment Standard	322	405	467	622	662
% of Payment Standard	100%	100%	100%	100%	100%
<u>Llano County:</u>					
HUD FMR	485	488	642	768	791
Payment Standard	437	439	578	691	712
% of Payment Standard	90%	90%	90%	90%	90%
<u>Medina County:</u>					
HUD FMR	414	460	541	647	787
Payment Standard	373	414	487	582	708
% of Payment Standard	90%	90%	90%	90%	90%
<u>Nueces County:</u>					
HUD FMR	513	526	663	903	974
Payment Standard	462	473	597	813	877
% of Payment Standard	90%	90%	90%	90%	90%

VOUCHER PAYMENT STANDARDS COMPARISON

Exhibit B

Dallas Region

	Current 2004 Payment Standards				Proposed Payment Standards		
	110% Avg TTP	Avg HAP	Tot Payment		90%	100%	110%
Bosque County							
0 BR	326	0	0	0	347	386	425
1 BR	375	139	243	382	348	387	426
2 BR	453	209	245	454	419	465	512
3 BR	607	261	347	608	509	565	622
4 BR	693	0	0	0	609	677	745
Comanche County							
0 BR	326	0	0	0	342	380	418
1 BR	375	171	233	404	367	408	449
2 BR	453	202	215	417	435	483	531
3 BR	607	217	306	523	554	615	677
4 BR	693	251	427	678	578	642	706
Crockett County							
0 BR	326	0	0	0	320	356	392
1 BR	375	205	206	411	321	357	393
2 BR	453	182	227	409	388	431	474
3 BR	607	0	0	0	500	556	612
4 BR	693	0	0	0	517	574	631
Denton County							
0 BR	589	0	0	0	570	633	696
1 BR	678	207	463	670	642	713	784
2 BR	871	338	534	872	781	868	955
3 BR	1205	304	795	1099	1032	1147	1262
4 BR	1425	0	0	0	1271	1412	1553
Ellis County							
0 BR	589	123	625	748	347	386	696
1 BR	678	193	448	641	348	387	784
2 BR	871	298	510	808	419	465	955
3 BR	1205	281	627	908	509	565	1262
4 BR	1425	307	662	969	609	677	1553

VOUCHER PAYMENT STANDARDS COMPARISON

Exhibit B

Dallas Region

	Current 2004 Payment Standards				Proposed Payment Standards		
	110% Avg TTP	Avg HAP	Tot Payment		90%	100%	110%
Erath County							
0 BR	337	0	0	0	341	379	417
1 BR	382	164	218	382	370	411	452
2 BR	493	236	277	513	462	513	564
3 BR	638	280	307	587	563	626	689
4 BR	693	96	542	638	581	645	710
Falls County							
0 BR	326			0	278	309	340
1 BR	375			0	380	422	464
2 BR	453			0	428	475	523
3 BR	607			0	545	606	667
4 BR	693			0	566	629	692
Freestone County							
0 BR	326	0	0	0	278	309	340
1 BR	375	333	216	549	380	422	464
2 BR	453	235	348	583	428	475	523
3 BR	607	278	409	687	559	621	683
4 BR	693	0	0	0	576	640	704
Johnson County							
0 BR	536	0	0	0	502	558	614
1 BR	585	202	369	571	537	597	657
2 BR	757	294	446	740	659	732	805
3 BR	1058	313	571	884	851	945	1040
4 BR	1246	251	592	843	1013	1125	1238
Limestone County							
0 BR	326	0	0	0	270	300	330
1 BR	375	51	312	363	375	417	459
2 BR	453	202	252	454	415	461	507
3 BR	607	288	124	412	531	590	649
4 BR	693	0	0	0	550	611	672

VOUCHER PAYMENT STANDARDS COMPARISON

Exhibit B

Dallas Region

	Current 2004 Payment Standards				Proposed Payment Standards		
	110% Avg TTP	Avg HAP	Tot Payment		90%	100%	110%
Mason County							
0 BR	326	0	0	0	320	356	392
1 BR	375	159	182	341	321	357	393
2 BR	453	290	189	479	388	431	474
3 BR	607	305	278	583	482	536	590
4 BR	693	0	0	0	517	574	631
McLennan County							
0 BR	364	0	0	0	425	472	519
1 BR	446	279	120	399	426	473	520
2 BR	589	334	211	545	529	588	647
3 BR	781	340	355	695	662	736	810
4 BR	823	0	0	0	684	760	836
Menard County							
0 BR	326	0	0	0	320	356	392
1 BR	375	0	0	0	321	357	393
2 BR	453	204	194	398	388	431	474
3 BR	607	281	246	527	500	556	612
4 BR	693	0	0	0	517	574	631
Navarro County							
0 BR	463	354	390	744	395	439	483
1 BR	488	167	308	475	402	447	492
2 BR	585	154	331	485	486	540	594
3 BR	744	301	345	646	590	656	722
4 BR	825	399	272	671	609	677	745
Schleicher County							
0 BR	326	0	0	0	320	356	392
1 BR	375	0	0	0	321	357	393
2 BR	453	189	232	421	388	431	474
3 BR	607	0	0	0	500	556	612
4 BR	693	0	0	0	517	574	631

VOUCHER PAYMENT STANDARDS COMPARISON

Exhibit B

Houston Region

	Current 2004 Payment Standards				Proposed Payment Standards		
	110% Avg TTP	Avg HAP	Tot Payment		90%	100%	110%
Austin County							
0 BR	326	0	0	0	420	467	514
1 BR	375	0	0	0	421	468	515
2 BR	453	212	230	442	507	563	619
3 BR	607	159	294	453	690	767	844
4 BR	693	236	415	651	694	771	848
Brazoria County							
0 BR	525	0	0	0	443	492	541
1 BR	584	203	346	549	493	548	603
2 BR	730	230	472	702	567	630	693
3 BR	1017	272	572	844	782	869	956
4 BR	1196	273	683	956	840	933	1026
Chambers County							
0 BR	523	0	0	0	530	589	648
1 BR	588	145	365	510	591	657	723
2 BR	760	174	488	662	721	801	881
3 BR	1060	272	487	759	964	1071	1178
4 BR	1248	0	0	0	1212	1347	1482
Fort Bend County							
0 BR	523	0	0	0	530	589	648
1 BR	588	151	333	484	591	657	723
2 BR	760	182	494	676	721	801	881
3 BR	1060	0	0	0	964	1071	1178
4 BR	1248	0	0	0	1212	1347	1482
Waller County							
0 BR	523	0	0	0	530	589	648
1 BR	588	195	438	633	591	657	723
2 BR	760	244	499	743	721	801	881
3 BR	1060	249	675	924	964	1071	1178
4 BR	1248	223	819	1042	1212	1347	1482

VOUCHER PAYMENT STANDARDS COMPARISON

Exhibit B

Houston Region

	Current 2004 Payment Standards			Proposed Payment Standards		
	110% Avg TTP	Avg HAP	Tot Payment	90%	100%	110%
Colorado County						
0 BR	326	0	0	329	366	403
1 BR	375	159	216	364	404	444
2 BR	453	228	215	412	458	504
3 BR	607	273	312	545	605	666
4 BR	693	309	144	560	622	684
Wharton County						
0 BR	326	0	0	329	365	402
1 BR	375	177	205	369	410	451
2 BR	453	205	220	410	455	501
3 BR	607	170	349	542	602	662
4 BR	693	223	510	558	620	682
Galveston County						
0 BR	514	0	0	466	518	570
1 BR	528	197	335	539	599	659
2 BR	662	205	444	657	730	803
3 BR	920	260	570	837	930	1023
4 BR	1086	85	585	900	1000	1100
Robertson County						
0 BR	326		0	375	417	459
1 BR	430		0	412	458	504
2 BR	480		0	459	510	561
3 BR	607		0	598	664	730
4 BR	693		0	616	684	752

VOUCHER PAYMENT STANDARDS COMPARISON

Exhibit B

San Antonio Region

	Current 2004 Payment Standards				90%	100%	110%
	110% Avg TTP	Avg HAP	Tot Payment				
Aransas County							
0 BR	326	0	0	0	317	352	387
1 BR	399	92	307	399	393	437	481
2 BR	534	234	272	506	468	520	572
3 BR	740	196	474	670	682	758	834
4 BR	747	0	0	0	703	781	859
Atascosa County							
0 BR	326	0	0	0	274	304	334
1 BR	375	159	216	375	319	354	389
2 BR	453	248	204	452	420	467	514
3 BR	607	223	309	532	531	590	649
4 BR	693	0	0	0	546	607	668
Burnet County							
0 BR	414	0	0	0	343	381	419
1 BR	477	148	249	397	401	446	491
2 BR	587	190	368	558	527	586	645
3 BR	816	264	424	688	663	737	811
4 BR	955	0	0	0	682	758	834
Caldwell County							
0 BR	567	0	0	0	590	656	722
1 BR	686	123	508	631	672	747	822
2 BR	914	155	613	768	821	912	1003
3 BR	1269	203	632	835	1116	1240	1364
4 BR	1501	256	1002	1258	1292	1435	1579
Guadalupe County							
0 BR	425	0	0	0	467	519	571
1 BR	491	148	170	318	517	574	631
2 BR	635	249	297	546	644	716	788
3 BR	883	0	0	0	861	957	1053
4 BR	1044	0	0	0	1025	1139	1253

VOUCHER PAYMENT STANDARDS COMPARISON

Exhibit B

San Antonio Region

	Current 2004 Payment Standards				90%	100%	110%
	110% Avg TTP	Avg HAP	Tot Payment				
Hidalgo County							
0 BR	327	0	0	0	333	370	407
1 BR	433	0	0	0	366	407	448
2 BR	496	70	398	468	432	480	528
3 BR	619	240	379	619	518	576	634
4 BR	696	0	0	0	595	661	727
Jim Wells County							
0 BR	326	0	0	0	265	294	323
1 BR	375	0	0	0	362	402	442
2 BR	453	0	0	0	402	447	492
3 BR	607	159	216	375	535	594	653
4 BR	703	0	0	0	552	613	674
Kerr County							
0 BR	326	0	0	0	425	472	519
1 BR	421	181	219	400	460	511	562
2 BR	525	0	0	0	518	575	633
3 BR	732	345	336	681	668	742	816
4 BR	864	0	0	0	689	765	842
Lee County							
0 BR	369	0	0	0	338	376	414
1 BR	415	176	230	406	385	428	471
2 BR	464	157	254	411	428	475	523
3 BR	648	285	282	567	585	650	715
4 BR	728	0	0	0	603	670	737
Live Oak County							
0 BR	326	0	0	0	290	322	354
1 BR	375	0	0	0	365	405	446
2 BR	453	315	138	453	420	467	514
3 BR	607	182	410	592	560	622	684

VOUCHER PAYMENT STANDARDS COMPARISON

Exhibit B

San Antonio Region

Current 2004 Payment Standards

4 BR	693	25	668	693	596	662	728
Llano County	110% Avg TTP	Avg HAP	Tot Payment		90%	100%	110%
0 BR	326	0	0	0	437	485	534
1 BR	419	129	247	376	439	488	537
2 BR	557	432	23	455	578	642	706
3 BR	697	0	0	0	691	768	845
4 BR	915	0	0	0	712	791	870

Medina County

	110% Avg TTP	Avg HAP	Tot Payment		90%	100%	110%
0 BR	326	0	0	0	373	414	455
1 BR	375	167	239	406	414	460	506
2 BR	453	147	309	456	487	541	595
3 BR	607	141	420	561	582	647	712
4 BR	693	271	423	694	708	787	866

Nueces County

	110% Avg TTP	Avg HAP	Tot Payment		90%	100%	110%
0 BR	418	0	0	0	462	513	564
1 BR	514	156	309	465	473	526	579
2 BR	655	155	359	514	597	663	729
3 BR	892	0	0	0	813	903	993
4 BR	1054	0	0	0	877	974	1071

COMMUNITY AFFAIRS DIVISION

PROGRAMS COMMITTEE DISCUSSION ITEM

November 12, 2004

(August 19, 2004)

Action Item

Housing Assistance (Section 8) Program (HAP).

Required Action

Further Discussion of Section 8 Program.

Background

During the June 10, 2004, Programs Committee meeting staff presented an overview of the Section 8 program. The Programs Committee asked that staff return to a future Programs Committee meeting to provide additional information regarding the Section 8 Program including the impact of eliminating the program within the Department.

**THE STATEWIDE HOUSING ASSISTANCE PAYMENTS PROGRAM
(SECTION 8)**

CONSOLIDATION OF HUD ANNUAL CONTRIBUTIONS CONTRACTS

- HUD approved the Department’s request for consolidation of the three Annual Contribution Contracts (ACCs) effective July 1, 2004.
- The approval is based on the reasons set out in the Board of Director’s Resolution. The consolidation will facilitate the Department better serving the State’s low-income population by providing housing assistance in areas where the need is greatest, while still providing service throughout the three public housing office jurisdictions (Fort Worth, Houston, and San Antonio).

REALLOCATION OF VOUCHERS TO LOCAL HOUSING AUTHORITIES

- The Section 8 Program is presently administered in 37 counties and 63 cities throughout Texas. Program staff conducted outreach to the PHAs proximate to the counties and cities presently served by TDHCA. PHAs in thirty (30) proximate counties are willing to take the vouchers and continue implementation of the program in the same geographic service areas.
- PHAs proximate to the other seven (7) counties are not willing to take the vouchers and continue servicing the areas.
- The Section 8 Program is presently allocated 2,100 vouchers, which includes 35 vouchers for Project Access. A total of 1,706 vouchers can be given to local PHAs.

San Antonio Jurisdiction:

TDHCA – Admin Vouchers	No. of vouchers	Contiguous PHA
Aransas County (Rockport)	20	Aransas Pass HA (5.5 miles)
Atascosa County (Lytle)	12	Alamo Area COG
Burnet County (Bertram & Marble Falls)	29	Marble Falls HA
Caldwell County (Lockhart, Luling)	30	San Marcos HA
Guadalupe County (Marion)	5	Alamo Area COG
Hidalgo County (Alton)	7	Mission HA (4.9 miles)
Jim Wells County (County)	2	Alice HA
Kerr County (Kerrville)	10	Alamo Area COG
Lee County (Giddings & Lexington)	29	Smithville HA (24.4 miles)
Live Oak County (George West)	8	Beeville HA (24.1 miles)
Llano County (Llano)	10	Llano HA
Medina County (Hondo & Natalia)	85	Alamo Area COG
Nueces County (County)	2	Robstown HA

Houston Jurisdiction:

TDHCA – Admin Vouchers	No. of vouchers	Contiguous PHA
Austin County (Sealy)	14	Rosenberg HA (28.5 miles)
Brazoria County (Alvin, Angleton, Brazoria, Clute, West Columbia)	576	Brazoria County PHA
Chambers County	33	Liberty County HA (25.1)
Colorado County	35	LaGrange HA (26.4 miles)
Ft. Bend County (Needville)	22	Rosenberg HA (11.3 miles)
Galveston County (County)	201	Galveston HA (21.2 miles)
Robertson County (Hearne)	58	Brazos Valley COG
Waller County (Hempstead, Prairie View)	99	<i>PHA would not agree</i>
Wharton County (El Campo, Wharton)	101	Bay City HA (31.1 miles)

Fort Worth Jurisdiction:

TDHCA – Admin Vouchers	No. of vouchers	Contiguous PHA
Bosque County (County)	18	Waco HA (35.5 miles)
Comanche County (County)	52	Brownwood HA (27.2 miles)
Crockett County (Ozona)	25	<i>PHA would not agree</i>
Denton County (Pilot Point, Sanger)	27	Denton HA (12.3)
Ellis County (Ennis, Italy, Waxahachie)	203	Corsicana, Lancaster & Ferris HAs
Erath County (Dublin)	48	Dublin HA
Falls County (Marlin, Rosebud)	69	<i>PHA would not agree</i>
Freestone County (Fairfield, Teague)	17	<i>PHA would not agree</i>
Johnson County (Alvarado, Keene)	88	<i>PHA would not agree</i>
Limestone County (Kosse)	10	<i>PHA would not agree</i>
Mason County (Mason)	8	Llano HA (33.9 miles)
Mc Lennan County (McGregor)	36	Waco HA (18.3 miles)
Menard County (Menard)	7	Brady HA (33.8 miles)
Navarro County (Blooming Grove, Kerens)	18	Blooming Grove, Kerens Has
Schleicher County (El Dorado)	12	<i>PHA would not agree</i>

REGIONAL COUNCILS CERTIFIED AS PHA

Regional Council	No. of Section 8 Counties
Alamo Area Council of Governments	11
Ark-Tex Council of Governments	11
Brazos Valley Council of Governments	7
Central Texas Council of Governments	7
Deep East Texas Council of Governments	12
Texoma Council of Governments	2

STATE PUBLIC HOUSING AUTHORITIES

Thirty (30) states and the District of Columbia have a state Public Housing Authority administering Section 8 vouchers in part or all of the state.

COMMUNITY ACTION AGENCIES CERTIFIED AS PHA

Panhandle Community Services is the only Community Action Agency certified as PHA serving 26 counties.

TDHCA SECTION 8 VOUCHER BEDROOM BREAKDOWN REPORT

The bedroom breakdown report on active contracts as of July 31, 2004 is as follows:

0 Bedroom	2
1 Bedroom	361
2 Bedroom	721
3 Bedroom	616
4 Bedroom	54
5 Bedroom	2
TOTAL	1756

COUNTIES NOT SERVED SECTION 8 VOUCHERS

Based on staff research, there are no Section 8 vouchers in fifty-one (51) Texas counties. Below is a listing of the counties not served, followed by a map depicting the status of Section 8 vouchers in all 254 Texas counties.

- | | | | |
|-----|------------|-----|--------------|
| 1. | ANDREWS | 26. | KENT |
| 2. | ARCHER | 27. | KIMBLE |
| 3. | BAYLOR | 28. | KINNEY |
| 4. | BLANCO | 29. | KNOX |
| 5. | CLAY | 30. | MADISON |
| 6. | COKE | 31. | MARTIN |
| 7. | COLEMAN | 32. | MITCHELL |
| 8. | CONCHO | 36. | RAINS |
| 12. | DICKENS | 37. | REAGAN |
| 13. | EASTLAND | 38. | REAL |
| 14. | EDWARDS | 39. | REEVES |
| 15. | FISHER | 40. | REFUGIO |
| 16. | FOARD | 41. | ROCKWALL |
| 17. | FRANKLIN | 42. | RUNNELS |
| 18. | GAINES | 43. | SCURRY |
| 19. | GOLIAD | 44. | SHACKELFORD |
| 20. | HILL | 45. | STERLING |
| 21. | HOOD | 46. | STONEWALL |
| 22. | HUDSPETH | 47. | THROCKMORTON |
| 23. | IRION | 48. | UPTON |
| 24. | JACK | 49. | WILBARGER |
| 25. | JEFF DAVIS | 50. | WISE |
| | | 51. | YOUNG |

IMPACT OF ELIMINATING THE SECTION 8 PROGRAM (revised)

- Eliminating the Department's Section 8 Program will negatively affect the Department's ability to meet the Rider 3 requirements. Eliminating the Section 8 Program will reduce the Department's housing expenditures for very low- and extremely low-income person by over \$5 million dollars.
- Eliminating the Section 8 Program will eliminate approximately \$913,000 in administrative fees earned for the purpose of supporting the direct costs to administer the program. There are 8 FTE's directly supporting the program at a cost of \$483,071; another \$155,000 is used to support indirect Department functions that support Section 8 and \$240,000 is paid out to Local operators for voucher admin and client intake.
- Eliminating the Section 8 Program reduces the Department's indirect cost support.
- Transferring vouchers to proximate PHAs does not guarantee that the vouchers will remain in the communities that originally applied for and received those vouchers. Communities apply to HUD for Section 8 vouchers. HUD does not allocate vouchers to communities or states on a pro-rata basis.
- Eliminating the Section 8 Program will affect the Department's ability to administer the Project ACCESS vouchers. This project provides vouchers to disabled persons interested in moving from nursing facilities into the community.
- If Congress implements a Section 8 Program block grant as proposed last year, the State will need a state PHA to administer the funds.



WWW.TDHCA.STATE.TX.US

**REQUEST FOR BOARD APPROVAL
Multifamily Finance Production**

2004 Private Activity Bond Program – Waiting List

**0 Priority 1A Applications
0 Priority 1B Applications
0 Priority 1C Applications
1 Priority 2 Application
1 Total Application Received**

TABLE OF EXHIBITS

TAB 1	TDHCA Board Presentation – November 12, 2004
TAB 2	Summary of Application
TAB 3	Inducement Resolution
TAB 4	Prequalification Analysis Worksheet

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Inducement Resolution for Multifamily Revenue Bonds and Authorization for Filing Applications for Year 2004 Private Activity Bond Authority – Waiting List

Required Action

Approve Inducement Resolution to proceed with applications to the Texas Bond Review Board (the “Bond Review Board”) for possible receipt of State Volume Cap issuance authority in the 2004 Private Activity Bond Program with the intent to issue revenue bonds to finance the acquisition, construction or rehabilitation, equipping and permanent financing of the subject properties listed on the attached report. The issuance of the proposed bonds is subject to: (1) actual allocation of the State Volume Cap; (2) favorable completion of the Department’s underwriting of the property feasibility and bond structure; (3) approval of the final structure and bond documents by the Department’s Board; and, (4) possible approval by the Bond Review Board.

Attached is a report of one (1) application for the 2004 Waiting List totaling approximately \$8,750,000 received by the Department, on October 15, 2004, for the Year 2004 Multifamily Mortgage Revenue Bond program.

Upon Board approval, the Department will submit applications for each development recommended for inducement to the Bond Review Board to participate in the issuance of private-activity volume cap to finance these properties. This memorandum is intended to provide background information on the bond program process and to summarize this Board’s action as contemplated by the Inducement Resolution. This requested action is similar to the Board’s decision in October for 2004 Waiting List applications. This application will be placed below the applications that were approved in October.

Background and Recommendations

Each year, the State of Texas is notified of the cap on the amount of private-activity, tax-exempt revenue bonds that may be issued within the state (approximately \$1.7 billion for 2004). This cap is determined based on the population of the state as estimated by the Census Bureau (\$80 per person). Of this total amount, 23% was allocated by the Texas Legislature for multifamily housing.

Eligible issuers apply to the Bond Review Board for the authority to issue private activity bonds. Each development is assigned a number on a first come first serve basis as further authority becomes available during the year. Those issuers that receive a Reservation for private-activity

volume cap for a development will have 150 days from the date of the Reservation to close the transaction. If the transaction is not closed within that 150 day timeframe, the Reservation is canceled and the next development on the waiting list receives the Reservation and likewise has 150 days from that Reservation date to close.

The Department has established a scoring system for applications and will rank the applications according to score. The scoring criteria was utilized for pre-applications being submitted for the 2004 lottery and is now being utilized again for the 2004 Waiting List applications. All applications for the 2004 Waiting List were due by October 15, 2004. Final public input that affects scoring is due by 5:00 p.m. on November 12, 2004. The Department staff will finalize the application scores by November 15, 2004. The applications will then be ranked and submitted to the Bond Review Board for placement on the waiting list.

The priority system was amended in 2003 in order to encourage the production of more affordable housing. The multifamily sub ceiling was further divided into five categories according to the affordability of the rents. Reservations would be given to projects in the highest priorities, still according to lot number, before being offered to any projects in subsequent priorities. The priority system is summarized as follows:

- Priority 1A:** 50% of the unit rents are set aside at 50% AMFI and the remaining 50% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use the 4% HTC Program
- Priority 1B:** 15% of the unit rents are set aside at 30% AMFI and the remaining 85% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use 4% HTC Program
- Priority 1C:** 100% of the unit rents are set aside at 60% AMFI, adjusted for family size, for development located in census tracts with median incomes higher than the AMFI.
Developers are required to use 4% HTC Program
- Priority 2:** 100% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use 4% HTC Program
- Priority 3:** Tax code set aside requirements (either 20% at 50% AMFI or 40% at 60% AMFI). No rent caps are mandated (although issuers may impose).
Use of the 4% HTC Program is at the developer's option.

Of the entire multifamily sub ceiling, seventy percent (70%) was allocated to each of the thirteen (13) state service regions based on population, and was reserved only for local issuers until August 15, 2004. Twenty percent (20%) was available exclusively to TDHCA and 10% was available exclusively to Texas State Affordable Housing Corporation until August 15, 2004, to be issued for projects throughout the state. Due to low interest rates in the conventional market a large amount of volume cap by single family issuers and other industrial issuers went unused and therefore collapsed into one category on August 15, 2004. The multifamily sub-category being the highest over-subscribed category in the bond program has been able to participate in an additional \$575 million in volume cap for the 2004 program year.

TDHCA Application Process and Prequalification Analysis

Developers were required to submit a Pre-Application to the Department by September 23, 2004. The Pre-Application consists of the Uniform TDHCA Application with all exhibits; a copy of the earnest money contract or warranty deed; a construction time schedule and lease-up proforma; current market information including occupancy and rental comparables; and, other supporting documentation to the application.

Staff reviewed each Pre-Application for completeness and prepared a Prequalification Analysis for each property. The Prequalification Analysis focuses on the developer's construction cost assumptions, sources and uses of funds, operating proforma and debt coverage. Staff scored each application in accordance with the "Private Activity Bond Program Scoring Criteria". Market information was also reviewed to ensure that the proposed rents were reasonable and that sub-market occupancy would support the additional units.

In some instances, developers submitted multiple applications for properties in the same sub-market or Qualified Census Tract. TDHCA will only issue bonds to finance transactions as supportable by the sub-market and in accordance with the legislative requirements ensuring no violations of the one mile rule and TDHCA's concentration policy.

The Department received a total of one (1) application to be considered under Priority 2.

Summary of an Inducement Resolution

A component of the application to the Bond Review Board is an Inducement Resolution from the Issuer. The Inducement Resolution provides the Bond Review Board with evidence that an issuer has entered into discussions with the developer of a multifamily property and that the issuer has an interest in issuing bonds for the subject property. **An Inducement Resolution is not a commitment by TDHCA to issue bonds.** The issuance of bonds is subject to this Board's approval of the fully underwritten transaction, including among other items, the feasibility of the project, the structure of the bonds and loan terms, and satisfaction of the Board that the development meets all public policy criteria. The Inducement Resolution authorizes staff, Bond Counsel, and other consultants to proceed with filing an application to the Bond Review Board for an allocation of private-activity volume cap and to proceed with underwriting and document preparation which are subject to the Board's approval.

Generally, an Inducement Resolution:

1. summarizes TDHCA's legal authority to issue tax-exempt mortgage revenue bonds;
2. indicates that the developer has requested financing for a project and a willingness to enter into contractual arrangements with TDHCA regarding the property and the financing;
3. states that TDHCA expects, subject to certain conditions and findings as addressed below, to incur tax-exempt or taxable obligations (in the form of revenue bonds) for financing the project;
4. summarizes the requirement to submit an application for private-activity bonds to the Bond Review Board;

5. cites certain findings with respect to the property, the owner and the financing with regard to (a) the necessity of providing affordable housing, (b) the quality and design of housing which will be provided for the tenants, (c) the public purpose and public benefit provided by the financing, and (d) the legal authority under which the issuance will be made;
6. provides for an authorization of the issue subject to underwriting for financial feasibility and other conditions;
7. states a maximum amount of bonds contemplated by the issue;
8. states that the bonds are to be limited obligations of TDHCA payable solely from the revenues generated from the loans; and,
9. states that the bonds are not obligations of the State of Texas.

The Inducement Resolution contains one (1) application submitted on October 15, 2004 to be placed on the 2004 Waiting List. Application #2004-063, Arlington Place Apartments.

Staff Recommendation

Approve Inducement Resolution as presented.

Texas Department of Housing and Community Affairs

2004 Multifamily Private Activity Bond Program - Waiting List

Application #	Development Information	Units	Bond Amount	Developer Information	Comments
2004-063	Arlington Place Apartments 116 Edgebrook East	230	\$ 8,750,000	Kimberley Dennison FDI - Arlington Place, Ltd	Recommend
Priority 2	City: Houston County: Harris <i>Acquisition / Rehabilitation</i>	Family	Score - 49	26735 Stockdick School Road Katy, Texas 77493 (281) 371-7320	
Totals:		230	\$ 8,750,000		

RESOLUTION NO. 04-90

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS WITH RESPECT TO RESIDENTIAL RENTAL PROJECTS; AUTHORIZING THE FILING OF APPLICATIONS FOR ALLOCATIONS OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

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

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by persons and families of low and very low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental project loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, it is proposed that the Department issue its revenue bonds for the purpose of providing financing for multi-family residential rental developments (each a "Project" and collectively, the "Projects") as more fully described in Exhibit "A" attached hereto. The ownership of each Project as more fully described in Exhibit "A" will consist of the ownership entity and its principals or a related person (each an "Owner" and collectively, the "Owners") within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, each Owner has made not more than 60 days prior to the date hereof, payments with respect to its respective Project and expects to make additional payments in the future and desires that it be reimbursed for such payments and other costs associated with each respective Project from the proceeds of tax-exempt and taxable obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, each Owner has indicated its willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that 100 percent of the units of its Project will be occupied at all times by eligible tenants, as determined by the Board of the Department pursuant to the Act ("Eligible Tenants"), that the other requirements of the Act and the Department will be satisfied and that its Project will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse each Owner for the costs associated with its Project listed on Exhibit "A" attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of each Owner, the Department reasonably expects to incur debt in the form of tax-exempt and taxable obligations for purposes of paying the costs of each respective Project described on Exhibit "A" attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for each Project an Application for Allocation of Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt

Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review Board's authority to administer the allocation of the authority of the state to issue private activity bonds; and

WHEREAS, the Board intends that the issuance of Bonds for any particular Project is not dependent or related to the issuance of Bonds (as defined below) for any other Project and that a separate Application shall be filed with respect to each Project; and

WHEREAS, the Board has determined to declare its intent to issue its multifamily revenue bonds for the purpose of providing funds to each Owner to finance its Project on the terms and conditions hereinafter set forth; NOW, THEREFORE,

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

Section 1--Certain Findings. The Board finds that:

(a) each Project is necessary to provide decent, safe and sanitary housing at rentals that eligible tenants can afford;

(b) each Owner will supply, in its Project, well-planned and well-designed housing for eligible tenants;

(c) the financing of each Project pursuant to the provisions of the Act will constitute a public purpose and will provide a public benefit; and

(d) each Project will be undertaken within the authority conferred by the Act upon the Department and each Owner.

Section 2--Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds (the "Bonds") in amounts estimated to be sufficient to (a) fund a loan or loans to each Owner to provide financing for its Project in an aggregate principal amount not to exceed those amounts, corresponding to each respective Project, set forth in Exhibit "A"; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental project bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and state law requirements regarding tenancy in each Project; (iii) approval by the Bond Review Board, if required; (iv) approval by the Texas Attorney General; (v) satisfaction of the Board that each Project meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and state laws applicable to the issuance of such Bonds.

Section 3--Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 4--Reimbursement. The Department reasonably expects to reimburse each Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction of its Project and listed on Exhibit "A" attached hereto ("Costs of each respective Project") from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction of its Project, including reimbursing each Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction of its Project; (b) to fund any reserves that may be required for the

benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 5--Principal Amount. Based on representations of each Owner, the Department reasonably expects that the maximum principal amount of debt issued to reimburse each Owner for the costs of its respective Project will not exceed the amount set forth in Exhibit "A" which corresponds to its Project.

Section 6--Limited Obligations. The Owner may commence with the acquisition and construction of its Project, which Project will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement on an installment payment basis with the Department under which the Department will make a loan to the Owner for the purpose of reimbursing each Owner for the costs of its Project and each Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to each Owner to provide financing for the Owner's Project, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 7--The Project. Substantially all of the proceeds of the Bonds shall be used to finance the Projects, each of which is to be occupied entirely by Eligible Tenants, as determined by the Department, and each of which is to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 8--Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse each Owner for costs of its Project.

Section 9--Costs of Project. The Costs of each respective Project may include any cost of acquiring, constructing, reconstructing, improving, installing and expanding the Project. Without limiting the generality of the foregoing, the Costs of each respective Project shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Project, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Project, the placing of the Project in operation and that satisfy the Code and the Act. Each Owner shall be responsible for and pay any costs of its Project incurred by it prior to issuance of the Bonds and will pay all costs of its Project which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 10--No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under each Owner shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 11--No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State of Texas, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

Section 12--Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by each Owner and the Department of contractual

arrangements providing assurance satisfactory to the Department that 100 percent of the units for each Project will be occupied at all times by Eligible Tenants, that all other requirements of the Act will be satisfied and that each Project will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds); (b) the receipt of an opinion from Vinson & Elkins L.L.P. or other nationally recognized bond counsel acceptable to the Department, substantially to the effect that the interest on the tax-exempt Bonds is excludable from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Texas Bond Review Board, if required, and the Attorney General of the State of Texas.

Section 13--Certain Findings. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for each Project will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

Section 14--Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of each Project's necessary review and legal documentation for the filing of an Application for the 2004 program year and the issuance of the Bonds, subject to satisfaction of the conditions specified in Section 2(i) and (ii) hereof.

Section 15--Related Persons. The Department acknowledges that financing of all or any part of each Project may be undertaken by any company or partnership that is a "related person" to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the respective Owner.

Section 16--Declaration of Official Intent. This Resolution constitutes the Department's official intent for expenditures on Costs of each respective Project which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of each respective Project may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 17--Authorization of Certain Actions. The Department hereby authorizes the filing of and directs the filing of each Application in such form presented to the Board with the Bond Review Board and each director of the Board are hereby severally authorized and directed to execute each Application on behalf of the Department and to cause the same to be filed with the Bond Review Board.

Section 18--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Section 19--Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 20--Notice of Meeting. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for publication by reference in the Texas Register not later than seven (7) days before the meeting of the Board as required by Section 2306.032, Texas Government Code, as amended.

PASSED AND APPROVED this 12th day of November, 2004.

[SEAL]

By: _____
Chair

Attest: _____
Secretary

EXHIBIT "A"

Description of each Owner and its Project

Project Name	Owner	Principals	Amount Not to Exceed
Arlington Place Apartments	FDI-Arlington Place, Ltd.	Fieser Arlington Place, Inc., the General Partner, to be formed, or other entity, the Sole Member of which will be James W. Fieser	\$8,600,000
<p>Costs: (i) acquisition of real property located at approximately 116 E. Edgebrook, Houston, Harris County, Texas; and (ii) the rehabilitation thereon of an approximately 230-unit multifamily residential rental housing project, in the amount not to exceed \$8,600,000.</p>			

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
MULTIFAMILY FINANCE DIVISION
PREQUALIFICATION ANALYSIS**

Arlington Place Apartments, Houston (2004-063) Priority 2

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
60% AMI	1BD/1BA	70	\$ 519	550	0.94
60% AMI	1BD/1BA	32	\$ 583	730	0.80
60% AMI	2BD/1BA	64	\$ 747	1,020	0.73
60% AMI	3BD/2BA	64	\$ 853	1,224	0.70
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
Totals		230	\$ 1,888,632	205,476	\$ 0.77
Averages			\$ 684	893	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 6,750,000	\$ 29,348	\$ 32.85	0.54
Off-sites	0	0	0.00	0.00
Subtotal Site Costs	\$ 6,750,000	\$ 29,348	\$ 32.85	0.54
Sitework		0	0.00	0.00
Hard Construction Costs	2,300,000	10,000	11.19	0.18
General Requirements (6%)	138,000	600	0.67	0.01
Contractor's Overhead (2%)	46,000	200	0.22	0.00
Contractor's Profit (6%)	138,000	600	0.67	0.01
Construction Contingency	230,000	1,000	1.12	0.02
Subtotal Construction	\$ 2,852,000	\$ 12,400	\$ 13.88	0.23
Indirect Construction	152,522	663	0.74	0.01
Developer's Fee	1,433,054	6,231	6.97	0.11
Financing	829,537	3,607	4.04	0.07
Reserves	546,744	2,377	2.66	0.04
Subtotal Other Costs	\$ 2,961,857	\$ 12,878	\$ 14	0
Total Uses	\$ 12,563,857	\$ 54,625	\$ 61.15	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 3,224,897	\$0.80	3.54%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 8,750,000	6.00%	30	\$ 629,528
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 600,000	41.9%	\$833,054	
Source IV	Proceeds	Description	Annual D/S	
Other			\$ -	
Total Sources	\$ 12,574,897		\$ 629,528	

TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 3,224,897	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 8,750,000	6.00%	30	\$ 629,528
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 588,960	41.1%	\$ 844,094	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ -		\$ -	
Total Sources	\$ 12,563,857		\$ 629,528	

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$1,888,632	\$9.19		
Other Income & Loss	41,400	0.20	180	
Vacancy & Collection	-7.50% (144,752)	-0.70	-629	
Effective Gross Income	\$1,785,280	8.69	7,762	
Total Operating Expenses	\$1,052,526	\$5.12	\$4,576	
Net Operating Income	\$732,754	\$3.57	\$3,186	
Debt Service	629,528	3.06	2,737	
Net Cash Flow	\$103,226	\$0.50	\$449	
Debt Coverage Ratio	1.16			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$103,226	\$0.50	\$449	
DCR after TDHCA Fees	1.16			
Break-even Rents/S.F.	0.68			
Break-even Occupancy	89.06%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$1,888,632	\$9.19		
Other Income & Loss	41,400	0.20	180	
Vacancy & Collection	7.50% (144,752)	-0.70	-629	
Effective Gross Income	1,785,280	8.69	7,762	
Total Operating Expenses	59.0% \$1,052,526	\$5.12	\$4,576	
Net Operating Income	\$732,754	\$3.57	\$3,186	
Debt Service	629,528	3.06	2,737	
Net Cash Flow	\$103,226	\$0.50	\$449	
Debt Coverage Ratio	1.16			
TDHCA/TSAHC Fees	\$0.00	\$0		
Net Cash Flow	\$103,226	\$0.50	\$449	
DCR after TDHCA Fees	1.16			
Break-even Rents/S.F.	0.68			
Break-even Occupancy	89.06%			

Applicant - Annual Operating Expenses			
		Per S.F.	Per Unit
General & Administrative Expenses	\$25,604	0.12	111
Management Fees	78,010	0.38	339
Payroll, Payroll Tax & Employee Exp.	230,530	1.12	1002
Maintenance/Repairs	80,511	0.39	350
Utilities	387,048	1.88	1683
Property Insurance	82,510	0.40	359
Property Taxes	100,013	0.49	435
Replacement Reserves	57,500	0.28	250
Other Expenses	10,800	0.05	47
Total Expenses	\$1,052,526	\$5.12	\$4,576

Staff Notes/Comments



WWW.TDHCA.STATE.TX.US

**REQUEST FOR BOARD APPROVAL
Multifamily Finance Production**

2004 Private Activity Bond Program – Traditional CarryForward

**2 Priority 1A Applications
0 Priority 1B Applications
2 Priority 1C Applications
3 Priority 2 Applications
7 Total Applications Received**

TABLE OF EXHIBITS

TAB 1	TDHCA Board Presentation – November 12, 2004
TAB 2	Summary of Application
TAB 3	Inducement Resolution
TAB 4	Prequalification Analysis Worksheet

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Inducement Resolution for Multifamily Revenue Bonds and Authorization for Filing Applications for Year 2004 Private Activity Bond Authority – Traditional CarryForward

Required Action

Approve Inducement Resolution to proceed with applications to the Texas Bond Review Board (the “Bond Review Board”) for possible receipt of State Volume Cap issuance authority in the 2004 Private Activity Bond Program with the intent to issue revenue bonds to finance the acquisition, construction or rehabilitation, equipping and permanent financing of the subject properties listed on the attached report. The issuance of the proposed bonds is subject to: (1) actual allocation of the State Volume Cap; (2) favorable completion of the Department’s underwriting of the property feasibility and bond structure; (3) approval of the final structure and bond documents by the Department’s Board; and, (4) possible approval by the Texas Bond Review Board.

Attached is a report of seven (7) applications for the 2004 Traditional CarryForward totaling approximately \$76 million received by the Department, on October 15, 2004, for the Year 2004 Multifamily Housing Revenue Bond Program.

Upon Board approval, the Department will submit applications for each development recommended for inducement to the Governor’s Office for approval to submit the applications for a Traditional CarryForward allocation to finance these properties. This memorandum is intended to provide background information on the bond program process and to summarize this Board’s action as contemplated by the Inducement Resolution

Background and Recommendations

Each year, the State of Texas receives a cap on the amount of private-activity, tax-exempt revenue bonds that may be issued within the state (approximately \$1.7 billion for 2004). This cap is determined based on the population of the state as estimated by the Census Bureau (\$80 per person). Of this total amount, 23% was allocated by the Texas Legislature for multifamily housing.

Eligible issuers apply to the Bond Review Board for the authority to issue private activity bonds. Each development is assigned a number on a first come first serve basis as further authority becomes available during the year. Those issuers that receive a Reservation for private-activity volume cap for a development will have 150 days from the date of the Reservation to close the transaction. If the transaction is not closed within that 150 day timeframe, the Reservation is

canceled and the next development on the waiting list receives the Reservation and likewise has 150 days from that Reservation date to close.

The Department has established a scoring system for applications and will rank the applications according to score. The scoring criteria was utilized for pre-applications being submitted for the 2004 lottery and is now being utilized again for the 2004 CarryForward applications. All applications for the 2004 CarryForward were due by October 15, 2004. Final public input that affects scoring is due by 5:00 p.m. on November 12, 2004. The Department staff will finalize the application scores by November 15, 2004. The applications will then be ranked and submitted to the Bond Review Board for a Traditional CarryForward Allocation.

The priority system was amended in 2003 in order to encourage the production of more affordable housing. The multifamily sub ceiling was further divided into five categories according to the affordability of the rents. Reservations would be given to projects in the highest priorities, still according to lot number, before being offered to any projects in subsequent priorities. The priority system is summarized as follows:

Priority 1A: 50% of the unit rents are set aside at 50% AMFI and the remaining 50% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use the 4% HTC Program

Priority 1B: 15% of the unit rents are set aside at 30% AMFI and the remaining 85% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use 4% HTC Program

Priority 1C: 100% of the unit rents are set aside at 60% AMFI, adjusted for family size, for development located in census tracts with median incomes higher than the AMFI.
Developers are required to use 4% HTC Program

Priority 2: 100% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use 4% HTC Program

Priority 3: Tax code set aside requirements (either 20% at 50% AMFI or 40% at 60% AMFI). No rent caps are mandated (although issuers may impose).
Use of the 4% HTC Program is at the developer's option.

Of the entire multifamily sub ceiling, seventy percent (70%) was allocated to each of the thirteen (13) state service regions based on population, and was reserved only for local issuers until August 15, 2004. Twenty percent (20%) was available exclusively to TDHCA and 10% was available exclusively to Texas State Affordable Housing Corporation until August 15th of each year to be issued for projects throughout the state. Traditional CarryForward is the amount of state ceiling that is not reserved before December 15th or was reserved prior to December 15th and returned to the Bond Review Board due to cancellation prior to December 31st. TDHCA is a Priority 3 issuer under the CarryForward Classification. An issuer is allowed up to \$50 million in Traditional CarryForward allocation. Currently there are no applications submitted under the Priority 1 and 2 classifications for Traditional CarryForward.

TDHCA Application Process and Prequalification Analysis

Developers were required to submit a Pre-Application to the Department by October 15, 2004. The Pre-Application consists of the Uniform TDHCA Application with all exhibits; a copy of the earnest money contract or warranty deed; a construction time schedule and lease-up proforma; current market information including occupancy and rental comparables; and, other supporting documentation to the application.

Staff reviewed each Pre-Application for completeness and prepared a Prequalification Analysis for each property. The Prequalification Analysis focuses on the developer's construction cost assumptions, sources and uses of funds, operating proforma and debt coverage. Staff scored each application in accordance with the "Private Activity Bond Program Scoring Criteria". Market information was also reviewed to ensure that the proposed rents were reasonable and that sub-market occupancy would support the additional units.

In some instances, developers submitted multiple applications for properties in the same sub-market or Qualified Census Tract. TDHCA will only issue bonds to finance transactions as supportable by the sub-market and in accordance with the legislative requirements ensuring no violations of the one mile rule and TDHCA's concentration policy.

Summary of an Inducement Resolution

A component of the application to the Bond Review Board is an Inducement Resolution from the Issuer. The Inducement Resolution provides the Bond Review Board with evidence that an issuer has entered into discussions with the developer of a multifamily property and that the issuer has an interest in issuing bonds for the subject property. **An Inducement Resolution is not a commitment by TDHCA to issue bonds.** The issuance of bonds is subject to this Board's approval of the fully underwritten transaction, including among other items, the feasibility of the project, the structure of the bonds and loan terms, and satisfaction of the Board that the development meets all public policy criteria. The Inducement Resolution authorizes staff, Bond Counsel, and other consultants to proceed with filing an application to the Bond Review Board for an allocation of private-activity volume cap and to proceed with underwriting and document preparation which are subject to the Board's approval.

Generally, an Inducement Resolution:

1. summarizes TDHCA's legal authority to issue tax-exempt mortgage revenue bonds;
2. indicates that the developer has requested financing for a project and a willingness to enter into contractual arrangements with TDHCA regarding the property and the financing;
3. states that TDHCA expects, subject to certain conditions and findings as addressed below, to incur tax-exempt or taxable obligations (in the form of revenue bonds) for financing the project;
4. summarizes the requirement to submit an application for private-activity bonds to the Bond Review Board;
5. cites certain findings with respect to the property, the owner and the financing with regard to (a) the necessity of providing affordable housing, (b) the quality and design of housing which will be provided for the tenants, (c) the public purpose and public

- benefit provided by the financing, and (d) the legal authority under which the issuance will be made;
6. provides for an authorization of the issue subject to underwriting for financial feasibility and other conditions;
 7. states a maximum amount of bonds contemplated by the issue;
 8. states that the bonds are to be limited obligations of TDHCA payable solely from the revenues generated from the loans; and,
 9. states that the bonds are not obligations of the State of Texas.

The Inducement Resolution contains seven (7) applications that were received on October 15, 2004 to be submitted to the Bond Review Bond for 2004 Traditional CarryForward.

Staff Recommendation

Approve Inducement Resolution as presented, excluding Glenn Heights due to submission of an incomplete application that did not meet threshold.

Texas Department of Housing and Community Affairs

2004 Multifamily Private Activity Bond Program - Traditional CarryForward

TDHCA #	Development Information	Units	Bond Amount	Developer Information	Comments
2004-059	Sphinx at Chenault 1717 Chenault Drive	250	\$ 14,160,000	Jay Oji	Recommend
Priority 1A	City: Dallas County: Dallas <i>New Construction</i>	Elderly	Score - 63	Sachse Senior Villas, L.P 3030 LBJ Freeway, Suite 880 Dallas, Texas 75234 (214) 342-1409	
2004-060	Waxahachie Senior Apartments 3/4 mile west of Ovilla Road & Hwy 287	180	\$ 10,100,000	Robert Bullock	Recommend
Priority 2	City: Waxahachie County: Ellis <i>New Construction</i>	Elderly	Score - 57	Senior Apartments of Waxahachie, L.P 5601 Bridge Street, Suite 504 Fort Worth, Texas 76112 (817)-446-4792	
2004-061	Pleasant Village Apartments 378 N.Jim Miller Road	200	\$ 5,990,000	Dan Steffey	Recommend
Priority 1A	City: Dallas County: Dallas <i>Acquisition / Rehabilitation</i>	Family	Score - 67	Pleasant Village Apartments Limited Partnership 4380 S.W. Macadam, Suite 380 Portland, OR 97228 (503)-802-3557	
2004-062	Grove Village Apartments 7209 S. Loop 12	232	\$ 6,590,000	Dan Steffey	Recommend
Priority 1A	City: Dallas County: Dallas <i>Acquisition / Rehabilitation</i>	Family	Score - 67	Grove Village Apartments Limited Partnership 4380 S.W. Macadam, Suite 380 Portland, OR 97228 (503)-802-3557	
2004-064	Lafayette Chase Apartments 6709 Howell Sugarland Road	200	\$ 12,500,000	Dwayne Henson	Recommend
Priority 2	City: Houston County: Harris <i>New Construction</i>	Family	Score - 61.0	Lafayette Chase Apartments, L.P. 5405 John Dreaper Houston, Texas 77056 (713) 334-5808	
2004-065	Glenn Heights Villas 2515 Bobcat Lane	250	\$ 13,042,700	Joseph Argumandu	Do not Recommend
Priority 2	City: San Antonio County: Bexar <i>New Construction</i>	Family	Score - 0	Glenn Heights Villas, L.P. 3030 LBJ freeway, Suite 880 Dallas, Texas 75227 (214) 342-1400	Incomplete Application Did not meet threshold

TDHCA #	Development Information	Units	Bond Amount	Developer Information	Comments
2004-066	Alta Cullen Apartments 3500 block of Beltway 8	240	\$ 14,000,000	Bernard Felder Alta Cullen Limited Partnership	Recommend
Priority 1C	City: Houston County: Harris Unincorporated <i>New Construction</i>	Family	Score - 61.0	1001 Morehead Square Drive, #250 Charlotte, NC 28203 (704) 332-8995	
Totals for Recommended Applications:		\$ 1,302	\$ 63,340,000		

RESOLUTION NO. 04-91

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS WITH RESPECT TO RESIDENTIAL RENTAL PROJECTS; AUTHORIZING THE FILING OF APPLICATIONS FOR ALLOCATIONS OF 2004 PROGRAM YEAR PRIVATE ACTIVITY BOND CARRYFORWARD WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

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

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by persons and families of low and very low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental project loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, Section 103 and Section 142 of the Internal Revenue Code of 1986, as amended (the "Code"), provide that the interest on obligations issued by or on behalf of a state or a political subdivision thereof the proceeds of which are to be used to finance qualified residential rental projects shall be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 142(d) of the Code; and

WHEREAS, Section 146(a) of the Code requires that certain "private activity bonds" (as defined in Section 141(a) of the Code) must come within the issuing authority's private activity bond limit for the applicable calendar year in order to be treated as obligations the interest on which is excludable from the gross income of the holders thereof for federal income tax purposes; and

WHEREAS, the private activity bond "State Ceiling" (as defined in Section 146(d) of the Code) applicable to the State for calendar year 2004 is subject to allocation, in the manner authorized by Section 146(e) of the Code, pursuant to Chapter 1372 Texas Government Code, as amended (the "Allocation Act"); and

WHEREAS, the Allocation Act provides that the Texas Bond Review Board (the "Bond Review Board") may designate as carryforward the amount of the State Ceiling that is not reserved before December 15 and any amount of the State Ceiling that was reserved before December 15 and becomes available on or after that date because of the cancellation of a reservation ("Carryforward"); and

WHEREAS, the Allocation Act requires the Department, in order to apply for a Carryforward designation, to file an application for carryforward (the "Application for Carryforward") with the Bond Review Board, stating the amount of the carryforward sought, describing the project, stating which priority classification is applicable and any other information that the Bond Review Board by rule may require; and

WHEREAS, it is proposed that the Department issue its revenue bonds for the purpose of providing financing for multi-family residential rental developments (each a "Project" and collectively, the "Projects") as more fully described in Exhibit "A" attached hereto. The ownership of each Project as more fully described in Exhibit

“A” will consist of the ownership entity and its principals or a related person (each an “Owner” and collectively, the “Owners”) within the meaning of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, each Owner has made not more than 60 days prior to the date hereof, payments with respect to its respective Project and expects to make additional payments in the future and desires that it be reimbursed for such payments and other costs associated with each respective Project from the proceeds of tax-exempt and taxable obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, each Owner has indicated its willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that 100 percent of the units of its Project will be occupied at all times by eligible tenants, as determined by the Board of the Department pursuant to the Act (“Eligible Tenants”), that the other requirements of the Act and the Department will be satisfied and that its Project will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse each Owner for the costs associated with its Project listed on Exhibit “A” attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of each Owner, the Department reasonably expects to incur debt in the form of tax-exempt and taxable obligations for purposes of paying the costs of each respective Project described on Exhibit “A” attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for each Project an Application for Carryforward for Private Activity Bonds (the “Application”) with the Texas Bond Review Board (the “Bond Review Board”) with respect to the tax-exempt Bonds to qualify for the Bond Review Board’s Allocation Program in connection with the Bond Review Board’s authority to administer the allocation of the authority of the state to issue private activity bonds; and

WHEREAS, the Board intends that the issuance of Bonds for any particular Project is not dependent or related to the issuance of Bonds (as defined below) for any other Project and that a separate Application shall be filed with respect to each Project; and

WHEREAS, the Board has determined to declare its intent to issue its multifamily revenue bonds for the purpose of providing funds to each Owner to finance its Project on the terms and conditions hereinafter set forth; provided that the total amount of Carryforward requested may not exceed \$50,000,000; NOW, THEREFORE,

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

Section 1--Certain Findings. The Board finds that:

- (a) each Project is necessary to provide decent, safe and sanitary housing at rentals that eligible tenants can afford;
- (b) each Owner will supply, in its Project, well-planned and well-designed housing for eligible tenants;
- (c) the financing of each Project pursuant to the provisions of the Act will constitute a public purpose and will provide a public benefit; and
- (d) each Project will be undertaken within the authority conferred by the Act upon the Department and each Owner.

Section 2--Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds (the “Bonds”) in amounts estimated to be sufficient to (a) fund a loan or loans to each Owner to

provide financing for its Project in an aggregate principal amount not to exceed those amounts, corresponding to each respective Project, set forth in Exhibit "A"; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental project bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and state law requirements regarding tenancy in each Project; (iii) approval by the Bond Review Board, if required; (iv) approval by the Texas Attorney General; (v) satisfaction of the Board that each Project meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and state laws applicable to the issuance of such Bonds.

Section 3--Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 4--Reimbursement. The Department reasonably expects to reimburse each Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction of its Project and listed on Exhibit "A" attached hereto ("Costs of each respective Project") from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction of its Project, including reimbursing each Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction of its Project; (b) to fund any reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 5--Principal Amount. Based on representations of each Owner, the Department reasonably expects that the maximum principal amount of debt issued to reimburse each Owner for the costs of its respective Project will not exceed the amount set forth in Exhibit "A" which corresponds to its Project.

Section 6--Limited Obligations. The Owner may commence with the acquisition and construction of its Project, which Project will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement on an installment payment basis with the Department under which the Department will make a loan to the Owner for the purpose of reimbursing each Owner for the costs of its Project and each Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to each Owner to provide financing for the Owner's Project, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 7--The Project. Substantially all of the proceeds of the Bonds shall be used to finance the Projects, each of which is to be occupied entirely by Eligible Tenants, as determined by the Department, and each of which is to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 8--Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse each Owner for costs of its Project.

Section 9--Costs of Project. The Costs of each respective Project may include any cost of acquiring, constructing, reconstructing, improving, installing and expanding the Project. Without limiting the generality of the foregoing, the Costs of each respective Project shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds,

the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Project, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Project, the placing of the Project in operation and that satisfy the Code and the Act. Each Owner shall be responsible for and pay any costs of its Project incurred by it prior to issuance of the Bonds and will pay all costs of its Project which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 10--No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under each Owner shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 11--No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State of Texas, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

Section 12--Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by each Owner and the Department of contractual arrangements providing assurance satisfactory to the Department that 100 percent of the units for each Project will be occupied at all times by Eligible Tenants, that all other requirements of the Act will be satisfied and that each Project will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds); (b) the receipt of an opinion from Vinson & Elkins L.L.P. or other nationally recognized bond counsel acceptable to the Department, substantially to the effect that the interest on the tax-exempt Bonds is excludable from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Texas Bond Review Board, if required, and the Attorney General of the State of Texas.

Section 13--Certain Findings. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for each Project will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

Section 14--Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of each Project's necessary review and legal documentation for the filing of the Applications for Carryforward and the issuance of the Bonds, subject to satisfaction of the conditions specified in Section 2(i) and (ii) hereof.

Section 15--Related Persons. The Department acknowledges that financing of all or any part of each Project may be undertaken by any company or partnership that is a "related person" to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the respective Owner.

Section 16--Declaration of Official Intent. This Resolution constitutes the Department's official intent for expenditures on Costs of each respective Project which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of each respective Project may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 17--Authorization of Certain Actions. The Department hereby authorizes the filing of and directs the filing of each Application in such form presented to the Board with the Bond Review Board and each director of the Board are hereby severally authorized and directed to execute each Application on behalf of the Department and to cause the same to be filed with the Bond Review Board.

Section 18--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Section 19--Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 20--Notice of Meeting. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for publication by reference in the Texas Register not later than seven (7) days before the meeting of the Board as required by Section 2306.032, Texas Government Code, as amended.

PASSED AND APPROVED this 12th day of November, 2004.

[SEAL]

By: _____
Chair

Attest: _____
Secretary

EXHIBIT "A"

Description of each Owner and its Project

Project Name	Owner	Principals	Amount Not to Exceed
Alta Cullen Apartments	Alta Cullen Limited Partnership	Wood Alta Cullen, L.P., the General Partner, to be formed, or other entity, the Members of which will include Wood Affordable Housing South, Inc. and/or WP South Development Company, L.L.C	\$14,000,000
Costs: (i) acquisition of real property located at approximately the 3500 block of Beltway 8, Houston, Harris County, Texas; and (ii) the construction thereon of an approximately 240-unit multifamily residential rental housing project, in the amount not to exceed \$14,000,000.			
Project Name	Owner	Principals	Amount Not to Exceed
Glenn Heights Villas	Glenn Heights Villas, LP	SDC Glenn Heights Villas, LLC, the General Partner, to be formed, or other entity, the Members of which will include Jay O. Oji and/or Joseph N. Agumadu	\$13,400,000
Costs: (i) acquisition of real property located approximately the 7311 block of Somerset Road, San Antonio, Bexar County, Texas; and (ii) the construction thereon of an approximately 250-unit multifamily residential rental housing-g project, in the amount not to exceed \$13,400,000.			
Project Name	Owner	Principals	Amount Not to Exceed
Grove Village Apartments	Grove Village Limited Partnership	Walker Guardian, LLC, the General Partner, or other entity, the Members of which will be GM Low Income Housing Management, LLC and/or Walker Affordable Housing, LLC	\$7,000,000
Costs: (i) acquisition of real property located at 7209 South Loop 12, Dallas, Dallas County, Texas; and (ii) the rehabilitation thereon of an approximately 232-unit multifamily residential rental housing project, in the amount not to exceed \$7,000,000.			

Project Name	Owner	Principals	Amount Not to Exceed
Lafayette Chase Apartments	Lafayette Chase Apartments, L.P.	Lafayette Chase Development, L.L.C., the General Partner, to be formed, or other entity, the Sole Member of which will be Dwayne Henson Investments, Inc.	\$12,500,000
Costs: (i) acquisition of real property located at approximately 6709 Howell Sugarland Road, Houston, Harris County, Texas; and (ii) the construction thereon of an approximately 200-unit multifamily residential rental housing project, in the amount not to exceed \$12,500,000.			
Project Name	Owner	Principals	Amount Not to Exceed
Pleasant Village Apartments	Pleasant Village Limited Partnership	Walker Guardian, LLC, the General Partner, or other entity, the Members of which will be GM Low Income Housing Management, LLC and/or Walker Affordable Housing, LLC	\$6,000,000
Costs: (i) acquisition of real property located at 378 N. Jim Miller Road, Dallas, Dallas County, Texas; and (ii) the rehabilitation thereon of an approximately 200-unit multifamily residential rental housing project, in the amount not to exceed \$6,000,000.			
Project Name	Owner	Principals	Amount Not to Exceed
Sphinx at Chenault Apartments	Sachse Senior Villas, LP	SDC Sachse Senior Villas, LLC, the General Partner, or other entity, the Members of which will be Jay O. Oji and/or Joseph N. Agumadu	\$14,160,000
Costs: (i) acquisition of real property located at approximately 1717 Chenault Drive, Dallas, Dallas County, Texas; and (ii) the construction thereon of an approximately 250-unit multifamily residential rental housing project, in the amount not to exceed \$14,160,000.			

Project Name	Owner	Principals	Amount Not to Exceed
Waxahachie Senior Apartments	Senior Apartments of Waxahachie, L.P.	Waxahachie-GP Senior Apts., L.L.C., the General Partner, to be formed, or other entity, a Member of which will be Robert L. Bullock and other Members will include Gary D. Staats and/or Jimmy F. Rogers	\$10,100,000

Costs: (i) acquisition of real property located approximately the south side of the Highway 287 bypass approximately three quarters of a mile west of the intersection of Ovilla Road and the Highway 287 bypass, Waxahachie, Ellis County, Texas; and (ii) the construction thereon of an approximately 180-unit multifamily residential rental housing project, in the amount not to exceed \$10,100,000.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
MULTIFAMILY FINANCE DIVISION
PREQUALIFICATION ANALYSIS**

Pleasant Village Apartments, Dallas (2004-061) Priority 1A

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
50% AMI	1BD/1BA	5	\$ 499	658	0.76
60% AMI	1BD/1BA	20	\$ 499	658	0.76
50% AMI	1BD/1BA	15	\$ 465	658	0.71
60% AMI	2BD/1.5BA	40	\$ 545	920	0.59
50% AMI	2BD/1.5BA	20	\$ 584	920	0.63
60% AMI	2BD/1.5BA	60	\$ 584	920	0.63
50% AMI	3BD/1.5BA	15	\$ 660	1,121	0.59
50% AMI	3BD/1.5BA	5	\$ 708	1,121	0.63
60% AMI	3BD/1.5BA	20	\$ 708	1,121	0.63
Totals		200	\$ 1,386,840	181,560	\$ 0.64
Averages			\$ 578	908	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 3,583,400	\$ 17,917	\$ 19.74	0.41
Off-sites	0	0	0.00	0.00
Subtotal Site Costs	\$ 3,583,400	\$ 17,917	\$ 19.74	0.41
Sitework	0	0	0.00	0.00
Hard Construction Costs	2,314,890	11,574	12.75	0.27
General Requirements (6%)	138,893	694	0.77	0.02
Contractor's Overhead (2%)	46,298	231	0.26	0.01
Contractor's Profit (6%)	138,893	694	0.77	0.02
Construction Contingency	231,489	1,157	1.28	0.03
Subtotal Construction	\$ 2,870,464	\$ 14,352	\$ 15.81	0.33
Indirect Construction	227,600	1,138	1.25	0.03
Developer's Fee	957,114	4,786	5.27	0.11
Financing	799,230	3,996	4.40	0.09
Reserves	207,741	1,039	1.14	0.02
Subtotal Other Costs	\$ 2,191,685	\$ 10,958	\$ 12	0
Total Uses	\$ 8,645,549	\$ 43,228	\$ 47.62	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 2,449,633	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 5,990,000	6.00%	30	\$ 430,957
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 178,415	18.6%	\$778,699	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 27,500	GIC Income	\$ -	
Total Sources	\$ 8,645,548		\$ 430,957	

TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 2,449,633	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 5,990,000	6.00%	30	\$ 430,957
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 178,416	18.6%	\$ 778,698	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 27,500		\$ -	
Total Sources	\$ 8,645,549		\$ 430,957	

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$1,386,840	\$7.64		
Other Income & Loss	34,128	0.19	171	
Vacancy & Collection	-7.50% (106,573)	-0.59	-533	
Effective Gross Income	\$1,314,395	7.24	6,572	
Total Operating Expenses	\$799,761	\$4.40	\$3,999	
Net Operating Income	\$514,634	\$2.83	\$2,573	
Debt Service	430,957	2.37	2,155	
Net Cash Flow	\$83,677	\$0.46	\$418	
Debt Coverage Ratio	1.19			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$83,677	\$0.46	\$418	
DCR after TDHCA Fees	1.19			
Break-even Rents/S.F.	0.56			
Break-even Occupancy	88.74%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$1,386,840	\$7.64		
Other Income & Loss	34,128	0.19	180	
Vacancy & Collection	7.50% (106,573)	-0.59	-533	
Effective Gross Income	1,314,395	7.24	6,572	
Total Operating Expenses	60.8% \$799,761	\$4.40	\$3,999	
Net Operating Income	\$514,634	\$2.83	\$2,573	
Debt Service	430,957	2.37	2,155	
Net Cash Flow	\$83,677	\$0.46	\$418	
Debt Coverage Ratio	1.19			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$83,677	\$0.46	\$418	
DCR after TDHCA Fees	1.19			
Break-even Rents/S.F.	0.56			
Break-even Occupancy	88.74%			

Applicant - Annual Operating Expenses			
		Per S.F.	Per Unit
General & Administrative Expenses	\$43,483	0.24	217
Management Fees	65,720	0.36	329
Payroll, Payroll Tax & Employee Exp.	112,191	0.62	561
Maintenance/Repairs	81,600	0.45	408
Utilities	283,883	1.56	1419
Property Insurance	45,000	0.25	225
Property Taxes	50,000	0.28	250
Replacement Reserves	40,000	0.22	200
Other Expenses	77,884	0.43	389
Total Expenses	\$799,761	\$4.40	\$3,999

Staff Notes/Comments
Property has a HAP Contract and stated rents are below program rents.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
MULTIFAMILY FINANCE DIVISION
PREQUALIFICATION ANALYSIS**

Grove Village Apartments, Dallas (2004-062) Priority 1A

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
50% AMI	1BD/1BA	2	\$ 422	676	0.62
50% AMI	1BD/1BA	20	\$ 508	676	0.75
50% AMI	1BD/1BA	2	\$ 515	676	0.76
60% AMI	2BD/1.5BA	36	\$ 493	920	0.54
50% AMI	2BD/1.5BA	60	\$ 572	920	0.62
60% AMI	2BD/1.5BA	72	\$ 565	920	0.61
50% AMI	3BD/1.5BA	5	\$ 575	1,117	0.51
60% AMI	3BD/1.5BA	20	\$ 652	1,117	0.58
	3BD/1.5BA	16	660	1,117	0.59
Totals		233	\$ 1,575,084	216,581	\$ 0.61
Averages			\$ 563	930	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 3,583,400	\$ 15,379	\$ 16.55	0.38
Off-sites	0	0	0.00	0.00
Subtotal Site Costs	\$ 3,583,400	\$ 15,379	\$ 16.55	0.38
Sitework	0	0	0.00	0.00
Hard Construction Costs	2,721,775	11,681	12.57	0.29
General Requirements (6%)	163,307	701	0.75	0.02
Contractor's Overhead (2%)	54,436	234	0.25	0.01
Contractor's Profit (6%)	163,307	701	0.75	0.02
Construction Contingency	272,177	1,168	1.26	0.03
Subtotal Construction	\$ 3,375,001	\$ 14,485	\$ 15.58	0.36
Indirect Construction	209,100	897	0.97	0.02
Developer's Fee	990,321	4,250	4.57	0.11
Financing	958,656	4,114	4.43	0.10
Reserves	233,159	1,001	1.08	0.02
Subtotal Other Costs	\$ 2,391,236	\$ 10,263	\$ 11	0
Total Uses	\$ 9,349,637	\$ 40,127	\$ 43.17	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 2,575,578	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 6,590,000	6.00%	30	\$ 474,125
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 159,080	16.1%	\$831,241	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 25,000	GIC Income	\$ -	
Total Sources	\$ 9,349,658		\$ 474,125	

TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 2,575,578	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 6,590,000	6.00%	30	\$ 474,125
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 159,059	16.1%	\$ 831,263	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 25,000		\$ -	
Total Sources	\$ 9,349,637		\$ 474,125	

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$1,575,084	\$7.27		
Other Income & Loss	25,919	0.12	111	
Vacancy & Collection	-7.38% (118,135)	-0.55	-507	
Effective Gross Income	\$1,482,868	6.85	6,364	
Total Operating Expenses	\$907,526	\$4.19	\$3,895	
Net Operating Income	\$575,342	\$2.66	\$2,469	
Debt Service	474,125	2.19	2,035	
Net Cash Flow	\$101,218	\$0.47	\$434	
Debt Coverage Ratio	1.21			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$101,218	\$0.47	\$434	
DCR after TDHCA Fees	1.21			
Break-even Rents/S.F.	0.53			
Break-even Occupancy	87.72%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$1,575,084	\$7.27		
Other Income & Loss	85,800	0.40	180	
Vacancy & Collection	7.50% (124,566)	-0.58	-535	
Effective Gross Income	1,536,318	7.09	6,594	
Total Operating Expenses	40.0% \$614,000	\$2.83	\$2,635	
Net Operating Income	\$922,318	\$4.26	\$3,958	
Debt Service	474,125	2.19	2,035	
Net Cash Flow	\$448,193	\$2.07	\$1,924	
Debt Coverage Ratio	1.95			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$448,193	\$2.07	\$1,924	
DCR after TDHCA Fees	1.95			
Break-even Rents/S.F.	0.42			
Break-even Occupancy	69.08%			

Applicant - Annual Operating Expenses			
		Per S.F.	Per Unit
General & Administrative Expenses	\$46,587	0.22	200
Management Fees	73,681	0.34	316
Payroll, Payroll Tax & Employee Exp.	112,191	0.52	482
Maintenance/Repairs	90,560	0.42	389
Utilities	335,223	1.55	1439
Property Insurance	52,200	0.24	224
Property Taxes	69,600	0.32	299
Replacement Reserves	46,400	0.21	199
Other Expenses	81,084	0.37	348
Total Expenses	\$907,526	\$4.19	\$3,895

Staff Notes/Comments
Property has a HAP Contract and stated rents are below program rents.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
MULTIFAMILY FINANCE DIVISION
PREQUALIFICATION ANALYSIS**

Lafayette Chase Apartments Houston (2004-064) Priority 2

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
60% AMI	1BD/1BA	40	\$ 621	700	0.89
60% AMI	2BD/2BA	90	\$ 742	1,000	0.74
60% AMI	3BD/2BA	70	\$ 854	1,200	0.71
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
Totals		200	\$ 1,816,800	202,000	\$ 0.75
Averages			\$ 757	1,010	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 1,435,000	\$ 7,175	\$ 7.10	0.07
Off-sites	0	0	0.00	0.00
Subtotal Site Costs	\$ 1,435,000	\$ 7,175	\$ 7.10	0.07
Sitework	1,717,500	8,588	8.50	0.09
Hard Construction Costs	8,912,800	44,564	44.12	0.45
General Requirements (6%)	637,818	3,189	3.16	0.03
Contractor's Overhead (2%)	212,606	1,063	1.05	0.01
Contractor's Profit (6%)	637,818	3,189	3.16	0.03
Construction Contingency	400,000	2,000	1.98	0.02
Subtotal Construction	\$ 12,518,542	\$ 62,593	\$ 61.97	0.64
Indirect Construction	764,500	3,823	3.78	0.04
Developer's Fee	2,150,000	10,750	10.64	0.11
Financing	2,525,500	12,628	12.50	0.13
Reserves	200,000	1,000	0.99	0.01
Subtotal Other Costs	\$ 5,640,000	\$ 28,200	\$ 28	0
Total Uses	\$ 19,593,542	\$ 97,968	\$ 97.00	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 6,744,438	\$0.80	3.56%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 12,500,000	6.00%	30	\$ 899,326
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 94,534	4.4%	\$2,055,466	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 254,000	GIC Income	\$ -	
Total Sources	\$ 19,592,972			\$ 899,326

TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 6,744,438	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 12,052,784	6.00%	30	\$ 867,150
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 542,320	25.2%	\$ 1,607,680	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 254,000		\$ -	
Total Sources	\$ 19,593,542			\$ 867,150

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$1,816,800	\$8.99		
Other Income & Loss	36,000	0.18	180	
Vacancy & Collection	-7.50% (138,960)	-0.69	-695	
Effective Gross Income	\$1,713,840	8.48	8,569	
Total Operating Expenses	\$760,000	\$3.76	\$3,800	
Net Operating Income	\$953,840	\$4.72	\$4,769	
Debt Service	899,326	4.45	4,497	
Net Cash Flow	\$54,514	\$0.27	\$273	
Debt Coverage Ratio	1.06			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$54,514	\$0.27	\$273	
DCR after TDHCA Fees	1.06			
Break-even Rents/S.F.	0.68			
Break-even Occupancy	91.33%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$1,816,800	\$8.99		
Other Income & Loss	36,000	0.18	180	
Vacancy & Collection	7.50% (138,960)	-0.69	-695	
Effective Gross Income	1,713,840	8.48	8,569	
Total Operating Expenses	44.3% \$760,000	\$3.76	\$3,800	
Net Operating Income	\$953,840	\$4.72	\$4,769	
Debt Service	867,150	4.29	4,336	
Net Cash Flow	\$86,690	\$0.43	\$433	
Debt Coverage Ratio	1.10			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$86,690	\$0.43	\$433	
DCR after TDHCA Fees	1.10			
Break-even Rents/S.F.	0.67			
Break-even Occupancy	89.56%			

Applicant - Annual Operating Expenses			
		Per S.F.	Per Unit
General & Administrative Expenses	\$55,260	0.27	276
Management Fees	87,000	0.43	435
Payroll, Payroll Tax & Employee Exp.	155,000	0.77	775
Maintenance/Repairs	62,000	0.31	310
Utilities	59,000	0.29	295
Property Insurance	75,480	0.37	377
Property Taxes	175,000	0.87	875
Replacement Reserves	50,010	0.25	250
Other Expenses	41,250	0.20	206
Total Expenses	\$760,000	\$3.76	\$3,800

Staff Notes/Comments

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
MULTIFAMILY FINANCE DIVISION
PREQUALIFICATION ANALYSIS**

Alta Cullen Apartments Houston (2004-066) Priority 1C

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
60% AMI	1BD/1BA	36	\$ 589	794	0.74
60% AMI	1BD/1BA	12	\$ 589	740	0.80
60% AMI	2BD/2BA	101	\$ 706	1,034	0.68
60% AMI	3BD/2BA	7	\$ 706	1,034	0.68
60%	84	84	\$ 813	1,193	0.68
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
Totals		240	\$ 2,073,744	249,348	\$ 0.69
Averages			\$ 720	1,039	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 1,796,850	\$ 7,487	\$ 7.21	0.09
Off-sites	316,300	1,318	1.27	0.02
Subtotal Site Costs	\$ 2,113,150	\$ 8,805	\$ 8.47	0.10
Sitework	1,823,361	7,597	7.31	0.09
Hard Construction Costs	8,785,969	36,608	35.24	0.43
General Requirements (6%)	636,560	2,652	2.55	0.03
Contractor's Overhead (2%)	212,187	884	0.85	0.01
Contractor's Profit (6%)	636,560	2,652	2.55	0.03
Construction Contingency	259,200	1,080	1.04	0.01
Subtotal Construction	\$ 12,353,836	\$ 51,474	\$ 49.54	0.61
Indirect Construction	1,482,087	6,175	5.94	0.07
Developer's Fee	2,318,057	9,659	9.30	0.11
Financing	1,827,135	7,613	7.33	0.09
Reserves	143,105	596	0.57	0.01
Subtotal Other Costs	\$ 5,770,384	\$ 24,043	\$ 23	0
Total Uses	\$ 20,237,370	\$ 84,322	\$ 81.16	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 5,445,493	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 14,000,000	6.00%	30	\$1,007,245
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 1,378,971	59.5%	\$939,086	
Source IV	Proceeds	Description	Annual D/S	
Other			\$ -	
Total Sources	\$ 20,824,464			\$1,007,245

TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 5,445,493	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 13,220,995	6.00%	30	\$ 951,199
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 1,570,882	67.8%	\$ 747,175	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ -		\$ -	
Total Sources	\$ 20,237,370			\$ 951,199

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,073,744	\$8.32		
Other Income & Loss	43,200	0.17	180	
Vacancy & Collection	-7.50% (158,771)	-0.64	-662	
Effective Gross Income	\$1,958,173	7.85	8,159	
Total Operating Expenses	\$891,051	\$3.57	\$3,713	
Net Operating Income	\$1,067,122	\$4.28	\$4,446	
Debt Service	1,007,245	4.04	4,197	
Net Cash Flow	\$59,877	\$0.24	\$249	
Debt Coverage Ratio	1.06			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$59,877	\$0.24	\$249	
DCR after TDHCA Fees	1.06			
Break-even Rents/S.F.	0.63			
Break-even Occupancy	91.54%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,073,744	\$8.32		
Other Income & Loss	43,200	0.17	180	
Vacancy & Collection	7.50% (158,771)	-0.64	-662	
Effective Gross Income	\$1,958,173	7.85	8,159	
Total Operating Expenses	46.6% \$912,000	\$3.66	\$3,800	
Net Operating Income	\$1,046,173	\$4.20	\$4,359	
Debt Service	951,199	3.81	3,963	
Net Cash Flow	\$94,975	\$0.38	\$396	
Debt Coverage Ratio	1.10			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$94,975	\$0.38	\$396	
DCR after TDHCA Fees	1.10			
Break-even Rents/S.F.	0.62			
Break-even Occupancy	89.85%			

Applicant - Annual Operating Expenses			
	Per S.F.	Per Unit	
General & Administrative Expenses	61100.00	0	
Management Fees	83222.36	0	
Payroll, Payroll Tax & Employee Exp.	176000.00	0	
Maintenance/Repairs	115000.00	0	
Utilities	71000.00	0	
Property Insurance	55405.00	0	
Property Taxes	220051.00	0	
Replacement Reserves	48000.00	0	
Other Expenses	-	61272.64	0
Total Expenses	\$0	\$891,051.00	\$0

Staff Notes/Comments	
Overall budget was reduced from applicant's numbers due to the 6% 2% 6% Contractor's fee ceiling.	



WWW.TDHCA.STATE.TX.US

**REQUEST FOR BOARD APPROVAL
Multifamily Finance Production**

2005 Private Activity Bond Program – Waiting List

**4 Priority 1A Applications
0 Priority 1B Applications
1 Priority 1C Application
0 Priority 2 Applications
5 Total Applications Received**

TABLE OF EXHIBITS

TAB 1	TDHCA Board Presentation – November 12, 2004
TAB 2	Summary of Applications
TAB 3	Inducement Resolution
TAB 4	Prequalification Analysis Worksheet

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Inducement Resolution for Multifamily Revenue Bonds and Authorization for Filing Applications for Year 2005 Private Activity Bond Authority – Waiting List

Required Action

Approve Inducement Resolution to proceed with applications to the Texas Bond Review Board (the “Bond Review Board”) for possible receipt of State Volume Cap issuance authority in the 2005 Private Activity Bond Program with the intent to issue revenue bonds to finance the acquisition, construction or rehabilitation, equipping and permanent financing of the subject properties listed on the attached report. The issuance of the proposed bonds is subject to: (1) actual allocation of the State Volume Cap; (2) favorable completion of the Department’s underwriting of the property feasibility and bond structure; (3) approval of the final structure and bond documents by the Department’s Board; and, (4) possible approval by the Bond Review Board.

Attached is a report of five (5) applications for the 2005 Waiting List totaling approximately \$74 million received by the Department, on August 30, 2004, for the Year 2005 Multifamily Housing Revenue Bond Program. These applications did not meet the threshold requirements to be induced for the 2005 lottery and are recommended to be placed on the 2005 Waiting List.

Upon Board approval, the Department will submit applications for each development recommended for inducement to the Bond Review Board to participate in the issuance of private-activity volume cap to finance these properties. This memorandum is intended to provide background information on the bond program process and to summarize this Board’s action as contemplated by the Inducement Resolution. This action request item is similar to the 2004 Waiting List the Board approved in October except that this is for the 2005 program year. These applications were not induced for the lottery due to the lack of threshold documentation.

Background and Recommendations

Each year, the State of Texas is notified of the cap on the amount of private-activity, tax-exempt revenue bonds that may be issued within the state (approximately \$1.7 billion for 2005). This cap is determined based on the population of the state as estimated by the Census Bureau (\$80 per person). Of this total amount, 23% was allocated by the Texas Legislature for multifamily housing.

Eligible issuers apply to the Bond Review Board for the authority to issue private activity bonds. Each development is assigned a number on a first come first serve basis as further authority

becomes available during the year. Those issuers that receive a Reservation for private-activity volume cap for a development will have 150 days from the date of the Reservation to close the transaction. If the transaction is not closed within that 150 day timeframe, the Reservation is canceled and the next development on the waiting list receives the Reservation and likewise has 150 days from that Reservation date to close.

The Department has established a scoring system for applications and will rank the applications according to score. The scoring criteria was utilized for pre-applications being submitted for the 2005 lottery and is now being utilized again for the 2005 Waiting List applications. All applications for the 2005 Waiting List were due by October 4, 2004. Final public input that affects scoring was due by 5:00 p.m. on October 22, 2004. The Department staff will finalize the application scores by November 15, 2004. The applications will then be ranked and submitted to the Bond Review Board for placement on the waiting list.

The priority system was amended in 2003 in order to encourage the production of more affordable housing. The multifamily sub ceiling was further divided into five categories according to the affordability of the rents. Reservations would be given to projects in the highest priorities, still according to lot number, before being offered to any projects in subsequent priorities. The priority system is summarized as follows:

- Priority 1A:** 50% of the unit rents are set aside at 50% AMFI and the remaining 50% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use the 4% HTC Program
- Priority 1B:** 15% of the unit rents are set aside at 30% AMFI and the remaining 85% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use 4% HTC Program
- Priority 1C:** 100% of the unit rents are set aside at 60% AMFI, adjusted for family size, for development located in census tracts with median incomes higher than the AMFI.
Developers are required to use 4% HTC Program
- Priority 2:** 100% of the unit rents are set aside at 60% AMFI, adjusted for family size.
Developers are required to use 4% HTC Program
- Priority 3:** Tax code set aside requirements (either 20% at 50% AMFI or 40% at 60% AMFI). No rent caps are mandated (although issuers may impose).
Use of the 4% HTC Program is at the developer's option.

Of the entire multifamily sub ceiling, seventy percent (70%) was allocated to each of the thirteen (13) state service regions based on population, and was reserved only for local issuers until August 15, 2004. Twenty percent (20%) was available exclusively to TDHCA and 10% was available exclusively to Texas State Affordable Housing Corporation until August 15th of each year, to be issued for projects throughout the state.

TDHCA Application Process and Prequalification Analysis

Developers were required to submit a Pre-Application to the Department by October 4, 2004. The Pre-Application consists of the Uniform TDHCA Application with all exhibits; a copy of the earnest money contract or warranty deed; a construction time schedule and lease-up proforma; current market information including occupancy and rental comparables; and, other supporting documentation to the application.

Staff reviewed each Pre-Application for completeness and prepared a Prequalification Analysis for each property. The Prequalification Analysis focuses on the developer's construction cost assumptions, sources and uses of funds, operating proforma and debt coverage. Staff scored each application in accordance with the "Private Activity Bond Program Scoring Criteria". Market information was also reviewed to ensure that the proposed rents were reasonable and that sub-market occupancy would support the additional units.

In some instances, developers submitted multiple applications for properties in the same sub-market or Qualified Census Tract. TDHCA will only issue bonds to finance transactions as supportable by the sub-market and in accordance with the legislative requirements ensuring no violations of the one mile rule and TDHCA's concentration policy.

Summary of an Inducement Resolution

A component of the application to the Bond Review Board is an Inducement Resolution from the Issuer. The Inducement Resolution provides the Bond Review Board with evidence that an issuer has entered into discussions with the developer of a multifamily property and that the issuer has an interest in issuing bonds for the subject property. **An Inducement Resolution is not a commitment by TDHCA to issue bonds.** The issuance of bonds is subject to this Board's approval of the fully underwritten transaction, including among other items, the feasibility of the project, the structure of the bonds and loan terms, and satisfaction of the Board that the development meets all public policy criteria. The Inducement Resolution authorizes staff, Bond Counsel, and other consultants to proceed with filing an application to the Bond Review Board for an allocation of private-activity volume cap and to proceed with underwriting and document preparation which are subject to the Board's approval.

Generally, an Inducement Resolution:

1. summarizes TDHCA's legal authority to issue tax-exempt mortgage revenue bonds;
2. indicates that the developer has requested financing for a project and a willingness to enter into contractual arrangements with TDHCA regarding the property and the financing;
3. states that TDHCA expects, subject to certain conditions and findings as addressed below, to incur tax-exempt or taxable obligations (in the form of revenue bonds) for financing the project;
4. summarizes the requirement to submit an application for private-activity bonds to the Bond Review Board;
5. cites certain findings with respect to the property, the owner and the financing with regard to (a) the necessity of providing affordable housing, (b) the quality and design of housing which will be provided for the tenants, (c) the public purpose and public

- benefit provided by the financing, and (d) the legal authority under which the issuance will be made;
6. provides for an authorization of the issue subject to underwriting for financial feasibility and other conditions;
 7. states a maximum amount of bonds contemplated by the issue;
 8. states that the bonds are to be limited obligations of TDHCA payable solely from the revenues generated from the loans; and,
 9. states that the bonds are not obligations of the State of Texas.

The Inducement Resolution contains five (5) applications submitted on August 30, 2004 to be placed on the 2005 Waiting List.

Staff Recommendation

Approve Inducement Resolution as presented, excluding Malloy Meadows Apartments due to an incomplete application and threshold documentation.

Texas Department of Housing and Community Affairs

2005 Multifamily Private Activity Bond Program - Waiting List

Application #	Development Information	Units	Bond Amount	Developer Information	Comments
2005-014	Willow Creek Apartments 24200 Tomball Parkway	248	\$ 14,100,000	Mark Bower Willow Creek Apartments, L.P.	Recommend
Priority 1C Inc-\$ 70,478	City: Tomball County: Harris <i>New Construction</i>	Family	Score - 44	5430 Holly Drive, Suite 8 Corpus Christi, Texas 78411 (361) 779-1974	
2005-021	Meadow Oaks Estates 2301 S. Corinth Street	250	\$ 15,000,000	Brian Potashnik Corinth 05 Housing, L.P.	Recommend Property Tax Exemption
Priority 1A	City: Corinth County: Denton <i>New Construction</i>	Family	Score - 56	5910 N. Central Expway, Suite 1145 Dallas, Texas 75206 (214) 891-1402	
2005-022	Woodland Park Estates 1401 Apollo Road	250	\$ 15,000,000	Brian Potashnik Woodland 05 Housing, L.P.	Recommend Property Tax Exemption
Priority 1A	City: Garland County: Dallas <i>New Construction</i>	Family	Score 58	5910 N. Central Expway, Suite 1145 Dallas, Texas 75206 (214) 891-1402	
2005-023	Primrose at Frisco SE corner of Preston & CR23	250	\$ 15,000,000	Brian Potashnik TX North Frisco Housing, L.P.	Recommend Property Tax Exemption
Priority 1A	City: Frisco County: Collin <i>New Construction</i>	Senior	Score - 48	5910 N. Central Expway, Suite 1145 Dallas, Texas 75206 (214) 891-1402	
2005-026	Malloy Meadows SE corner of Malloy Bridge Road & Hwy 175	250	\$ 15,000,000	Brian Potashnik Malloy 05 Housing, L.P.	Do Not recommend Property Tax Exemption
Priority 1A	City: Seagoville County: Dallas <i>New Construction</i>	Family		5910 N. Central Expway, Suite 1145 Dallas, Texas 75206 (214) 891-1402	Incomplete application Does not meet threshold
Totals for Recommended Applications		998	\$ 59,100,000		

RESOLUTION NO. 04-92

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS WITH RESPECT TO RESIDENTIAL RENTAL PROJECTS; AUTHORIZING THE FILING OF APPLICATIONS FOR ALLOCATIONS OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

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

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by persons and families of low and very low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental project loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, it is proposed that the Department issue its revenue bonds for the purpose of providing financing for multi-family residential rental developments (each a "Project" and collectively, the "Projects") as more fully described in Exhibit "A" attached hereto. The ownership of each Project as more fully described in Exhibit "A" will consist of the ownership entity and its principals or a related person (each an "Owner" and collectively, the "Owners") within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, each Owner has made not more than 60 days prior to the date hereof, payments with respect to its respective Project and expects to make additional payments in the future and desires that it be reimbursed for such payments and other costs associated with each respective Project from the proceeds of tax-exempt and taxable obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, each Owner has indicated its willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that 100 percent of the units of its Project will be occupied at all times by eligible tenants, as determined by the Board of the Department pursuant to the Act ("Eligible Tenants"), that the other requirements of the Act and the Department will be satisfied and that its Project will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse each Owner for the costs associated with its Project listed on Exhibit "A" attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of each Owner, the Department reasonably expects to incur debt in the form of tax-exempt and taxable obligations for purposes of paying the costs of each respective Project described on Exhibit "A" attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for each Project an Application for Allocation of Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt

Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review Board's authority to administer the allocation of the authority of the state to issue private activity bonds; and

WHEREAS, the Board intends that the issuance of Bonds for any particular Project is not dependent or related to the issuance of Bonds (as defined below) for any other Project and that a separate Application shall be filed with respect to each Project; and

WHEREAS, the Board has determined to declare its intent to issue its multifamily revenue bonds for the purpose of providing funds to each Owner to finance its Project on the terms and conditions hereinafter set forth; NOW, THEREFORE,

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

Section 1--Certain Findings. The Board finds that:

- (a) each Project is necessary to provide decent, safe and sanitary housing at rentals that eligible tenants can afford;
- (b) each Owner will supply, in its Project, well-planned and well-designed housing for eligible tenants;
- (c) the financing of each Project pursuant to the provisions of the Act will constitute a public purpose and will provide a public benefit;
- (d) each owner is financially responsible; and
- (e) each Project will be undertaken within the authority conferred by the Act upon the Department and each Owner.

Section 2--Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds (the "Bonds") in amounts estimated to be sufficient to (a) fund a loan or loans to each Owner to provide financing for its Project in an aggregate principal amount not to exceed those amounts, corresponding to each respective Project, set forth in Exhibit "A"; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental project bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and state law requirements regarding tenancy in each Project; (iii) approval by the Bond Review Board, if required; (iv) approval by the Texas Attorney General; (v) satisfaction of the Board that each Project meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and state laws applicable to the issuance of such Bonds.

Section 3--Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 4--Reimbursement. The Department reasonably expects to reimburse each Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction of its Project and listed on Exhibit "A" attached hereto ("Costs of each respective Project") from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction of its Project, including reimbursing each Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in

connection with the acquisition and construction of its Project; (b) to fund any reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 5--Principal Amount. Based on representations of each Owner, the Department reasonably expects that the maximum principal amount of debt issued to reimburse each Owner for the costs of its respective Project will not exceed the amount set forth in Exhibit "A" which corresponds to its Project.

Section 6--Limited Obligations. The Owner may commence with the acquisition and construction of its Project, which Project will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement on an installment payment basis with the Department under which the Department will make a loan to the Owner for the purpose of reimbursing each Owner for the costs of its Project and each Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to each Owner to provide financing for the Owner's Project, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 7--The Project. Substantially all of the proceeds of the Bonds shall be used to finance the Projects, each of which is to be occupied entirely by Eligible Tenants, as determined by the Department, and each of which is to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 8--Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse each Owner for costs of its Project.

Section 9--Costs of Project. The Costs of each respective Project may include any cost of acquiring, constructing, reconstructing, improving, installing and expanding the Project. Without limiting the generality of the foregoing, the Costs of each respective Project shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Project, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Project, the placing of the Project in operation and that satisfy the Code and the Act. Each Owner shall be responsible for and pay any costs of its Project incurred by it prior to issuance of the Bonds and will pay all costs of its Project which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 10--No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under each Owner shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 11--No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State of Texas, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

Section 12--Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by each Owner and the Department of contractual arrangements providing assurance satisfactory to the Department that 100 percent of the units for each Project will be occupied at all times by Eligible Tenants, that all other requirements of the Act will be satisfied and that each Project will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds); (b) the receipt of an opinion from Vinson & Elkins L.L.P. or other nationally recognized bond counsel acceptable to the Department, substantially to the effect that the interest on the tax-exempt Bonds is excludable from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Texas Bond Review Board, if required, and the Attorney General of the State of Texas.

Section 13--Certain Findings. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for each Project will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

Section 14--Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of each Project's necessary review and legal documentation for the filing of an Application for the 2005 program year and the issuance of the Bonds, subject to satisfaction of the conditions specified in Section 2(i) and (ii) hereof.

Section 15--Related Persons. The Department acknowledges that financing of all or any part of each Project may be undertaken by any company or partnership that is a "related person" to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the respective Owner.

Section 16--Declaration of Official Intent. This Resolution constitutes the Department's official intent for expenditures on Costs of each respective Project which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of each respective Project may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 17--Authorization of Certain Actions. The Department hereby authorizes the filing of and directs the filing of each Application in such form presented to the Board with the Bond Review Board and each director of the Board are hereby severally authorized and directed to execute each Application on behalf of the Department and to cause the same to be filed with the Bond Review Board.

Section 18--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Section 19--Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 20--Notice of Meeting. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials in the possession of the Department relevant to the subject of this Resolution were sent to interested persons and organizations, posted on the Department's website, made available in hard-copy at the Department, and filed with the Secretary of State for publication by reference in the

Texas Register not later than seven (7) days before the meeting of the Board as required by Section 2306.032, Texas Government Code, as amended.

PASSED AND APPROVED this 12th day of November, 2004.

[SEAL]

By: _____
Chair

Attest: _____
Secretary

EXHIBIT "A"

Description of each Owner and its Project

Project Name	Owner	Principals	Amount Not to Exceed
Malloy Meadows Apartments	Malloy 05 Housing, L.P.	Malloy 05 Development, L.L.C., the General Partner, to be formed, or other entity, the Sole Member of which will be Brian Potashnik or other entity, a Member of which will be Brian Potashnik	\$15,000,000
Costs: (i) acquisition of real property approximately located at 104 South US Highway 175, Seagoville, Dallas County, Texas; and (ii) the construction thereon of an approximately 250-unit multifamily residential rental housing project, in the amount not to exceed \$15,000,000.			
Project Name	Owner	Principals	Amount Not to Exceed
Meadows Oaks Apartments	Corinth 05 Housing, L.P.	Corinth 05 Development, L.L.C., the General Partner, to be formed, or other entity, the Sole Member of which will be Brian Potashnik, or other entity, a Member of which will be Brian Potashnik	\$15,000,000
Costs: (i) acquisition of real property approximately located at 2301 S. Corinth Street, Corinth, Denton County, Texas; and (ii) the construction thereon of an approximately 250-unit multifamily residential rental housing project, in the amount not to exceed \$15,000,000.			
Project Name	Owner	Principals	Amount Not to Exceed
Primrose at Frisco Apartments	TX North Frisco Housing, L.P.	TX North Frisco Development, L.L.C., the General Partner, to be formed, or other entity, the Sole Member of which will be Brian Potashnik, or other entity, a Member of which will be Brian Potashnik	\$15,000,000
Costs: (i) acquisition of real property approximately located at the 9300 block of CR-23, at approximately the southeast corner of Preston and CR-23, Frisco, Collin County, Texas; and (ii) the construction thereon of an approximately 248-unit multifamily residential rental housing project, in the amount not to exceed \$15,000,000.			

Project Name	Owner	Principals	Amount Not to Exceed
Willow Creek Apartments	Willow Creek Apartments, LP	Willow Creek Apartments Group, L.L.C., the General Partner, to be formed, or other entity, the Sole Member of which will be Cynosure Properties, L.P., the General Partner of which will be Cynosure Partners, LLC, the Members of which will include Mark T. Bower and/or Daniel R. Sereni	\$14,100,000
Costs: (i) acquisition of real property approximately located at the 24200 block of Tomball Parkway, Tomball, Harris County, Texas; and (ii) the construction thereon of an approximately 248-unit multifamily residential rental housing project, in the amount not to exceed \$14,100,000.			
Project Name	Owner	Principals	Amount Not to Exceed
Woodland Park Estates	Woodland 05 Housing, L.P.	Woodland 05 Development, L.L.C., the General Partner, to be formed, or other entity, the Sole Member of which will be Brian Potashnik, or other entity, a Member of which will be Brian Potashnik	\$15,000,000
Costs: (i) acquisition of real property approximately located at 1401 Apollo Road, Garland, Dallas County, Texas; and (ii) the construction thereon of an approximately 250-unit multifamily residential rental housing project, in the amount not to exceed \$15,000,000.			

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
MULTIFAMILY FINANCE DIVISION
PREQUALIFICATION ANALYSIS**

Willow Creek Apartments, Tomball (2005-014) Priority 1C

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
60% AMI	1BD/1BA	48	\$ 589	675	0.87
60% AMI	2BD/1BA	96	\$ 706	929	0.76
60% AMI	2BD/2BA	32	\$ 706	962	0.73
60% AMI	3BD/2BA	72	\$ 813	1,100	0.74
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
Totals		248	\$ 2,126,112	231,568	\$ 0.77
Averages			\$ 714	934	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 2,697,344	\$ 10,876	\$ 11.65	0.13
Off-sites	0	0	0.00	0.00
Subtotal Site Costs	\$ 2,697,344	\$ 10,876	\$ 11.65	0.13
Sitework	1,282,000	5,169	5.54	0.06
Hard Construction Costs	9,456,000	38,129	40.83	0.47
General Requirements (6%)	626,000	2,524	2.70	0.03
Contractor's Overhead (2%)	209,000	843	0.90	0.01
Contractor's Profit (6%)	626,000	2,524	2.70	0.03
Construction Contingency	602,000	2,427	2.60	0.03
Subtotal Construction	\$ 12,801,000	\$ 51,617	\$ 55.28	0.64
Indirect Construction	554,768	2,237	2.40	0.03
Developer's Fee	2,116,000	8,532	9.14	0.11
Financing	1,749,500	7,054	7.56	0.09
Reserves	138,000	556	0.60	0.01
Subtotal Other Costs	\$ 4,558,268	\$ 18,380	\$ 20	0
Total Uses	\$ 20,056,612	\$ 80,873	\$ 86.61	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 4,771,844	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 14,100,000	6.00%	30	\$1,014,439
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 1,184,668	56.0%	\$931,332	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ -		\$ -	
Total Sources	\$ 20,056,512			\$1,014,439

TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 4,771,844	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 14,395,463	6.00%	30	\$ 1,035,697
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 889,305	42.0%	\$ 1,226,695	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ -		\$ -	
Total Sources	\$ 20,056,612			\$ 1,035,697

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,126,112	\$9.18		
Other Income & Loss	44,640	0.19	180	
Vacancy & Collection	-7.50% (162,804)	-0.70	-656	
Effective Gross Income	<u>\$2,007,948</u>	<u>8.67</u>	<u>8,097</u>	
Total Operating Expenses	<u>\$868,420</u>	<u>\$3.75</u>	<u>\$3,502</u>	
Net Operating Income	\$1,139,528	\$4.92	\$4,595	
Debt Service	1,014,439	4.38	4,090	
Net Cash Flow	<u>\$125,089</u>	<u>\$0.54</u>	<u>\$504</u>	
Debt Coverage Ratio	<u>1.12</u>			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	<u>\$125,089</u>	<u>\$0.54</u>	<u>\$504</u>	
DCR after TDHCA Fees	<u>1.12</u>			
Break-even Rents/S.F.	0.68			
Break-even Occupancy	88.56%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,126,112	\$9.18		
Other Income & Loss	44,640	0.19	180	
Vacancy & Collection	7.50% (162,806)	-0.70	-656	
Effective Gross Income	<u>2,007,946</u>	<u>8.67</u>	<u>8,097</u>	
Total Operating Expenses	43.2% <u>\$868,420</u>	<u>\$3.75</u>	<u>\$3,502</u>	
Net Operating Income	\$1,139,526	\$4.92	\$4,595	
Debt Service	1,035,697	4.47	4,176	
Net Cash Flow	<u>\$103,829</u>	<u>\$0.45</u>	<u>\$419</u>	
Debt Coverage Ratio	<u>1.10</u>			
TDHCA/TSAHC Fees	\$27,032	\$0.12	\$109	
Net Cash Flow	<u>\$76,797</u>	<u>\$0.33</u>	<u>\$310</u>	
DCR after TDHCA Fees	<u>1.07</u>			
Break-even Rents/S.F.	0.69			
Break-even Occupancy	90.83%			

Applicant - Annual Operating Expenses			
		Per S.F.	Per Unit
General & Administrative Expenses	\$85,311	0.37	344
Management Fees	99,677	0.43	402
Payroll, Payroll Tax & Employee Exp.	233,266	1.01	941
Maintenance/Repairs	75,070	0.32	303
Utilities	41,400	0.18	167
Property Insurance	62,496	0.27	252
Property Taxes	218,000	0.94	879
Replacement Reserves	49,600	0.21	200
Other Expenses	3,600	0.02	15
Total Expenses	<u>\$868,420</u>	<u>\$3.75</u>	<u>\$3,502</u>

Staff Notes/Comments
Operating expenses did not reflect tenant services that applicant states will spend \$20,832 annually and compliance fees of \$6,200

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
MULTIFAMILY FINANCE DIVISION
PREQUALIFICATION ANALYSIS**

Meadow Oaks Estates, Corinth (2005-021) Priority 1A

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
50% AMI	1BD/1BA	26	\$ 567	750	0.76
60% AMI	1BD/1BA	26	\$ 692	750	0.92
50% AMI	2BD/2BA	56	\$ 682	950	0.72
60% AMI	2BD/2BA	56	\$ 831	950	0.87
50% AMI	3BD/2BA	43	\$ 782	1,100	0.71
60% AMI	3BD/2BA	43	\$ 955	1,100	0.87
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
Totals		250	\$ 2,305,836	240,000	\$ 0.80
Averages			\$ 769	960	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 1,500,000	\$ 6,000	\$ 6.25	0.06
Off-sites	0	0	0.00	0.00
Subtotal Site Costs	\$ 1,500,000	\$ 6,000	\$ 6.25	0.06
Sitework	1,873,750	7,495	7.81	0.08
Hard Construction Costs	10,426,000	41,704	43.44	0.45
General Requirements (6%)	737,985	2,952	3.07	0.03
Contractor's Overhead (2%)	245,995	984	1.02	0.01
Contractor's Profit (6%)	737,985	2,952	3.07	0.03
Construction Contingency	614,988	2,460	2.56	0.03
Subtotal Construction	\$ 14,636,703	\$ 58,547	\$ 60.99	0.63
Indirect Construction	1,299,900	5,200	5.42	0.06
Developer's Fee	2,763,165	11,053	11.51	0.12
Financing	3,069,582	12,278	12.79	0.13
Reserves	0	0	0.00	0.00
Subtotal Other Costs	\$ 7,132,647	\$ 28,531	\$ 30	0
Total Uses	\$ 23,269,350	\$ 93,077	\$ 96.96	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 6,016,332	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 15,400,000	6.00%	30	\$ 1,107,969
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 1,703,712	61.7%	\$1,059,453	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 184,306		\$ -	
Total Sources	\$ 23,304,350		\$ 1,107,969	

TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 6,016,332	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 15,400,000	6.00%	30	\$ 1,107,969
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 1,668,712	60.4%	\$ 1,094,453	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 184,306		\$ -	
Total Sources	\$ 23,269,350		\$ 1,107,969	

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,305,836	\$9.61		
Other Income & Loss	45,000	0.19	180	
Vacancy & Collection	-7.50% (176,313)	-0.73	-705	
Effective Gross Income	\$2,174,523	9.06	8,698	
Total Operating Expenses	\$949,991	\$3.96	\$3,800	
Net Operating Income	\$1,224,532	\$5.10	\$4,898	
Debt Service	1,107,969	4.62	4,432	
Net Cash Flow	\$116,563	\$0.49	\$466	
Debt Coverage Ratio	1.11			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$116,563	\$0.49	\$466	
DCR after TDHCA Fees	1.11			
Break-even Rents/S.F.	0.71			
Break-even Occupancy	89.25%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,305,836	\$9.61		
Other Income & Loss	45,000	0.19	180	
Vacancy & Collection	7.50% (176,313)	-0.73	-705	
Effective Gross Income	2,174,523	9.06	8,698	
Total Operating Expenses	43.7% \$950,000	\$3.96	\$3,800	
Net Operating Income	\$1,224,523	\$5.10	\$4,898	
Debt Service	1,107,969	4.62	4,432	
Net Cash Flow	\$116,554	\$0.49	\$466	
Debt Coverage Ratio	1.11			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$116,554	\$0.49	\$466	
DCR after TDHCA Fees	1.11			
Break-even Rents/S.F.	0.71			
Break-even Occupancy	89.25%			

Applicant - Annual Operating Expenses			
		Per S.F.	Per Unit
General & Administrative Expenses	\$50,850	0.21	203
Management Fees	109,298	0.46	437
Payroll, Payroll Tax & Employee Exp.	174,353	0.73	697
Maintenance/Repairs	100,490	0.42	402
Utilities	127,750	0.53	511
Property Insurance	56,250	0.23	225
Property Taxes	234,750	0.98	939
Replacement Reserves	50,000	0.21	200
Other Expenses	46,250	0.19	185
Total Expenses	\$949,991	\$3.96	\$3,800

Staff Notes/Comments
The Applicant will be seeking a property tax exemption.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
MULTIFAMILY FINANCE DIVISION
PREQUALIFICATION ANALYSIS**

Woodland Park Estates, Garland (2005-022) Priority 1A

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
50% AMI	1BD/1BA	26	\$ 567	750	0.76
60% AMI	1BD/1BA	26	\$ 692	750	0.92
50% AMI	2BD/2BA	56	\$ 682	950	0.72
60% AMI	2BD/2BA	56	\$ 831	950	0.87
50% AMI	3BD/2BA	43	\$ 782	1,100	0.71
60% AMI	3BD/2BA	43	\$ 955	1,100	0.87
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
Totals		250	\$ 2,305,836	240,000	\$ 0.80
Averages			\$ 769	960	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 1,710,000	\$ 6,840	\$ 7.13	0.07
Off-sites	0	0	0.00	0.00
Subtotal Site Costs	\$ 1,710,000	\$ 6,840	\$ 7.13	0.07
Sitework	1,873,750	7,495	7.81	0.08
Hard Construction Costs	10,426,200	41,705	43.44	0.44
General Requirements (6%)	737,997	2,952	3.07	0.03
Contractor's Overhead (2%)	245,999	984	1.02	0.01
Contractor's Profit (6%)	737,997	2,952	3.07	0.03
Construction Contingency	614,998	2,460	2.56	0.03
Subtotal Construction	\$ 14,636,941	\$ 58,548	\$ 60.99	0.62
Indirect Construction	1,299,900	5,200	5.42	0.06
Developer's Fee	2,763,201	11,053	11.51	0.12
Financing	3,069,582	12,278	12.79	0.13
Reserves	0	0	0.00	0.00
Subtotal Other Costs	\$ 7,132,683	\$ 28,531	\$ 30	0
Total Uses	\$ 23,479,624	\$ 93,918	\$ 97.83	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 6,016,410	\$0.00	0.00%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 15,400,000	6.00%	30	\$ 1,107,969
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 1,883,723	68.2%	\$ 879,478	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 179,491	GIC Income	\$ -	
Total Sources	\$ 23,479,624			\$ 1,107,969

TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 6,016,410	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 15,400,000	6.00%	30	\$ 1,107,969
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 1,883,723	68.2%	\$ 879,478	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ 179,491		\$ -	
Total Sources	\$ 23,479,624			\$ 1,107,969

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,305,836	\$9.61		
Other Income & Loss	45,000	0.19	180	
Vacancy & Collection	-7.50% (176,313)	-0.73	-705	
Effective Gross Income	\$2,174,523	9.06	8,698	
Total Operating Expenses	\$949,991	\$3.96	\$3,800	
Net Operating Income	\$1,224,532	\$5.10	\$4,898	
Debt Service	1,107,969	4.62	4,432	
Net Cash Flow	\$116,563	\$0.49	\$466	
Debt Coverage Ratio	1.11			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$116,563	\$0.49	\$466	
DCR after TDHCA Fees	1.11			
Break-even Rents/S.F.	0.71			
Break-even Occupancy	89.25%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,305,836	\$9.61		
Other Income & Loss	45,000	0.19	180	
Vacancy & Collection	7.50% (176,313)	-0.73	-705	
Effective Gross Income	2,174,523	9.06	8,698	
Total Operating Expenses	43.7% \$950,000	\$3.96	\$3,800	
Net Operating Income	\$1,224,523	\$5.10	\$4,898	
Debt Service	1,107,969	4.62	4,432	
Net Cash Flow	\$116,554	\$0.49	\$466	
Debt Coverage Ratio	1.11			
TDHCA/TSAHC Fees	\$0.00	\$0		
Net Cash Flow	\$116,554	\$0.49	\$466	
DCR after TDHCA Fees	1.11			
Break-even Rents/S.F.	0.71			
Break-even Occupancy	89.25%			

Applicant - Annual Operating Expenses			
		Per S.F.	Per Unit
General & Administrative Expenses	\$50,850	0.21	203
Management Fees	109,298	0.46	437
Payroll, Payroll Tax & Employee Exp.	174,353	0.73	697
Maintenance/Repairs	100,490	0.42	402
Utilities	127,750	0.53	511
Property Insurance	56,250	0.23	225
Property Taxes	234,750	0.98	939
Replacement Reserves	50,000	0.21	200
Other Expenses	46,250	0.19	185
Total Expenses	\$949,991	\$3.96	\$3,800

Staff Notes/Comments
The Applicant will be seeking a property tax exemption.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Request for waiver of specific 2004 QAP requirement for acquisition/rehabilitation developments involving HUD or TX-USDA-RHS.

Requested Action

Consider and approve waiver of §50.14(a)(1) of the 2004 QAP regarding the purchase of the development by the Carryover deadline for acquisition/rehabilitation developments involving HUD or TX-USDA-RHS.

Background and Recommendations

Section 50.14(a)(1) of the 2004 QAP requires the Development Owner to purchase the property for the Development by the deadline to submit the Carryover Allocation documentation. For developments involving acquisition/rehabilitation, this deadline is December 1, 2004. The QAP also states that extensions beyond this date will not be allowed.

Several development owners have determined that closing on the property by December 1, 2004 will not be possible because they are waiting on HUD or TX-USDA-RHS to approve transfers. Attached is a list of owners that have expressed interest in this waiver. This list may not be comprehensive; however, this rule waiver will only apply to developments that are waiting on HUD or TX-USDA-RHS to approve the transfer of the property or housing assistance contracts.

The requirement to purchase the property by the end of the calendar year is no longer a federal requirement. All carryover allocation documents will be executed by December 31, 2004. The extension would only apply to the requirement to close on the property. If the rule is waived, the Department will require that the evidence of acquisition be provided when the documentation of the owner having closed the construction loan is submitted, consistent with the deadline stated in the owner's Commitment Notice. It should be noted that this section is already proposed for revision in the 2005 QAP to prevent the recurrence of this difficulty.

Consistent with §50.23(a) of the 2004 QAP, **“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.”** Based on the applicant's reliance on HUD or TX-USDA-RHS to acquire the property, staff recommends that a waiver of the requirement at §50.14(a)(1) of the 2004 QAP be made for all acquisition/rehabilitation developments involving HUD or TX-USDA-RHS.

Developments Requesting Waiver:

Number	Name	Contact	Reason
04279	Golden Manor Apartments	Jim Fieser	Waiting on USDA transfer approval.
04283	Shady Oaks Townhomes	Jim Fieser	Waiting on USDA transfer approval.
04284	Katy Manor Apartment	Jim Fieser	Waiting on USDA transfer approval.
04285	Ole Town Apartments	Jim Fieser	Waiting on USDA transfer approval.
04292	West Side Place Apartments	Jim Fieser	Waiting on USDA transfer approval.
04074	Las Palmas Garden Apartments	David Marquez	Waiting on HUD transfer approval.
04290	L.U.L.A.C. Village Park	David Marquez	Waiting on HUD transfer approval.
04101	Pleasant Hill Apartments	Paul Patierno	Waiting on HUD transfer approval.
04107	Whitefield Place Apartments	Paul Patierno	Waiting on HUD transfer approval.
04108	Tamarac Pines Apartments	Paul Patierno	Waiting on HUD transfer approval.
04105	Preston Trace Apartments	Dan Allgeier	Waiting on USDA transfer approval.
04291	Saltgrass Landing Apartments	James Brawner	Waiting on USDA transfer approval.
04293	Lantana Ridge Apartments South	James Brawner	Waiting on USDA transfer approval.
04294	Lantana Ridge Apartments	James Brawner	Waiting on USDA transfer approval.

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
July 28, 2004

Action Item

Appeal regarding termination of 2004 Housing Tax Credit (HTC) Application.

Requested Action

Decide the appeal.

Background and Recommendations

I. Las Palmas Apartments, TDHCA # 04074

The Department terminated the San Antonio Application on October 6, 2004 due to violation of the Department's Environmental Site Assessment (ESA) Rules and Guidelines which, at 10 TAC §1.35(a), state that "the environmental site assessment shall be conducted by a Third Party environmental professional..." The ESA provided with the application was prepared and signed on January 28, 2004 by George Ozuna, Jr.. Mr. Ozuna also signed the application for tax credits as a representative with the authority to execute documents on the applicant's behalf. In addition, Mr. Ozuna was listed as the President of the non-profit managing general partner in control of the applicant. Thus, Mr. Ozuna clearly was not a Third Party, as is required.

Despite the merits of the Development itself, this is a clear violation of the Department's rules. A Third Party ESA provider is required to ensure the independence of the ESA findings which are relied upon by the Department to be unbiased in fact as well as perception.

The Applicant submitted an appeal to the Executive Director on October 12, 2004, referring to three positions to rebut staff's determination to terminate the application. These considerations are summarized as follows: Mr. Ozuna, the president of the general partner of the applicant (Urban Progress Corporation) receives no compensation for board duties from Urban Progress Corporation; Mr. Ozuna is not on the same errors and omissions policy as OBC engineers, the firm under whose name Mr. Ozuna prepared the ESA; and the ESA provider will only receive a fee for professional services in preparing the report. The Appeal also stated that there is no requirement that the ESA be prepared by a third party.

On October 25, 2004, the Executive Director responded to the appeal stating that the requirement for a Third Party ESA report is clearly stated in the Department's Environmental Site Assessment Rules and Guidelines at 10 TAC §1.35(a). Further, the 2004 QAP states that the ESA must be prepared in accordance with the Department's Environmental Site Assessment Rules and Guidelines. Mr. Ozuna signed the ESA as its author and also signed the tax credit application as a representative of the Applicant with the authority to execute documents on the

Applicant's behalf. Thus, clearly Mr. Ozuna is not a Third Party, as the rules require. The positions that Mr. Ozuna receives no remuneration for his board activities and has a separate errors and omissions policy from the engineering firm on whose letterhead the ESA were presented do not establish that the ESA was prepared by a Third Party. That the person preparing the ESA will only receive a fee for professional services for preparing the report also did not establish the required Third Party status.

It should be noted that there is no issue that the housing is needed; however, the Applicant did not follow the Department's rules. The Department must be able to rely on an impartial, third party ESA.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Texas Las Palmas Housing, L.P.
Site Location:	1014 S. San Eduardo
City/County:	San Antonio/Bexar
Regional Allocation Category:	Urban/Exurban
Set-Aside:	At-Risk/ Non-Profit
Population Served:	Family
Region:	9
Type of Development:	Rehabilitation
Units:	100
Credits Requested:	\$639,786

Staff Recommendation: The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal of the termination.

Appeal to the Board

November 1, 2004

Elizabeth Anderson, Chairman
Board of Directors
Texas Department of Housing and Community Affairs
507 Sabine, Suite 400
Austin, Texas

via fax 512-472-8526

RECEIVED
NOV 2 2004
EXECUTIVE

RE: Las Palmas Garden Apartments, TDHCA #04074

Dear Board Members:

Urban Progress Corporation is respectfully filing an appeal for the above mentioned application with the Board of Directors for the Texas Department of Housing and Community Affairs after receiving a letter from Ms. Edwina P. Carrington, Executive Director, on October 25, 2004, denying the appeal.

The appeal to the disqualification of the Las Palmas Garden Apartments application is based on the problem with the president signing for the non-profit and also signing the Environmental Assessment. The president is not an owner or employee of OBC Engineers, and the signature page has been corrected, so we view this as an *administrative issue*.

Next, the time, energy and money spent, which will now be through November 12, so that the residents of this *40 year old "At-Risk"* development could come and express their needs to the TDHCA Board. They along with representatives from Congressman Gonzales' office and other elected officials, attended several Public Hearings and TDHCA Board meetings to explain their reasons for wanting the basics of living, Central Air Conditioning and Heat, energy efficient appliance with ceiling fans, carpet to cut down on the noise, a leasing and amenity facility so that their children could use the computers, receive tutoring and be involved in other educational and social activities. At this time, this 100 unit multifamily community has no facility to gather, they have only the laundry and the lawn.

Furthermore, you would be turning down 100 families that like where they live and like that their children are doing well in the schools. They feel that their families would thrive if their apartments and the complex itself could be updated to meet the standards of today's quality and efficient construction.

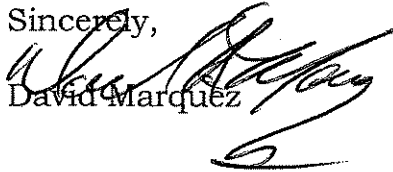
We will conclude by saying the 3rd Party rule applies to individuals that wish to circumvent the tax credit program. This is clearly not the case.

George Ozuna volunteers on the Urban Progress board and has never received payment for the Environmental Assessment. This individual has dedicated his life to the citizens of San Antonio for over 40 years and even has a library named after him.

We understand that having the ability to appeal gives the board the opportunity to correct any administrative error that has been made regulatory and not legislatively. We are in fact asking the board to make an exception, but it is not an exception for the 3rd party rule, it is the exception for the 100 families that are affected by your decision.

If you have any questions, please do not hesitate to contact me at 210-216-5611.

Sincerely,

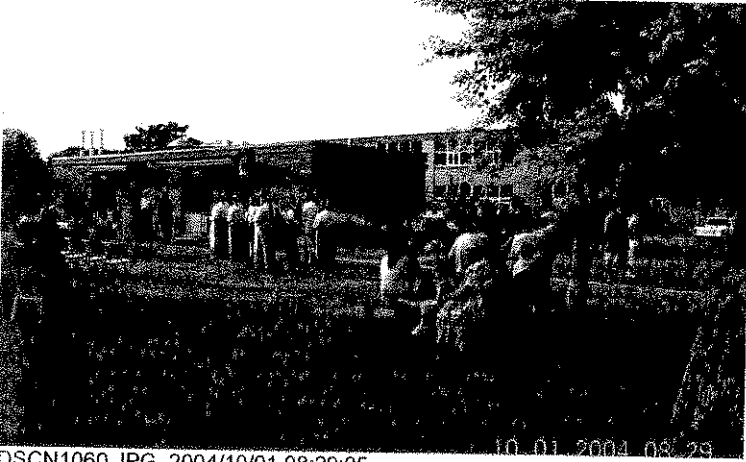

David Marquez



DSCN1057.JPG 2004/10/01 08:27:26



DSCN1059.JPG 2004/10/01 08:28:53



DSCN1060.JPG 2004/10/01 08:29:05



DSCN1062.JPG 2004/10/01 08:31:48



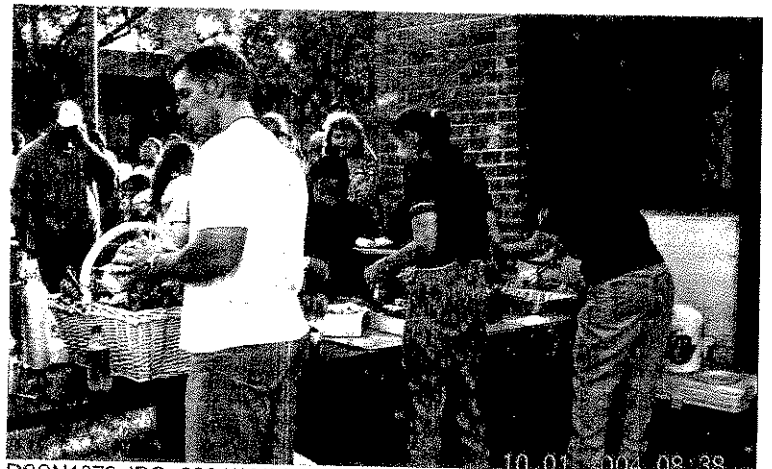
DSCN1063.JPG 2004/10/01 08:34:18



DSCN1066.JPG 2004/10/01 08:35:07



DSCN1072.JPG 2004/10/01 08:37:16



DSCN1073.JPG 2004/10/01 08:38:42

Las Palmas Garden Apartments # 04074
Tax Credit Award Celebration



DSCN1074.JPG 2004/10/01 08:40:42



DSCN1077.JPG 2004/10/01 08:44:39



DSCN1079.JPG 2004/10/01 08:45:14



DSCN1080.JPG 2004/10/01 08:51:35



DSCN1081.JPG 2004/10/01 08:51:41

Las Palmas Garden Apartments # 04074
Tax Credit Award Celebration
October 1, 2004

Executive Director's Response



WWW.TDHCA.STATE.TX.US

October 25, 2004

RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
D. Kent Conine
Lidia Gonzalez
Patrick R. Gordon
Norberto Salinas

David Marquez
Texas Las Palmas Housing, L.P.
310 S. Frio, Suite 156
San Antonio, TX 78207
Telephone: (210) 601-9360
Telecopier: (210) 224-1972

Re: Las Palmas Garden Apartments, TDHCA# 04074

Dear Mr. Marquez:

On October 12, 2004, you submitted an appeal of the termination of the Housing Tax Credit Application for the above-referenced development. In your appeal you refer to three positions to rebut staff's determination to terminate the application. These considerations are summarized as follows: Mr. Ozuna, the president of the general partner of applicant (Urban Progress Corporation) receives no compensation for board duties from Urban Progress Corporation; Mr. Ozuna is not on the same errors and omissions policy as OBC engineers, the firm under whose name Mr. Ozuna prepared the ESA; and the ESA provider will only receive a fee for professional services in preparing the report. You also state that there is no requirement that the ESA be prepared by a third party.

The requirement for a Third Party ESA report is clearly stated in the Department's Environmental Site Assessment Rules and Guidelines at 10 TAC §1.35(a). Further, the 2004 QAP states that the ESA must be prepared in accordance with the Department's Environmental Site Assessment Rules and Guidelines. Mr. Ozuna signed the ESA as its author and also signed the tax credit application as a representative of the Applicant with the authority to execute documents on the Applicant's behalf. Thus, clearly Mr. Ozuna is not a Third Party, as the rules require. Your positions that Mr. Ozuna receives no remuneration for his board activities and has a separate errors and omissions policy from the engineering firm on whose letterhead the ESA was presented;

does not establish that the ESA was prepared by a Third Party. That the person preparing the ESA will only receive a fee for professional services for preparing the report also does not establish the required Third Party status.

For the reasons set forth above your appeal is denied.

Section 50.18(b)(4) of the 2004 QAP states that if you are not satisfied with this response to your appeal, you may appeal directly in writing to the Board of the Texas Department of Housing and Community Affairs. If you wish to appeal, the appeal must be received by Delores Groneck, Board Secretary no later than 5:00 p.m., Thursday, November 4, 2004; however, you are strongly encouraged to file your appeal by 5:00 p.m. Monday, November 1, 2004.

If you have questions or comments, please call (512) 475-3340.

Sincerely,



Edwina P. Carrington
Executive Director

EPC/JLJ/MFMU

Appeal to Executive Director

URBAN PROGRESS CORPORATION
D/B/A LAS PALMAS GARDEN APARTMENTS
1014 S. SAN EDUARDO
SAN ANTONIO, TEXAS 78237

October 12, 2004

Ms. Brooke Boston, Director of Multifamily Finance Production
Texas Department of Housing and Community Affairs
507 Sabine Street, Suite 700
Austin, TX 78711-3941

RE: Las Palmas Garden Apartments, TDHCA # 04074

Dear Ms. Boston:

This letter is to appeal the termination of TDHCA application # 04074, Las Palmas Garden Apartments. The Phase 1 Environmental was turned in on March 1, 2004 with the application. We feel at this time that we would have been able to correct what you have now determined to be a deficiency, and submitted a new Phase 1 Environmental. Several Residents and a representative from Congressman Gonzalez' office willingly attended the meetings and expressed their support. If the application was to be terminated, it should have been done before the expense was made, not only monetary but of time.

We are appealing this termination on 3 positions.

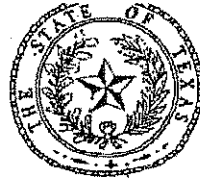
- 1) Mr. Ozuna is the President of Urban Progress Corporation, a Texas Non-Profit. The Board members receive no remuneration from the non-profit. As stated in the Non-Profits Articles of Incorporation, no Member or Director shall receive compensation at any time from the operation of the Corporation. (See attached).
- 2) Mr. Ozuna is not on the same policy, Errors and Omissions, as OBC Engineers.
- 3) As per the Environmental Site Assessment Rules and Guidelines, Mr. Ozuna states that the person or company preparing the ESA will only receive a fee for professional services rendered in preparing the report.

As per the 2004 QAP, Section 50.9 (f)(14) there is no indication that the Phase 1 Environmental Site Assessment is to be prepared by third party. I ask that you reconsider the termination and allow us to move forward with this rehabilitation.

Sincerely


David Marquez
Development Partner

Cc: Robert Onion, Manager of MF Awards and Allocation
George Ozuna, Jr., President



The State of Texas
Secretary of State

CERTIFICATE OF RESTATED ARTICLES
OF INCORPORATION

OF

URBAN PROGRESS CORPORATION
CHARTER NUMBER 00201109

THE UNDERSIGNED, AS SECRETARY OF STATE OF THE STATE OF TEXAS,
HEREBY CERTIFIES THAT RESTATED ARTICLES OF INCORPORATION OF THE ABOVE
CORPORATION ONLY SIGNED AND VERIFIED PURSUANT TO THE PROVISIONS OF THE
TEXAS NON-PROFIT CORPORATION ACT, HAVE BEEN RECEIVED IN THIS OFFICE AND
ARE FOUND TO CONFORM TO LAW.

ACCORDINGLY THE UNDERSIGNED, AS SUCH SECRETARY OF STATE, AND BY
VIRTUE OF THE AUTHORITY VESTED IN THE SECRETARY BY LAW, HEREBY ISSUES
THIS CERTIFICATE OF RESTATED ARTICLES OF INCORPORATION AND ATTACHES
HERETO A COPY OF THE RESTATED ARTICLES OF INCORPORATION.

DATED APR. 6, 1962



John Hannah Jr
Secretary of State

FILED
In the Office of the
Secretary of State of Texas
APR 08 1992
Corporations Section

RESTATED ARTICLES OF INCORPORATION
OF
URBAN PROGRESS CORPORATION

ARTICLE ONE

Urban Progress Corporation (the "Corporation"), pursuant to the provisions of Article 4.06 of the Texas Non-Profit Corporation Act, hereby adopts Restated Articles of Incorporation of the Corporation which accurately copy the Articles of Incorporation and all amendments thereto that are in effect to date and as further amended by such Restated Articles of Incorporation as hereinafter set forth and which contain no other change in any provision thereof.

ARTICLE TWO

The Articles of Incorporation of the Corporation are amended by the Restated Articles of Incorporation as follows:

1. This amendment is an addition to Article Four of the original and amended Articles of Incorporation, such addition reading in full as follows: "(6) To provide assistance to low and moderate income families with the supply of decent, safe, sanitary and affordable housing, including not by way of limitation, counseling, acquisition, land development, new construction, reconstruction, rehabilitation, site improvement, conversion, demolition, relocation and rental assistance activities." There being no members of the Corporation, this amendment was adopted at a meeting of the Board of Directors on April 8, 1992 by a majority vote of the directors in office.
2. This amendment changes Article Five of the original and amended Articles of Incorporation and the full text of the Article as altered is as follows: "The street address of the registered office of the Corporation is 100 Convent, Suite 2100, San Antonio, Bexar County, Texas and the name of the registered agent at such address is Robert S. Glass." There being no members of the Corporation, this amendment was adopted at a meeting of the Board

any other corporation shall, in the absence of fraud, in any way be invalidated or otherwise affected by the fact that any one or more of the directors of the corporation are pecuniarily or otherwise interested in, or are directors or officers of, such other corporation.

(1) Any director of the corporation may vote upon any contract or other transaction between the corporation and any subsidiary or affiliated corporation without regard to the fact that he/she is also a director of such subsidiary or affiliated corporation.

(2) Any director of the corporation individually, or any firm or association of which any director may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the corporation, provided that the fact that he/she individually or as a member of such firm or association is such a party or so interested shall be disclosed or shall have been known to the Board of Directors or a majority of such members thereof as shall be present at any meeting of the Board of Directors at which action upon any such contract or transaction shall be taken.

(3) In any case described in this article, any such director may be counted in determining the existence of a quorum at any meeting of the Board of Directors which shall authorize any such contract or transaction and may vote at any such meeting to authorize any such contract."

There being no members of the Corporation, this amendment was adopted at a meeting of the Board of Directors on April 8, 1992 by a majority vote of the directors in office.

ARTICLE THREE

Each such amendment made by the Restated Articles of Incorporation has been effected in conformity with the provisions of the Texas Non-Profit Corporation Act and such Restated Articles of Incorporation and, there being no members, each such amendment made by the Restated Articles of Incorporation was duly adopted on April 8, 1992 by a majority of the directors in office.

ARTICLE FOUR

The Articles of Incorporation and all amendments and supplements thereto are hereby superseded by the following Restated Articles of Incorporation which accurately copy the entire text thereof and as amended as above set forth:

RESTATED ARTICLES OF AMENDMENT
OF THE
URBAN PROGRESS CORPORATION

We, the undersigned natural persons, all of whom are citizens of the state of Texas and are of the age of twenty-one years or more, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE ONE

The name of the corporation is URBAN PROGRESS CORPORATION.

ARTICLE TWO

The corporation is a non-profit corporation.

ARTICLE THREE

The period of its duration is perpetual.

ARTICLE FOUR

The purposes for which the corporation is organized are as follows:

(1) To provide housing and related facilities and services, on a non-profit basis, for persons of low or moderate incomes, or for persons who have been displaced from Urban Renewal Project areas within the City of San Antonio, Bexar County, Texas;

(2) To plan, construct, operate, maintain and improve such housing and related facilities for such persons described in (1) just above;

(3) To acquire, by gift or purchase, and to hold, own, sell, convey, assign, mortgage or lease, any real or personal property necessary or incident to the carrying out the purposes for which this corporation is organized;

(4) To apply for, obtain and contract with any agency of the United States Government for a direct loan or loans, or for other financial aid, in the form of mortgage insurance or

otherwise, in order to provide housing and related facilities for the persons described in (1) above;

(5) To do and perform all acts reasonably necessary to accomplish the purposes of the corporation, including the execution of a Regulatory Agreement with the Federal Housing Commissioner and of such other instruments and undertakings as may be necessary to enable the corporation to secure the benefits of financing with the assistance of mortgage insurance under the provisions of the National Housing Act. Such regulatory Agreement and other instrument and undertakings shall remain binding upon the corporation, its successors and assigns, so long as a mortgage on the corporation's property is insured or held by the Federal Housing Commissioner; and

(6) To provide assistance to low and moderate income families with the supply of decent, safe, sanitary and affordable housing, including not by way of limitation, counseling, acquisition, land development, new construction, reconstruction, rehabilitation, site improvement, conversion, demolition, relocation and rental assistance activities.

ARTICLE FIVE

The street address of the registered office of the corporation is 300 Convent, Suite 2300, San Antonio, Bexar County, Texas and the name of the registered agent at such address is Robert S. Glass.

ARTICLE SIX

The number of directors constituting the Board of Directors of the corporation is seven (7), and the names and addresses of the persons who are serving as directors on the date of these Restated Articles of Incorporation:

NAME	Address
John R. Winfield	926 Utopia Lane San Antonio, Texas 78223
Norris McVea	1711 Burnet St. San Antonio, Texas 78202
Chris Madrid, Jr.	3919 Fawnridge San Antonio, Texas 78229

Marcia Welch	126 Morningview Dr. San Antonio, Texas 78220
Tommy Adkisson	128 Golden Crown San Antonio, Texas 78223
Sr. Lynn Stewart	3806 Oaktrail San Antonio, Texas 78228
Mr. David Garza	404 Remolino San Antonio, Texas 78237

ARTICLE SEVEN

The name and street address of each incorporator is as stated in the original Articles of Incorporation.

ARTICLE EIGHT

A. No member, director, officer, or employee of, or member of a committee of, or person connection with, the corporation, or any other private individual, shall receive at any time any of the net earnings or pecuniary profit from the operations of this corporation; provided, however, that this shall not prevent the payment to any such person of such reasonable compensation for services rendered to or for the corporation in effecting any of its purposes, as shall be fixed by the Board of Directors; and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon dissolution of this corporation.

B. In the event of a dissolution of this corporation, the provisions of the Texas Non-Profit Corporation Act shall apply; provided, however, that upon dissolution, the assets of this corporation shall be distributed to another similar non-profit corporation or to a local, the state, or federal government and in no event shall any of such assets be distributed to any of the directors, officers or employees of this corporation.

ARTICLE NINE

The corporation will be governed by a Board of Directors composed of seven members. To be qualified to serve as one of the seven directors, a person must be a resident of the City of San Antonio, Texas.

ARTICLE TEN

The corporation shall not have members.

ARTICLE ELEVEN

A. Limitation on Director Liability. The corporation hereby provides that a director is not liable to the corporation for monetary damages for an act or omission in the director's capacity as a director, except that this section does not eliminate or limit the liability of a director for:

- (1) a breach of a director's duty of loyalty to the corporation;
- (2) an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law;
- (3) a transaction from which a director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office; or
- (4) an act or omission for which the liability of a director is expressly provided for by statute.

B. Contracts with Interested Directors and Others. NO contract or other transaction between the corporation and any other corporation and no other act of the corporation with relation to any other corporation shall, in the absence of fraud, in any way be invalidated or otherwise affected by the fact that any one or more of the directors of the corporation are pecuniarily or otherwise interested in, or are directors or officers of, such other corporation.

(1) Any director of the corporation may vote upon any contract or other transaction between the corporation and any subsidiary or affiliated corporation without regard to the fact that he/she is also a director of such subsidiary or affiliated corporation.

(2) Any director of the corporation individually, or any firm or association of which any director may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the corporation, provided that the fact that he/she individually or as a member of such firm or association is such a party or so interested shall be disclosed or shall have been known to the Board of Directors or a majority of such members thereof as shall be present at any meeting of the Board of Directors at which action upon any such contract or transaction shall be taken.

(3) In any case described in this article, any such director may be counted in determining the existence of a quorum at any meeting of the Board of Directors which shall authorize any such contract or transaction and may vote at any such meeting to authorize any such contract.

DATED this 8th day of April, 1992.

URBAN PROGRESS CORPORATION

By: John R. Winfield
Name: John R. Winfield
Its: President

A:\Urban\Amendment.Art
Restated and Amended
Articles of Incorporation
April 7, 1992
1889.001 MAW/ire

Termination Notice



WWW.TDHCA.STATE.TX.US

October 6, 2004

RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

David Marquez
Texas Las Palmas Housing, L.P.
310 S. Frio, Suite 156
San Antonio, TX 78207
Telephone: (210) 601-9360
Telecopier: (210) 224-1972

Re: Las Palmas Garden Apartments, TDHCA# 04074

Dear Mr. Marquez:

On March 1, 2004, you submitted a Housing Tax Credit Application for the above-referenced development. Our staff has completed a final review of the application and performed an initial underwriting review. In our review it was determined that the environmental site assessment (ESA) was not prepared by a Third Party as required.

Section 50.9 (f)(14) of the 2004 Qualified Allocation Plan (QAP) requires that a Phase I ESA be provided in accordance with the Department's Environmental Site Assessment Rules and Guidelines which, at 10 TAC §1.35(a), state that "the environmental site assessment shall be conducted by a Third Party environmental professional..." The ESA provided with the application was prepared and signed on January 28, 2004 by George Ozuna, Jr. Mr. Ozuna also signed the application for tax credits as a representative with the authority to execute documents on the applicant's behalf. In addition Mr. Ozuna was listed as the President of the non-profit managing general partner in control of the applicant. Thus, Mr. Ozuna clearly is not a Third Party, as is required.

Therefore, please be informed that the Department has terminated this application and no further action will be taken on it.

Please be aware that an Appeals Policy exists for the Housing Tax Credit Program. If you wish to appeal this termination decision, you must file your appeal with the

Mr. Marquez
October 6, 2004
Page 2 of 2

Department no later than October 13, 2004. The restrictions and requirements relating to the filing of an appeal can be found in §50.18(b) of the 2004 QAP.

If you have any questions, please do not hesitate to contact Jennifer Joyce at 512.475.3995.

Sincerely,

A handwritten signature in black ink, appearing to read "Brooke Boston". The signature is fluid and cursive, with the first name "Brooke" and the last name "Boston" clearly distinguishable.

Brooke Boston
Director of Multifamily Finance Production Division

Lizadern Anderson, Chair
Shadrick Bogany
C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

Telephone: (210) 224-1972
Telecopier: (210) 224-1972

Re: Las Palmas Garden Apartments, TDHCA# 04074

Dear Mr. Marquez:

On March 1, 2004, you submitted a Housing Tax Credit Application for the above-referenced development. Our staff has completed a final review of the application and performed an initial underwriting review. In our review it was determined that the environmental site assessment (ESA) was not prepared by a Third Party as required.

Section 50.9 (f)(14) of the 2004 Qualified Allocation Plan (QAP) requires that a Phase I ESA be provided in accordance with the Department's Environmental Site Assessment Rules and Guidelines which, at 10 TAC §1.35(a), state that "the environmental site assessment shall be conducted by a Third Party environmental professional..." The ESA provided with the application was prepared and signed on January 28, 2004 by George Ozuna, Jr. Mr. Ozuna also signed the application for tax credits as a representative with the authority to execute documents on the applicant's behalf. In addition Mr. Ozuna was listed as the President of the non-profit managing general partner in control of the applicant. Thus, Mr. Ozuna clearly is not a Third Party, as is required.

Therefore, please be informed that the Department has terminated this application and no further action will be taken on it.

Please be aware that an Appeals Policy exists for the Housing Tax Credit Program. If you wish to appeal this termination decision, you must file your appeal with the

507 SABINE - SUITE 400 ■ P.O. BOX 13941 ■ AUSTIN, TEXAS 78711-3941 ■ (512) 475-3800

Printed on recycled paper

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

10/06 14:52
921022241972
00:00:29
02
OK
STANDARD
ECM

TIME : 10/06/2004 14:52
NAME : TX DEPT OF HOUSING
FAX : 4750764
TEL :
SER.# : BR064J729978

TRANSMISSION VERIFICATION REPORT

**Housing Tax Credit Program
Board Action Request
November 12, 2004**

Action Item

Request review and board determination of five (5) four percent (4%) tax credit applications with other issuers for tax exempt bond transaction.

Recommendation

Staff is recommending board approval of staff recommendations for the issuance of five (5) four percent (4%) Tax Credit Determination Notices with **other issuers** for the tax exempt bond transactions known as:

Development No.	Name	Location	Issuer	Total Units	LI Units	Total Development	Applicant Proposed Tax Exempt Bond Amount	Requested Credit Allocation	Recommended Credit Allocation
04457	Evergreen at Lewisville Senior Apartments	Lewisville	Denton County HFC	218	218	\$17,097,485	\$12,113,155	\$496,596	\$496,596
04463	Lakeside Manor Senior Community	Little Elm	Denton County HFC	178	178	\$13,925,000	\$9,845,000	\$438,218	\$428,143
04452	Seville Place	La Porte	Southeast Texas HFC	180	180	\$17,704,181	\$10,355,000	\$568,648	\$564,828
04459	Bayview Apartments	Baytown	Harris County HFC	240	240	\$20,272,637	\$13,407,500	\$586,896	\$574,895
04492	Artisan on the Bluff	San Antonio	San Antonio HFC	250	250	\$22,971,728	\$13,600,000	\$911,857	\$911,857

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Presentation, Discussion and Possible Approval for the issuance of Housing Tax Credits for Evergreen at Lewisville Senior Apartments.

Summary of the Transaction

The application was received on August 19, 2004. The Issuer for this transaction is Denton County HFC. The development is to be located at SE corner of Main Street (FM 1171) and Garden Ridge Blvd. in Lewisville. The development will consist of 218 total units targeting the elderly population, with all affordable. The site is currently properly zoned for such a development. The Department received no letters in support and no letters in opposition. The bond priority for this transaction is:

- Priority 1A:** Set aside **50%** of units that cap rents at 30% of **50%** AMFI and Set aside **50%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1B:** Set aside **15%** of units that cap rents at 30% of **30%** AMFI and Set aside **85%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1C:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (Only for projects located in a **census tract with median income that is greater** than the median income of the county MSA, or PMSA that the QCT is located in. (MUST receive 4% Housing Tax Credits)
- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 3:** Any qualified residential rental development.

Recommendation

Staff recommends the Board approve the issuance of Housing Tax Credits for Evergreen at Lewisville Senior Apartments.



**HOUSING TAX CREDIT PROGRAM
2004 HTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY**

Texas Department of Housing and Community Affairs

Development Name: **Evergreen at Lewisville Senior Apartment Community** TDHCA#: 04457

DEVELOPMENT AND OWNER INFORMATION

Development Location: Lewisville QCT: N DDA: N TTC: N
 Development Owner: Lewisville Senior Community, LP
 General Partner(s): LifeNet-Lewisville GP, LLC, 100%, Contact: Betts Hoover
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Denton County HFC
 Development Type: Elderly

Annual Tax Credit Allocation Calculation

Applicant Request: \$496,596 Eligible Basis Amt: \$506,556 Equity/Gap Amt.: \$579,689

Annual Tax Credit Allocation Recommendation: \$496,596

Total Tax Credit Allocation Over Ten Years: \$ 4,965,960

PROPERTY INFORMATION

Unit and Building Information

Total Units: 218 HTC Units: 218 % of HTC Units: 100
 Gross Square Footage: 188,575 Net Rentable Square Footage: 182,075
 Average Square Footage/Unit: 835
 Number of Buildings: 1
 Currently Occupied: N

Development Cost

Total Cost: \$17,097,485 Total Cost/Net Rentable Sq. Ft.: \$93.9

Income and Expenses

Effective Gross Income:¹ \$1,742,472 Ttl. Expenses: \$780,585 Net Operating Inc.: \$961,887
 Estimated 1st Year DCR: 1.12

DEVELOPMENT TEAM

Consultant: Not Utilized Manager: Alpha-Barnes Real Estate Services
 Attorney: Coats, Rose, Yale, Ryman & Lee PC Architect: GTF Designs
 Accountant: Novogradac & Company, LLC Engineer: Kimley Horn
 Market Analyst: Butler Burgher, LLC Lender: MMA Financial, LLC
 Contractor: ICI Construction Syndicator: MMA Financial, LLC

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. Chris Harris, District 9 - NC
# in Opposition: 0	Rep. Mary Denny, District 63 - NC
	Mayor Gene Carey - NC
	Eric Ferris, Director of Community Development Proposed development is consistent with affordable housing needs of the City of Lewisville's Consolidated Plan.

1. Gross Income less Vacancy

2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

1. Per §50.12(c) of the Qualified Allocation Plan and Rules, all Tax Exempt Bond Project 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 such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).
2. Receipt, review, and acceptance of evidence of approval by the Lewisville City Council of the requested variance of the requirement to provide two parking spaces per unit; OR a revised site plan reflecting conformance with the city's parking requirement.
3. Receipt, review, and acceptance of a commitment from the Applicant to provide at least one free parking space per unit.
4. Receipt, review, and acceptance of a financial statement from LHTE Equipment, LLC evidencing sufficient financial resources to act as guarantor for the development; and
5. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

DEVELOPMENT’S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Robert Onion, Multifamily Finance Manager

Date

Brooke Boston, Director of Multifamily Finance Production Date

DEVELOPMENT’S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director
Chairman of Executive Award and Review Advisory Committee

Date

TDHCA Board of Director’s Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____
Elizabeth Anderson, Chairman of the Board

Date

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: November 4, 2004 **PROGRAM:** 4% HTC **FILE NUMBER:** 04457

DEVELOPMENT NAME

Evergreen at Lewisville Senior Apartment Community

APPLICANT

Name: Lewisville Senior Community, L.P. **Type:** For-profit w/non-profit non-controlling partner
Address: 5601 N. MacArthur Boulevard, Suite 210 **City:** Irving **State:** TX
Zip: 75038 **Contact:** Betts Hoover **Phone:** (972) 550-7800 **Fax:** (972) 550-7900

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name:	<u>LifeNet-Lewisville G.P. L.L.C.</u>	(%):	<u>0.01</u>	Title:	<u>Nonprofit Managing General Partner</u>
Name:	<u>Churchill Residential, Inc. (CRI)</u>	(%):	<u>.01</u>	Title:	<u>Special Limited Partner & Developer</u>
Name:	<u>LifeNet Community Behavioral Healthcare (LCBH)</u>	(%):	<u>N/A</u>	Title:	<u>Nonprofit 100% owner of MGP</u>
Name:	<u>Betts Hoover</u>	(%):	<u>N/A</u>	Title:	<u>President of LCBH</u>
Name:	<u>Brad Forslund</u>	(%):	<u>N/A</u>	Title:	<u>President & 50% owner of CRI</u>
Name:	<u>Tony Sisk</u>	(%):	<u>N/A</u>	Title:	<u>Treasurer & 50% owner of CRI</u>
Name:	<u>LHTE Equipment, LLC</u>	(%):	<u>N/A</u>	Title:	<u>Guarantor (affiliate of CRI)</u>

PROPERTY LOCATION

Location: Southeast corner of intersection of Main Street (FM 1171) & Garden Ridge Boulevard **QCT** **DDA**
City: Lewisville **County:** Denton **Zip:** 75067

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$496,596	N/A	N/A	N/A
Other Requested Terms:	<u>Annual ten-year allocation of housing tax credits</u>		
Proposed Use of Funds:	<u>New construction</u>	Property Type:	<u>Multifamily</u>
Special Purpose (s):	<u>Elderly, non-profit</u>		

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$496,596 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance of evidence of approval by the Lewisville City Council of the requested variance of the requirement to provide two parking spaces per unit; OR a revised site plan

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

2. Receipt, review, and acceptance of a commitment from the Applicant to provide at least one free parking space per unit;
3. Receipt, review, and acceptance of a financial statement from LHTE Equipment, LLC evidencing sufficient financial resources to act as guarantor for the development; and
4. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit allocation amount may be warranted.

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units:	<u>218</u>	# Rental Buildings	<u>1</u>	# Common Area Bldgs	<u>0</u>	# of Floors	<u>3</u>	Age:	<u>0</u> yrs	Vacant:	<u>N/A</u>	at	<u>/</u>	/	<u>/</u>
Net Rentable SF:	<u>182,075</u>	Av Un SF:	<u>835</u>	Common Area SF:	<u>6,500</u>	Gross Bldg SF:	<u>188,575</u>								

STRUCTURAL MATERIALS

The structure will be wood frame/ on a post-tensioned concrete slab on grade. According to the plans provided in the application the exterior will be comprised of 80% brick veneer & 20% cement fiber siding. The interior wall surfaces will be drywall and the pitched roof will be finished with composite shingles.

APPLIANCES AND INTERIOR FEATURES

The interior flooring will be a combination of carpeting & vinyl. Each unit will include: range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, tile tub/shower, washer & dryer connections, ceiling fans, laminated counter tops, individual water heaters, individual heating and air conditioning, high-speed internet access, & 9-foot ceilings.

ON-SITE AMENITIES

An approximately 6,500-square foot community center will occupy the center areas of the first & second floors of the western wing at the main entry & will include an entry hall, kitchen & dining room, management offices, & a coffee shop on the first floor & an activities room, beauty shop, business center, & arts & crafts room on the second floor. The swimming pool is to be located in the western enclosed courtyard & the eastern enclosed courtyard will feature a fountain. In addition, perimeter fencing with limited access gates is planned for the site.

Uncovered Parking: 147* spaces **Carpports:** 75 spaces **Garages:** 40 spaces

*The Applicant's plan for 147 free parking spaces provides less than one (0.67) free space per unit. In response to the Underwriter's query regarding this, the Applicant provided the following information: "Senior tax credit properties are very different from tax credit multifamily, and as such are designed with different parameters...The Lewisville parking variance was approved at the last City Council meeting. This variance and several others were approved subject to our agreement to place senior age restrictions on the property. We believe we have provided at least one free space for every driver...We are enclosing data from the recent ProMatura market study which includes both market rate and tax credit senior properties in North Texas. This report shows that the telephone survey of numerous property residents indicates that 64% own cars. The average age in these properties is lower than Evergreen senior properties, since Evergreen is designed for seniors to age in place, with connected covered breezeways, and a larger community center. The average age for Evergreen senior communities is about 75. This supports the fact that Capstone, the management company for Claremont at Arlington and Evergreen at Hulen Bend, reports that about 50-60% of the residents have cars. If 60% of the residents have cars, Evergreen at Lewisville would need 60% of 218 units, or 131 free spaces. The current plans provide 262 spaces...This would leave 16 surface parking spaces for employees and guests. This is the worst case scenario since there will be residents that will rent garages and carpports. In the opinion of our consultants with extensive experience in senior tax credit properties, this is sufficient" (Churchill Residential letter dated 10/22/2004). The Applicant also provided information

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

indicating that 100% of the garages at the other two properties were rented and 51% and 60% of the carports (the 51% figure at a 60% occupied property). However, as of the date of this report the Applicant has not provided evidence of approval by the Lewisville City Council of the parking or other code variances referred to above, and receipt, review, and acceptance of same is a condition of this report. Although TDHCA has no specific parking requirement in the QAP or underwriting rules, a common rule of thumb used by the Department has been that developments include at least one free parking space per unit. In the case of elderly developments where it is acknowledged that not every tenant might own a vehicle, these spaces can also accommodate visitors. Moreover, it is inherently contradictory for the Applicant to claim a lack of need for such spaces but at the same time anticipate demand for renting carports and garages. In addition, the lack of free parking spaces will at best result in a nuisance fee to live at the property or at worst effectively raise the rents to live at the development above the maximum rent levels for the units. Therefore, receipt, review, and acceptance of a commitment from the Applicant to provide at least one free parking space per unit is a condition of this report.

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Evergreen at Lewisville Senior Apartment Community is a 24 units per acre new construction development of 218 units of affordable elderly housing located in far western Lewisville. The development is comprised of a single, very large, two- and three-story, elevator-served residential building which incorporates the community center and two landscaped enclosed interior courtyards.

Architectural Review: The building and unit plans are of good design, sufficient size, and are comparable to other modern elderly apartment developments. They appear to provide acceptable access and storage. The elevations reflect attractive buildings with ornamental architectural features such as window shutters, false chimneys, and a lighthouse-type tower at the entry housing the manager’s office.

SITE ISSUES

SITE DESCRIPTION

Size:	9.138	acres	398,051	square feet	Zoning/ Permitted Uses:	MF-2, Multifamily 2, conforming use
Flood Zone Designation:	Zone X		Status of Off-Sites:	Partially improved		

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: Lewisville is located in north Texas, approximately 20 miles northwest of downtown Dallas in Denton County. The site is an irregularly-shaped parcel located in the far western area of the city, approximately 20 miles from the Dallas central business district. The site is situated on the east side of Garden Ridge Boulevard and the west side of Kathryn Drive.

Adjacent Land Uses:

- **North:** a private school and commercial uses (retail and restaurants) fronting FM 1171/Main Street immediately adjacent and more commercial uses beyond beyond;
- **South:** multifamily residential immediately adjacent and single-family residential beyond;
- **East:** Kathryn Drive immediately adjacent and a daycare center and dental office beyond; and
- **West:** Garden Ridge Boulevard immediately adjacent and a strip shopping center (including a grocery store) beyond;

Site Access: Access to the property is from the north or south from Garden Ridge Boulevard on the west or Kathryn Drive on the east. The development is to have a main entry from Garden Ridge Boulevard and an emergency entry/exit from Kathryn Drive. Access to Interstate Highway 35E is 1.5 miles east, which provides connections to all other major roads serving the Lewisville and Metroplex areas.

Public Transportation: “A public transit system does not currently service the city of Lewisville, however, the Dial-A-Ride program has been serving the transportation needs for senior citizens and handicapped residents of the Lewisville Urbanized Area since 1992.” (market study p. 51)

Shopping & Services: The site is within one-quarter mile of neighborhood shopping centers with grocery and other stores and a variety of other retail establishments and restaurants. Schools, churches, and hospitals

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

and health care facilities are located within a short driving distance from the site.

Site Inspection Findings: TDHCA staff performed a site inspection on September 1, 2004 and found the location to be acceptable for the proposed development.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated August 27, 2004 was prepared by Rone Engineers, Ltd. and contained the following findings and recommendations: "This assessment has not revealed evidence of recognized environmental conditions in connection with the historical and present use of the subject property...Based on the results of the ESA, Rone does not recommend further environmental investigation of the subject property." (p. 16-17)

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside, although as a Priority 1 private activity bond lottery development the Applicant has elected the 50% at 50% / 50% at 60% option. All of the units will be reserved for low-income/elderly tenants.

MAXIMUM ELIGIBLE INCOMES

	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$27,960	\$31,920	\$35,940	\$39,900	\$43,080	\$46,260

MARKET HIGHLIGHTS

A market feasibility study dated September 8, 2004 was prepared by Butler Burgher, Inc. ("Market Analyst") and highlighted the following findings:

Definition of Primary Market Area (PMA): "The PMA is located approximately 20 miles northwest of the Dallas Central Business District (CBD) via US 75 (Central Expressway) and is situated generally along IH 35E with Lake Lewisville forming the northern boundary and Lake Grapevine forming the southwest boundary. Furthermore, US 377 forms the western boundary, the Dallas North Tollway and Preston Road form the eastern boundary, while IH 635 forms the southern boundary." (p. 47). This area encompasses approximately 291 square miles (equivalent to a circle with a radius of 9.6 miles), and is very large but somewhat typical for an elderly transaction.

Population: The estimated 2004 elderly (age 55+) population of the PMA is 67,149 and is expected to increase by 42.4% to approximately 67,149 by 2009. Within the primary market area there are estimated to be 38,848 households in 2004.

Total Primary Market Demand for Rental Units: The Market Analyst calculated a total demand of 1,175 qualified households in the PMA, based on the current estimate of 38,848 age 55+ households, the projected annual elderly household growth rate of 7.9%, elderly renter households estimated at 37.93% of the population, income-qualified elderly households estimated at 20.72%, and an annual elderly renter turnover rate of 30%. (p. 71). Although the Underwriter calculated an income band of \$21,360 to \$35,940, the Market Analyst used an income band of \$10,000 to \$35,940 because the property will accept Section 8 voucherholders.

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY

Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	259	22%	250	21%
Resident Turnover	916	78%	916	79%
Other Sources:	0	0%	0	0%
TOTAL ANNUAL DEMAND	1,175	100%	1,166	100%

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

Ref: p. 71

Inclusive Capture Rate: The Market Analyst calculated an inclusive capture rate of 18.55% based upon 1,175 units of demand and 218 unstabilized affordable housing unit in the PMA (the subject) (p. 71). The Underwriter calculated an inclusive capture rate of 18.7% based upon a slightly lower demand of estimate of 1,166 households.

Local Housing Authority Waiting List Information: "...there is currently a 6 to 18-month waiting period for assisted housing in the Dallas County/Dallas area and a 3 to 5-year waiting period for assisted housing in the Plano market (per the Plano Housing Authority). Targeted senior housing is in a more severe shortage as seniors need elevators and other features such as security offered by interior breezeway corridors." (p. 63).

Market Rent Comparables: The Market Analyst surveyed six comparable elderly apartment projects totaling 1,063 units in the market area. Although four of the properties were mixed-rate HTC developments, the Analyst used only the market rent units in the estimated market rent analysis. (p. 77).

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (50%)	\$565	\$565	\$0	\$800	-\$235
1-Bedroom (60%)	\$690	\$690	\$0	\$800	-\$110
2-Bedroom (50%)	\$659	\$660	-\$1	\$1,100	-\$441
2-Bedroom (60%)	\$809	\$810	-\$1	\$1,100	-\$291

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent =\$500, program max =\$600, differential = -\$100)

Primary Market Occupancy Rates: "M/PF reflects 91.8% occupancy for 115,309 units in the 2nd quarter 2004 in the primary market area." (p. 73).

Absorption Projections: "An absorption rate if 12 to 14 units/month is reasonable for the subject, as encumbered by LIHTC, resulting in a 14-month period from date of completion to obtain stabilized physical occupancy." (p. 73).

Known Planned Development: "No new senior LIHTC units are indicated for the PMA. According to the TDHCA and TRB websites, no other proposed senior LIHTC units were noted in the PMA. The subject is ranked #1 on the TRB lottery list, with Evergreen at Plano Stonebriar ranked below the subject on the lottery list (application withdrawn) and Primrose at McDermott ranked below the subject (allocation reserved)." (p. 65) Two elderly developments exist immediately outside the PMA and were not discussed in the market study. Corinth Autumn Oaks is just north of the northern PMA boundary and is a 2001 9% HTC transaction containing elderly units and Lakeside Manor Seniors, a proposed 178-unit elderly development is also just north of the PMA boundary. The PMA for the latter development shares much of the same territory with the subject, particularly east of IH-35E, however, neither PMA includes the other development so no direct conflict exists.

Effect on Existing Housing Stock: "The addition of the subject units is not expected to significantly impact the overall vacancy rate of the submarket since the subject is expected to quickly lease up to stabilization with occupancy in the low to mid 90%." (p. 82)

Market Study Analysis/Conclusions: The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

OPERATING PROFORMA ANALYSIS

Income: The Applicant's rent projections are the maximum rents allowed under HTC program guidelines, and are achievable according to the Market Analyst. Although the Applicant's vacancy and collection loss factor is in line with TDHCA underwriting guidelines, the Applicant used a secondary income estimate of

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

\$28.42 based on rental of 100% of the planned number of carports and garages. Based on the Applicant's information regarding the carport and garage rental at the Developer's other two elderly properties and the need to provide at least one free parking space per unit as discussed above, the Underwriter has used 100% of the garage income but no carport income. As a result of these differences the Applicant's effective gross income estimate is \$11,113 greater than the Underwriter's estimate.

Expenses: The Applicant's total expense estimate of \$3,581 per unit is 1.6% higher than the Underwriter's database-derived estimate of \$3,524 per unit for comparably-sized developments in this area. The Applicant's budget shows several line item estimates, however, that deviate significantly when compared to the database averages, particularly general and administrative (\$13K lower), payroll (\$26.5K lower), water, sewer, and trash (\$21.6K lower), and property tax (\$27.2K higher). The Underwriter discussed these differences with the Applicant but was unable to reconcile them even with additional information provided by the Applicant. The Applicant's property management fee amounts to 3.5% of effective gross income rather than the TDHCA underwriting guideline of 5%, but the Applicant submitted a letter from the proposed manager agreeing to the 3.5% fee; therefore the Underwriter has used a 3.5% management fee as well. The Applicant is anticipating receipt of a 50% CHDO property tax exemption and provided an attorney's opinion affirming that the exemption should be granted and extend through the compliance period. Based on this opinion the Underwriter has likewise assumed a 50% tax exemption.

Conclusion: The Applicant's estimated income is consistent with the Underwriter's expectations, total operating expenses are within 5% of the database-derived estimate, and the Applicant's net operating income (NOI) estimate is within 5% of the Underwriter's estimate. Therefore, the Applicant's NOI should be used to evaluate debt service capacity. In both the Applicant's and the Underwriter's income and expense estimates there is sufficient net operating income to service the proposed first lien permanent mortgage at a debt coverage ratio that is within the TDHCA underwriting guidelines of 1.10 to 1.30.

ACQUISITION VALUATION INFORMATION			
ASSESSED VALUE			
Land: 9.13 acres	\$429,232	Assessment for the Year of:	2004
Building:	N/A	Valuation by:	Denton Appraisal District
Total Assessed Value:	\$429,232	Tax Rate:	2.46767
EVIDENCE of SITE or PROPERTY CONTROL			
Type of Site Control:	Agreement of purchase and sale		
Contract Expiration Date:	12/ 31/ 2004	Anticipated Closing Date:	12/ 15/ 2004.
Acquisition Cost:	\$796,277	Other Terms/Conditions:	\$25,000 earnest money
Seller:	UDR Texas Properties, L.P.	Related to Development Team Member:	No

CONSTRUCTION COST ESTIMATE EVALUATION	
Acquisition Value:	The site cost of \$796,277 (\$2.00/SF, \$87,120/acre, or \$3,652/unit), although significantly in excess of the tax assessed value of \$429,232, is assumed to be reasonable since the acquisition is an arm's-length transaction.
Sitework Cost:	The Applicant's claimed sitework costs of \$6,317 per unit are considered reasonable compared to historical sitework costs for multifamily developments.
Direct Construction Cost:	The Applicant's direct construction cost estimate is \$153K or 1.9% lower than the Underwriter's Marshall & Swift <i>Residential Cost Handbook</i> -derived estimate, and is therefore regarded as reasonable as submitted. (NOTE: The Applicant has excluded the rental carports and garages from eligible basis.)
Fees:	The Applicant's contractor general requirements, contractor general and administrative fees, and contractor profit exceed the 6%, 2%, and 6% maximums allowed by HTC guidelines by \$103,900 based on their own construction costs. Consequently the Applicant's eligible fees in these areas have been reduced by

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

the same amount with the overage effectively moved to ineligible costs. The Applicant's developer fees also exceed 15% of the Applicant's adjusted eligible basis by \$16,096 and therefore the eligible portion of the Applicant's developer fee must be reduced by the same amount.

Other: The Applicant's contingency allowance exceeds the 5% maximum by \$83,500, resulting in an equivalent reduction in eligible basis.

Conclusion: The Applicant's total development cost estimate is within 5% of the Underwriter's verifiable estimate and is therefore generally acceptable. Since the Underwriter has been able to verify the Applicant's projected costs to a reasonable margin, the Applicant's total cost breakdown, as adjusted by the Underwriter, is used to calculate eligible basis and estimate the HTC allocation. As a result, an eligible basis of \$14,229,090 is used to estimate a credit allocation of \$506,556 from this method. The resulting syndication proceeds will be used to compare to the Applicant's request and to the gap of need using the Applicant's costs to determine the recommended credit amount.

FINANCING STRUCTURE			
INTERIM TO PERMANENT BOND FINANCING			
Source:	MMA Financial, LLC	Contact:	Rick Monford
Construction Loan Amount:	\$12,113,155	Interest Rate:	5.375%
Permanent Loan Amount:	\$12,113,155	Interest Rate:	6.6%
Additional Information:	Commitment in amount of \$12,200,000		
Amortization: 40 yrs	Term: 42.5 yrs	Commitment:	<input type="checkbox"/> LOI <input type="checkbox"/> Firm <input checked="" type="checkbox"/> Conditional
Annual Payment:	\$861,384	Lien Priority:	1st Commitment Date 9/ 2/ 2004
TAX CREDIT SYNDICATION			
Source:	MMA Financial, LLC	Contact:	Marie Keutmann
Net Proceeds:	\$4,196,238	Net Syndication Rate (per \$1.00 of 10-yr HTC)	86¢
Commitment	<input type="checkbox"/> LOI <input type="checkbox"/> Firm <input checked="" type="checkbox"/> Conditional	Date:	9/ 2/ 2004
Additional Information:	Commitment in amount of \$4,356,000 based on credits of \$506,591		
APPLICANT EQUITY			
Amount:	\$788,098	Source:	Deferred developer fee

FINANCING STRUCTURE ANALYSIS
<p>Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by the Denton County Housing Finance Corporation and purchased by MMA Financial, LLC. The interim to permanent financing commitment generally consistent with the terms reflected in the sources and uses of funds listed in the application, except that the commitment is in the amount of \$12,200,000.</p> <p>HTC Syndication: The tax credit syndication commitment is generally consistent with the terms reflected in the sources and uses of funds listed in the application.</p> <p>Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$788,098 amount to 42% of the total fees.</p> <p>Financing Conclusions: Based on the Applicant's adjusted estimate of eligible basis, the HTC allocation would not exceed \$506,556 annually for ten years, however, as the Applicant has requested only \$496,596 based on an applicable percentage of 3.46% rather than the 3.56% rate used in underwriting applications received in August 2004, this will be the recommended allocation, resulting in syndication proceeds of approximately \$4,269,871. Based on the underwriting analysis, the Applicant's deferred developer fee will be reduced to \$714,459, which represents approximately 38% of the eligible fee and which should be repayable from cash flow within five years.</p>

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

**DEVELOPMENT TEAM
IDENTITIES of INTEREST**

The Applicant and supportive services provider are related entities. These are common relationships for HTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- The nonprofit sole owner of the General Partner, LifeNet Community Behavioral Healthcare, submitted an unaudited financial statement as of December 31, 2003 reporting total assets of \$2.53M and consisting of \$244K in cash, \$722K in receivables and prepaids, and \$21 in deposits and short-term investments. Liabilities totaled \$402K, resulting in a net assets of \$2.13M.
- The Developer and Special Limited Partner, Churchill Residential, Inc., submitted an unaudited financial statement as of December 31, 2003 reporting total assets of \$2,385 and consisting of \$89 in cash and \$2,805 in office equipment and other assets. Liabilities totaled \$8,144, resulting in net equity of (\$5,250).
- The MMA Financial equity commitment requires that LHTE Equipment, LLC guarantee the obligations of the General Partner and maintain liquid assets of at least \$1.75M. No financial statement has been received for this entity, therefore, receipt, review, and acceptance of a financial statement from LHTE Equipment, LLC evidencing sufficient financial resources to act as guarantor for the development is a condition of this report.
- The principals of the Developer and Special Limited Partner, Brad Forslund and Tony Sisk, submitted unaudited financial statements and are anticipated to be guarantors of the development.

Background & Experience: Multifamily Production Finance Staff have verified that the contractor has met the Department's experience requirements and Portfolio Management and Compliance staff will ensure that the proposed owners have an acceptable record of previous participation.

SUMMARY OF SALIENT RISKS AND ISSUES

- The anticipated ad valorem property tax exemption may not be received or may be reduced, which could affect the financial feasibility of the development.
- Evidence of the city parking requirement variance has not been received as of the date of this report, denial of which might cause a significant cost increase.
- Financial statements for one of the guarantors have not been provided and therefore the capacity of this guarantor is unknown.

Underwriter:

Jim Anderson

Date: November 4, 2004

Director of Real Estate Analysis:

Tom Gouris

Date: November 4, 2004

MULTIFAMILY COMPARATIVE ANALYSIS

Evergreen at Lewisville Senior Apartment Community, Lewisville, 4% HTC #04457

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trsh
TC 50%	45	1	1	700	\$623	\$565	\$25,441	\$0.81	\$57.64	\$47.06
TC 60%	42	1	1	700	748	\$690	28,995	0.99	57.64	47.06
TC 50%	64	2	2	925	748	\$660	42,221	0.71	88.29	65.28
TC 60%	67	2	2	925	898	\$810	54,251	0.88	88.29	65.28
TOTAL:	218		AVERAGE:	835	\$768	\$692	\$150,908	\$0.83	\$76.06	\$58.01

INCOME				TDHCA		APPLICANT		Comptroller's Region		
Total Net Rentable Sq Ft: 182,075								3		
POTENTIAL GROSS RENT				\$1,810,900	\$1,809,408	IREM Region Dallas				
Secondary Income	Per Unit Per Month:	\$23.26		60,840	74,340	\$28.42	Per Unit Per Month			
Other Support Income:				0	0					
POTENTIAL GROSS INCOME				\$1,871,740	\$1,883,748					
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%		(140,380)	(141,276)	-7.50%	of Potential Gross Rent			
Employee or Other Non-Rental Units or Concessions				0	0					
EFFECTIVE GROSS INCOME				\$1,731,359	\$1,742,472					

EXPENSES	% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative	5.15%	\$409	0.49	\$89,104	\$76,088	\$0.42	\$349	4.37%
Management	3.50%	278	0.33	60,598	60,986	0.33	280	3.50%
Payroll & Payroll Tax	12.21%	970	1.16	211,451	228,900	1.26	1,050	13.14%
Repairs & Maintenance	4.59%	364	0.44	79,452	76,300	0.42	350	4.38%
Utilities	2.93%	233	0.28	50,737	43,650	0.24	200	2.51%
Water, Sewer, & Trash	4.08%	324	0.39	70,632	49,000	0.27	225	2.81%
Property Insurance	2.63%	209	0.25	45,519	57,770	0.32	265	3.32%
Property Tax	2.46767	370	0.44	80,693	107,891	0.59	495	6.19%
Reserve for Replacements	2.52%	200	0.24	43,600	43,600	0.24	200	2.50%
Other: spt svcs, compl fees, sec	2.10%	167	0.20	36,400	36,400	0.20	167	2.09%
TOTAL EXPENSES	44.37%	\$3,524	\$4.22	\$768,184	\$780,585	\$4.29	\$3,581	44.80%
NET OPERATING INC	55.63%	\$4,418	\$5.29	\$963,175	\$961,887	\$5.28	\$4,412	55.20%

DEBT SERVICE	% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
First Lien Mortgage (MMA)	49.75%	\$3,951	\$4.73	\$861,384	\$858,823	\$4.72	\$3,940	49.29%
Additional Financing	0.00%	\$0	\$0.00	0	0	\$0.00	\$0	0.00%
Additional Financing	0.00%	\$0	\$0.00	0	0	\$0.00	\$0	0.00%
NET CASH FLOW	5.88%	\$467	\$0.56	\$101,791	\$103,064	\$0.57	\$473	5.91%
AGGREGATE DEBT COVERAGE RATIO				1.12	1.12			
RECOMMENDED DEBT COVERAGE RATIO					1.12			

CONSTRUCTION COST					TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF TOTAL
ACQUISITION COST (site or bldg)	Factor	% of TOTAL	PER UNIT	PER SQ FT	\$796,277	\$796,277	\$4.37	\$3,653	4.66%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		8.02%	6,317	7.56	1,377,011	1,377,011	7.56	6,317	8.05%
Direct Construction		46.33%	36,493	43.69	7,955,491	7,802,305	42.85	35,790	45.63%
Contingency	5.00%	2.72%	2,140	2.56	466,625	542,466	2.98	2,488	3.17%
General Req'ts	6.00%	3.26%	2,569	3.08	559,950	560,959	3.08	2,573	3.28%
Contractor's G & A	2.00%	1.09%	856	1.03	186,650	186,986	1.03	858	1.09%
Contractor's Profit	6.00%	3.26%	2,569	3.08	559,950	560,959	3.08	2,573	3.28%
Indirect Construction		5.91%	4,656	5.57	1,014,924	1,014,924	5.57	4,656	5.94%
Ineligible Costs		7.82%	6,158	7.37	1,342,500	1,342,500	7.37	6,158	7.85%
Developer's G & A	2.24%	1.64%	1,288	1.54	280,810	280,810	1.54	1,288	1.64%
Developer's Profit	12.67%	9.27%	7,299	8.74	1,591,254	1,591,254	8.74	7,299	9.31%
Interim Financing		2.53%	1,995	2.39	434,812	434,812	2.39	1,995	2.54%
Reserves		3.53%	2,781	3.33	606,222	606,222	3.33	2,781	3.55%
TOTAL COST		100.00%	\$78,773	\$94.32	\$17,172,476	\$17,097,485	\$93.90	\$78,429	100.00%
Recap-Hard Construction Costs		64.67%	\$50,943	\$61.00	\$11,105,677	\$11,030,686	\$60.58	\$50,599	64.52%

SOURCES OF FUNDS				RECOMMENDED			Developer Fee Available	
First Lien Mortgage (MMA)	70.54%	\$55,565	\$66.53	\$12,113,155	\$12,113,155	\$12,113,155	\$1,855,968	
Additional Financing	0.00%	\$0	\$0.00	0	0	0	\$0	
HTC Syndication Proceeds	24.44%	\$19,249	\$23.05	4,196,238	4,196,238	4,269,871	% of Dev. Fee Deferred	
Deferred Developer Fees	4.59%	\$3,615	\$4.33	788,098	788,098	714,459	38%	
Additional (excess) Funds Required	0.44%	\$344	\$0.41	74,985	(6)	(0)	15-Yr Cumulative Cash Flow	
TOTAL SOURCES				\$17,172,476	\$17,097,485	\$17,097,485	\$3,827,493	

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Evergreen at Lewisville Senior Apartment Community, Lewisville, 4% HTC #04457

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$37.73	\$6,869,466
Adjustments				
Exterior Wall Finish	6.40%		\$2.41	\$439,646
Elderly & 9-Ft. Ceilings	6.80%		2.57	467,124
Carports	\$8.18	15,000	0.67	122,700
Subfloor			(0.73)	(132,004)
Floor Cover			2.00	364,150
Porches/Balconies	\$16.71	420	0.04	7,018
Plumbing	\$605	393	1.31	237,765
Built-in Appliances	\$1,650	218	1.98	359,700
Stairs	\$1,475	13	0.11	19,175
Elevators	\$46,500	4	1.02	186,000
Heating/Cooling			1.53	278,575
Garages	\$14.00	8,000	0.62	112,000
Community Center	\$32.97	6,024	1.09	198,604
Other: Corridors	\$28.49	24,906	3.90	709,541
SUBTOTAL			56.24	10,239,459
Current Cost Multiplier	1.08		4.50	819,157
Local Multiplier	0.89		(6.19)	(1,126,340)
TOTAL DIRECT CONSTRUCTION COSTS			\$54.55	\$9,932,275
Plans, specs, survy, bld perm	3.90%		(82.13)	(838,359)
Interim Construction Interest	3.38%		(1.84)	(335,214)
Contractor's OH & Profit	11.50%		(6.27)	(1,142,212)
NET DIRECT CONSTRUCTION COSTS			\$44.31	\$8,067,491

PAYMENT COMPUTATION

Primary	\$12,113,155	Term	480
Int Rate	6.60%	DCR	1.12
Secondary	\$0	Term	
Int Rate	0.00%	Subtotal DCR	1.12
Additional	\$4,196,238	Term	
Int Rate		Aggregate DCR	1.12

RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI:

Primary Debt Service	\$861,384
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$100,503

Primary	\$12,113,155	Term	480
Int Rate	6.60%	DCR	1.12
Secondary	\$0	Term	0
Int Rate	0.00%	Subtotal DCR	1.12
Additional	\$4,196,238	Term	0
Int Rate	0.00%	Aggregate DCR	1.12

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,809,408	\$1,863,690	\$1,919,601	\$1,977,189	\$2,036,505	\$2,360,867	\$2,736,892	\$3,172,808	\$4,263,988
Secondary Income	74,340	76,570	78,867	81,233	83,670	96,997	112,446	130,356	175,187
Contractor's Profit	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,883,748	1,940,260	1,998,468	2,058,422	2,120,175	2,457,864	2,849,338	3,303,164	4,439,176
Vacancy & Collection Loss	(141,276)	(145,520)	(149,885)	(154,382)	(159,013)	(184,340)	(213,700)	(247,737)	(332,938)
Developer's G & A	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,742,472	\$1,794,741	\$1,848,583	\$1,904,041	\$1,961,162	\$2,273,524	\$2,635,638	\$3,055,426	\$4,106,237
EXPENSES at 4.00%									
General & Administrative	\$76,088	\$79,132	\$82,297	\$85,589	\$89,012	\$108,297	\$131,760	\$160,306	\$237,292
Management	60,986	62815.3961	64699.85803	66640.85377	68640.07939	79572.66449	92246.52697	106939.0072	143717.0833
Payroll & Payroll Tax	228,900	238,056	247,578	257,481	267,781	325,796	396,381	482,258	713,859
Repairs & Maintenance	76,300	79,352	82,526	85,827	89,260	108,599	132,127	160,753	237,953
Utilities	43,650	45,396	47,212	49,100	51,064	62,128	75,588	91,964	136,129
Water, Sewer & Trash	49,000	50,960	52,998	55,118	57,323	69,742	84,852	103,236	152,814
Insurance	57,770	60,081	62,484	64,983	67,583	82,225	100,039	121,713	180,164
Property Tax	107,891	112,207	116,695	121,363	126,217	153,563	186,832	227,310	336,474
Reserve for Replacements	43,600	45,344	47,158	49,044	51,006	62,056	75,501	91,859	135,973
Other	36,400	37,856	39,370	40,945	42,583	51,809	63,033	76,689	113,519
TOTAL EXPENSES	\$780,585	\$811,198	\$843,018	\$876,092	\$910,469	\$1,103,786	\$1,338,359	\$1,623,026	\$2,387,896
NET OPERATING INCOME	\$961,887	\$983,543	\$1,005,565	\$1,027,949	\$1,050,693	\$1,169,738	\$1,297,278	\$1,432,401	\$1,718,342
DEBT SERVICE									
First Lien Financing	\$861,384	\$861,384	\$861,384	\$861,384	\$861,384	\$861,384	\$861,384	\$861,384	\$861,384
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$100,503	\$122,159	\$144,181	\$166,565	\$189,309	\$308,354	\$435,894	\$571,017	\$856,958
DEBT COVERAGE RATIO	1.12	1.14	1.17	1.19	1.22	1.36	1.51	1.66	1.99

LIHTC Allocation Calculation - Evergreen at Lewisville Senior Apartment Community, Lewisville, 4%

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$796,277	\$796,277		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,377,011	\$1,377,011	\$1,377,011	\$1,377,011
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$7,802,305	\$7,955,491	\$7,802,305	\$7,955,491
(4) Contractor Fees & General Requirements				
Contractor overhead	\$186,986	\$186,650	\$183,586	\$186,650
Contractor profit	\$560,959	\$559,950	\$550,759	\$559,950
General requirements	\$560,959	\$559,950	\$550,759	\$559,950
(5) Contingencies				
	\$542,466	\$466,625	\$458,966	\$466,625
(6) Eligible Indirect Fees				
	\$1,014,924	\$1,014,924	\$1,014,924	\$1,014,924
(7) Eligible Financing Fees				
	\$434,812	\$434,812	\$434,812	\$434,812
(8) All Ineligible Costs				
	\$1,342,500	\$1,342,500		
(9) Developer Fees				
			\$1,855,968	
Developer overhead	\$280,810	\$280,810		\$280,810
Developer fee	\$1,591,254	\$1,591,254		\$1,591,254
(10) Development Reserves				
	\$606,222	\$606,222		
TOTAL DEVELOPMENT COSTS	\$17,097,485	\$17,172,476	\$14,229,090	\$14,427,477

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis			
B.M.R. loans used to finance cost in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units [42(d)(3)]			
Historic Credits (on residential portion only)			
TOTAL ELIGIBLE BASIS		\$14,229,090	\$14,427,477
High Cost Area Adjustment		100%	100%
TOTAL ADJUSTED BASIS		\$14,229,090	\$14,427,477
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$14,229,090	\$14,427,477
Applicable Percentage		3.56%	3.56%
TOTAL AMOUNT OF TAX CREDITS		\$506,556	\$513,618

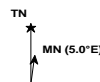
Syndication Proceeds	0.8598	\$4,355,507	\$4,416,233
Total Credits (Eligible Basis Method)		\$506,556	\$513,618
Syndication Proceeds		\$4,355,507	\$4,416,233
Requested Credits		\$496,596	
Syndication Proceeds		\$4,269,871	
Gap of Syndication Proceeds Needed		\$4,984,330	
Credit Amount		\$579,689	

EVERGREEN AT LEWISVILLE SENIOR

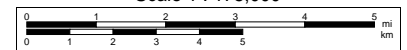


Total: 70.28 mi
Area: 292.66 sq mi

1-MILE RADIUS



Scale 1 : 175,000



1" = 2.76 mi Data Zoom 10-2

Applicant Evaluation

Project ID # **04457** Name: **Evergreen @ Lewisville Sr. Apartm** City: **Lewisville**

LIHTC 9% LIHTC 4% HOME BOND HTF SECO ESGP Other

No Previous Participation in Texas Members of the development team have been disbarred by HUD

Members of the application did not receive the required Previous Participation Acknowledgement

National Previous Participation Certification Received: N/A Yes No

Noncompliance Reported on National Previous Participation Certification: Yes No

Portfolio Management and Compliance

Total # of Projects monitored: 0

Projects in Material Noncompliance

in noncompliance: 0

Projects zero to nine: 0
grouped ten to nineteen: 0
by score twenty to twenty-nine: 0

Yes No

monitored with a score less than thirty: 0

Projects not reported Yes
in application No

not yet monitored or pending review: 2

of projects not reported 0

Portfolio Monitoring

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Single Audit

Not applicable
Review pending
No unresolved issues
Issues found regarding late cert
Issues found regarding late audit
Unresolved issues found that
warrant disqualification
(Comments attached)

Contract Administration

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewed by Patricia Murphy

Date 10/25/2004

Multifamily Finance Production

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer R Meyer
Date 10/22/2004

Single Family Finance Production

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Real Estate Analysis (Cost Certification and Workout)

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Community Affairs

No relationship
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer EEF
Date 10/28/2004

Office of Colonia Initiatives

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Financial Administration

No delinquencies found
Delinquencies found

Reviewer Stephanie A. D'Couto
Date 10/28/2004

Executive Director: Edwina Carrington

Executed: day, November 03, 2004

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Presentation, Discussion and Possible Approval for the issuance of Housing Tax Credits for Lakeside Manor Senior Community.

Summary of the Transaction

The application was received on August 19, 2004. The Issuer for this transaction is Denton County HFC. The development is to be located at FM 720 and Lobo Lane in Little Elm. The development will consist of 178 total units targeting the elderly population, with all affordable. The site is currently properly zoned for such a development. The Department received no letters in support and no letters in opposition. The bond priority for this transaction is:

- Priority 1A:** Set aside **50%** of units that cap rents at 30% of **50%** AMFI **and** Set aside **50%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1B:** Set aside **15%** of units that cap rents at 30% of **30%** AMFI **and** Set aside **85%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1C:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (Only for projects located in a **census tract with median income that is greater** than the median income of the county MSA, or PMSA that the QCT is located in. (MUST receive 4% Housing Tax Credits)
- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 3:** Any qualified residential rental development.

Recommendation

Staff recommends the Board approve the issuance of Housing Tax Credits for Lakeside Manor Senior Community.



**HOUSING TAX CREDIT PROGRAM
2004 HTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY**

Texas Department of Housing and Community Affairs

Development Name: **Lakeside Manor Senior Community**

TDHCA#: 04463

DEVELOPMENT AND OWNER INFORMATION

Development Location: Little Elm QCT: N DDA: N TTC: N
 Development Owner: OHC/Little Elm, LTD.
 General Partner(s): Outreach Housing Corp., 100%, Contact: Richard Shaw
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Denton County HFC
 Development Type: Elderly

Annual Tax Credit Allocation Calculation

Applicant Request: \$438,218 Eligible Basis Amt: \$428,143 Equity/Gap Amt.: \$480,048

Annual Tax Credit Allocation Recommendation: \$428,143

Total Tax Credit Allocation Over Ten Years: \$ 4,281,430

PROPERTY INFORMATION

Unit and Building Information

Total Units: 178 HTC Units: 178 % of HTC Units: 100
 Gross Square Footage: 143,367 Net Rentable Square Footage: 137,510
 Average Square Footage/Unit: 773
 Number of Buildings: 31
 Currently Occupied: N

Development Cost

Total Cost: \$13,925,000 Total Cost/Net Rentable Sq. Ft.: \$101.27

Income and Expenses

Effective Gross Income:¹ \$1,344,390 Ttl. Expenses: \$616,390 Net Operating Inc.: \$728,000
 Estimated 1st Year DCR: 1.10

DEVELOPMENT TEAM

Consultant: Not Utilized Manager: Provident Management
 Attorney: Richard C. Ruschman Architect: Architettura
 Accountant: To Be Determined Engineer: The Lissiak Company
 Market Analyst: To Be Determined Lender: Washington Mutual
 Contractor: Brasha Builders, Inc. Syndicator: WNC & Associates, Inc.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. Jane Nelson, District 12 - NC
# in Opposition: 0	Rep. Myra Crownover, District 64 - NC
	Mayor Doug Carvey - NC
	Stacy Snell, Director of Planning Proposed development is in general conformance with the Town of Little Elm's Community Development Plan.

1. Gross Income less Vacancy

2. NC - No comment received, O - Opposition, S - Support

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: 11/3/2004

PROGRAM: 4% HTC

FILE NUMBER: 04463

DEVELOPMENT NAME

Lakeside Manor Senior Community

APPLICANT

Name: OHC/LITTLE ELM LTD **Type:** For-profit w/non-profit general partner
Address: 16200 Dallas Parkway, Suite 190 **City:** Dallas **State:** TX
Zip: 75248 **Contact:** Richard Shaw **Phone:** (972) 733-0096 **Fax:** (972) 733-1864

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name : Outreach Housing Coporation (Nonprofit) **(%):** 0.005 **Title:** Managing General Partner/Developer/21% owner of SLP
Name : Harvest Hill Development **(%):** 0.005 **Title:** Special Limited Partner
Name : Shaw Family Trust **(%):** N/A **Title:** 79% owner of SLP
Name : Richard Shaw **(%):** N/A **Title:** Guarantor

PROPERTY LOCATION

Location: FM 720 and Lobo Lane **QCT** **DDA**
City: Little Elm **County:** Denton **Zip:** 75068

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$438,218 (10/06/2004)	N/A	N/A	N/A
Other Requested Terms: <u>Annual ten-year allocation of housing tax credits</u>			
Proposed Use of Funds: <u>New construction</u>		Property Type: <u>Multifamily</u>	
Special Purpose (s): <u>Elderly</u>			

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$428,143 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Acceptance by the Board of the anticipated likely redemption of up to \$155K in bonds at the conversion to permanent;
2. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DEVELOPMENT SPECIFICATIONS											
IMPROVEMENTS											
Total Units:	<u>178</u>	# Rental Buildings:	<u>31</u>	# Non-Res. Buildings:	<u>2</u>	# of Floors:	<u>1</u>	Age:	<u>N/A</u> yrs	Vacant:	<u>N/A</u> at / /
Net Rentable SF:	<u>137,510</u>	Av Un SF:	<u>773</u>	Common Area SF:	<u>5,857</u>	Gross Bldg SF:	<u>143,367</u>				
STRUCTURAL MATERIALS											
The structure will be wood frame on a post-tensioned slab. According to the plans provided in the application the exterior will be comprised as follows: 80% brick veneer and 20% cement fiber siding. The interior wall surfaces will be drywall and the pitched roof will be finished with composite shingles.											
APPLIANCES AND INTERIOR FEATURES											
The interior flooring will be faux wood. Each unit will include: range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, fiberglass tub/shower, washer & dryer connections, ceiling fans, laminated counter tops, central boiler water heating system, individual heating and air conditioning, and high-speed internet access.											
ON-SITE AMENITIES											
A 5,500-square foot community building will include an activity room, management offices, fitness, laundry facilities, a kitchen, a dining room, restrooms, a computer/business center, a beauty salon, a health center, an arts and crafts room, and a central mailroom. The community building, swimming pool, barbecue area and gardens are located at the entrance to the property. In addition, perimeter fencing and a stand-alone 357-square foot maintenance building are planned.											
Uncovered Parking:	<u>177</u>	spaces	Carports:	<u>50</u>	spaces	Garages:	<u>40</u>	spaces			
PROPOSAL and DEVELOPMENT PLAN DESCRIPTION											
<p>Description: Lakeside Manor Senior Community is a relatively dense (17 units per acre) new construction development of affordable/mixed income housing located in east Denton County. The development is comprised of 31 evenly distributed one-story residential buildings as follows:</p> <ul style="list-style-type: none"> € Six buildings with four one-bedroom and three two-bedroom units; € Nine buildings with four one-bedroom units; € Eight buildings with eight one-bedroom units; € Two buildings with four two-bedroom units; € Three buildings with four one-bedroom and two two-bedroom units; € Two buildings with three one-bedroom units; and € One building with two one-bedroom and two two-bedroom units. <p>Architectural Review: The unit floorplans appear to offer adequate living and storage space. The exterior of the buildings reflect design elements that are typical of new construction developments. An area of slight concern to the Underwriter is the distance from the a portion of the units located at the back of the site to the community building.</p>											
SITE ISSUES											
SITE DESCRIPTION											
Size:	<u>10.6</u>	acres	<u>461,736</u>	square feet	Zoning/ Permitted Uses:	<u>MF-2</u>					
Flood Zone Designation:	<u>Zone X</u>	Status of Off-Sites:		<u>Fully improved</u>							
SITE and NEIGHBORHOOD CHARACTERISTICS											
<p>Location: Little Elm is located North of the Dallas/Fort Worth Metroplex in Denton County. The site is located near FM 720 on Lobo Lane. This area of Little Elm is surrounded on three sides by Lake Lewisville.</p> <p>Adjacent Land Uses:</p>											

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

- ∄ **North:** shopping strip, Taco Delite, and Sonic Restaurant, across FM 720: City Park (baseball field);
- ∄ **South:** residences;
- ∄ **East:** across Lobo Lane: Johnny Joe’s gas station, self storage, daycare center, and school; and
- ∄ **West:** Express Chicken and post office.

Site Access: Direct access to the property is from Lobo Lane, which leads to FM 720 to the north. FM 720 provides access to other major roads and highways throughout the Dallas/Fort Worth area.

Public Transportation: The availability of public transportation near the site was not identified in the application materials.

Shopping & Services: Little Elm residents make use of the shopping and services available in Denton, which is located 12 miles north, and the Dallas/Fort Worth Metroplex, which is located south of the town.

Site Inspection Findings: TDHCA staff performed a site inspection on September 1, 2004 and found the location to be acceptable for the proposed development.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated September 18, 2002 and updated August 28, 2004 was prepared by Envirocare Associates, Inc and contained the following findings and recommendations: “Based on the site visit, historical search, review of databases, interviews with individuals, and without conducting any sampling, no direct evidence was found to indicate environmental impairment at the subject site. No additional work is recommended at this time” (p. ii).

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside. As a Priority 1 private activity bond lottery development the Applicant has also elected the 50% at 50% / 50% at 60% option. All of the units (100% of the total) will be reserved for low-income/elderly tenants.

MAXIMUM ELIGIBLE INCOMES						
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$27,960	\$31,920	\$35,940	\$39,900	\$43,080	\$46,260

MARKET HIGHLIGHTS

A market feasibility study dated August 31, 2004, with corrections made on October 23, 2004, was prepared by Jack Poe Company (“Market Analyst”) and highlighted the following findings:

Definition of Primary Market Area (PMA): “The primary Market is north of Dallas, Texas and is delineated by US 380 to the north, IH 35 to the west, Dallas County to the south, and US 75 to the east...These boundaries encompass MP/F’s submarkets #31, #44, #47, #81, #82 and #85” (p. 23). This area encompasses approximately 346.24 square miles (equivalent to a circle with a radius of 10.5 miles) and is very large, but somewhat typical for a seniors development.

Population: The estimated 2003 population of the PMA was 617,027 and is expected to increase to approximately 833,394 by 2008. Within the primary market area there were estimated to be 234,207 households in 2003. There are an estimated 45,076 senior households in 2004 in the PMA.

Total Primary Market Demand for Rental Units: The Market Analyst calculated a total demand based on 2.1% to 3.1% income and age qualified households, 33% to 50% renter households, and existing rental housing supply of 60,000 units. The Market Analyst used an income band of \$15,000 to \$35,000.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

ANNUAL AGE & INCOME-ELIGIBLE PRIMARY MARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	205	23%	175	12%
Resident Turnover			1,321	88%
Other Sources: pent-up demand	701	77%		
TOTAL ANNUAL DEMAND	906	100%	1,496	100%

Ref: p. 31-32

Inclusive Capture Rate: The Market Analyst calculated a capture rate for proposed and unstabilized HTC developments targeting seniors at 28% (p. 48). However, the Market Analyst excluded a seniors development awarded tax credits in 2004 with 250 units in the corrected version of the market study. Including these 250 units in the calculation results in a capture rate of 56%, which is within the maximum of 100% allowed for development's targeting senior households. Using a different methodology to calculate demand (including an income band of \$21,360 to \$35,000), the Underwriter was also able to verify an inclusive capture rate for the development of less than 100%.

Market Rent Comparables: The Market Analyst surveyed eight comparable apartment projects totaling 1,751 units in the market area. Four of the eight properties are HTC developments; however, it should be noted the tax credit comparable units have higher rents on average than the market comparable units. "D/FW area monthly rents (excluding electricity) averaged \$0.804 per square foot per month as of the second quarter of 2004...The primary Market rents are higher than the greater Dallas/Fort Worth apartment market average in all cohorts except complexes built after 1990 and before 1970 in Dallas" (p. 26).

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (50%)	\$573	\$573	\$0	\$750	-\$177
1-Bedroom (60%)	\$675	\$698	-\$23	\$750	-\$75
2-Bedroom (60%)	\$795	\$830	-\$35	\$900	-\$105

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent = \$500, program max = \$600, differential = -\$100)

Primary Market Occupancy Rates: "Average apartment occupancy, at 91.2%, in the primary market, is greater than the D/FW area average of 90.1%" (p. 28).

Absorption Projections: "...new LIHTC apartments in the Secondary Market (Dallas/Fort Worth Metroplex) are leasing between 25 and 35 units per month...Thus, a lease-up rate of 30 units per month is inferred from the market data" (p. 51). Conversation with a representative of the owner of Corinth Autumn Oaks revealed the development has been in lease-up for 14 months and has yet to reach a 90% occupancy level. The Market Analyst did further research and found that Corinth Autumn Oaks is currently 95% leased according to the onsite manager. Assuming the lease-up period lasted a minimum of 14 months, the 72 occupied units leased at an average of 5 units per month. This would equate to a 36 month lease-up period for the subject 178 units.

Existing/Planned Housing Stock: "The 2004 TDHCA Inventory lists two tax credit awards for qualified elderly developments in the submarket. They are the Villas of Mission Bend (98101) and Evergreen at Plano (04409)...neither complex is within one mile of the subject" (p. 29). A proposed 4% HTC development, Primrose at McDermott, is also located within the defined Primary Market Area. However, the subject development has priority over Primrose at McDermott based on their respective bond reservation dates. Finally, the Market Analyst does not include Corinth Autumn Oaks (9% HTC #01144) in the analysis of the Primary Market Area. The mixed-income development offers 76 tax credit units for senior residents and has not reached and maintained a 90% occupancy rate for 12 consecutive months. Therefore, Corinth Autumn Oaks is an unstabilized comparable development for capture rate purposes. Corrections to the Market Study include the addition of the 76 tax credit units at Corinth Autumn Oaks in the inclusive capture rate calculation. A 2001 4% HTC development, Primrose at Sequoia was not considered in the demand analysis

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

for the subject development because Primrose does not specifically target senior households.

Market Study Analysis/Conclusions: The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

OPERATING PROFORMA ANALYSIS

Income: The Applicant assumed a gross rent for the units set-aside to be affordable to households earning 60% or less of AMGI at a level below the maximum gross rent limit. The Underwriter used the maximum gross rents in calculating the net rents as they are supported by the market rent conclusions in the Market Study.

Secondary income attributable to “Telephone” will be earned from the Owner’s services as a marketing representative for the local residential telecommunication provider. A contract entered into by an affiliate of the Applicant and Southwestern Bell Telephone, LP (SWBT) indicates SWBT will pay a commission for a period of seven years based on a Performance Commission Rate (PCR) of 4.50%. The amount of commission paid to the owner each month is determined by multiplying the PCR and the total billed revenue less taxes, special fees, franchise and/or governmental fees, installation charges, late payment charges, uncollectables, charges for equipment and business service charges.

Secondary income attributable to “Cable” will be earned from the Owner’s services as a marketing representative for the local cable television provider. A contract entered into by an affiliate of the Applicant and Comcast indicates a one time fee plus a quarterly commission will be paid on a step system based on the percentage of service penetration.

The sample contracts support secondary income above the current \$15 per unit per month maximum guideline; however, the returns are based upon the number of tenants that choose to sign up for the optional services. The Applicant also plans to charge for garages and carports (allowing one free parking space per unit), but was unable to substantiate the proposed rental rate. The underwriting analysis includes additional secondary income of \$4.90 per unit per month based on the average of actual collections at seven HTC developments located in Region 3.

The Applicant also proposes a vacancy and collection loss rate of 5% rather than the Departments’ standard of 7.5%. The lower vacancy and collection rate is not supported by the Market Analyst’s occupancy rate conclusions. As a net result of these differences, the Applicant’s effective gross income is \$86K, or 6%, higher than the Underwriter’s estimate.

Expenses: The Applicant’s operating expense projection is \$68K, or 11% less than the Underwriter’s estimate. The Underwriter’s line-item expense estimates are based on the TDHCA database and IREM data as well as an operating statement for Trails of Sanger (4% HTC 02455 - Family) submitted by the Applicant and an operating statement for Corinth Autumn Oaks (9% HTC #01144 - Seniors). The Applicant’s line-item projections that varied significantly when compared to the Underwriter’s estimates include: general & administrative (\$52K higher) and repairs & maintenance (\$22K lower). It should be noted, because the General Partner is a nonprofit entity, the development may qualify for a tax exemption. However, the submitted application materials did not indicate the Applicant will seek an exemption and the Underwriter was able to verify the Applicant’s projected property tax expense based on the actual expense experienced by comparable developments within the same region.

Conclusion: The Applicant’s effective gross income, total operating expense and net operating income projections are each outside the 5% tolerance range when compared to the Underwriter’s estimates. Therefore, the Underwriter’s proforma will be used to determine the development’s debt service capacity. The development is not able to support the proposed financing structure at a minimum 1.10 debt coverage ratio based on the Underwriter’s NOI. Therefore, it may be necessary to reduce the proposed permanent loan amount. This will be further discussed in the conclusion to the Financing Structure Analysis section of this report.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

ACQUISITION VALUATION INFORMATION			
ASSESSED VALUE			
Land:	\$205,600	Assessment for the Year of:	2003
Building:	N/A	Valuation by:	Denton County Appraisal District
Total Assessed Value:	\$205,600	Tax Rate:	2.37697
EVIDENCE of SITE or PROPERTY CONTROL			
Type of Site Control:	Contract to Purchase Real Estate (10.78 acres)		
Contract Expiration Date:	11/ 16/ 2004	Anticipated Closing Date:	11/ 30/ 2004
Acquisition Cost:	\$1,203,800	Other Terms:	+ \$38,850.50 paving reimbursement; Access easement for benefit of seller
Seller:	Lake Shore Crossing LP	Related to Development Team Member:	No

CONSTRUCTION COST ESTIMATE EVALUATION
<p><u>Acquisition Value:</u> The Applicant has indicated a site acquisition cost of only \$1,180,000, while the purchase contract indicates a total price of \$1,242,651. The difference does not detrimentally affect the development's feasibility as there is adequate developer fee to defer if needed.</p> <p><u>Sitework Cost:</u> The Applicant's claimed sitework cost of \$6,570 per unit is within the Department's current guideline.</p> <p><u>Direct Construction Cost:</u> The Applicant's direct construction cost estimate is \$300K less than the Underwriter's Marshall & Swift <i>Residential Cost Handbook</i>-derived estimate, but within 5%. It should be noted, the Applicant did not include costs for proposed garages and carports in the development's eligible basis. The Applicant plans to charge for the covered parking and, therefore, the garages and carports could be viewed as retail space which is not eligible for tax credits.</p> <p><u>Interim Financing Fees:</u> The Underwriter reduced the Applicant's eligible interim financing fees by \$162K to reflect an apparent overestimation of eligible construction loan interest, to bring the eligible interest expense down to one year of fully drawn interest expense. This results in an equivalent reduction to the Applicant's eligible basis estimate.</p> <p><u>Fees:</u> The Applicant's contractor general requirements, contractor general and administrative fees, and contingencies exceed the 6%, 2%, and 5% maximums allowed by HTC guidelines by \$121K based on their own construction costs. Consequently the Applicant's eligible fees in these areas have been reduced by the same amount with the overage effectively moved to ineligible costs.</p> <p><u>Conclusion:</u> The Applicant's total development cost is within 5% of the Underwriter's estimate; therefore, the Applicant's cost schedule, as adjusted by the Underwriter for overstated interim financing costs, general contractor fees, and contingencies, will be used to estimate eligible basis and determine the development's need for permanent funds. An eligible basis of \$12,026,486 results in annual tax credits of \$428,143. This figure will be compared to the Applicant's request and the tax credits resulting from the development's gap in need for permanent funds to determine the recommended allocation.</p>

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

FINANCING STRUCTURE			
INTERIM TO PERMANENT BOND FINANCING			
Source:	Washington Mutual	Contact:	Mahesh S Aiyer
Tax-Exempt Amount:	\$9,900,000	Interest Rate:	5.3%
Taxable Amount:	\$500,000	Interest Rate:	7.28%
Additional Information:	Issuer: Denton County Housing Finance Corporation; Blended rate: 5.38%		
Amortization:	30 yrs	Term:	17 ½ yrs
Annual Payment:	\$674,100	Lien Priority:	1 st
		Commitment:	<input checked="" type="checkbox"/> LOI <input type="checkbox"/> Firm <input type="checkbox"/> Conditional
		Commitment Date	10/ 06/ 2004
TAX CREDIT SYNDICATION			
Source:	WNC & Assocaites, Inc	Contact:	David C Turek
Net Proceeds:	\$3,678,706	Net Syndication Rate (per \$1.00 of 10-yr HTC)	85¢
Commitment	<input checked="" type="checkbox"/> LOI <input type="checkbox"/> Firm <input type="checkbox"/> Conditional	Date:	08/ 20/ 2004
Additional Information:	Revised 08/24/2004		
APPLICANT EQUITY			
Amount:	\$419,255	Source:	Deferred Developer Fee
FINANCING STRUCTURE ANALYSIS			
<p><u>Interim to Permanent Bond Financing:</u> The tax-exempt bonds are to be issued by the Denton County Housing Finance Corporation and to be placed with Washington Mutual. The permanent financing letter of interest proposes terms that result in a lower total annual debt service than projected by the Applicant. The difference may be attributable to the Applicant's original intent to place the bonds with MMA Financial.</p> <p>Because both tax exempt and taxable bond proceeds will be used to finance the development, the Underwriter has utilized a blended interest rate for the total amount of permanent financing to account for priority repayment of the taxable bonds at a higher interest rate. The calculated blended interest rate utilized is 5.38% based on the lender's current underwriting terms.</p> <p><u>HTC Syndication:</u> The tax credit syndication letter of interest is slightly inconsistent with the terms reflected in the sources and uses of funds listed in the application. While the Applicant anticipates an annual tax credit allocation of \$438,218, the syndicator expected only \$432,832. Any adjustments to the limited partner contribution will be made based on the proposed syndication rate of \$0.85 per dollar.</p> <p><u>Deferred Developer's Fees:</u> The Applicant's proposed deferred developer's fees of \$419,255 amount to 27% of the total proposed fees.</p> <p><u>Financing Conclusions:</u> As stated above, the Applicant's cost schedule, as adjusted by the Underwriter for overstated interim financing costs, contractor fees, and contingencies, is used to estimate eligible basis and determine the development's need for permanent funds. However, the resulting tax credits of \$428,143 is the recommended annual allocation as it is lower than both the Applicant's request and the tax credits resulting from the gap in need for permanent funds. Based on the syndication commitment to contribute \$0.85 per tax credit dollar available to the limited partner, syndication proceeds in the amount of \$3,638,851 are anticipated.</p> <p>Based on the Underwriter's proforma, the development cannot service the debt resulting from the proposed financing structure with an initial minimum DCR of 1.10. It is likely the permanent loan amount will be reduced to \$9,845,000 through a mandatory redemption of the taxable mortgage revenue bonds. To fill the remaining gap in permanent funds, it is likely the developer will defer \$441,149 in fees. This amount appears to be repayable from development cashflow within five years of stabilized operation.</p>			

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

**DEVELOPMENT TEAM
IDENTITIES of INTEREST**

The Applicant, Developer, General Contractor, Property Manager, and the Supportive Services Provider are all related entities. These are common relationships for HTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- € The Applicant is a single-purpose entity created for the purpose of receiving assistance from TDHCA and therefore has no material financial statements.
- € Outreach Housing Corporation, the nonprofit General Partner of the Applicant submitted an unaudited financial statement as of August 17, 2004 reporting total assets of \$7.9M consisting of \$385K in cash, \$3.1M in receivables, \$4.3M in real property, and \$78K in office fixtures. Contingent liabilities totaled \$1.4M, resulting in net assets of \$7.9M.

Background & Experience: Multifamily Production Finance Staff have verified that the Department's experience requirements have been met and Portfolio Management and Compliance staff will ensure that the proposed owners have an acceptable record of previous participation.

SUMMARY OF SALIENT RISKS AND ISSUES

- € The Applicant's estimated income, operating expenses, and net operating income are more than 5% outside of the Underwriter's verifiable ranges.
- € The development would need to capture a majority of the projected market area demand (i.e., capture rate exceeds 50%).
- € The significant financing structure changes being proposed have not been reviewed/accepted by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist.

Underwriter:

Lisa Vecchietti

Date: November 3, 2004

Director of Real Estate Analysis:

Tom Gouris

Date: November 3, 2004

MULTIFAMILY COMPARATIVE ANALYSIS

Lakeside Manor Senior Community, Little Elm, 4% HTC #04463

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Utilities	Wtr, Swr, Trsh
TC 50%	89	1	1	737	\$623	\$573	\$50,985	\$0.78	\$54.48	\$47.06
TC 60%	55	1	1	737	748	698	38,382	0.95	54.48	47.06
TC 60%	34	2	2	923	898	830	28,207	0.90	73.92	65.28
TOTAL:	178		AVERAGE:	773	\$714	\$661	\$117,574	\$0.86	\$58.19	\$50.54

INCOME

Total Net Rentable Sq Ft: **137,510**

POTENTIAL GROSS RENT

Secondary Income	Per Unit Per Month:	\$15.00
Garage, Carport, Washer and Dryer, Cable and Telephone	Per Unit Per Month:	\$4.90

POTENTIAL GROSS INCOME

Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%
Employee or Other Non-Rental Units or Concessions		

EFFECTIVE GROSS INCOME

EXPENSES

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	5.21%	\$394	0.51
Management	5.00%	378	0.49
Payroll & Payroll Tax	10.45%	789	1.02
Repairs & Maintenance	4.64%	350	0.45
Utilities	1.82%	137	0.18
Water, Sewer, & Trash	4.34%	328	0.42
Property Insurance	2.56%	193	0.25
Property Tax	2.37697	8.54%	645
Reserve for Replacements	2.65%	200	0.26
Supportive Services, Compliance, Security	0.64%	49	0.06

TOTAL EXPENSES

NET OPERATING INC

DEBT SERVICE

Tax-Exempt Bond Financing

Taxable Bond Financing

Additional Financing

NET CASH FLOW

AGGREGATE DEBT COVERAGE RATIO

RECOMMENDED DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		8.61%	\$6,981	\$9.04
Off-Sites		0.00%	0	0.00
Sitework		8.10%	6,570	8.50
Direct Construction		45.61%	36,995	47.89
Contingency	5.00%	2.69%	2,178	2.82
General Req'ts	6.00%	3.22%	2,614	3.38
Contractor's G & A	2.00%	1.07%	871	1.13
Contractor's Profit	5.16%	2.77%	2,247	2.91
Indirect Construction		3.33%	2,699	3.49
Ineligible Costs		3.71%	3,012	3.90
Developer's G & A	3.24%	2.42%	1,966	2.55
Developer's Profit	11.10%	8.31%	6,742	8.73
Interim Financing		8.12%	6,587	8.53
Reserves		2.04%	1,653	2.14
TOTAL COST		100.00%	\$81,116	\$105.00

Recap-Hard Construction Costs

SOURCES OF FUNDS

Tax-Exempt Bond Financing

Taxable Bond Financing

HTC Syndication Proceeds

Deferred Developer Fees

Additional (excess) Funds Required

TOTAL SOURCES

TDHCA	APPLICANT
\$1,410,891	\$1,381,824
32,040	32,040
10,464	92,280
\$1,453,395	\$1,506,144
(109,005)	(75,312)
0	
\$1,344,390	\$1,430,832
\$70,082	\$18,500
67,220	70,000
140,496	145,000
62,370	40,200
24,423	27,000
58,401	55,000
34,378	38,000
114,771	110,000
35,600	35,600
8,650	8,700
\$616,390	\$548,000
\$728,000	\$882,832
\$672,266	\$719,470
0	0
0	0
\$55,735	\$163,362
1.08	1.23
1.10	

PER SQ FT	PER UNIT	% OF EGI
\$0.13	\$104	1.29%
0.51	393	4.89%
1.05	815	10.13%
0.29	226	2.81%
0.20	152	1.89%
0.40	309	3.84%
0.28	213	2.66%
0.80	618	7.69%
0.26	200	2.49%
0.06	49	0.61%
\$3.99	\$3,079	38.30%
\$6.42	\$4,960	61.70%
\$5.23	\$4,042	50.28%
\$0.00	\$0	0.00%
\$0.00	\$0	0.00%
\$1.19	\$918	11.42%

PER SQ FT	PER UNIT	% of TOTAL
\$8.58	\$6,629	8.47%
0.00	0	0.00%
8.50	6,570	8.40%
45.71	35,309	45.13%
3.27	2,528	3.23%
3.49	2,697	3.45%
1.16	899	1.15%
2.91	2,247	2.87%
3.49	2,699	3.45%
2.89	2,234	2.86%
2.55	1,966	2.51%
8.73	6,742	8.62%
8.53	6,587	8.42%
1.45	1,124	1.44%
\$101.27	\$78,230	100.00%
\$65.05	\$50,250	64.23%

RECOMMENDED	Developer Fee Available
\$9,500,000	\$1,550,000
500,000	
3,505,745	% of Dev. Fee Deferred
419,255	28%
513,586	
\$13,925,000	15-Yr Cumulative Cash Flow
\$9,845,000	\$2,742,058
0	
3,638,851	
441,149	
0	

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Lakeside Manor Senior Community, Little Elm, 4% HTC #04463

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$46.36	\$6,374,543
Adjustments				
Exterior Wall Finish	6.40%		\$2.97	\$407,971
Elderly/9-Ft. Ceilings	5.00%		2.32	318,727
Roofing			0.00	0
Subfloor			(2.03)	(279,145)
Floor Cover			1.93	265,394
Porches/Balconies	\$16.36	22128	2.63	362,014
Plumbing	\$605	102	0.45	61,710
Built-In Appliances	\$1,650	178	2.14	293,700
Carports	\$8.20	10,000	0.00	0
Floor Insulation			0.00	0
Heating/Cooling			1.53	210,390
Garages	\$26.45	8,000	0.00	0
Comm &/or Aux Bldgs	\$59.29	5,500	2.37	326,079
Maintenance	\$46.36	357	0.12	16,549
SUBTOTAL			60.78	8,357,932
Current Cost Multiplier	1.08		4.86	668,635
Local Multiplier	0.89		(6.69)	(919,373)
TOTAL DIRECT CONSTRUCTION COSTS			\$58.96	\$8,107,194
Plans, specs, survy, bld prm	3.90%		(\$2.30)	(\$316,181)
Interim Construction Interes	3.38%		(1.99)	(273,618)
Contractor's OH & Profit	11.50%		(6.78)	(932,327)
NET DIRECT CONSTRUCTION COSTS			\$47.89	\$6,585,068

PAYMENT COMPUTATION

Primary	\$10,000,000	Term	360
Int Rate	5.38%	DCR	1.08

Secondary		Term	360
Int Rate		Subtotal DCR	1.08

Additional	\$3,505,745	Term	
Int Rate		Aggregate DCR	1.08

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$661,845
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$66,155

Primary	\$9,845,000	Term	360
Int Rate	5.38%	DCR	1.10

Secondary	\$0	Term	360
Int Rate	0.00%	Subtotal DCR	1.10

Additional	\$3,505,745	Term	0
Int Rate	0.00%	Aggregate DCR	1.10

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,410,891	\$1,453,218	\$1,496,814	\$1,541,719	\$1,587,970	\$1,840,893	\$2,134,099	\$2,474,006	\$3,324,857
Secondary Income	32,040	33,001	33,991	35,011	36,061	41,805	48,463	56,182	75,504
Garage, Carport, Washer and	10,464	10,777	11,101	11,434	11,777	13,653	15,827	18,348	24,658
POTENTIAL GROSS INCOME	1,453,395	1,496,997	1,541,906	1,588,164	1,635,809	1,896,350	2,198,390	2,548,536	3,425,020
Vacancy & Collection Loss	(109,005)	(112,275)	(115,643)	(119,112)	(122,686)	(142,226)	(164,879)	(191,140)	(256,876)
Employee or Other Non-Renta	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,344,390	\$1,384,722	\$1,426,263	\$1,469,051	\$1,513,123	\$1,754,124	\$2,033,511	\$2,357,396	\$3,168,143
EXPENSES at 4.00%									
General & Administrative	\$70,082	\$72,886	\$75,801	\$78,833	\$81,986	\$99,749	\$121,360	\$147,653	\$218,562
Management	67,220	69,236	71,313	73,453	75,656	87,706	101,676	117,870	158,407
Payroll & Payroll Tax	140,496	146,116	151,960	158,039	164,360	199,970	243,294	296,004	438,158
Repairs & Maintenance	62,370	64,865	67,459	70,158	72,964	88,772	108,005	131,404	194,510
Utilities	24,423	25,399	26,415	27,472	28,571	34,761	42,292	51,455	76,166
Water, Sewer & Trash	58,401	60,737	63,166	65,693	68,321	83,122	101,131	123,041	182,131
Insurance	34,378	35,753	37,183	38,670	40,217	48,930	59,531	72,428	107,211
Property Tax	114,771	119,362	124,137	129,102	134,266	163,355	198,747	241,806	357,932
Reserve for Replacements	35,600	37,024	38,505	40,045	41,647	50,670	61,648	75,004	111,024
Other	8,650	8,996	9,356	9,730	10,119	12,312	14,979	18,224	26,976
TOTAL EXPENSES	\$616,390	\$640,373	\$665,296	\$691,194	\$718,108	\$869,347	\$1,052,661	\$1,274,889	\$1,871,078
NET OPERATING INCOME	\$728,000	\$744,349	\$760,968	\$777,857	\$795,015	\$884,777	\$980,850	\$1,082,507	\$1,297,066
DEBT SERVICE									
First Lien Financing	\$661,845	\$661,845	\$661,845	\$661,845	\$661,845	\$661,845	\$661,845	\$661,845	\$661,845
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$66,155	\$82,503	\$99,122	\$116,012	\$133,170	\$222,932	\$319,005	\$420,662	\$635,220
DEBT COVERAGE RATIO	1.10	1.12	1.15	1.18	1.20	1.34	1.48	1.64	1.96

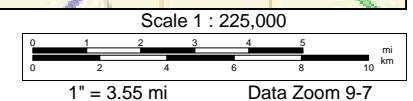
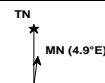
LIHTC Allocation Calculation - Lakeside Manor Senior Community, Little Elm, 4% HTC #04463

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$1,180,000	\$1,242,651		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,169,500	\$1,169,500	\$1,169,500	\$1,169,500
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$6,285,000	\$6,585,068	\$6,285,000	\$6,585,068
(4) Contractor Fees & General Requirements				
Contractor overhead	\$160,000	\$155,091	\$149,090	\$155,091
Contractor profit	\$400,000	\$400,000	\$400,000	\$400,000
General requirements	\$480,000	\$465,274	\$447,270	\$465,274
(5) Contingencies				
	\$450,000	\$387,728	\$372,725	\$387,728
(6) Eligible Indirect Fees				
	\$480,500	\$480,500	\$480,500	\$480,500
(7) Eligible Financing Fees				
	\$1,172,401	\$1,172,401	\$1,172,401	\$1,172,401
(8) All Ineligible Costs				
	\$397,599	\$536,076		
(9) Developer Fees				
Developer overhead	\$350,000	\$350,000	\$350,000	\$350,000
Developer fee	\$1,200,000	\$1,200,000	\$1,200,000	\$1,200,000
(10) Development Reserves				
	\$200,000	\$294,296		
TOTAL DEVELOPMENT COSTS	\$13,925,000	\$14,438,586	\$12,026,486	\$12,365,563

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis			
B.M.R. loans used to finance cost in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units [42(d)(3)]			
Historic Credits (on residential portion only)			
TOTAL ELIGIBLE BASIS		\$12,026,486	\$12,365,563
High Cost Area Adjustment		100%	100%
TOTAL ADJUSTED BASIS		\$12,026,486	\$12,365,563
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$12,026,486	\$12,365,563
Applicable Percentage		3.56%	3.56%
TOTAL AMOUNT OF TAX CREDITS		\$428,143	\$440,214

Syndication Proceeds	0.8499	\$3,638,851	\$3,741,445
Total Credits (Eligible Basis Method)		\$428,143	\$440,214
Syndication Proceeds		\$3,638,851	\$3,741,445
Requested Credits		\$438,218	
Syndication Proceeds		\$3,724,481	
Gap of Syndication Proceeds Needed		\$4,080,000	
Credit Amount		\$480,048	

Lakeside Manor Senior Community



Applicant Evaluation

Project ID # **04463**

Name: **Lakeside Manor Senior Communit**

City: **Little Elm**

LIHTC 9% LIHTC 4% HOME BOND HTF SECO ESGP Other

No Previous Participation in Texas Members of the development team have been disbarred by HUD

Members of the application did not receive the required Previous Participation Acknowledgement

National Previous Participation Certification Received: N/A Yes No

Noncompliance Reported on National Previous Participation Certification: Yes No

Portfolio Management and Compliance

Total # of Projects monitored: 4

Projects in Material Noncompliance

in noncompliance: 0

Projects zero to nine: 4
grouped ten to nineteen: 0
by score twenty to twenty-nine: 0

Yes No

monitored with a score less than thirty: 4

Projects not reported Yes
in application No

not yet monitored or pending review: 4

of projects not reported 0

Portfolio Monitoring

Single Audit

Contract Administration

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Not applicable
Review pending
No unresolved issues
Issues found regarding late cert
Issues found regarding late audit
Unresolved issues found that
warrant disqualification
(Comments attached)

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewed by Patricia Murphy

Date 10/25/2004

Multifamily Finance Production

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer R Meyer
Date 10/22/2004

Single Family Finance Production

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Real Estate Analysis (Cost Certification and Workout)

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Community Affairs

No relationship
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer EEF
Date 10/28/2004

Office of Colonia Initiatives

Not applicable
Review pending
No unresolved issues
Unresolved issues found
Unresolved issues found that
warrant disqualification
(Comments attached)

Reviewer _____
Date _____

Financial Administration

No delinquencies found
Delinquencies found

Reviewer Stephanie A. D'Couto
Date 10/28/2004

Executive Director: Edwina Carrington

Executed: day, November 03, 2004

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Presentation, Discussion and Possible Approval for the issuance of Housing Tax Credits for Seville Place Apartments.

Summary of the Transaction

The application was received on July 16, 2004. The Issuer for this transaction is Southeast Texas HFC. The development is to be located at 3625 Luella Blvd. in La Porte. The development will consist of 180 total units targeting the family population, with all affordable. The site is currently properly zoned for such a development. The Department received no letters in support and no letters in opposition. The bond priority for this transaction is:

- Priority 1A:** Set aside **50%** of units that cap rents at 30% of **50%** AMFI **and** Set aside **50%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1B:** Set aside **15%** of units that cap rents at 30% of **30%** AMFI **and** Set aside **85%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1C:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (Only for projects located in a **census tract with median income that is greater** than the median income of the county MSA, or PMSA that the QCT is located in. (MUST receive 4% Housing Tax Credits)
- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 3:** Any qualified residential rental development.

Recommendation

Staff recommends the Board approve the issuance of Housing Tax Credits for Seville Place Apartments.



**HOUSING TAX CREDIT PROGRAM
2004 HTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY**

Texas Department of Housing and Community Affairs

Development Name: **Seville Place Apartments**

TDHCA#: 04452

DEVELOPMENT AND OWNER INFORMATION

Development Location: La Porte QCT: N DDA: N TTC: N
 Development Owner: Seville Place Apartments, LP
 General Partner(s): Seville Place Development, LLC, 100%, Contact: William D. Henson
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Southeast TX HFC
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$568,648 Eligible Basis Amt: \$564,828 Equity/Gap Amt.: \$885,443

Annual Tax Credit Allocation Recommendation: \$564,828

Total Tax Credit Allocation Over Ten Years: \$ 5,648,280

PROPERTY INFORMATION

Unit and Building Information

Total Units: 180 HTC Units: 180 % of HTC Units: 100
 Gross Square Footage: 189,279 Net Rentable Square Footage: 184,287
 Average Square Footage/Unit: 1024
 Number of Buildings: 22
 Currently Occupied: N

Development Cost

Total Cost: \$17,704,181 Total Cost/Net Rentable Sq. Ft.: \$96.07

Income and Expenses

Effective Gross Income:¹ \$1,460,538 Ttl. Expenses: \$708,198 Net Operating Inc.: \$752,340
 Estimated 1st Year DCR: 1.10

DEVELOPMENT TEAM

Consultant: LBK, Ltd Manager: Orion Real Estate Services
 Attorney: To Be Determined Architect: Mucasey & Associates
 Accountant: Reznick, Fedder & Silverman Engineer: Lott & Brown Engineering Services
 Market Analyst: O'Connor & Associates Lender: GMAC Commerical Holding Company
 Contractor: Dwayne Henson Investments, Inc. Syndicator: Paramount Financial Group, Inc.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. Mike Jackson, District 11 - NC
# in Opposition: 0	Rep. Wayne Smith, District 128 - NC
	Mayor Peter Griffiths - NC
	Robert Eckels, County Judge Proposed Unit is consistent with the Consolidated Plan for Harris County

1. Gross Income less Vacancy

2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

1. Per §50.12(c) of the Qualified Allocation Plan and Rules, all 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 such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).”
2. Receipt, review, and acceptance at cost certification of confirmation that none of the improvements, parking, or drives were built in the flood hazard areas at the southern portion of the site or a mitigation plan to include, at a minimum, consideration and documentation of flood plain reclamation site work costs, building flood insurance, and tenant flood insurance costs.
3. Receipt, review, and acceptance of an extension of the purchase contract or evidence that the contract has closed prior to closing on the bonds.
4. Receipt, review, and acceptance of a commitment from the related party general contractor to defer fees as necessary to fill a potential gap in permanent financing.
5. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

DEVELOPMENT’S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Robert Onion, Multifamily Finance Manager

Date

Brooke Boston, Director of Multifamily Finance Production Date

DEVELOPMENT’S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director
Chairman of Executive Award and Review Advisory Committee

Date

TDHCA Board of Director’s Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____
Elizabeth Anderson, Chairman of the Board

Date

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: November 4, 2004 **PROGRAM:** 4% HTC **FILE NUMBER:** 04452

DEVELOPMENT NAME

Seville Place Apartments

APPLICANT

Name: Seville Place Apartments, L.P. **Type:** For-profit
Address: 5405 John Dreaper **City:** Houston **State:** TX
Zip: 77056 **Contact:** William D. Henson **Phone:** (713) 334-5808 **Fax:** (713) 334-5614

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name:	<u>Seville Place Development, L.L.C.</u>	(%):	<u>0.01</u>	Title:	<u>Managing General Partner</u>
Name:	<u>Dwayne Henson Investments, Inc. (DHI)</u>	(%):	<u>N/A</u>	Title:	<u>50% owner of MGP</u>
Name:	<u>Resolution Real Estate Services, LLC (RRES)</u>	(%):	<u>N/A</u>	Title:	<u>50% owner of MGP</u>
Name:	<u>Seville Place Developers, LLC</u>	(%):	<u>N/A</u>	Title:	<u>Developer</u>
Name:	<u>William D. Henson</u>	(%):	<u>N/A</u>	Title:	<u>Owner of DHI</u>
Name:	<u>J. Steve Ford</u>	(%):	<u>N/A</u>	Title:	<u>Owner of RRES</u>

PROPERTY LOCATION

Location: 3625 Luella Blvd. **QCT** **DDA**
City: La Porte **County:** Harris **Zip:** 77571

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$568,648	N/A	N/A	N/A
Other Requested Terms: <u>Annual ten-year allocation of housing tax credits</u>			
Proposed Use of Funds: <u>New construction</u>		Property Type: <u>Multifamily</u>	
Special Purpose (s): <u>General population</u>			

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$564,828 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance at cost certification of confirmation that none of the improvements, parking, or drives were built in the flood hazard areas at the southern portion of the site or a mitigation plan to include, at a minimum, consideration and documentation of floodplain reclamation sitework costs, building flood insurance, and tenant flood insurance costs;
2. Receipt, review, and acceptance of an extension of the purchase contract or evidence that the contract has closed prior to closing on the bonds.
3. Receipt, review, and acceptance of a commitment from the related party general contractor to defer fees as necessary to fill a potential gap in permanent financing;
4. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit allocation amount may be warranted.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units:	<u>180</u>	# Rental Buildings	<u>22</u>	# Common Area Bldgs	<u>1</u>	# of Floors	<u>3</u>	Age:	<u>N/A</u> yrs	Vacant:	<u>N/A</u> at			
Net Rentable SF:	<u>184,287</u>	Av Un SF:	<u>1,024</u>	Common Area SF:	<u>4,992</u>	Gross Bldg SF:	<u>189,279</u>							

STRUCTURAL MATERIALS

The structure will be wood frame on a post-tensioned concrete slab on grade. According to the plans provided in the application the exterior will be comprised as follows: 30% masonry/brick veneer, 70% cement fiber siding, and wood trim. The interior wall surfaces will be drywall and the pitched roof will be finished with composite shingles.

APPLIANCES AND INTERIOR FEATURES

The interior flooring will be a combination of carpeting & vinyl tile. Each unit will include: range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, microwave oven, tile tub/shower, washer & dryer connections, ceiling fans, laminated counter tops, individual water heaters, individual heating and air conditioning & 9-foot ceilings.

ON-SITE AMENITIES

A 4,992-square foot community building will include an activity room, management offices, fitness, maintenance, & laundry facilities, a kitchen, restrooms, a computer/business center, & a central mailroom. The community building, swimming pool, and equipped children's play area are located at the entrance to and center of the property. In addition, perimeter fencing with limited access gates is planned for the site.

Uncovered Parking: 266 spaces **Carports:** 0 spaces **Garages:** 180 spaces

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Seville Place Apartments is a 12.27 units per acre new construction development of 180 units of affordable housing located in west LaPorte. The development will be comprised of 22 evenly distributed medium garden style walk-up low-rise residential buildings as follows:

- € One Building Type 1 with 20 one-bedroom/one-bath units;
- € Two Building Type 2 with eight one-bedroom/one-bath units;
- € Two Building Type 3 with eight two-bedroom/one-bath units;
- € Eight Building Type 4 with eight two-bedroom/two-bath units;
- € Four Building Type 5a with eight three-bedroom/two-bath units;
- € Three Building Type 5b with eight three-bedroom/two-bath units;
- € One Building Type 6 with one two-bedroom/2.5-bath townhome and three three-bedroom/2.5-bath townhomes;
- € One Building Type 7 with four three-bedroom/2.5-bath townhomes.

Development Plan: The survey suggests that the eastern boundary of the site runs along land designated as "Harris County Flood Control District" property. This appears to be a channel or "bayou" that serves to channel water away from flood-sensitive areas. On the easternmost portion of the center of this site, the survey shows an undisclosed acreage of land designated as "City of LaPorte, Texas, Sewage Treatment Plant". The site is also bisected at this point in the center. The northern 14.6-acre portion which is entirely within the "shaded X" or "X" flood zones according to the survey. The northern portion being the portion which will appear to contain all of the proposed improvements. The southern 7.7-acre portion is predominantly in flood Zone AE (the 100-year floodplain), but according to the site plan contains no improvements. Receipt, review, and acceptance at cost certification of confirmation that none of the improvements, parking, or drives were built in the flood hazard areas at the southern portion of the site or a

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

mitigation plan to include, at a minimum, consideration and documentation of flood plain reclamation site work costs, building flood insurance, and tenant flood insurance costs is a condition of this report.

Architectural Review: The building and unit plans are of good design, sufficient size and are comparable to other modern apartment developments. They appear to provide acceptable access and storage. The elevations reflect attractive buildings with nice fenestration. Each unit will have its own garage with direct access to the unit.

SITE ISSUES			
SITE DESCRIPTION			
Size:	14.67 net acres	639,025	square feet Zoning/ Permitted Uses: R-3. Residential High Density
Flood Zone Designation:	Zones X and AE	Status of Off-Sites:	Partially improved

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: LaPorte is located in the southeast region of the state, approximately 26 miles southeast from Houston in Harris County. The site is an irregularly-shaped parcel located in the western area of LaPorte, approximately five miles from the central business district. The site is situated on the eastern side of Louella Boulevard.

Adjacent Land Uses:

- € **North:** Venture Lane immediately adjacent and vacant land and single-family residential beyond;
- € **South:** Fairmont Parkway immediately adjacent and the Pasadena Convention Center beyond;
- € **East:** Harris County Flood Control drainage immediately adjacent and single-family residential beyond; and
- € **West:** Louella Boulevard immediately adjacent and San Jacinto College and Golf Course beyond.

Site Access: Access to the property is from the east or west along Fairmont Parkway or the north or south from Louella Boulevard. The development is to have one main entry from Louella Boulevard. Access to Interstate Highway 45 is seven miles west, which provides connections to all other major roads serving the LaPorte and Houston area.

Public Transportation: The availability of public transportation was not identified in the application materials.

Shopping & Services: The site is within close proximity to police, fire, and EMS, all of which are able to "...respond to an emergency in minutes...Numerous single-tenant and small neighborhood retail centers are scattered throughout the neighborhood." (Mkt Study, p. 26)

Special Adverse Site Characteristics: The following issues have been identified as potentially bearing on the viability of the site for the proposed development:

- € **Floodplain:** Approximately half of the site (the southern portion) is in the floodplain designation "Zone AE" as discussed above.
- € **Environmental Hazard:** At the center of the larger site, but below the northern portion containing all improvements, a sewage treatment plant has been identified on the survey. The ESA provider also recognized this facility but identified no concerns regarding it.

Site Inspection Findings: TDHCA staff performed a site inspection on August 2, 2004, and found the location to be acceptable for the proposed development. The inspector noted the site is in a good location with easy access.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated August 6, 2004 was prepared by The Murillo Company and contained the following findings and recommendations: "The subject property is vacant land. Two Resource Conservation & Recovery Act Information System- Generator (RCRIS-GEN), one Leaking Petroleum Storage Tank, and two Petroleum Storage Tank sites were identified within ½ mile radius of the subject property. No other direct evidence was found indicating recognized environmental conditions exist at the subject site." (p.16)

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside, although as a Priority 1 private activity bond lottery development the Applicant has elected the 100% at 60% option.

MAXIMUM ELIGIBLE INCOMES						
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$25,620	\$29,280	\$32,940	\$36,600	\$39,540	\$42,480

MARKET HIGHLIGHTS

A market feasibility study dated August 30, 2004 was prepared by Patrick O'Connor & Associates, LP ("Market Analyst") and highlighted the following findings:

Definition of Primary Market Area (PMA): "The subject's primary market is defined as that area within zip codes 77502, 77504, 77505, 77507, 77536, 77571." (p. 10). This area encompasses approximately 80 square miles and is equivalent to a circle with a radius of five miles.

Population: The estimated 2004 population of the PMA was 138,998 and is expected to increase by 4.86% to approximately 145,749 by 2009. Within the primary market area there were estimated to be 47,630 households in 2004.

Total Primary Market Demand for Rental Units: The Market Analyst calculated a total demand of 2,698 qualified households in the PMA, based on the current estimate of 47,630 households, the projected annual growth rate of 1%, renter households estimated at 29.53% of the population, income-qualified households estimated at 9.66%, and an annual renter turnover rate of 55%. (p. 5). The Market Analyst used an income band of \$21,291 to \$39,540.

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	62	2%	44	2%
Resident Turnover	2,453	90%	2,532	98%
Other Sources:	245	9%	0	0%
TOTAL ANNUAL DEMAND	2,698	100%	2,576	100%

Ref: p. 5

Inclusive Capture Rate: "Based on our research, there are no affordable housing projects (other than the subject property) currently proposed, approved, or under construction within the PMA. There is no market-rate complex currently under construction. Thus, based on our analysis, there are 676 units that are under construction, approved, below stabilized, non-stabilized, or proposed in the subject's primary market area (including the subject), 428 of which will be rent restricted. However, of the 428 rent-restricted units, 248 are 'Seniors' units, and not considered 'like' units. Therefore, there are 180 'like' units (only the subject) which will be rent restricted" (p. 11). The Market Analyst calculated an inclusive capture rate of 6.67% based upon these figures. The Underwriter calculated an inclusive capture rate of 21.15% based upon a revised supply of unstabilized comparable affordable units of 545 divided by a revised demand of 2,576.

Market Rent Comparables: The Market Analyst surveyed five comparable apartment projects totaling 972 units in the market area. (p. 47).

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (60%)	\$621	\$686	-\$65	\$730	-\$109
2-Bedroom (60%)	\$742	\$823	-\$81	\$925	-\$183
3-Bedroom (60%)	\$854	\$951	-\$97	\$1,095	-\$241

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent = \$500, program max = \$600, differential = -\$100)

Primary Market Occupancy Rates: “The average occupancy in the subject’s primary market area was reported at 88.60%. Occupancy rates and rental rates in this market area have remained stable over the past few years, with gradual increases in rental rates. Occupancies and rents in the area have been stable despite new construction over the past several years.” (p. 10).

Absorption Projections: “Absorption in the subject’s primary market area over the past fourteen quarters ending June 2004 totals a positive 743 units. Absorption has been positive in seven of the past fourteen quarters. Absorption over the past three and one half years has averaged 53 units per quarter, mainly due to limited construction and high average occupancy. The limited amount of new product that entered the market in 2000 through 2003 was readily absorbed. Based upon our research, most projects that are constructed in the Greater Houston area typically lease up within 12 months.” (p. 12).

Known Planned Development: “Based on our research, there are no affordable housing projects (other than the subject property) currently proposed, approved, or under construction within the PMA.” (p. 11).

Effect on Existing Housing Stock: “Based on the high occupancy levels of the existing properties in the market, along with the strong recent absorption history, we project that the subject property will have minimal sustained negative impact upon the existing apartment market. Any negative impact from the subject property should be of reasonable scope and limited duration.” (p. 12).

Market Study Analysis/Conclusions: The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

OPERATING PROFORMA ANALYSIS

Income: The Applicant’s rent projections result in an additional \$89K in potential gross income compared to the maximum rents calculated by the Underwriter. The Applicant used the lower utility allowance for the City of Houston rather than higher allowances for Harris County. The site is located several miles outside the city limits of Houston but the Applicant provided a letter from the Houston Housing Authority which recognized their belief that they serve HUD voucher holders in properties within five miles of the City’s boundaries. While the City’s vouchers may apply, the Underwriter’s conservative approach in evaluating this transaction ultimately provides a financially feasible transaction. The Applicant stated that tenants will pay water and sewer in this project, and rents and expenses were calculated accordingly. Estimates of secondary income and vacancy and collection losses are in line with TDHCA underwriting guidelines. As a result of the utility allowance differences the Applicant’s effective gross income estimate is \$82K greater than the Underwriter’s estimate.

Expenses: The Applicant’s estimate of total operating expense is 3% lower than the Underwriter’s database-derived estimate; an acceptable deviation. The Applicant’s budget reflects water, sewer, and trash as \$16K lower than the Underwriter’s estimate. While the Underwriter adjusted this expense based upon the tenant paying water and sewer the Underwriter was unable to reconcile this estimate with the Applicant or with additional information provided by the Applicant on one development they operate in the area.

Conclusion: The Applicant’s estimated gross income and the Applicant’s net operating income (NOI) estimate are not within 5% of the Underwriter’s estimate. Therefore, the Underwriter’s NOI will be used to evaluate debt service capacity. Due primarily to the difference in utility allowances, the Underwriter’s estimated debt coverage ratio (DCR) of 1.05 is slightly less than the program minimum standard of 1.10. Therefore, the maximum debt service for this project may ultimately be limited to \$683,695 by a reduction of

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

the loan amount and/or a reduction in the interest rate and/or an extension of the term. The Underwriter has completed this analysis assuming a likely redemption of a portion of the bond amount resulting in a final anticipated bond amount of \$10,355,000. This redemption may ultimately be unnecessary as a result of the variable interest rate on the debt which will at least in the short run allow the same amount of debt service to support a greater amount of debt since the proforma debt is being run at a fixed 6% while the current all-in variable rate will be significantly lower.

ASSESSED VALUE

Land: 22.354 acres	\$368,720	Assessment for the Year of:	2004
Building:	N/A	Valuation by:	Harris County Appraisal District
Total Assessed Value:	\$368,720	Tax Rate:	3.1754

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control:	Unimproved commercial property contract						
Contract Expiration Date:	10/	31/	2004	Anticipated Closing Date:	10/	31/	2004
Acquisition Cost:	\$1,187,301			Other Terms/Conditions:	Contract price includes 9 months of extensions @\$7,500 per month		
Seller:	Tradition Bank/ First National Bank of Bellaire			Related to Development Team Member:	No		

CONSTRUCTION COST ESTIMATE EVALUATION

Acquisition Value: The site cost of \$1,119,801 (\$1.86/net SF, \$81K/net acre, or \$6,221/unit) is over three times the tax assessed value but is assumed to be reasonable since the acquisition is an arm's-length transaction. The Applicant is buying a total of 22.354 acres but the southern 7.68 acres is currently impacted by the 100-year floodplain, therefore only 14.67 net acres were considered in the above calculations. It should also be noted that the contract and subsequent modification agreement called for closing by October 31, 2004. The original January 31, 2004 closing date has been extended up to nine months through a modification agreement, and documentation for eight of these automatic extensions was provided. Even if the ninth was made closing would have been required to take place by October 31, 2004 under the modification agreement provided. Receipt, review, and acceptance of a further extension or actual documentation of successful closing is a condition of this report.

Sitework Cost: The Applicant claimed sitework costs of \$9,425 per unit which is higher than the TDHCA acceptable range of sitework costs of \$4.5K to \$7.5K per unit. The Applicant provided a letter from a third party architect familiar with the sitework costs of this proposed project validating these costs. The Applicant also provided a letter from a certified public accountant stating that all such costs are includable in eligible basis.

Direct Construction Cost: The Applicant's direct construction cost estimate is \$535K or 6% lower than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate. This would suggest that the Applicant's direct construction costs are understated. The Applicant did not break down a cost for the proposed garages but this is likely due to the fact that they will be attached to the units (considered part of the direct construction cost of the units) and will be free to the tenants.

Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by \$107K to reflect an apparent overestimation of eligible construction loan interest, to bring the eligible interest expense down to one year of fully drawn interest expense. This results in an equivalent reduction to the Applicant's eligible basis estimate. It should be further noted that this noted that his calculation is based on a suggested fixed 6% rate during the construction period, however, the rate will actually be variable and is anticipated to provide significant interest rate savings during at least the first few years of the development. Moreover, the income from the guaranteed investment contract (projected by the Applicant as a source of funds) is typically considered a net against interest expense and could further lower the eligible interest ultimately allowed for this development. Therefore, the eligible interest in the end may be significantly lower than the Underwriter's projected amount. The Applicant also included several related party broker

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

fees for financing, consulting, and syndication and is considering these fees as eligible. The Department has long held that these types of fees paid to related parties are for work anticipated to be done by the developer and therefore should be included in the developer fee up to the level eligible. In this case the Applicant has included a very nominal level of direct contingency (even when indirect contingency is included) and therefore these fees have been allowed since in total they still keep the eligible contingency below the Department's tolerance levels. The Applicant should be aware, however, that at cost certification these related party fees will be included in the developer fee limits and may affect the eligible basis and therefore the credit at that time. It is more likely, however, that higher general construction costs will absorb this additional eligible basis allowed as contingency. The Applicant also included as eligible the full amount of equity enhancement fees and tax counsel and underwriting fees for the bonds, when only the portion may be ultimately attributable to the construction period and thus included as eligible basis. This also could have a significant affect on the final eligible basis figure and resulting credits at cost certification.

Fees: Except for the issues of consultant fees discussed above, the remainder of the Applicant's contractor's and developer's fees for general requirements, general and administrative expenses, and profit are within the maximums allowed by TDHCA guidelines.

Conclusion: The Applicant's total development cost estimate is within 5% of the Underwriter's verifiable estimate and is therefore generally acceptable. Since the Underwriter has been able to verify the Applicant's projected costs to a reasonable margin, the Applicant's total cost breakdown, as adjusted by the Underwriter, is used to calculate eligible basis and determine the HTC allocation. As a result, an eligible basis of \$15,865,955 is used to determine a credit allocation of \$564,828 from this method. The resulting syndication proceeds will be used to compare to the Applicant's request and to the gap of need using the Applicant's costs to determine the recommended credit amount.

INTERIM TO PERMANENT BOND FINANCING

Source: GMAC Commercial Holding Company **Contact:** Paul Weissman
Tax-Exempt Amount: \$10,840,000 **Interest Rate:** Variable, underwritten and estimated at 6%
Amortization: 40 yrs **Term:** 30 yrs **Commitment:** LOI Firm Conditional
Annual Payment: \$715,718 **Lien Priority:** 1 **Commitment Date** 9/ 23/ 2004

TAX CREDIT SYNDICATION

Source: Paramount Financial Group **Contact:** Dale Cook
Net Proceeds: \$4,719,305 **Net Syndication Rate (per \$1.00 of 10-yr HTC)** 83¢
Commitment LOI Firm Conditional **Date:** 9/ 2/ 2004
Additional Information: _____

APPLICANT EQUITY

Amount: \$1,189,935 **Source:** Deferred developer fee

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by Southeast Texas Housing Finance Corporation (SETHFC) and the purchase of the bonds will be arranged by GMAC Commercial Holding Capital Corporation. The bonds are anticipated to be privately placed and are anticipated to be credit enhanced. Recently completed structures by the same development group and lender have included credit enhancement and/or sale to FNMA with GMAC Commercial Mortgage serving as the DUS lender. The bonds will be sold as variable rate securities, with the borrower required to maintain a series of interest rate caps until maturity. These caps are typically purchased in five-year increments but could be longer or shorter based on pricing available at the time of purchase. The lender's commitment letter was somewhat short on the details of the transaction and those provided are in question since it refers to the issuer as TDHCA. The commitment does not specify an underwriting interest rate but an earlier term sheet provided by the lender's originating subsidiary, Newman Capital, provided a debt service coverage limit based on a rate of 5.65% plus issuer and trustee fees and indicated a strike rate on the cap of 6%. While a

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

strike rate at this level for the cap still leaves some exposure for at least the issuer and trustee fees, it has been common for issuers to structure variable rate transactions in this manner. According to the lender's commitment letter the tax-exempt bonds will bear a variable rate of interest based upon the BMA index (currently 1.76%) plus 250 basis points during the first 30 months and 190 basis points thereafter. The underlying mortgage will typically also be based on the BMA index plus a stack of 1.51% (credit enhancement, servicing, liquidity, bond issuer, trustee, and remarketing fees) and the Fannie Mae required underwriting spread of 2.5%. The underlying uncertainty surrounding any variable rate transaction is most acute in the lack of an ongoing escrow fee in the stack of fees for future interest rate caps. In the short run this cap could easily and should be funded outside of the stack as a result of the 174 basis point actual interest rate savings that could be achieved over the underwritten rate for this transaction. The additional actual cash flow that will be achieved as a result of this interest rate savings, if sustained, will also be available to repay the deferred developer fee at a rate much faster than the rate initially projected.

HTC Syndication: The tax credit syndication commitment is consistent with the terms reflected in the sources and uses of funds listed in the application. The \$0.83 rate, however, is significantly lower than recent rates quoted on other new transactions, though it is consistent with prices of six months to a year ago.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$1,189,935 amount to 58.35% of the total fees.

Financing Conclusions: Based on the Applicant's estimate of eligible basis, as adjusted by the Underwriter, an HTC allocation should not exceed \$564,828 annually for ten years. This figure is less than both the Applicant's request and the tax credits calculated based on the development's gap in need for permanent funds. Due to the difference in estimated net operating income, the Underwriter's debt coverage ratio (DCR) of 1.05 is significantly less than the program minimum standard of 1.10. Therefore, the maximum debt service for this development is projected to be limited to \$683,695. This debt service limit can be achieved by redemption of bonds and/or a reduction in the interest rate and/or an extension of the term. Based on the fixed interest rate of 6% being used for sizing the loan, the likely alternative to provide DCR relief is a \$485,000 reduction in the debt. To compensate for this reduction in loan funds and the slight reduction in anticipated syndication proceeds the Applicant's deferred developer fee would need to be increased to \$2,661,109, which is over 100% of the anticipated developer fees and equals 78% of the total eligible developer and related general contractor fees. This report is contingent upon receipt, review, and acceptance of Applicant's acceptance of deferral of related party contractor fees. Based on the Underwriter's proforma, deferred fees in this amount are not repayable within ten years of stabilized operation, but may be repayable within 15 years.

DEVELOPMENT TEAM

IDENTITIES of INTEREST

The Applicant, Developer, and General Contractor firm are all related entities. These are common relationships for HTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- € The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- € Dwayne Henson Investments, 50% member of the General Partner, submitted an unaudited financial statement as of January 5, 2004. It reported total assets of \$8.4M and consisting of \$261K in cash, \$5,509K in receivables, \$0 in stocks and securities, \$110K in real property, \$12K in machinery, equipment, and fixtures, and \$2.5M in partnership interests. Liabilities totaled \$213K, resulting in a net worth of \$8.2M.
- € Resolution Real Estate Services, LLC, the other 50% member of the General Partner, submitted an unaudited financial statement as of January 5, 2004, and is anticipated to be guarantor of the development. It reported total assets of \$898,000 and consisting of \$140K in cash, \$700K in receivables, \$30K in stocks and securities, \$0K in real property, and \$28K in machinery, equipment, and fixtures. Liabilities totaled \$95K, resulting in a net worth of \$803K.
- € William D. Henson and J. Steve Ford submitted unaudited financial statements as of January 5, 2004 and

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

are anticipated to be guarantors of the development.

Background & Experience:

- € The Applicant and General Partner are new entities formed for the purpose of developing the project.
- € The Members of the General Partner have completed 37 HTC/affordable housing developments totaling 7,309 units since 1995.

Multifamily Production Finance Staff have verified that the contractor has met the Department's experience requirements and Portfolio Management and Compliance staff will ensure that the proposed owners have an acceptable record of previous participation.

SUMMARY OF SALIENT RISKS AND ISSUES

- € The Applicant's estimated operating income is more than 5% outside of the Underwriter's verifiable range.
- € The Applicant's direct construction costs differ from the Underwriter's *Marshall and Swift*-based estimate by more than 5%.
- € Significant inconsistencies in the application could affect the financial feasibility of the development.
- € Significant environmental risks exist regarding the floodplain on the southern portion of the site being acquired though these have been mitigated by the site plan
- € The recommended amount of deferred developer fee cannot be repaid within ten years, and any amount unpaid past ten years would be removed from eligible basis.
- € The significant financing structure changes being proposed have not been reviewed or accepted by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist.

Underwriter:

Phillip Drake

Date: November 4, 2004

Director of Real Estate Analysis:

Tom Gouris

Date: November 4, 2004

MULTIFAMILY COMPARATIVE ANALYSIS

Seville Place Apartments, LaPorte, 4% HTC # 04452

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt-Pd Util	Trsh
TC 60%	36	1	1	729	\$686	\$590	\$21,240	\$0.81	\$96.00	\$13.31
TC 60%	80	2	2	1,006	823	\$702	56,160	0.70	121.00	13.31
TC 60%	1	2	2.5	1,141	823	\$702	702	0.62	121.00	13.31
TC 60%	56	3	2	1,208	951	\$806	45,136	0.67	145.00	13.31
TC 60%	7	3	2.5	1,252	951	\$806	5,642	0.64	145.00	13.31
TOTAL:	180		AVERAGE:	1,024	\$840	\$716	\$128,880	\$0.70	\$124.40	\$13.31

INCOME

Total Net Rentable Sq Ft **184,277**

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$15.00

Other Support Income: (describe)

POTENTIAL GROSS INCOME

Vacancy & Collection Loss % of Potential Gross Income: -7.50%

Employee or Other Non-Rental Units or Concessions

EFFECTIVE GROSS INCOME

EXPENSES

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	4.80%	\$390	0.38
Management	5.00%	406	0.40
Payroll & Payroll Tax	11.20%	909	0.89
Repairs & Maintenance	4.81%	390	0.38
Utilities	2.58%	209	0.20
Water, Sewer, & Trash	3.35%	272	0.27
Property Insurance	3.15%	256	0.25
Property Tax 3.1754	9.78%	794	0.78
Reserve for Replacements	2.46%	200	0.20
Other: Sup Serv & Comp Fees	1.34%	109	0.11
TOTAL EXPENSES	48.49%	\$3,934	\$3.84
NET OPERATING INC	51.51%	\$4,180	\$4.08

DEBT SERVICE

	% OF EGI	PER UNIT	PER SQ FT
First Lien Mortgage	49.00%	\$3,976	\$3.88
Additional Financing	0.00%	\$0	\$0.00
Additional Financing	0.00%	\$0	\$0.00
NET CASH FLOW	2.51%	\$203	\$0.20

AGGREGATE DEBT COVERAGE RATIO

RECOMMENDED DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bl)		6.47%	\$6,596	\$6.44
Off-Sites		0.00%	0	0.00
Sitework		9.24%	9,425	9.21
Direct Construction		46.42%	47,336	46.24
Contingency	3.81%	2.12%	2,161	2.11
General Req'ts	5.69%	3.16%	3,227	3.15
Contractor's G & A	1.90%	1.05%	1,076	1.05
Contractor's Prof	5.69%	3.16%	3,227	3.15
Indirect Construction		3.44%	3,506	3.42
Ineligible Costs		2.42%	2,463	2.41
Developer's G & A	1.89%	1.48%	1,511	1.48
Developer's Profi	12.31%	9.63%	9,819	9.59
Interim Financing		9.64%	9,827	9.60
Reserves		1.76%	1,799	1.76
TOTAL COST		100.00%	\$101,974	\$99.61
Recap-Hard Construction Costs		65.17%	\$66,453	\$64.91

SOURCES OF FUNDS

	% OF EGI	PER UNIT	PER SQ FT
First Lien Mortgage	59.06%	\$60,222	\$58.82
GIC and Interim NOI	5.20%	\$5,305	\$5.18
HTC Syndication Proceeds	25.71%	\$26,218	\$25.61
Deferred Developer Fees	6.48%	\$6,611	\$6.46
Additional (excess) Funds Req	3.55%	\$3,617	\$3.53
TOTAL SOURCES			

	TDHCA	APPLICANT
POTENTIAL GROSS RENT	\$1,546,560	\$1,635,120
Secondary Income	32,400	32,400
Other Support Income	0	0
POTENTIAL GROSS INCOME	\$1,578,960	\$1,667,520
Vacancy & Collection Loss	(118,422)	(125,064)
Employee or Other Non-Rental Units or Concessions	0	0
EFFECTIVE GROSS INCOME	\$1,460,538	\$1,542,456
General & Administrative	\$70,150	\$58,676
Management	73,027	77,123
Payroll & Payroll Tax	163,646	166,050
Repairs & Maintenance	70,271	72,380
Utilities	37,640	36,000
Water, Sewer, & Trash	48,881	32,872
Property Insurance	46,069	42,386
Property Tax 3.1754	142,893	142,893
Reserve for Replacements	36,000	36,000
Other: Sup Serv & Comp Fees	19,620	19,620
TOTAL EXPENSES	\$708,198	\$684,000
NET OPERATING INC	\$752,340	\$858,456
First Lien Mortgage	\$715,718	\$715,380
Additional Financing	0	0
Additional Financing	0	0
NET CASH FLOW	\$36,622	\$143,076
AGGREGATE DEBT COVERAGE RATIO	1.05	1.20
RECOMMENDED DEBT COVERAGE RATIO	1.10	

	PER SQ FT	PER UNIT	% OF EGI
POTENTIAL GROSS RENT	\$8.96	\$96.00	5.40%
Secondary Income	0.18	\$15.00	0.01%
Other Support Income	0.00	0	0.00%
POTENTIAL GROSS INCOME	\$9.14	\$111.00	5.41%
Vacancy & Collection Loss	(0.70)	(7.50%)	(0.04%)
Employee or Other Non-Rental Units or Concessions	0.00	0	0.00%
EFFECTIVE GROSS INCOME	\$8.44	\$103.50	5.37%
General & Administrative	0.38	\$326	3.80%
Management	0.40	423	5.00%
Payroll & Payroll Tax	0.89	923	10.77%
Repairs & Maintenance	0.38	402	4.69%
Utilities	0.20	200	2.33%
Water, Sewer, & Trash	0.27	183	2.13%
Property Insurance	0.25	235	2.75%
Property Tax 3.1754	0.78	794	9.26%
Reserve for Replacements	0.20	200	2.33%
Other: Sup Serv & Comp Fees	0.11	109	1.27%
TOTAL EXPENSES	\$3.71	\$3,800	44.34%
NET OPERATING INC	\$4.66	\$4,769	55.66%
First Lien Mortgage	\$3.88	\$3,974	46.38%
Additional Financing	\$0.00	\$0	0.00%
Additional Financing	\$0.00	\$0	0.00%
NET CASH FLOW	\$0.78	\$795	9.28%

	RECOMMENDED	Tr. & Developer Fee Availa
POTENTIAL GROSS RENT	\$10,355,000	
Secondary Income	0	\$3,394,908
Other Support Income	0	
POTENTIAL GROSS INCOME	4,688,072	% of Fee Deferred
Vacancy & Collection Loss	2,661,109	78.39%
Employee or Other Non-Rental Units or Concessions	0	
EFFECTIVE GROSS INCOME	\$17,704,181	15-Yr Cumulative Cash Flow
General & Administrative	\$10,840,000	
Management	954,942	
Payroll & Payroll Tax	4,719,305	
Repairs & Maintenance	1,189,935	
Utilities	651,137	(1)
Water, Sewer, & Trash	\$18,355,319	\$17,704,181
Property Insurance	\$10,840,000	\$17,704,181
Property Tax 3.1754	\$10,840,000	\$17,704,181
Reserve for Replacements	\$10,840,000	\$17,704,181
Other: Sup Serv & Comp Fees	\$10,840,000	\$17,704,181
TOTAL EXPENSES	\$10,840,000	\$17,704,181
NET OPERATING INC	\$10,840,000	\$17,704,181
First Lien Mortgage	\$10,840,000	\$10,840,000
Additional Financing	0	0
Additional Financing	0	0
NET CASH FLOW	\$10,840,000	\$17,704,181

MULTIFAMILY COMPARATIVE ANALYSIS (continued)
Seville Place Apartments, LaPorte, 4% HTC # 04452

DIRECT CONSTRUCTION COST ESTIMATE
 Residential Cost Handbook
 Average Quality Multiple Residence Basis

PAYMENT COMPUTATION

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$44.24	\$8,152,580
Adjustments				
Exterior Wall Fini	2.70%		\$1.19	\$220,120
Elderly/9-Ft. Ceil	3.70%		1.64	301,645
Roofing			0.00	0
Subfloor			(0.68)	(124,694)
Floor Cover			2.00	368,554
Porches/Balconies	\$16.71	18,000	1.63	300,780
Plumbing	\$605	440	1.44	266,200
Built-In Appliances	\$1,650	180	1.61	297,000
Stairs/Fireplaces			0.00	0
Floor Insulation			0.00	0
Heating/Cooling			1.53	281,944
Garages/Carports	\$12.54	36,000	2.45	451,440
Comm &/or Aux Bldg	\$59.87	4,992	1.62	298,891
Other:			0.00	0
SUBTOTAL			58.69	10,814,460
Current Cost Multiplier	1.08		4.69	865,157
Local Multiplier	0.89		(6.46)	(1,189,591)
TOTAL DIRECT CONSTRUCTION COSTS			\$56.93	\$10,490,026
Plans, specs, survy, b	3.90%		(\$2.22)	(\$409,111)
Interim Construction I	3.38%		(1.92)	(354,038)
Contractor's OH & Prof	11.50%		(6.55)	(1,206,353)
NET DIRECT CONSTRUCTION COSTS			\$46.24	\$8,520,524

Primary	\$10,840,000	Term	480
Int Rate	6.00%	DCR	1.05
Secondary		Term	
Int Rate	0.00%	Subtotal DCR	1.05
Additional		Term	
Int Rate		Aggregate DCR	1.05

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$683,695
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$68,645

Primary	\$10,355,000	Term	480
Int Rate	6.00%	DCR	1.10
Secondary	\$0	Term	0
Int Rate	0.00%	Subtotal DCR	1.10
Additional	\$0	Term	0
Int Rate	0.00%	Aggregate DCR	1.10

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	#####	#####	\$1,640,746	\$1,689,968	\$1,740,667	\$2,017,910	\$2,339,311	\$2,711,902	\$3,644,570
Secondary Income	32,400	33,372	34,373	35,404	36,466	42,275	49,008	56,814	76,353
Other Support Income: (d)	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,578,960	1,626,329	1,675,119	1,725,372	1,777,133	2,060,185	2,388,319	2,768,716	3,720,923
Vacancy & Collection Los	(118,422)	(121,975)	(125,634)	(129,403)	(133,285)	(154,514)	(179,124)	(207,654)	(279,069)
Employee or Other Non-Res	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	#####	#####	\$1,549,485	\$1,595,969	\$1,643,848	\$1,905,671	\$2,209,195	\$2,561,062	\$3,441,853
EXPENSES at 4.00%									
General & Administrative	\$70,150	\$72,956	\$75,874	\$78,909	\$82,065	\$99,845	\$121,477	\$147,795	\$218,773
Management	73,027	75,218	77,474	79,798	82,192	95,284	110,460	128,053	172,093
Payroll & Payroll Tax	163,646	170,192	176,999	184,079	191,442	232,919	283,381	344,777	510,354
Repairs & Maintenance	70,271	73,082	76,005	79,045	82,207	100,018	121,687	148,051	219,151
Utilities	37,640	39,146	40,712	42,340	44,034	53,574	65,181	79,303	117,388
Water, Sewer & Trash	48,881	50,837	52,870	54,985	57,184	69,573	84,647	102,986	152,444
Insurance	46,069	47,912	49,829	51,822	53,895	65,571	79,777	97,061	143,674
Property Tax	142,893	148,609	154,553	160,735	167,165	203,381	247,444	301,054	445,633
Reserve for Replacements	36,000	37,440	38,938	40,495	42,115	51,239	62,340	75,847	112,271
Other	19,620	20,405	21,221	22,070	22,953	27,925	33,975	41,336	61,188
TOTAL EXPENSES	\$708,198	\$735,795	\$764,475	\$794,279	\$825,252	\$999,330	\$1,210,370	\$1,466,262	\$2,152,969
NET OPERATING INCOME	\$752,340	\$768,559	\$785,010	\$801,690	\$818,596	\$906,341	\$998,825	\$1,094,800	\$1,288,884
DEBT SERVICE									
First Lien Financing	\$683,695	\$683,695	\$683,695	\$683,695	\$683,695	\$683,695	\$683,695	\$683,695	\$683,695
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$68,645	\$84,863	\$101,314	\$117,995	\$134,900	\$222,646	\$315,129	\$411,104	\$605,189
DEBT COVERAGE RATIO	1.10	1.12	1.15	1.17	1.20	1.33	1.46	1.60	1.89

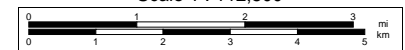
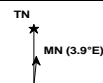
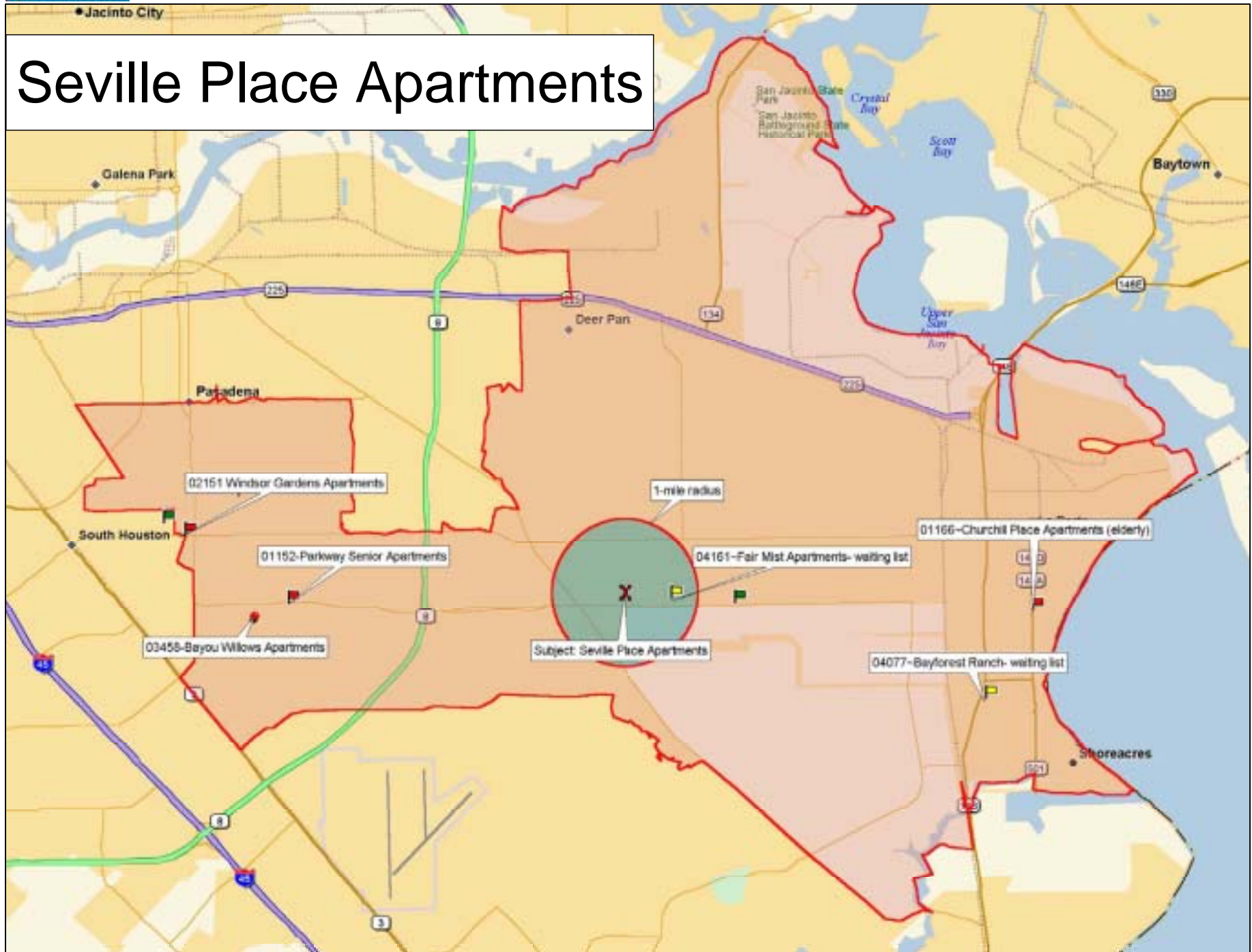
LIHTC Allocation Calculation - Seville Place Apartments, LaPorte, 4% HTC # 04452

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$1,194,928	\$1,187,301		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,696,500	\$1,696,500	\$1,696,500	\$1,696,500
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation ha	\$7,985,576	\$8,520,524	\$7,985,576	\$8,520,524
(4) Contractor Fees & General Requirements				
Contractor overhead	\$193,641	\$193,641	\$193,641	\$193,641
Contractor profit	\$580,923	\$580,923	\$580,923	\$580,923
General requirements	\$580,924	\$580,924	\$580,924	\$580,924
(5) Contingencies				
	\$389,035	\$389,035	\$389,035	\$389,035
(6) Eligible Indirect Fees				
	\$631,000	\$631,000	\$631,000	\$631,000
(7) Eligible Financing Fees				
	\$1,768,936	\$1,768,936	\$1,768,936	\$1,768,936
(8) All Ineligible Costs				
	\$443,298	\$443,298		
(9) Developer Fees				
Developer overhead	\$271,923	\$271,923	\$271,923	\$271,923
Developer fee	\$1,767,497	\$1,767,497	\$1,767,497	\$1,767,497
(10) Development Reserves				
	\$200,000	\$323,817		
TOTAL DEVELOPMENT COSTS	\$17,704,181	\$18,355,319	\$15,865,955	\$16,400,903

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis			
B.M.R. loans used to finance cost in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units [42(d)(3)]			
Historic Credits (on residential portion only)			
TOTAL ELIGIBLE BASIS		\$15,865,955	\$16,400,903
High Cost Area Adjustment		100%	100%
TOTAL ADJUSTED BASIS		\$15,865,955	\$16,400,903
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$15,865,955	\$16,400,903
Applicable Percentage		3.56%	3.56%
TOTAL AMOUNT OF TAX CREDITS		\$564,828	\$583,872

Syndication Proceeds	0.8300	\$4,688,072	\$4,846,139
Total Credits (Eligible Basis Method)		\$564,828	\$583,872
Syndication Proceeds		\$4,688,072	\$4,846,139
Requested Credits		\$568,648	
Syndication Proceeds		\$4,719,778	
Gap of Syndication Proceeds Needed		\$7,349,181	
Credit Amount		\$885,443	

Seville Place Apartments



Applicant Evaluation

Project ID # **04452**

Name: **Seville Place Apartments**

City: **La Porte**

LIHTC 9% LIHTC 4% HOME BOND HTF SECO ESGP Other

No Previous Participation in Texas Members of the development team have been disbarred by HUD

Members of the application did not receive the required Previous Participation Acknowledgement

National Previous Participation Certification Received: N/A Yes No

Noncompliance Reported on National Previous Participation Certification: Yes No

Portfolio Management and Compliance

Total # of Projects monitored: 10

Projects in Material Noncompliance

in noncompliance: 0

Projects zero to nine: 10

Yes No

Projects not reported Yes

grouped ten to nineteen: 0

monitored with a score less than thirty: 10

in application No

by score twenty to twenty-nine: 0

not yet monitored or pending review: 7

of projects not reported 0

Portfolio Monitoring

Single Audit

Contract Administration

Not applicable

Not applicable

Not applicable

Review pending

Review pending

Review pending

No unresolved issues

No unresolved issues

No unresolved issues

Unresolved issues found

Issues found regarding late cert

Unresolved issues found

Unresolved issues found that

Issues found regarding late audit

Unresolved issues found that

warrant disqualification

Unresolved issues found that

warrant disqualification

(Comments attached)

(Comments attached)

(Comments attached)

Reviewed by Patricia Murphy

Date 10/25/2004

Multifamily Finance Production

Single Family Finance Production

Real Estate Analysis (Cost Certification and Workout)

Not applicable

Not applicable

Not applicable

Review pending

Review pending

Review pending

No unresolved issues

No unresolved issues

No unresolved issues

Unresolved issues found

Unresolved issues found

Unresolved issues found

Unresolved issues found that

Unresolved issues found that

Unresolved issues found that

warrant disqualification

warrant disqualification

warrant disqualification

(Comments attached)

(Comments attached)

(Comments attached)

Reviewer S. Roth

Reviewer _____

Reviewer _____

Date 7/20/2004

Date _____

Date _____

Community Affairs

Office of Colonia Initiatives

Financial Administration

No relationship

Not applicable

No delinquencies found

Review pending

Review pending

Delinquencies found

No unresolved issues

No unresolved issues

Unresolved issues found

Unresolved issues found

Unresolved issues found that

Unresolved issues found that

warrant disqualification

warrant disqualification

(Comments attached)

(Comments attached)

Reviewer EEF

Reviewer _____

Reviewer Stephanie A. D'Couto

Date 10/28/2004

Date _____

Date 10/28/2004

Executive Director: Edwina Carrington

Executed: day, November 03, 2004

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Presentation, Discussion and Possible Approval for the issuance of Housing Tax Credits for Bayview Apartments.

Summary of the Transaction

The application was received on August 19, 2004. The Issuer for this transaction is Harris County HFC. The development is to be located at SE corner of I-10 and N. Main St. in the 6800-6900 block of N. Main St. in Baytown. The development will consist of 240 total units targeting the family population, with all affordable. The site is currently properly zoned for such a development. The Department received no letters in support and two letters in opposition. The bond priority for this transaction is:

- Priority 1A:** Set aside **50%** of units that cap rents at 30% of **50%** AMFI **and** Set aside **50%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1B:** Set aside **15%** of units that cap rents at 30% of **30%** AMFI **and** Set aside **85%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1C:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (Only for projects located in a **census tract with median income that is greater** than the median income of the county MSA, or PMSA that the QCT is located in. (MUST receive 4% Housing Tax Credits)
- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 3:** Any qualified residential rental development.

Recommendation

Staff recommends the Board approve the issuance of Housing Tax Credits for Bayview Apartments.



**HOUSING TAX CREDIT PROGRAM
2004 HTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY**

Texas Department of Housing and Community Affairs

Development Name: **Bayview Apartments**

TDHCA#: 04459

DEVELOPMENT AND OWNER INFORMATION

Development Location: Baytown QCT: N DDA: N TTC: N
 Development Owner: H.C Crosby, LP
 General Partner(s): CIS Crosby Development, LLC, 100%, Contact: Manish Verma
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: Harris County HFC
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$586,896 Eligible Basis Amt: \$574,895 Equity/Gap Amt.: \$817,360

Annual Tax Credit Allocation Recommendation: \$574,895

Total Tax Credit Allocation Over Ten Years: \$ 5,748,950

PROPERTY INFORMATION

Unit and Building Information

Total Units: 240 HTC Units: 240 % of HTC Units: 100
 Gross Square Footage: 219,983 Net Rentable Square Footage: 213,866
 Average Square Footage/Unit: 891
 Number of Buildings: 10
 Currently Occupied: N

Development Cost

Total Cost: \$20,272,637 Total Cost/Net Rentable Sq. Ft.: \$94.79

Income and Expenses

Effective Gross Income:¹ \$1,921,662 Ttl. Expenses: \$947,366 Net Operating Inc.: \$974,296
 Estimated 1st Year DCR: 1.09

DEVELOPMENT TEAM

Consultant: Not Utilized	Manager: Alpha Barnes Realty
Attorney: Locke Liddell & Sapp, LLP	Architect: Chiles Architects
Accountant: To Be Determined	Engineer: To Be Determined
Market Analyst: Apartments Market Data	Lender: Malone Mortgage Company
Contractor: Galaxy Builders, LTD.	Syndicator: Paramount Financial Group, Inc.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. John Whitmire, District 15 - NC
# in Opposition: 0	Rep. Chris Bell, District 25 - NC
	Mayor Calvin Mundinger - 1
	Goose Creek ISD - 1
	David Turkel, Director, Office of Housing & Economic Development, Harris County; The proposed development is consistent with the needs and strategies in the Consolidated Plan.

1. Gross Income less Vacancy

2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

1. Per §50.12(c) of the Qualified Allocation Plan and Rules, all 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 such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).
2. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

DEVELOPMENT’S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Robert Onion, Multifamily Finance Manager

Date

Brooke Boston, Director of Multifamily Finance Production Date

DEVELOPMENT’S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director

Date

Chairman of Executive Award and Review Advisory Committee

TDHCA Board of Director’s Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____

Elizabeth Anderson, Chairman of the Board

Date

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: November 3, 2004

PROGRAM: 4% HTC

FILE NUMBER: 04459

DEVELOPMENT NAME

Bayview Apartments

APPLICANT

Name:	<u>H.C. Crosby, L.P.</u>	Type:	<u>For-profit</u>
Address:	<u>45 NE Loop 410, Suite 290</u>	City:	<u>San Antonio</u> State: <u>TX</u>
Zip:	<u>78216</u>	Contact:	<u>Manish Verma</u> Phone: <u>(210) 240-8376</u> Fax: <u>(210) 493-7573</u>

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name:	<u>CIS Crosby Development, LLC</u>	(%):	<u>0.01</u>	Title:	<u>Managing General Partner</u>
Name:	<u>GMAT III Development, Ltd.</u>	(%):	<u>N/A</u>	Title:	<u>Developer</u>
Name:	<u>Arun Verma</u>	(%):	<u>N/A</u>	Title:	<u>45% Owner of Developer</u>
Name:	<u>CIP, Ltd.</u>	(%):	<u>N/A</u>	Title:	<u>45% Owner of Developer</u>
Name:	<u>Manish Verma</u>	(%):	<u>N/A</u>	Title:	<u>10% Owner of Developer</u>

PROPERTY LOCATION

Location: Southeast corner of I-10 and N. Main St. in the 6800-6900 block of N. Main St. **QCT** **DDA**

City: Baytown **County:** Harris **Zip:** 77521

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$586,896	N/A	N/A	N/A
Other Requested Terms: <u>Annual ten-year allocation of housing tax credits</u>			
Proposed Use of Funds: <u>New construction</u>		Property Type: <u>Multifamily</u>	
Special Purpose (s): <u>General population</u>			

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$574,895 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

- Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units: 240 **# Rental Buildings:** 10 **# Non-Res. Buildings:** 1 **# of Floors:** 3 **Age:** N/A yrs
Net Rentable SF: 213,866 **Av Un SF:** 891 **Common Area SF:** 6,117 **Gross Bldg SF:** 219,983

STRUCTURAL MATERIALS

The structure will be wood frame on a post-tensioned concrete slab. According to the plans provided in the application the exterior will be comprised as follows: 27% stone/37% cement fiber siding, and 36% stucco. The interior wall surfaces will be drywall and the pitched roof will be finished with asphalt composite shingles.

APPLIANCES AND INTERIOR FEATURES

The interior flooring will be a combination of carpeting & vinyl tile. Each unit will include: range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, fiberglass tub/shower, washer & dryer connections, ceiling fans, laminated counter tops, individual water heaters, individual heating and air conditioning.

ON-SITE AMENITIES

A 5,617-square foot community building will include a great room, management offices, fitness, maintenance, a kitchen, restrooms, & a computer/library center. The community building and swimming pool will be located at the entrance to the property. In addition, a volleyball court & perimeter fencing with limited access gate is planned for the site.

Uncovered Parking: 494 spaces **Carports:** 0 spaces **Garages:** 0 spaces

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Bayview Apartments is a relatively dense (20 units per acre) new construction development of 240 units of affordable housing located in north Baytown. The development is comprised of ten evenly distributed large garden style walk-up low-rise residential buildings as follows:

- 1 Building Type I with 32 one-bedroom/one-bath units;
- 1 Building Type IA with 36 one-bedroom/one-bath units;
- 2 Building Type II with 24 two- bedroom/two-bath units;
- 5 Building Type III with 12 two- bedroom/two-bath units, and 8 three-bedroom/two-bath;
- 1 Building Type IV with 24 one-bedroom/one-bath units;

Architectural Review: The building and unit plans are of good design, sufficient size and are comparable to other modern apartment developments. They appear to provide acceptable access and storage. The elevations reflect attractive buildings with nice fenestration.

SITE ISSUES

SITE DESCRIPTION

Size: 12 acres 522,720 square feet **Zoning/ Permitted Uses:** PD
Flood Zone Designation: Zone X **Status of Off-Sites:** Partially improved

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: Baytown is located approximately ten miles east of Houston, in Harris County. The site is an irregularly-shaped parcel located in the northern ETJ of Baytown, approximately one-quarter mile south of Interstate 10. The site is situated on the east side of North Main Street.

Adjacent Land Uses:

- **North:** vacant land immediately adjacent and I-10 beyond;
- **South:** vacant land immediately adjacent;
- **East:** Barkaloo Road immediately adjacent and vacant land beyond; and

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

- **West:** North Main Street immediately adjacent and vacant land beyond;

Site Access: Access to the property is from the north or south from North Main Street. The development is to have one main entry from North Main Street. Access to Interstate Highway I-10 is less than one mile north, which provides connections to all other major roads serving the Houston area.

Public Transportation: Public transportation in the area is not provided.

Shopping & Services: A significant amount of growth over the past decade has occurred along Garth Road, between Interstate 10 and Highway 201. The subject site is located convenient to both of these areas, which will give residents easy access to all employment and services areas of the Baytown and greater Houston area.

Site Inspection Findings: TDHCA staff performed a site inspection on October 7, 2004 and found the location to be marginally acceptable for the proposed development due to the following conditions: The inspector noted the site is located on a busy road with traffic that backs up from IH-10 to the property. There is a busy gas station on the corner with heavy truck traffic and a large semi-truck parking lot next door. It is not an area likely to attract tenants looking for a quiet community because there is a lot of traffic on IH-10 and a lot of noise.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated August 30, 2004 was prepared by Frost GeoSciences, Inc. and contained the following findings and recommendations: “This assessment has revealed no evidence of recognized environmental conditions in connection with the property except for the following.

- According to the NEPA Check Plus Report from GeoSearch, Inc., the project site is located within a State Coastal Area. According to Ms. Tammy Brooks of the Texas General Land Office Coastal Resources Division. If the property does not contain potential wetland areas, then the development of the property will simply be subject to the typical construction conservation activities such as slit fences, etc.
- According to the oil and gas report from GeoSearch, Inc. a gas pipeline operated by Houston Pipeline Company Lp crosses the northwestern portion of the project site.
- There were no obvious visual indication of oil/gas well exploration, abstraction, or refinery activities noted on the project site at the time of the one-site inspection. According to the GeoSearch Oil/Gas Report, no oil or gas wells are located within the boundaries of the project site.
- A large pile of soil, leaves, and brush was noted in the southeastern portion of the project site.
- There are no petroleum storage tanks on the project site according to the records of the Texas commission on Environmental Quality. There were no obvious visual indications of petroleum storage tanks on the project site at the time of the on-site inspection.

Other than what was noted in the report, there is no evidence or reason to suggest that the project site or adjoining properties are of sufficient environmental concern to warrant additional; investigations at this time.” (p. 35-36)

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside although as a Priority 1 private activity bond lottery development the Applicant has elected the 100% at 60% option.

MAXIMUM ELIGIBLE INCOMES						
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$26,620	\$29,280	\$32,940	\$36,600	\$39,540	\$42,480

MARKET HIGHLIGHTS

A market feasibility study dated August 31, 2004 was prepared by MarketData Research Services, LLC (“Market Analyst”) and highlighted the following findings:

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS

Definition of Primary Market Area (PMA): “For this analysis, we utilized a custom trade area comprising a 240 square mile Trade Area in the Baytown/Far East Houston area. The following roads exemplify the major boundaries of the trade area. North-County Line to Hwy 90 (Bus.), East-FM 2354, South- Hwy 225, West- Beltway 8.” (p. 3) This area of 240 square miles is equivalent to a somewhat expansive circle with a radius of 8.7 miles.

Population: The estimated 2000 population of the PMA was 127,361 and is expected to increase by 18% to approximately 150,562 by 2008. Within the primary market area there were estimated to be 46,092 households in 2003.

Total Primary Market Demand for Rental Units: The Market Analyst calculated a total demand of 3,188 qualified households in the PMA, based on the current estimate of 46,092 households, the projected annual growth rate of 2%, renter households estimated at 53.5% of the population, income-qualified households estimated at 19.5%, and an annual renter turnover rate of 64.4 %. (p. 46). The Market Analyst used an income band of \$23,520 to \$39,540

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	91	3%	98	3%
Resident Turnover	3,097	97%	3,148	97%
Other Sources: 10 yrs pent-up demand	N/A	N/A%	N/A	N/A%
TOTAL ANNUAL DEMAND	3,188	100%	3,246	100%

Ref: p. 48

Inclusive Capture Rate: The Market Analyst calculated an inclusive capture rate of 15.4% based upon 3,188 units of demand and 490 unstabilized affordable housing in the PMA (including the subject) (p. 49). The Underwriter calculated an inclusive capture rate of 15.1% based upon a supply of unstabilized comparable affordable units of 490 divided by a revised demand of 3,246. The supply includes Rosemount at Garth proposed development with a lower priority lot number.

Market Rent Comparables: The Market Analyst surveyed five comparable apartment projects totaling 1,562 units in the market area.

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (60%) 650 SF	\$619	\$619	\$0	\$625	-\$6
1-Bedroom (60%) 725 SF	\$619	\$619	\$0	\$650	-\$31
2-Bedroom (60%)	\$733	\$733	\$0	\$800	-\$67
2-Bedroom (60%)	\$733	\$733	\$0	\$825	-\$92
3-Bedroom (60%)	\$835	\$835	\$0	\$1,000	-\$165

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent = \$500, program max = \$600, differential = -\$100)

Primary Market Occupancy Rates: “The current occupancy rate of the overall market area is 82.7%, as a result of higher vacancy rates in older apartment projects. Overall, we see future demand for newer units in the Baytown area. Older units in poorer condition will continue to struggle to maintain occupancy. Ultimately, this will lead to declining collections and reduced repairs making these projects less desirable to perspective residents.” (p. 10-11).

Absorption Projections: “Overall absorption in the Primary Market Area (PMA) has been negative over the past four quarters ending 2nd Quarter 2004, a negative 192 apartment units were absorbed in the Baytown area. Over the past three years, absorption has remained primarily negative and is predominately attributable to Class “B,C & D” projects. Overall absorption in this submarket has been positive in 3 of the past 12 quarters. We estimate that the project would achieve a lease rate of approximately 7% to 10% of its units per month as

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

they come on line for occupancy from construction.” (p. 12 & 88).

Other Relevant Information: “The current supply of affordable housing in this market is less than demand. The current stock of affordable housing in the primary market area consists of 5 existing approved “affordable” projects financed with either PAB’s or LIHTC’s. Currently these properties report an overall occupancy of 94.5%, with a total of 22 vacant units.” (p. 88).

Market Study Analysis/Conclusions: The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

OPERATING PROFORMA ANALYSIS

Income: The Applicant’s rent projections are the maximum rents allowed under HTC guidelines, and are achievable according to the Market Analyst. Estimates of secondary income and vacancy and collection losses are in line with TDHCA underwriting guidelines.

Expenses: The Applicant’s estimate of total operating expense is 3% lower than the Underwriter’s database-derived estimate, an acceptable deviation. In addition, each of the Applicant’s specific expense line items compare well to the Underwriter’s estimates.

Conclusion: The Applicant’s estimated income is consistent with the Underwriter’s expectations, total operating expenses are within 5% of the database-derived estimate, and the Applicant’s net operating income (NOI) estimate is within 5% of the Underwriter’s estimate. Therefore, the Applicant’s NOI should be used to evaluate debt service capacity.

ACQUISITION VALUATION INFORMATION

ASSESSED VALUE

Land: (12.0) acres	\$183,820	Assessment for the Year of:	2004
Building:	\$N/A	Valuation by:	Harris County Appraisal District
Total Assessed Value:	\$183,820	Tax Rate:	2.53839

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control:	Purchase and sale agreement		
Contract Expiration Date:	11/	1/	2004
Acquisition Cost:	\$1,045,440	Other Terms/Conditions:	Earnest money: \$20,000
Seller:	Ten Main, LTD	Related to Development Team Member:	No

CONSTRUCTION COST ESTIMATE EVALUATION

Acquisition Value: The site cost of \$1,045,440 (\$2.00/SF, \$87,120/acre, or \$4,356/unit), although significantly higher than the tax assessed value of \$183,820 is assumed to be reasonable since the acquisition is an arm’s-length transaction.

Sitework Cost: The Applicant’s claimed sitework costs of \$7,194 per unit are within the safe harbor guidelines for sitework costs for multifamily developments.

Direct Construction Cost: The Applicant’s costs are more than 5% different than the Underwriter’s Marshall & Swift Residential Cost Handbook-derived estimate after all of the Applicant’s additional justifications were considered. This would suggest that the Applicant’s direct construction costs are understated.

Interim Financing Fees: The Underwriter reduced the Applicant’s eligible interim financing fees by \$216.5K to reflect an apparent overestimation of eligible construction loan interest, to bring the eligible interest expense down to one year of fully drawn interest expense. This results in an equivalent reduction to the Applicant’s eligible basis estimate.

Fees: The Applicant’s contractor general requirements, contractor general and administrative fees, and contractor profit exceed the 6%, 2%, and 6% maximums allowed by HTC guidelines by \$76,629 based on their own construction costs. Consequently the Applicant’s eligible fees in these areas have been reduced by

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

the same amount with the overage effectively moved to ineligible costs. The Applicant's developer fees also exceed 15% of the Applicant's adjusted eligible basis by \$43,968 and therefore the eligible portion of the Applicant's developer fee must be reduced by the same amount.

Conclusion: The Underwriter regards total costs to be understated by \$1,341,449 or 6.6%. This percentage exceeds the acceptable 5% margin of tolerance, and therefore the Underwriter's cost estimate is used to size the total sources of funds needed for the development. The Applicant's requested credit amount, as adjusted for the current applicable percentage, is greater than the Underwriter's recalculation of the Applicant's eligible basis tax credit calculation. Therefore, the Applicant's tax credit calculation, as adjusted by the Underwriter, is used to establish the eligible basis method of determining the credit amount. As a result an eligible basis of \$16,148,746 is used to determine a credit allocation of \$574,895 from this method. The resulting syndication proceeds will be used to compare to the gap of need using the Underwriter's costs to determine the recommended credit amount.

FINANCING STRUCTURE			
INTERIM TO PERMANENT BOND FINANCING			
Source:	Malone Mortgage		Contact: Jeff Rogers
Tax-Exempt Amount:	\$13,407,500	Interest Rate:	6.05%
Amortization:	40 yrs	Term:	40 yrs
Annual Payment:	\$891,394	Lien Priority:	1st
Commitment:	<input type="checkbox"/> LOI	<input type="checkbox"/> Firm	<input checked="" type="checkbox"/> Conditional
Commitment Date	09/ 09/	2004	
TAX CREDIT SYNDICATION			
Source:	Paramount Financial Group, Inc.		Contact: Dale Cook
Net Proceeds:	\$4,929,000	Net Syndication Rate (per \$1.00 of 10-yr HTC)	84¢
Commitment	<input type="checkbox"/> LOI	<input type="checkbox"/> Firm	<input checked="" type="checkbox"/> Conditional
Date:	09/ 07/	2004	
Additional Information:	_____		
APPLICANT EQUITY			
Amount:	\$594,687	Source:	Deferred Developer Fee
FINANCING STRUCTURE ANALYSIS			
Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by Harris County HFC and purchased by Malone Mortgage. The permanent financing commitment is consistent with the terms reflected in the sources and uses of funds listed in the application.			
HTC Syndication: The tax credit syndication commitment is consistent with the terms reflected in the sources and uses of funds listed in the application.			
Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$594,687 amount to 28% of the total fees.			
Financing Conclusions: Based on the adjusted estimate of eligible basis, the HTC allocation should not exceed \$574,895 annually for ten years, resulting in syndication proceeds of approximately \$4,828,638. As a result of the Underwriter's higher overall development costs, the Applicant's deferred developer fee will be increased to \$2,036,499, which represents approximately 95% of the eligible fee but which should be repayable from cash flow within ten years. Should the Applicant's final direct construction cost exceed the cost estimate used to determine credits in this analysis, additional deferred developer's fee may not be available to fund those development cost overruns.			

DEVELOPMENT TEAM
IDENTITIES of INTEREST
The Applicant, Developer and General Contractor are both related entities. These are common relationships for HTC-funded developments.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- The 45% Owner of GMAT III Development, Ltd, CIP Ltd., submitted an unaudited financial statement as of September 28, 2004 reporting total assets of \$925K and no liabilities resulting in a net worth of \$925K.
- The principals of the Developer (GMAT III Development, Ltd), Arun and Manish Verma, submitted unaudited financial statements as of December, 2003 and are anticipated to be guarantors of the development.

Background & Experience:

- The Applicant and General Partner are new entities formed for the purpose of developing the project.
- The principals of the Developer, Arun and Manish Verma, listed participation in two previous HTC housing developments consisting of 452 units since 2003.

SUMMARY OF SALIENT RISKS AND ISSUES

- The Applicant's direct construction costs differ from the Underwriter's *Marshall and Swift*-based estimate by more than 5%.
- The Applicant's total development costs differ from the Underwriter's verifiable estimate by more than 5%.

Underwriter:

Carl Hoover

Date: November 3, 2004

Director of Real Estate Analysis:

Tom Gouris

Date: November 3, 2004

MULTIFAMILY COMPARATIVE ANALYSIS

Bayview Apartments, Baytown, 4% HTC #04459

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trsh
TC (60%)	46	1	1	650	\$686	\$619	\$28,457	\$0.95	\$67.36	\$54.29
TC (60%)	46	1	1	725	686	619	28,457	0.85	67.36	54.29
TC (60%)	84	2	2	920	823	733	61,596	0.80	89.72	64.21
TC (60%)	24	2	2	954	823	733	17,599	0.77	89.72	64.21
TC (60%)	40	3	2	1,261	951	835	33,414	0.66	115.66	74.13
TOTAL:	240		AVERAGE:	891	\$792	\$706	\$169,523	\$0.79	\$85.47	\$62.06

INCOME

Total Net Rentable Sq Ft: 213,866

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$15.00
Other Support Income: (describe)

POTENTIAL GROSS INCOME

Vacancy & Collection Loss % of Potential Gross Income: -7.50%
Employee or Other Non-Rental Units or Concessions

EFFECTIVE GROSS INCOME

EXPENSES

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	5.14%	\$412	0.46
Management	5.00%	400	0.45
Payroll & Payroll Tax	11.92%	954	1.07
Repairs & Maintenance	5.69%	455	0.51
Utilities	3.20%	256	0.29
Water, Sewer, & Trash	4.19%	335	0.38
Property Insurance	2.78%	223	0.25
Property Tax 2.53839	7.95%	637	0.71
Reserve for Replacements	2.50%	200	0.22
Other: compl fees	0.94%	75	0.08
TOTAL EXPENSES	49.30%	\$3,947	\$4.43
NET OPERATING INC	50.70%	\$4,060	\$4.56

DEBT SERVICE

Malone Mortgage	46.36%	\$3,712	\$4.17
Additional Financing	0.00%	\$0	\$0.00
Additional Financing	0.00%	\$0	\$0.00
NET CASH FLOW	4.34%	\$348	\$0.39

AGGREGATE DEBT COVERAGE RATIO

RECOMMENDED DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		5.22%	\$4,406	\$4.94
Off-Sites		0.00%	0	0.00
Sitework		8.52%	7,194	8.07
Direct Construction		46.02%	38,875	43.63
Contingency	3.49%	1.90%	1,609	1.81
General Req'ts	5.42%	2.96%	2,498	2.80
Contractor's G & A	1.95%	1.06%	897	1.01
Contractor's Profit	5.84%	3.19%	2,691	3.02
Indirect Construction		5.33%	4,501	5.05
Ineligible Costs		6.68%	5,643	6.33
Developer's G & A	3.75%	2.83%	2,389	2.68
Developer's Profit	10.31%	7.78%	6,570	7.37
Interim Financing		6.45%	5,450	6.12
Reserves		2.07%	1,746	1.96
TOTAL COST		100.00%	\$84,469	\$94.79
Recap-Hard Construction Costs		63.65%	\$53,763	\$60.33

SOURCES OF FUNDS

Malone Mortgage	66.14%	\$55,865	\$62.69
Additional Financing	0.00%	\$0	\$0.00
HTC Syndication Proceeds	24.31%	\$20,538	\$23.05
Deferred Developer Fees	2.93%	\$2,478	\$2.78
Additional (excess) Funds Required	6.62%	\$5,589	\$6.27
TOTAL SOURCES			

	TDHCA	APPLICANT
POTENTIAL GROSS RENT	\$2,034,273	\$2,034,276
Secondary Income	43,200	43,200
Other Support Income	0	0
POTENTIAL GROSS INCOME	\$2,077,473	\$2,077,476
Vacancy & Collection Loss	(155,810)	(155,808)
Employee or Other Non-Rental Units or Concessions	0	0
EFFECTIVE GROSS INCOME	\$1,921,662	\$1,921,668
General & Administrative	\$98,783	\$93,600
Management	96,083	96,083
Payroll & Payroll Tax	228,997	211,200
Repairs & Maintenance	109,290	106,100
Utilities	61,540	61,200
Water, Sewer, & Trash	80,422	74,400
Property Insurance	53,467	52,800
Property Tax	152,786	159,600
Reserve for Replacements	48,000	48,000
Other: compl fees	18,000	18,000
TOTAL EXPENSES	\$947,366	\$920,983
NET OPERATING INC	\$974,296	\$1,000,685
Malone Mortgage	\$890,853	\$891,394
Additional Financing	0	0
Additional Financing	0	0
NET CASH FLOW	\$83,443	\$109,291
AGGREGATE DEBT COVERAGE RATIO	1.09	1.12

Comptroller's Region	6	
IREM Region	Houston	
Per Unit Per Month		
% of Potential Gross Income		
PER SQ FT	PER UNIT	% OF EGI
\$0.44	\$390	4.87%
0.45	400	5.00%
0.99	880	10.99%
0.50	442	5.52%
0.29	255	3.18%
0.35	310	3.87%
0.25	220	2.75%
0.75	665	8.31%
0.22	200	2.50%
0.08	75	0.94%
\$4.31	\$3,837	47.93%
\$4.68	\$4,170	52.07%
\$4.17	\$3,714	46.39%
\$0.00	\$0	0.00%
\$0.00	\$0	0.00%
\$0.51	\$455	5.69%

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)	\$1,057,440	\$1,057,440	\$4.94	\$4,406	5.59%
Off-Sites	0	0	0.00	0	0.00%
Sitework	1,726,584	1,726,584	8.07	7,194	9.12%
Direct Construction	9,330,007	8,157,592	38.14	33,990	43.09%
Contingency	386,162	386,162	1.81	1,609	2.04%
General Req'ts	599,443	599,443	2.80	2,498	3.17%
Contractor's G & A	215,243	215,243	1.01	897	1.14%
Contractor's Profit	645,729	645,729	3.02	2,691	3.41%
Indirect Construction	1,080,178	1,080,178	5.05	4,501	5.71%
Ineligible Costs	1,354,404	1,354,404	6.33	5,643	7.15%
Developer's G & A	573,420	573,420	2.68	2,389	3.03%
Developer's Profit	1,576,906	1,576,906	7.37	6,570	8.33%
Interim Financing	1,308,087	1,308,087	6.12	5,450	6.91%
Reserves	419,034	250,000	1.17	1,042	1.32%
TOTAL COST	\$20,272,637	\$18,931,188	\$88.52	\$78,880	100.00%
Recap-Hard Construction Costs	\$12,903,168	\$11,730,753	\$54.85	\$48,878	61.97%

RECOMMENDED

Malone Mortgage	\$13,407,500	\$13,407,500	\$13,407,500	Developer Fee Available
Additional Financing	0	0	0	\$2,150,326
HTC Syndication Proceeds	4,929,000	4,929,000	4,828,638	% of Dev. Fee Deferred
Deferred Developer Fees	594,687	594,687	2,036,499	95%
Additional (excess) Funds Required	1,341,450	1	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES	\$20,272,637	\$18,931,188	\$20,272,637	\$3,957,428

MULTIFAMILY COMPARATIVE ANALYSIS (continued)
Bayview Apartments, Baytown, 4% HTC #04459

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook
 Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$44.28	\$9,469,986
Adjustments				
Exterior Wall Finish	2.16%		\$0.96	\$204,552
Elderly/9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			(0.68)	(144,716)
Floor Cover			2.00	427,732
Porches/Balconies	\$18.00	37,904	3.19	682,272
Plumbing	\$605	444	1.26	268,620
Built-In Appliances	\$1,650	240	1.85	396,000
Stairs	\$1,475	88	0.61	129,800
Floor Insulation			0.00	0
Heating/Cooling			1.53	327,215
Garages/Carports		0	0.00	0
Comm &/or Aux Bldgs	\$58.70	5,617	1.54	329,718
Other:			0.00	0
SUBTOTAL			56.54	12,091,179
Current Cost Multiplier	1.08		4.52	967,294
Local Multiplier	0.87		(7.35)	(1,571,853)
TOTAL DIRECT CONSTRUCTION COSTS			\$53.71	\$11,486,620
Plans, specs, survy, bld prm	3.90%		(\$2.09)	(\$447,978)
Interim Construction Interest	3.38%		(1.81)	(387,673)
Contractor's OH & Profit	11.50%		(6.18)	(1,320,961)
NET DIRECT CONSTRUCTION COSTS			\$43.63	\$9,330,007

PAYMENT COMPUTATION

Primary	\$13,407,500	Term	480
Int Rate	6.05%	DCR	1.09
Secondary	\$0	Term	
Int Rate	0.00%	Subtotal DCR	1.09
Additional	\$4,929,000	Term	
Int Rate		Aggregate DCR	1.09

RECOMMENDED FINANCING STRUCTURE APPLICANT'S N

Primary Debt Service	\$890,853
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$109,832

Primary	\$13,407,500	Term	480
Int Rate	6.05%	DCR	1.12
Secondary	\$0	Term	0
Int Rate	0.00%	Subtotal DCR	1.12
Additional	\$4,929,000	Term	0
Int Rate	0.00%	Aggregate DCR	1.12

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$2,034,273	\$2,095,301	\$2,158,160	\$2,222,905	\$2,289,592	\$2,654,264	\$3,077,020	\$3,567,109	\$4,793,897
Secondary Income	43,200	44,496	45,831	47,206	48,622	56,366	65,344	75,751	101,804
Other Support Income: (describ)	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	2,077,473	2,139,797	2,203,991	2,270,110	2,338,214	2,710,631	3,142,364	3,642,861	4,895,700
Vacancy & Collection Loss	(155,810)	(160,485)	(165,299)	(170,258)	(175,366)	(203,297)	(235,677)	(273,215)	(367,178)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,921,662	\$1,979,312	\$2,038,691	\$2,099,852	\$2,162,848	\$2,507,333	\$2,906,686	\$3,369,646	\$4,528,523
EXPENSES at 4.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
General & Administrative	\$98,783	\$102,734	\$106,843	\$111,117	\$115,562	\$140,598	\$171,059	\$208,120	\$308,068
Management	96,083	98,966	101,935	104,993	108,142	125,367	145,334	168,482	226,426
Payroll & Payroll Tax	228,997	238,156	247,683	257,590	267,894	325,933	396,548	482,461	714,160
Repairs & Maintenance	109,290	113,661	118,208	122,936	127,854	155,553	189,254	230,257	340,837
Utilities	61,540	64,001	66,561	69,224	71,993	87,590	106,567	129,655	191,921
Water, Sewer & Trash	80,422	83,639	86,984	90,464	94,082	114,465	139,265	169,437	250,808
Insurance	53,467	55,605	57,829	60,143	62,548	76,100	92,587	112,646	166,743
Property Tax	152,786	158,898	165,254	171,864	178,738	217,462	264,576	321,897	476,487
Reserve for Replacements	48,000	49,920	51,917	53,993	56,153	68,319	83,120	101,129	149,695
Other	18,000	18,720	19,469	20,248	21,057	25,620	31,170	37,923	56,136
TOTAL EXPENSES	\$947,366	\$984,300	\$1,022,682	\$1,062,570	\$1,104,023	\$1,337,008	\$1,619,481	\$1,962,008	\$2,881,282
NET OPERATING INCOME	\$974,296	\$995,012	\$1,016,009	\$1,037,282	\$1,058,824	\$1,170,325	\$1,287,205	\$1,407,639	\$1,647,241
DEBT SERVICE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
First Lien Financing	\$890,853	\$890,853	\$890,853	\$890,853	\$890,853	\$890,853	\$890,853	\$890,853	\$890,853
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$83,443	\$104,159	\$125,156	\$146,429	\$167,971	\$279,472	\$396,352	\$516,786	\$756,388
DEBT COVERAGE RATIO	1.09	1.12	1.14	1.16	1.19	1.31	1.44	1.58	1.85

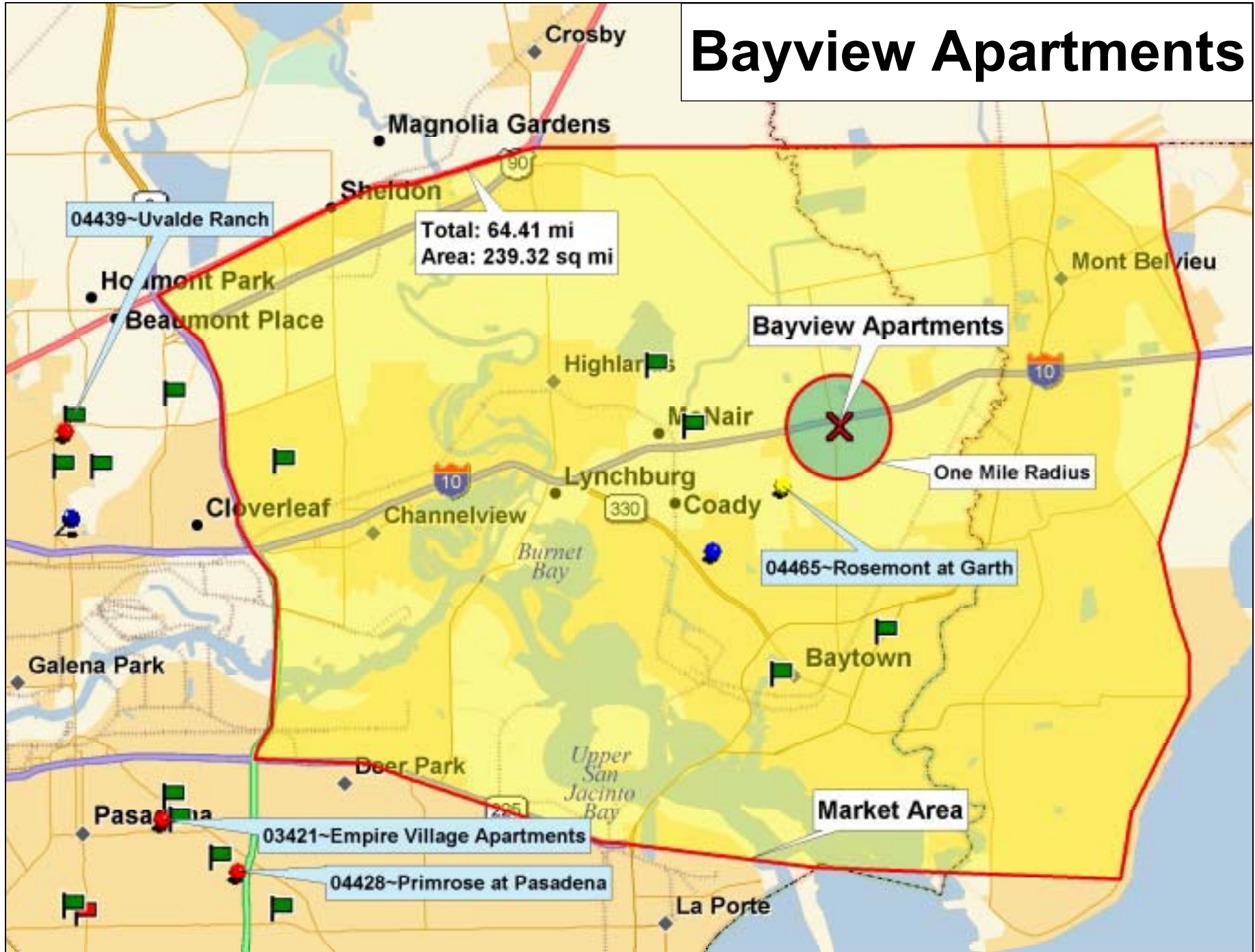
LIHTC Allocation Calculation - Bayview Apartments, Baytown, 4% HTC #04459

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$1,057,440	\$1,057,440		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,726,584	\$1,726,584	\$1,726,584	\$1,726,584
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$8,157,592	\$9,330,007	\$8,157,592	\$9,330,007
(4) Contractor Fees & General Requirements				
Contractor overhead	\$215,243	\$215,243	\$197,684	\$215,243
Contractor profit	\$645,729	\$645,729	\$593,051	\$645,729
General requirements	\$599,443	\$599,443	\$593,051	\$599,443
(5) Contingencies				
	\$386,162	\$386,162	\$386,162	\$386,162
(6) Eligible Indirect Fees				
	\$1,080,178	\$1,080,178	\$1,080,178	\$1,080,178
(7) Eligible Financing Fees				
	\$1,308,087	\$1,308,087	\$1,308,087	\$1,308,087
(8) All Ineligible Costs				
	\$1,354,404	\$1,354,404		
(9) Developer Fees			\$2,106,358	
Developer overhead	\$573,420	\$573,420		\$573,420
Developer fee	\$1,576,906	\$1,576,906		\$1,576,906
(10) Development Reserves				
	\$250,000	\$419,034		
TOTAL DEVELOPMENT COSTS	\$18,931,188	\$20,272,637	\$16,148,746	\$17,441,759

Deduct from Basis:				
All grant proceeds used to finance costs in eligible basis				
B.M.R. loans used to finance cost in eligible basis				
Non-qualified non-recourse financing				
Non-qualified portion of higher quality units [42(d)(3)]				
Historic Credits (on residential portion only)				
TOTAL ELIGIBLE BASIS			\$16,148,746	\$17,441,759
High Cost Area Adjustment			100%	100%
TOTAL ADJUSTED BASIS			\$16,148,746	\$17,441,759
Applicable Fraction			100%	100%
TOTAL QUALIFIED BASIS			\$16,148,746	\$17,441,759
Applicable Percentage			3.56%	3.56%
TOTAL AMOUNT OF TAX CREDITS			\$574,895	\$620,927

Syndication Proceeds	0.8399	\$4,828,638	\$5,215,262
Total Credits (Eligible Basis Method)		\$574,895	\$620,927
Syndication Proceeds		\$4,828,638	\$5,215,262
Requested Credits		\$586,896	
Syndication Proceeds		\$4,929,433	
Gap of Syndication Proceeds Needed			\$6,865,137
Credit Amount			\$817,360

Bayview Apartments



Applicant Evaluation

Project ID # **04459**

Name: **Bayview Apartments**

City: **Baytown**

LIHTC 9% LIHTC 4% HOME BOND HTF SECO ESGP Other

No Previous Participation in Texas Members of the development team have been disbarred by HUD

Members of the application did not receive the required Previous Participation Acknowledgement

National Previous Participation Certification Received: N/A Yes No

Noncompliance Reported on National Previous Participation Certification: Yes No

Portfolio Management and Compliance

Total # of Projects monitored: 0

Projects in Material Noncompliance

in noncompliance: 0

Yes No

Projects zero to nine: 0
 grouped ten to nineteen: 0
 by score twenty to twenty-nine: 0

monitored with a score less than thirty: 0

Projects not reported Yes
 in application No

not yet monitored or pending review: 2

of projects not reported 0

Portfolio Monitoring

Single Audit

Contract Administration

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification
 (Comments attached)

Not applicable
 Review pending
 No unresolved issues
 Issues found regarding late cert
 Issues found regarding late audit
 Unresolved issues found that warrant disqualification
 (Comments attached)

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification
 (Comments attached)

Reviewed by Patricia Murphy

Date 10/25/2004

Multifamily Finance Production

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification
 (Comments attached)

Reviewer R Meyer
 Date 10/22/2004

Single Family Finance Production

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification
 (Comments attached)

Reviewer _____
 Date _____

Real Estate Analysis (Cost Certification and Workout)

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification
 (Comments attached)

Reviewer _____
 Date _____

Community Affairs

No relationship
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification
 (Comments attached)

Reviewer EEF
 Date 10/28/2004

Office of Colonia Initiatives

Not applicable
 Review pending
 No unresolved issues
 Unresolved issues found
 Unresolved issues found that warrant disqualification
 (Comments attached)

Reviewer _____
 Date _____

Financial Administration

No delinquencies found
 Delinquencies found

Reviewer Stephanie A. D'Couto
 Date 10/28/2004

Executive Director: Edwina Carrington

Executed: day, November 03, 2004

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Presentation, Discussion and Possible Approval for the issuance of Housing Tax Credits for Artisan on the Bluff.

Summary of the Transaction

The application was received on **August 19, 2004**. The Issuer for this transaction is San Antonio HFC. The development is to be located at 6425 DeZavala Road in San Antonio. The development will consist of 250 total units targeting the family population, with all affordable. The site is currently properly zoned for such a development. The Department received no letters in support and no letters in opposition. The bond priority for this transaction is:

- Priority 1A:** Set aside **50%** of units that cap rents at 30% of **50%** AMFI **and** Set aside **50%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1B:** Set aside **15%** of units that cap rents at 30% of **30%** AMFI **and** Set aside **85%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 1C:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (Only for projects located in a **census tract with median income that is greater** than the median income of the county MSA, or PMSA that the QCT is located in. (MUST receive 4% Housing Tax Credits)
- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)
- Priority 3:** Any qualified residential rental development.

Recommendation

Staff recommends the Board approve the issuance of Housing Tax Credits for Artisan on the Bluff.



**HOUSING TAX CREDIT PROGRAM
2004 HTC/TAX EXEMPT BOND DEVELOPMENT PROFILE AND BOARD SUMMARY**

Texas Department of Housing and Community Affairs

Development Name: **Artisan on the Bluff**

TDHCA#: 04492

DEVELOPMENT AND OWNER INFORMATION

Development Location: San Antonio QCT: Y DDA: N TTC: N
 Development Owner: ARDC Babcock, LTD
 General Partner(s): 250 Babcock, LLC, 100%, Contact: Aubra Franklin
 Construction Category: New
 Set-Aside Category: Tax Exempt Bond Bond Issuer: San Antonio HFC
 Development Type: Family

Annual Tax Credit Allocation Calculation

Applicant Request: \$911,857 Eligible Basis Amt: \$920,414 Equity/Gap Amt.: \$1,098,419
Annual Tax Credit Allocation Recommendation: \$911,857
 Total Tax Credit Allocation Over Ten Years: \$ 9,118,570

PROPERTY INFORMATION

Unit and Building Information

Total Units: 250 HTC Units: 250 % of HTC Units: 100
 Gross Square Footage: 253,063 Net Rentable Square Footage: 246,724
 Average Square Footage/Unit: 987
 Number of Buildings: 11
 Currently Occupied: N

Development Cost

Total Cost: \$22,971,728 Total Cost/Net Rentable Sq. Ft.: \$93.11

Income and Expenses

Effective Gross Income:¹ \$1,841,138 Ttl. Expenses: \$825,818 Net Operating Inc.: \$1,015,319
 Estimated 1st Year DCR: 1.14

DEVELOPMENT TEAM

Consultant: Not Utilized Manager: United Apartment Group
 Attorney: Coats, Rose, Yale, Ryman & Lee PC Architect: Gonzalez Newell Bender
 Accountant: To Be Determined Engineer: Kimley Horn
 Market Analyst: Butler Burgher, LLC Lender: Newman Capital
 Contractor: Galaxy Builders, Ltd. Syndicator: Paramount Financial Group, Inc.

PUBLIC COMMENT²

From Citizens:	From Legislators or Local Officials:
# in Support: 0	Sen. Leticia Van De Putte, District 26 - NC
# in Opposition: 0	Rep. Joaquin Castro, District 125 - NC
	Mayor Ed Garza - NC
	Andrew Cameron, Department of Housing and Community Development Director, City of San Antonio Consistent with the local Consolidated Plan

1. Gross Income less Vacancy

2. NC - No comment received, O - Opposition, S - Support

CONDITION(S) TO COMMITMENT

1. Per §50.12(c) of the Qualified Allocation Plan and Rules, all 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 such services will be included in the Declaration of Land Use Restrictive Covenants (“LURA”).
2. Receipt, review, and acceptance of a revised site plan indicating at least one free (uncovered) parking space per unit.
3. Receipt, review, and acceptance of documentation that all development buildings, parking and drives will be located outside of the 100-year floodplain.
4. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

DEVELOPMENT’S SELECTION BY PROGRAM MANAGER & DIVISION DIRECTOR IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond. Housing Type

Other Comments including discretionary factors (if applicable).

Robert Onion, Multifamily Finance Manager

Date

Brooke Boston, Director of Multifamily Finance Production Date

DEVELOPMENT’S SELECTION BY EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

Score Utilization of Set-Aside Geographic Distrib. Tax Exempt Bond Housing Type

Other Comments including discretionary factors (if applicable)._____

Edwina P. Carrington, Executive Director

Date

Chairman of Executive Award and Review Advisory Committee

TDHCA Board of Director’s Approval and description of discretionary factors (if applicable).

Chairperson Signature: _____

Elizabeth Anderson, Chairman of the Board

Date

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: November 3, 2004 **PROGRAM:** 4% HTC **FILE NUMBER:** 04492

DEVELOPMENT NAME

Artisan on the Bluff Apartments (aka The Park at Babcock)

APPLICANT

Name: ARDC Babcock, Ltd **Type:** For-profit
Address: 2511 N Loop 1604 W, Suite 202 **City:** San Antonio **State:** TX
Zip: 78258 **Contact:** Ryan Wilson **Phone:** (210) 694-2223 **Fax:** (210) 694-2225

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name: 250 Babcock, LLC **(%):** 0.01 **Title:** Managing General Partner
Name: Franklin Development Company **(%):** N/A **Title:** Developer
Name: Aubra Franklin **(%):** 0.01 **Title:** Special Limited Partner; Owner of Developer & MGP

PROPERTY LOCATION

Location: 6425 DeZavala Road **QCT** **DDA**
City: San Antonio **County:** Bexar **Zip:** 78249

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$911,857	N/A	N/A	N/A
Other Requested Terms: Annual ten-year allocation of housing tax credits			
Proposed Use of Funds: New construction		Property Type: Multifamily	

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$911,857 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance of a revised site plan indicating at least one free (uncovered) parking space per unit;
2. Receipt, review and acceptance of documentation that all development buildings, parking and drives will be located outside of the 100-year floodplain
3. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

REVIEW of PREVIOUS UNDERWRITING REPORTS

The development was proposed as a 2004 9% tax credit transaction, but was not underwritten.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DEVELOPMENT SPECIFICATIONS											
IMPROVEMENTS											
Total Units:	<u>250</u>	# Rental Buildings	<u>11</u>	# Non-Res. Buildings	<u>1</u>	# of Floors	<u>3</u>	Age:	<u>N/A</u> yrs	Vacant:	<u>N/A</u> at / /
Net Rentable SF:	<u>246,724</u>	Av Un SF:	<u>987</u>	Common Area SF:	<u>6,339</u>	Gross Bldg SF:	<u>253,063</u>				
STRUCTURAL MATERIALS											
The structure will be wood frame on a slab on grade. According to the plans provided in the application the exterior will be comprised as follows: 20% masonry veneer and 80% cement fiber siding. The interior wall surfaces will be drywall and the pitched roof will be finished with composite shingles.											
APPLIANCES AND INTERIOR FEATURES											
The interior flooring will be a combination of carpeting & vinyl. Each unit will include: range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, tile tub/shower surround, washer & dryer connections, cable, ceiling fans, laminated counter tops, individual water heaters, individual heating and air conditioning, and 9-foot ceilings.											
ON-SITE AMENITIES											
The architectural drawings include a 5,619-square foot community building with a clubroom, laundry facility, exercise room, social activities room, computer center, kitchen, child development center, and public restrooms as well as leasing and management offices. The community building, swimming pool, and 720-square foot cabana will be located at the entrance to the property. In addition, a half basketball court, equipped children's play area, and perimeter fencing with limited access gate(s) are planned for the site.											
Uncovered Parking:	<u>232</u>	spaces	Carports:	<u>122</u>	spaces	Garages:	<u>56</u>	spaces			
PROPOSAL and DEVELOPMENT PLAN DESCRIPTION											
Description: Artisan on the Bluff is a relatively dense (12 units per acre) new construction development of affordable housing located in northwest San Antonio. The development is comprised of 11 garden style walk-up residential buildings located on the portion of the site that is not within the 100 year floodplain as follows:											
<ul style="list-style-type: none"> € Four buildings with four one-bedroom units and 24 two-bedroom units; € Three buildings with 12 one-bedroom units and 12 three-bedroom units; € Two buildings with four one-bedroom units, eight two-bedroom units and 12 three-bedroom units; € One building with eight three-bedroom units; and € One building with 10 three-bedroom units. 											
Architectural Review: The building and unit plans are comparable to other modern apartment developments. They appear to provide acceptable access and storage. The elevations reflect simple, yet attractive exteriors. The Applicant appears to be providing less than one free parking space per unit which is inconsistent with industry preference. The absence of a free parking space for each unit may lead to rent for some units in excess of the program rent limit since the Applicant plans to charge for carports and garages. Receipt, review and acceptance of a revised site plan indicating at least one free (uncovered) parking space per unit is a condition of this report.											

SITE ISSUES										
SITE DESCRIPTION										
Size:	<u>20.57</u>	acres	<u>896,029</u>	square feet	Zoning/ Permitted Uses:	<u>C-2</u>				
Flood Zone Designation:	<u>Zone AE & X</u>	Status of Off-Sites:	<u>Partially improved</u>							
SITE and NEIGHBORHOOD CHARACTERISTICS										
Location: The subject site is located in the central portion of the defined Primary Market Area, along the north side of Babcock Road, and west of DeZavala Road.										

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

Adjacent Land Uses:

- € **North:** vacant land (floodplain), retail;
- € **South:** Babcock, vacant land;
- € **East:** vacant land (commercial), Eckerds, DeZavala Road, single family; and
- € **West:** Leon Creek (floodplain).

Site Access: Access is directly from Babcock Road, an east/west roadway.

Public Transportation: VIA Metropolitan Transit operates a fleet of over 529 buses, with regular service going downtown, across town and around town. The location of the nearest bus stop is at the corner of Babcock Road and Spring Time Road, south of the subject.

Shopping & Services: The subject development is within the Northside Independent School District. The City of San Antonio provides ample resources for shopping and services.

Special Adverse Site Characteristics:

Floodplain: “The western portion of the site is designated Zone AE according to the REMA National Flood Insurance Program Flood Insurance Rate Map. Zone AE is a special flood hazard area inundated by the 100-year flood where base flood elevations are determined. The Western boundary of the site appears to be located in Zone AE. DCE recommends that a flood survey be conducted for the site to determine the extent of the special flood hazard area. Certain construction restrictions or provisions may apply to areas located in a special flood hazard zone” (Executive Summary of ESA). The site plan indicates that all development buildings, parking and drives will be located outside of the 100-year floodplain. However, receipt, review and acceptance of documentation that all development buildings, parking and drives will be located outside of the 100-year floodplain is a condition of this report.

Site Inspection Findings: TDHCA staff performed a site inspection on September 4, 2004 and found the location to be acceptable for the proposed development.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated July 19, 2004 was prepared by Drash Consulting Engineers, Inc. and contained the following findings and conclusions:

- € **Leaking Petroleum Storage Tank (LPST):** Two LPST facilities were identified within the search radius. Both cases have been closed (p. 9).
- € **Floodplain:** “The western portion of the site is designated Zone AE according to the REMA National Flood Insurance Program Flood Insurance Rate Map. Zone AE is a special flood hazard area inundated by the 100-year flood where base flood elevations are determined. The Western boundary of the site appears to be located in Zone AE. DCE recommends that a flood survey be conducted for the site to determine the extent of the special flood hazard area. Certain construction restrictions or provisions may apply to areas located in a special flood hazard zone” (Executive Summary).

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside although as a Priority 1 private activity bond lottery development in a census tract with a higher median income than the MSA the Applicant has elected the 100% at 60% option.

MAXIMUM ELIGIBLE INCOMES						
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$21,660	\$24,720	\$27,840	\$30,900	\$33,360	\$35,820

MARKET HIGHLIGHTS

A market feasibility study dated September 7, 2004 and updated November 3, 2004 was prepared by Butler Burgher, Inc. (“Market Analyst”) and highlighted the following findings:

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS

Definition of Primary Market Area (PMA): “The subject’s primary market area (PMA) is that area that lies north of Loop 410, west of IH 10, east of SH 16 and south of Loop 1604, within the City of San Antonio” (p. 7). This area encompasses approximately 29.45 square miles and is equivalent to a circle with a radius of 3 miles.

“...the subject property is located in the N1 submarket. According to Apartment MarketData Research Services, the N1 submarket boundaries are defined as being bordered to the east by IH 10, to the south by Loop 410, to the west by SH 16 and to the north by Loop 1604” (p. 53).

Population: The estimated 2004 population of the PMA is 120,201 and is expected to increase to approximately 139,392 by 2009. Within the primary market area there were estimated to be 50,355 households in 2004.

Total Primary Market Demand for Rental Units: The Market Analyst calculated a total demand in the PMA, based on renter households estimated at 58.81% of the population, income-qualified households estimated at 19.48%, and an annual renter turnover rate of 70.5%. The Market Analyst used an income band of \$18,085 to \$32,130.

ANNUAL INCOME-ELIGIBLE PMA DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth (Mkt Anlyst - 2 years)	354	9%	175	4%
Resident Turnover	4,066	91%	4,067	96%
TOTAL ANNUAL DEMAND	4,421	100%	4,242	100%

Ref: p. 58

Inclusive Capture Rate: The Market Analyst calculated an inclusive capture rate of 13.57% based upon 4,421 units of demand and 352 unstabilized affordable housing units in the PMA and 600 forecast LIHTC units (including the subject) (p. 58). The Underwriter calculated an inclusive capture rate of 14.2% based upon a revised supply of unstabilized or proposed comparable affordable units of 602 divided by a revised demand of 4,242.

Market Rent Comparables: The Market Analyst surveyed seven comparable apartment projects totaling 1,658 units in the market area (p. 62).

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (60%)	\$527	\$527	\$0	\$660	-\$133
2-Bedroom (60%)	\$634	\$635	-\$1	\$805	-\$171
3-Bedroom (60%)	\$727	\$729	-\$2	\$1,000	-\$273

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent = \$500, program max = \$600, differential = -\$100)

Primary Market Occupancy Rates: “Overall Occupancy for the N1 submarket was reported at 93.2% with the majority of the units being constructed in the 1970s and 1980s. The Apartment MarketData Research report indicates a stronger occupancy rate of 93.6% for 2000 units” (p. 52).

Absorption Projections: “Newly constructed apartment complexes in the San Antonio market have experienced absorption rates ranging from 13 units/month to 48 units/month” (p. 59).

Known Planned or Unstabilized Developments: Babcock North Expansion (HTC #01087) has been stabilized for less than 12 months (p. 5). The Market Analyst failed to include the 280-unit Eagle Ridge (HTC #01462), the 152-unit Woodland (HTC #01483), and the 160-unit Wurzbach (HTC #02476) as unstabilized developments located in the PMA. A revision to the Market Study on November 2, 2004 corrects this omission.

Market Study Analysis/Conclusions: The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

OPERATING PROFORMA ANALYSIS

Income: The Applicant's potential gross rent projection is slightly less than the Underwriter's estimate due to rounding error in calculating the utility allowances.

Secondary income attributable to "Telephone" will be earned from the Owner's services as a marketing representative for the local residential telecommunication provider. A contract entered into by an affiliate of the Applicant and Southwestern Bell Telephone, LP (SWBT) indicates SWBT will pay a commission for a period of seven years based on a Performance Commission Rate (PCR) of 4.50%. The amount of commission paid to the owner each month is determined by multiplying the PCR and the total billed revenue less taxes, special fees, franchise and/or governmental fees, installation charges, late payment charges, uncollectables, charges for equipment and business service charges.

Secondary income attributable to "Cable" will be earned for allowing access to the property by the local cable television provider. A contract entered into by an affiliate of the Applicant and Time Warner Cable indicates a fee payable to the Owner (paid to a project account to be used for project purposes including a computer training facility, training classes, security equipment or other facilities of general benefit to the residents).

The sample contracts support secondary income above the current \$15 per unit per month maximum guideline; however, the returns are based upon the number of tenants that choose to sign up for the optional services. The underwriting analysis includes additional secondary income of \$10.00 per unit per month based on the average of actual collections at three HTC developments located in San Antonio.

Overall, the Applicant's effective gross income projection is comparable to the Underwriter's estimate.

Expenses: The Applicant's operating expense projection is \$73K, or 9% less than the Underwriter's estimate. The Underwriter's line-item expense estimates are based on the TDHCA database and IREM data as well as an operating statement for Retama Ranch (FHA 221(d)4) submitted by the Applicant. The Applicant's line-item projection for general and administrative expenses varied significantly when compared to the Underwriter's estimates (\$18K lower).

Conclusion: Because the Applicant's total operating expense figure and net operating income each vary by more than 5% as compared to the Underwriter's estimate, the Underwriter's proforma is used to determine the development's debt service capacity. The underwriting analysis indicates the development will be able to achieve an initial debt coverage ratio within the Department's guideline of 1.10 to 1.30 based on the proposed financing structure.

ACQUISITION VALUATION INFORMATION

ASSESSED VALUE

Land: 22.4072 acres	\$925,000	Assessment for the Year of:	2004
1 acre:	\$41,281	Valuation by:	Bexar County Appraisal District
Total: 20.57 acres prorated	\$849,158	Tax Rate:	3.042055

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control:	Unimproved commercial property contract (20.546 acres)					
Contract Expiration Date:	01/	31/	2005	Anticipated Closing Date:	01/	31/ 2005
Acquisition Cost:	\$1,500,000	Other Terms/Conditions:	\$1,500 reimbursement for survey for the benefit of buyer			
Seller:	Provident Associates, Inc			Related to Development Team Member:	No	

CONSTRUCTION COST ESTIMATE EVALUATION

Acquisition Value: The Applicant has indicated a site acquisition cost of \$1,500,000; however, the purchase contract indicates the buyer will be reimbursed \$1,500 for survey costs. The difference does not impact the recommended tax credits.

Sitework Cost: The Applicant's claimed sitework cost of \$7,500 per unit is the Department's current

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

maximum guideline.

Direct Construction Cost: The Applicant's direct construction cost estimate is \$652K less than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate. It should be noted, the Applicant did not include costs for proposed garages and carports in the development's eligible basis. The Applicant plans to charge for the covered parking and, therefore, the garages and carports could be viewed as retail space which is not eligible for tax credits.

Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by \$54K to reflect an apparent overestimation of eligible construction loan interest, to bring the eligible interest expense down to one year of fully drawn interest expense. This results in an equivalent reduction to the Applicant's eligible basis estimate.

Fees: The Applicant's contractor general requirements, contractor general and administrative fees, contractor profit, and contingencies exceed the 6%, 2%, 6% and 5% maximums allowed by HTC guidelines by \$160K based on their own construction costs. Consequently the Applicant's eligible fees in these areas have been reduced by the same amount with the overage effectively moved to ineligible costs.

Conclusion: The Applicant's total development cost is within 5% of the Underwriter's estimate; therefore, the Applicant's cost schedule, as adjusted by the Underwriter for overstated interim financing costs, general contractor fees, and contingencies, will be used to estimate eligible basis and determine the development's need for permanent funds. An eligible basis of \$20,000,294 results in annual tax credits of \$920,414. This figure will be compared to the Applicant's request and the tax credits resulting from the development's gap in need for permanent funds to determine the recommended allocation.

FINANCING STRUCTURE

INTERIM TO PERMANENT BOND FINANCING

Source: Newman Capital **Contact:** M Dawn Morgan
Tax-Exempt Amount: \$13,600,000 **Interest Rate:** BMA + 280 bps, variable
Additional Information: Issuer: San Antonio HFC; interest rate hedge with strike rate of 6%
Amortization: 35 yrs **Term:** 32 yrs **Commitment:** LOI Firm Conditional
Annual Payment: \$901,195 **Lien Priority:** 1st **Commitment Date** 09/ 27/ 2004

PERMANENT FINANCING

Source: City of San Antonio **Contact:** Andrew W Cameron
Principal Amount: \$750,000 **Interest Rate:** 4.5%
Additional Information: Department of Housing and Community Development
Amortization: 35 yrs **Term:** 35 yrs **Commitment:** LOI Firm Conditional
Annual Payment: \$42,593, accrued **Lien Priority:** 2nd **Commitment Date** 06/ 02/ 2004

TAX CREDIT SYNDICATION

Source: Paramount Financial Group **Contact:** Dale E Cook
Net Proceeds: \$7,180,000 **Net Syndication Rate (per \$1.00 of 10-yr HTC)** 78.5¢
Commitment LOI Firm Conditional **Date:** 09/ 08/ 2004
Additional Information: Net proceeds based on \$911,293 annual tax credits

APPLICANT EQUITY

Amount: \$1,441,729 **Source:** Deferred Developer Fee

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by San Antonio Housing Finance Corporation and placed with Newman Capital. The permanent financing commitment is

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

inconsistent with the terms reflected in the sources and uses of funds listed in the application. As a result, the underwriting analysis assumes a calculated annual debt service of only \$893,589, while the Applicant's proforma includes an annual debt service of \$907,137.

The development has received a commitment of HOME funds through the City of San Antonio. The note "will bear the rate of Fair Market Value as determined by the first lien holder." Interest and principal will accrue; however, the "payments are proposed to be calculated assuming principal and interest were paid prior year(s)." Therefore, the development will not immediately be responsible for an annual debt service attributable to the HOME loan.

HTC Syndication: The tax credit syndication commitment is inconsistent with the terms reflected in the sources and uses of funds listed in the application. The Underwriter has assumed a rate of 78.5% as reflected in the commitment and a limited partner ownership interest of 99.99%.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$1,441,729 amount to 57% of the total fees.

Financing Conclusions: As stated above, the Applicant's cost schedule, as adjusted by the Underwriter for overstated interim financing costs, contractor fees, and contingencies, is used to estimate eligible basis and determine the development's need for permanent funds. However, the resulting tax credits of \$920,414 is higher than the Applicant's request. Therefore, the Applicant's request of \$911,857 is the recommended annual tax credit allocation. Based on the syndication commitment to contribute \$0.785 per tax credit dollar available to the limited partner, syndication proceeds in the amount of \$7,157,362 are anticipated. To fill the remaining gap in permanent funds, it is likely the developer will defer \$1,464,366 in fees. This amount appears to be repayable from development cashflow within ten years of stabilized operation.

DEVELOPMENT TEAM

IDENTITIES of INTEREST

The Applicant and Developer are related entities. This is a common relationship for HTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- € The Applicant and General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- € The principal of the General Partner and Developer, Aubra L. Franklin, submitted an unaudited financial statement as of March 1, 2004.

Background & Experience: Multifamily Production Finance Staff have verified that the Department's experience requirements have been met and Portfolio Management and Compliance staff will ensure that the proposed owners have an acceptable record of previous participation.

SUMMARY OF SALIENT RISKS AND ISSUES

- € The Applicant's estimated operating expenses and net operating income are more than 5% outside of the Underwriter's verifiable ranges.
- € The Applicant's direct construction costs differ from the Underwriter's *Marshall and Swift*-based estimate by more than 5%.
- € Significant environmental/location risk exists regarding the location of a portion of the site in the 100-year floodplain.

Underwriter:

Lisa Vecchiotti

Date: November 3, 2004

Director of Real Estate Analysis:

Tom Gouris

Date: November 3, 2004

MULTIFAMILY COMPARATIVE ANALYSIS

Artisan on the Bluff (aka The Park at Babcock), San Antonio, 4% HTC #04492

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trsh
TC 60%	24	1	1	712	\$579	\$527	\$12,653	\$0.74	\$51.80	\$25.28
TC 60%	36	1	1	718	579	527	18,979	0.73	51.80	25.28
TC 60%	112	2	2	985	696	635	71,129	0.64	60.92	29.28
TC 60%	18	3	2	1,196	803	729	13,121	0.61	74.06	37.68
TC 60%	60	3	2	1,199	803	729	43,736	0.61	74.06	37.68
TOTAL:	250		AVERAGE:	987	\$701	\$638	\$159,618	\$0.65	\$62.83	\$30.94

INCOME

Total Net Rentable Sq Ft: **246,724**

POTENTIAL GROSS RENT

Secondary Income	Per Unit Per Month:	\$15.00
Cable, Phone, Carpools, and Garages	Per Unit Per Month:	\$10.00

POTENTIAL GROSS INCOME

Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%
Employee or Other Non-Rental Units or Concessions		

EFFECTIVE GROSS INCOME

EXPENSES

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	3.19%	\$235	0.24
Management	5.00%	368	0.37
Payroll & Payroll Tax	11.49%	846	0.86
Repairs & Maintenance	5.30%	390	0.40
Utilities	1.68%	124	0.13
Water, Sewer, & Trash	4.17%	307	0.31
Property Insurance	3.35%	247	0.25
Property Tax 3.042055	6.20%	456	0.46
Reserve for Replacements	2.72%	200	0.20
Supportive Services, Compliance, Security, Cable	1.76%	129	0.13

TOTAL EXPENSES

NET OPERATING INC

DEBT SERVICE

	% OF EGI	PER UNIT	PER SQ FT
First Lien Mortgage	48.53%	\$3,574	\$3.62
Additional Financing	0.00%	\$0	\$0.00
Additional Financing	0.00%	\$0	\$0.00
NET CASH FLOW	6.61%	\$487	\$0.49

AGGREGATE DEBT COVERAGE RATIO

RECOMMENDED DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		6.33%	\$5,994	\$6.07
Off-Sites		0.00%	0	0.00
Sitework		7.92%	7,500	7.60
Direct Construction		45.01%	42,596	43.16
Contingency	5.00%	2.65%	2,505	2.54
General Req'ts	5.79%	3.06%	2,899	2.94
Contractor's G & A	1.93%	1.02%	966	0.98
Contractor's Profit	5.79%	3.06%	2,899	2.94
Indirect Construction		6.36%	6,021	6.10
Ineligible Costs		3.05%	2,889	2.93
Developer's G & A	2.79%	2.14%	2,028	2.06
Developer's Profit	11.16%	8.57%	8,113	8.22
Interim Financing		7.74%	7,329	7.43
Reserves		3.07%	2,902	2.94
TOTAL COST		100.00%	\$94,642	\$95.90

Recap-Hard Construction Costs

SOURCES OF FUNDS

	% OF EGI	PER UNIT	PER SQ FT
First Lien Mortgage	57.48%	\$54,400	\$55.12
Additional Financing	3.17%	\$3,000	\$3.04
HTC Syndication Proceeds	30.35%	\$28,720	\$29.10
Deferred Developer Fees	6.09%	\$5,767	\$5.84
Additional (excess) Funds Required	2.91%	\$2,755	\$2.79
TOTAL SOURCES			

TDHCA	APPLICANT
\$1,915,419	\$1,912,008
45,000	0
30,000	78,324
\$1,990,419	\$1,990,332
(149,281)	(149,280)
0	0
\$1,841,138	\$1,841,052
\$58,703	\$39,130
92,057	73,642
211,500	196,500
97,594	96,528
31,021	36,329
76,818	62,421
61,681	55,000
114,077	110,477
50,000	49,600
32,368	32,870
\$825,818	\$752,497
\$1,015,319	\$1,088,555
\$893,589	\$907,137
0	0
0	0
\$121,730	\$181,418
1.14	1.20
1.14	

PER SQ FT	PER UNIT	% OF EGI
\$0.16	\$157	2.13%
0.30	295	4.00%
0.80	786	10.67%
0.39	386	5.24%
0.15	145	1.97%
0.25	250	3.39%
0.22	220	2.99%
0.45	442	6.00%
0.20	198	2.69%
0.13	131	1.79%
\$3.05	\$3,010	40.87%
\$4.41	\$4,354	59.13%
\$3.68	\$3,629	49.27%
\$0.00	\$0	0.00%
\$0.00	\$0	0.00%
\$0.74	\$726	9.85%

PER SQ FT	PER UNIT	% of TOTAL
\$6.08	\$6,000	6.53%
0.00	0	0.00%
7.60	7,500	8.16%
40.52	39,987	43.52%
2.94	2,899	3.16%
2.94	2,899	3.16%
0.98	966	1.05%
2.94	2,899	3.16%
6.10	6,021	6.55%
2.37	2,342	2.55%
2.06	2,028	2.21%
8.22	8,113	8.83%
7.43	7,329	7.98%
2.94	2,902	3.16%
\$93.11	\$91,887	100.00%
\$57.91	\$57,151	62.20%

RECOMMENDED	
\$13,600,000	Developer Fee Available
750,000	\$2,535,349
7,157,362	% of Dev. Fee Deferred
1,464,366	58%
0	15-Yr Cumulative Cash Flow
\$22,971,728	\$4,309,926

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Artisan on the Bluff (aka The Park at Babcock), San Antonio, 4% HTC #04492

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$43.45	\$10,719,750
Adjustments				
Exterior Wall Finish	1.60%		\$0.70	\$171,516
Elderly/9-Ft. Ceilings	3.20%		1.39	343,032
Roofing			0.00	0
Subfloor			(0.68)	(166,950)
Floor Cover			2.00	493,448
Balconies/Breezeways	\$15.52	59492	3.74	923,054
Plumbing	\$605	570	1.40	344,850
Built-In Appliances	\$1,650	250	1.67	412,500
Exterior Stairs	\$1,450	76	0.45	110,200
Floor Insulation			0.00	0
Heating/Cooling			1.53	377,488
Garages	\$22.90	11,200		
Comm &/or Aux Bldgs	\$58.11	6,339	1.49	368,378
Carports	\$8.20	24,400		
SUBTOTAL			57.14	14,097,266
Current Cost Multiplier	1.08		4.57	1,127,781
Local Multiplier	0.85		(8.57)	(2,114,590)
TOTAL DIRECT CONSTRUCTION COSTS			\$53.14	\$13,110,457
Plans, specs, survy, bld prm	3.90%		(\$2.07)	(\$511,308)
Interim Construction Interes	3.38%		(1.79)	(442,478)
Contractor's OH & Profit	11.50%		(6.11)	(1,507,703)
NET DIRECT CONSTRUCTION COSTS			\$43.16	\$10,648,969

PAYMENT COMPUTATION

Primary	\$13,600,000	Term	420
Int Rate	5.66%	DCR	1.14

Secondary	\$750,000	Term	
Int Rate		Subtotal DCR	1.14

Additional	\$7,180,000	Term	
Int Rate		Aggregate DCR	1.14

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$893,589
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$121,730

Primary	\$13,600,000	Term	420
Int Rate	5.66%	DCR	1.14

Secondary	\$750,000	Term	0
Int Rate	0.00%	Subtotal DCR	1.14

Additional	\$7,180,000	Term	0
Int Rate	0.00%	Aggregate DCR	1.14

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,915,419	\$1,972,882	\$2,032,068	\$2,093,030	\$2,155,821	\$2,499,188	\$2,897,244	\$3,358,699	\$4,513,811
Secondary Income	45,000	46,350	47,741	49,173	50,648	58,715	68,067	78,908	106,045
Cable, Phone, Carports, and G	30,000	30,900	31,827	32,782	33,765	39,143	45,378	52,605	70,697
POTENTIAL GROSS INCOME	1,990,419	2,050,132	2,111,636	2,174,985	2,240,235	2,597,046	3,010,688	3,490,212	4,690,554
Vacancy & Collection Loss	(149,281)	(153,760)	(158,373)	(163,124)	(168,018)	(194,778)	(225,802)	(261,766)	(351,792)
Employee or Other Non-Renta	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,841,138	\$1,896,372	\$1,953,263	\$2,011,861	\$2,072,217	\$2,402,267	\$2,784,886	\$3,228,446	\$4,338,762
EXPENSES at 4.00%									
General & Administrative	\$58,703	\$61,051	\$63,493	\$66,033	\$68,675	\$83,553	\$101,655	\$123,679	\$183,075
Management	92,057	94,819	97,663	100,593	103,611	120,113	139,244	161,422	216,938
Payroll & Payroll Tax	211,500	219,960	228,758	237,909	247,425	301,030	366,250	445,599	659,595
Repairs & Maintenance	97,594	101,497	105,557	109,779	114,171	138,906	169,000	205,615	304,360
Utilities	31,021	32,262	33,552	34,894	36,290	44,152	53,718	65,356	96,743
Water, Sewer & Trash	76,818	79,891	83,086	86,410	89,866	109,336	133,024	161,844	239,569
Insurance	61,681	64,148	66,714	69,383	72,158	87,791	106,812	129,953	192,362
Property Tax	114,077	118,640	123,386	128,321	133,454	162,367	197,545	240,343	355,767
Reserve for Replacements	50,000	52,000	54,080	56,243	58,493	71,166	86,584	105,342	155,933
Other	32,368	33,663	35,009	36,410	37,866	46,070	56,051	68,194	100,945
TOTAL EXPENSES	\$825,818	\$857,931	\$891,300	\$925,975	\$962,008	\$1,164,485	\$1,409,882	\$1,707,347	\$2,505,285
NET OPERATING INCOME	\$1,015,319	\$1,038,441	\$1,061,963	\$1,085,886	\$1,110,209	\$1,237,782	\$1,375,004	\$1,521,099	\$1,833,477
DEBT SERVICE									
First Lien Financing	\$893,589	\$893,589	\$893,589	\$893,589	\$893,589	\$893,589	\$893,589	\$893,589	\$893,589
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$121,730	\$144,852	\$168,374	\$192,297	\$216,620	\$344,193	\$481,415	\$627,510	\$939,888
DEBT COVERAGE RATIO	1.14	1.16	1.19	1.22	1.24	1.39	1.54	1.70	2.05

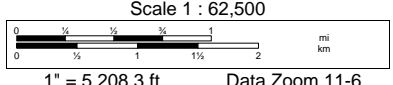
LIHTC Allocation Calculation - Artisan on the Bluff (aka The Park at Babcock), San Antonio, 4%

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$1,500,000	\$1,498,500		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,875,000	\$1,875,000	\$1,875,000	\$1,875,000
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$9,996,801	\$10,648,969	\$9,996,801	\$10,648,969
(4) Contractor Fees & General Requirements				
Contractor overhead	\$241,592	\$241,592	\$237,436	\$241,592
Contractor profit	\$724,777	\$724,777	\$712,308	\$724,777
General requirements	\$724,777	\$724,777	\$712,308	\$724,777
(5) Contingencies				
	\$724,777	\$626,198	\$593,590	\$626,198
(6) Eligible Indirect Fees				
	\$1,505,240	\$1,505,240	\$1,505,240	\$1,505,240
(7) Eligible Financing Fees				
	\$1,832,262	\$1,832,262	\$1,832,262	\$1,832,262
(8) All Ineligible Costs				
	\$585,585	\$722,282		
(9) Developer Fees				
Developer overhead	\$507,070	\$507,070	\$507,070	\$507,070
Developer fee	\$2,028,279	\$2,028,279	\$2,028,279	\$2,028,279
(10) Development Reserves				
	\$725,568	\$725,568		
TOTAL DEVELOPMENT COSTS	\$22,971,728	\$23,660,514	\$20,000,294	\$20,714,164

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis			
B.M.R. loans used to finance cost in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units [42(d)(3)]			
Historic Credits (on residential portion only)			
TOTAL ELIGIBLE BASIS		\$20,000,294	\$20,714,164
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		\$26,000,382	\$26,928,414
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$26,000,382	\$26,928,414
Applicable Percentage		3.54%	3.54%
TOTAL AMOUNT OF TAX CREDITS		\$920,414	\$953,266

Syndication Proceeds	0.7849	\$7,224,524	\$7,482,389
Total Credits (Eligible Basis Method)		\$920,414	\$953,266
Syndication Proceeds		\$7,224,524	\$7,482,389
Requested Credits		\$911,857	
Syndication Proceeds		\$7,157,362	
Gap of Syndication Proceeds Needed		\$8,621,728	
Credit Amount		\$1,098,419	

Artisan on the Bluff



<p style="text-align: center;">Board Action Summary Real Estate Analysis Division November 12, 2004</p>

Action Item

Request approval of an increase in the tax credit allocation amount and design change for transactions with 4% Housing Tax Credits (HTC) associated with private activity tax exempt mortgage revenue bonds for the following developments:

- 01424 Primrose at Shadow Creek (Southwest Housing Development), new construction asking for \$92,244 in additional credits

Recommendation and Requested Action

Approve the increase in credits as follows:

- 01424 Primrose at Shadow Creek: \$91,982 for a total of \$617,082

In addition, staff recommends approval of a design change to the development resulting in an increase in net rentable area of 8,856 square feet from that proposed at application.

Background

The requested action requires the Board to act upon one case which involved the new construction of a 176-unit development located in Austin. The original applicant was previously approved for credits in the amount of \$525,100, which was based on the Underwriter's construction cost estimate. Prior to commencement of construction the development team changed to include Southwest Housing Development as the Developer. Southwest Housing Development was not previously associated with the application and found that a number of design changes were necessary to complete the project. With the current request the owner cited design changes and increases in sitework, direct and indirect construction costs. The underwriting addendum has confirmed that construction cost increase is the primary reason for the increase.

Since 2001 the Qualified Action Plan (QAP) has included a provision for tax credits associated with private activity bonds which states that a determination notice issued by the Department and any subsequent IRS Form(s) 8609 will reflect the amount of tax credits for which the project is determined to be eligible, and the amount of credits reflected may be greater than 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 date.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTI FAMILY CREDIT UNDERWRITING ADDENDUM**

DATE: October 15, 2004 PROGRAM: 4% HTC

FILE NUMBER: 01424

DEVELOPMENT NAME

Primrose of Shadow Creek (f.k.a. The Arbors at Creekside)

APPLICANT

Name: Arbors Housing Partners, Ltd. **Type:** For Profit Non-Profit Municipal Other
Address: 505 Barton Springs Road Suite 175 **City:** Austin **State:** TX
Zip: 78704 **Contact:** Paul Hilgers **Phone:** (512) 499-3144 **Fax:** (512) 499-3161

PRINCIPALS of the APPLICANT

Name: Arbors at Creekside Non-Profit Corporation **(%):** .01 **Title:** Managing General Partner
Name: Related Capital Company **(%):** 99.99 **Title:** Initial Limited Partner
Name: Austin Housing Finance Corporation **(%):** **Title:** 100% owner of G.P.
Name: Southwest Housing Development **(%):** N/A **Title:** Developer

GENERAL PARTNER

Name: Arbors at Creekside Non-Profit Corporation **Type:** For Profit Non-Profit Municipal Other
Address: 505 Barton Springs Road Suite 175 **City:** Austin **State:** TX
Zip: 78704 **Contact:** Paul Hilgers **Phone:** (512) 499-3144 **Fax:** (512) 499-3161

PROPERTY LOCATION

Location: 1026 Clayton Lane QCT DDA
City: Austin **County:** Travis **Zip:** 78723

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$92,244	N/A	N/A	N/A
Description: <u>4% tax credits in addition to 2001 award of \$525,100 for a total allocation of \$617,344 annually</u>			
Proposed Use of Funds: <u>New construction</u> Set-Aside: <input checked="" type="checkbox"/> General <input type="checkbox"/> Rural <input type="checkbox"/> Non-Profit			

SITE DESCRIPTION

Size: 4.799 acres 209,044 square feet **Zoning/ Permitted Uses:** MF-4 Multifamily Residence Moderate-High Density
Flood Zone Designation: Zone X **Status of Off-Sites:** Partially Improved

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS ADDENDUM**

DESCRIPTION of IMPROVEMENTS

Total Units: 176 **# Rental Buildings:** 5 **# Common Area Bldngs:** 1 **# of Floors:** 4 **Age:** 0 yrs **Vacant:** N/A at / /

Number	Bedrooms	Bathrooms	Size in SF
16	1	1	665
36	1	1	735
64	2	1	834
60	2	1	903

Net Rentable SF: 144,656 **Av Un SF:** 822 **Common Area SF:** *50,324 **Gross Bldng SF:** 194,980

Property Type: Multifamily SFR Rental Elderly Mixed Income Special Use

* includes air conditioned interior corridor space

RECOMMENDATION

- RECOMMEND APPROVAL OF A DESIGN CHANGE RESULTING IN AN ADDITIONAL 8,856 SQUARE FEET OF NET RENTABLE AREA TOTAL FROM THAT PROPOSED AT APPLICATION.
- RECOMMEND APPROVAL OF A TOTAL HTC ALLOCATION NOT TO EXCEED A TOTAL OF \$617,082 ANNUALLY FOR TEN YEARS.

ADDENDUM

Primrose of Shadow Creek (f.k.a. The Arbors at Creekside) was originally underwritten during the 2001 4% HTC cycle and requested a total annual allocation of \$612,094. The tax-exempt private activity mortgage revenue bonds in the amount of \$8,600,000 were to be issued by the Austin Housing Finance Corporation and placed privately with Charter/MAC. As of the date of the original report, May 21, 2001, the development was in the process of being transferred from Arbors Creekside LLC (the original applicant) to Arbors Housing Partners, Ltd. (current owner) and the expiration date for the bond reservation was approaching in June 2001. Thus, the Underwriter included both the original and revised project specifications as indicated at that time in order to evaluate the development. Due to the Applicant's significantly higher direct construction costs and developer fees, the Applicant's cost estimate exceeded the Underwriter's estimate by 17%. Therefore, the Underwriter's cost estimate was used in order to calculate a qualified eligible basis of \$14,191,881 and resulting recommended HTC allocation of \$525,100.

At Cost Certification, Arbors Housing Partners, Ltd. is requesting an additional allocation of tax credits in the amount of \$92,244 annually in addition to the allocation of \$525,100 received in 2001 for a total allocation of \$617,344. The request is based upon an increase in eligible basis due to increased and unforeseen construction costs. A letter from the owner, dated August 4, 2004, indicates that design changes and increased sitework costs were the primary reasons for the increase in total costs and eligible basis from estimates at application. The owner further explained the fact that the original developer, Covenant Arbors Housing (Bill Lee) highly underestimated the sitework costs associated with this particular development and that the total original costs estimated at application were not feasible for the type of development proposed. The inexperience of the original developer, according to the owner, led them to find a new developer for the project. Prior to commencement of construction Southwest Housing Development was included as the new developer. Southwest Housing Development purchased the architectural plans for Primrose of Shadow Creek as-is and identified that a number of design changes were necessary in order to complete the project. In response to the Underwriter's request for additional information, the Development Owner submitted a packet including a breakdown of the cost overrun line items, a comparison of the costs projected at application to the actual costs expended, an itemized list of sitework costs that were not included in the original contract and a copy of the final construction contract between the Development Owner and Affordable Housing Construction, the contractor.

The Development Owner received approval from the Department on June 11, 2001 for changes to the unit

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS ADDENDUM**

mix and unit sizes from what was originally approved at application. The changes resulted in a 1.22% or 1,660 square foot increase in net rentable area. At cost certification, the Development Owner supplied as-built architectural drawings for the development which revealed additional changes made to the unit design from what was approved in June 2001. Although the development, as constructed, contains the same unit mix approved in June 2001, the unit sizes have changed resulting in a total net rentable area of 144,656, which is 6.52% or 7,196 square feet more than what was approved in June 2001. Therefore, implicit in the Development Owner's request for additional credits is a request for a change in the design of the development.

The final construction contract represents a 9.46% overall increase from the Applicant's original budget. An independent auditor's report prepared by Novogradac & Company and included as a cost certification exhibit has confirmed total development costs of \$15,451,582 and an eligible basis of \$13,682,757. The most significant difference in cost is attributed to the increased sitework costs for the development. According to the Development Owner, water drainage improvements were necessary during construction and included placing structural paving above the water quality ponds and placing a natural drainage channel through the site in conduit. In addition, the owner provided an itemized list of additional items included in the project that were not originally accounted for in the original cost estimate. These items include the addition of a second floor to the clubhouse (an additional 2,640 square feet), 60 carports not originally included in the development, a swimming pool and retaining walls, to name a few. These improvements resulted in an additional \$610,441 in sitework costs than were originally anticipated by the Applicant. While much of the difference in costs is attributed to sitework costs it should be noted that direct and indirect construction costs also increased. Also, the contractor fees appear to have increased by 19.6% and developer fees have increased by approximately 5%. It should also be noted that at cost certification the owner provided a copy of the ground lease between Austin Housing Finance Corporation and Arbors Housing Partners, Ltd. wherein AHFC will lease the property to the owner for an annual soft payment of \$60,000. The final total development cost of \$15,451,582 is 3% higher than the Underwriter's revised and current *Marshall and Swift Residential Cost Handbook*-derived estimate. Therefore, the owner's final total cost breakdown, as adjusted by the Underwriter, will be used to calculate eligible basis and determine the final HTC allocation.

A re-evaluation of the development due to the request for additional tax credits also involved a review of the TDHCA income and operating expense projections. Current income projections are based upon the actual rental rates per the rent roll for June 2004. The difference since underwriting at application is an increase in potential rental income of 4.53%. It should be noted that the Applicant originally anticipated a higher \$37.50/unit/month in secondary income, however, at cost certification the Development Owner's secondary income is \$15/unit/month, which results in a 11% decrease in effective gross income from what the Applicant originally anticipated. In addition, if the maximum 50% tax credit rents were charged and achieved an additional \$143,280 in gross income could be achieved. In most cases, the development's actual performance would be most heavily relied upon for expense information; however, since this property has just begun the lease-up process, current line item operating expense projections were based upon database information only. The owner's net operating expense projection has decreased by \$91,378 since application, while the Underwriter's estimate has decreased by \$62,256. This is due to an elimination of property taxes due to the General Partner's housing authority subsidiary status. The owner's current projections do not fall within 5% of the Underwriter's estimates; therefore, the Underwriter's proforma is used to determine the debt service capacity. In both cases, there is sufficient net operating income to service the development's debt at a debt coverage ratio that is within the Department's guidelines.

Final total development costs support the need for the additional syndication proceeds. Therefore, it is recommended that the owner receive approval for the design changes made to the development and the total eligible HTC allocation of \$617,082 annually for ten years. This is \$262 less in annual credits than the Development Owner requested at cost certification due to a slight overstatement in contractor fees. The developer will also be required to defer \$530,369 in fees, which appear to be repayable within year four and five of stabilized operation.

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
CREDIT UNDERWRITING ANALYSIS ADDENDUM

SUMMARY OF SALIENT RISKS AND ISSUES

- The Applicant's estimated operating expenses and operating proforma are more than 5% outside of the Underwriter's verifiable ranges.

Credit Underwriting Supervisor:

_____ *Raquel Morales*

Date: October 15, 2004

Director of Credit Underwriting:

_____ *Tom Gouris*

Date: October 15, 2004

COST CERTIFICATION: Comparative Analysis

Primrose of Shadow Creek, Austin, HTC#1424

Reviewed by: RM

Date: 6/8/04

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	UW Net Rent	Rent per Month	CC Net Rent	Rent per SF	Tnt Pd Util	Wtr, Swr, Trsh
TC50%	16	1	1	665	\$666	\$550	\$558	\$8,800		\$0.83	\$64.00	\$14.00
TC50%	36	1	1	735	666	\$575	\$651	20,700		0.78	64.00	14.00
TC50%	64	2	1	834	800	\$635	\$651	40,640		0.76	76.00	19.00
TC50%	60	2	1	903	800	\$650		39,000		0.72	76.00	19.00
								0		#DIV/0!		
								0		#DIV/0!		
								0		#DIV/0!		
								0		#DIV/0!		
TOTAL:	176			AVERAGE: 822	\$760	\$620		\$109,140		\$0.75	\$72.45	\$17.52

INCOME	Total Net Rentable Sq Ft:	144,656	TDHCA-CC	% DIFF	TDHCA-UW	% DIFF	APPLICATION	% DIFF	COST CERT			
POTENTIAL GROSS RENT			\$1,309,680	0%	\$1,258,848	-4%	\$1,252,921	-5%	\$1,309,680			
Secondary Income	Per Unit Per Month:	\$15.00	31,680	0%	21,120	-50%	79,200	60%	31,680	\$15.00	Per Unit Per Month	
Other Support Income: (describe)			0		0				0	\$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME			\$1,341,360	0%	\$1,279,968	-5%	\$1,332,121	-1%	\$1,341,360			
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%	(100,602)	0%	(89,598)	-12%	66,606	251%	(100,608)	-7.50%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions			0						0			
EFFECTIVE GROSS INCOME			\$1,240,758	0%	\$1,190,370	-4%	\$1,398,727	11%	\$1,240,752			

EXPENSES	% OF EGI	PER UNIT	PER SQ FT	TDHCA-CC	% DIFF	TDHCA-UW	% DIFF	APPLICATION	% DIFF	COST CERT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative	4.65%	\$327	\$0.40	\$57,636	23%	\$42,601	-5%	\$52,000	14%	\$44,525	\$0.31	\$253	3.59%
Management	4.00%	282	0.34	49,630	0%	47,615	-4%	50,598	2%	49,630	0.34	282	4.00%
Payroll & Payroll Tax		No. of Baths	840	147,802	7%	108,509	-27%	140,000	1%	138,138	0.95	785	11.13%
Repairs & Maintenance	5.36%	378	0.46	66,513	-7%	67,672	-5%	79,850	11%	70,974	0.49	403	5.72%
Utilities	3.14%	222	0.27	39,021	-61%	31,837	-97%	69,000	9%	62,700	0.43	356	5.05%
Water, Sewer, & Trash	2.98%	210	0.26	37,008	-8%	52,538	23%	0	#DIV/0!	40,380	0.28	229	3.25%
Property Insurance	1.87%	132	0.16	23,145	-80%	25,198	-65%	17,500	-137%	41,559	0.29	236	3.35%
Property Tax	2.6847	0.00%	0	0	#DIV/0!	116,705	100%	140,000	100%	0	0.00	0	0.00%
Reserve for Replacements	2.84%	200	0.24	35,200	0%	35,200	0%	35,200	0%	35,200	0.24	200	2.84%
Other Expenses:	0.78%	55	0.07	9,664	0%		#DIV/0!	0	#DIV/0!	9,664	0.07	55	0.78%
TOTAL EXPENSES	37.53%	\$2,646	\$3.22	\$465,619	-5.8%	\$527,875	7%	\$584,148	16%	\$492,770	\$3.41	\$2,800	39.72%
NET OPERATING INC	62.47%	\$4,404	\$5.36	\$775,139	4%	\$662,495	-13%	\$814,579	8%	\$747,982	\$5.17	\$4,250	60.28%

DEBT SERVICE				TDHCA-CC	% DIFF	TDHCA-UW	% DIFF	APPLICATION	% DIFF	COST CERT	PER SQ FT	PER UNIT	% OF EGI
CharterMAC	54.43%	\$3,837	\$4.67	\$675,319		\$679,129		\$686,768		\$674,835	\$4.67	\$3,834	54.39%
Arbors @ Creekside NP Corp.	0.00%	\$0	\$0.00	0		0		0		0	\$0.00	\$0	0.00%
Arbors @ Creekside NP Corp.	0.00%	\$0	\$0.00	0		55,000		0		0	\$0.00	\$0	0.00%
NET CASH FLOW	8.05%	\$567	\$0.69	\$99,820		(\$71,634)		\$127,811		\$73,147	\$0.51	\$416	5.90%
AGGREGATE DEBT COVERAGE RATIO				1.15		0.90		1.19		1.11			
ALTERNATIVE DEBT COVERAGE RATIO										1.11			

CONSTRUCTION COST	Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA-CC	% DIFF	TDHCA-UW	% DIFF	APPLICATION	% DIFF	COST CERT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)			0.00%	\$0	\$0.00	\$0	#DIV/0!	\$1,000,000	100%	\$1,000,000	100%	\$0	\$0.00	\$0	0.00%
Off-Sites			0.00%	0	0.00	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	0.00	0	0.00%
Sitework			8.06%	6,878	8.37	1,210,441	0%	600,000	-102%	600,000	-102%	1,210,441	8.37	6,878	7.83%
Direct Construction			50.90%	43,414	52.82	7,640,805	-4%	6,391,897	-25%	7,391,228	-8%	7,972,703	55.11	45,299	51.60%
Contingency								300,000	100%	300,000	100%				
General Req'ts	6.00%	3.54%	3,017	3.67	531,075	-4%	419,514	-32%	479,474	-15%	553,351	3.83	3,144	3.58%	
Contractor's G & A	2.00%	1.18%	1,006	1.22	177,025	-4%	139,838	-32%	159,825	-15%	184,450	1.28	1,048	1.19%	
Contractor's Profit	6.00%	3.54%	3,017	3.67	531,075	-4%	419,514	-32%	479,474	-15%	553,351	3.83	3,144	3.58%	
Indirect Construction			3.50%	2,983	3.63	524,999	0%	612,800	14%	612,800	14%	524,999	3.63	2,983	3.40%
Ineligible Costs			10.45%	8,910	10.84	1,568,242	0%	1,206,109	-30%	1,206,109	-30%	1,568,242	10.84	8,910	10.15%
Developer's G & A	2.00%	1.53%	1,308	1.59	230,283	0%	189,858	100%	150,000	100%	0	0.00	0	0.00%	
Developer's Profit	13.00%	9.97%	8,505	10.35	1,496,843	-19%	1,234,077	-45%	1,700,000	-5%	1,784,707	12.34	10,140	11.55%	
Interim Financing			5.99%	5,107	6.21	898,755	0%	609,334	-47%	609,334	-47%	898,755	6.21	5,107	5.82%
Reserves			1.34%	1,140	1.39	200,583	0%	389,132	48%	1,160,000	83%	200,583	1.39	1,140	1.30%
TOTAL RESIDENTIAL COST	100.00%	\$85,285	\$103.76	\$15,010,126	-3%	\$13,512,073	-14%	\$15,848,244	3%	\$15,451,582	\$106.82	\$87,793	100.00%		
COMMERCIAL SPACE COST	0.00%	\$0	\$0.00	\$0		\$0		\$0		\$0	\$0.00	\$0	0.00%		
TOTAL DEVELOPMENT COST	100.00%	\$85,285	\$103.76	\$15,010,126		\$13,512,073		\$15,848,244		\$15,451,582	\$106.82	\$87,793	100.00%		

SOURCES OF FUNDS				TDHCA-CC	% DIFF	TDHCA-UW	% DIFF	APPLICATION	% DIFF	COST CERT	GAP ANALYSIS
CharterMAC	57.29%	\$48,864	\$59.45	\$8,600,000		\$8,600,000		\$8,600,000		\$8,600,000	\$8,600,000
Arbors @ Creekside NP Corp.	3.33%	\$2,841	\$3.46	500,000		1,000,000		1,000,000		500,000	500,000
LIHTC Net Syndication Proceeds	33.00%	\$28,145	\$34.24	4,953,505		4,827,000		4,827,000		4,953,505	5,821,213
Deferred Developer Fees	9.31%	\$7,944	\$9.66	1,398,077		1,421,243		1,421,243		1,398,077	
Additional (excess) Funds Req'd	-2.94%	(\$2,508)	(\$3.05)	(441,456)		(2,336,170)		1		0	530,369
TOTAL SOURCES				\$15,010,126		\$13,512,073		\$15,848,244		\$15,451,582	\$15,451,582

COST CERTIFICATION: Comparative Analysis

Primrose of Shadow Creek, Austin, HTC#1424

OPTIONAL

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$ 44.67	\$6,462,028
Adjustments				
Exterior Wall Finish	2.60%		\$1.16	\$168,013
Elderly	5.00%		2.23	323,101
Roofing			0.00	0
Subfloor			(0.51)	(73,413)
Floor Cover			2.00	289,312
Porches/Balconies	\$20.23	4896	0.68	99,022
Plumbing	\$605		0.00	0
Built-In Appliances	\$1,650	176	2.01	290,400
Elevators	\$51,500	4	1.42	206,000
Floor Insulation			0.00	0
Heating/Cooling			1.53	221,324
Garages/Carports	\$8.18	14,904	0.84	121,915
Comm &/or Aux Bldgs	\$56.94	7,860	3.09	447,541
Other: Interior Corridors	\$44.67	42,464	13.11	1,896,939
SUBTOTAL			72.26	10,452,181
Current Cost Multiplier	1.03		2.17	313,565
Local Multiplier	0.87		(9.39)	(1,358,783)
TOTAL DIRECT CONSTRUCTION COSTS			\$65.03	\$9,406,963
Plans, specs, survy, bld prmts	3.90%		(2.54)	(366,872)
Interim Construction Interest	3.38%		(2.19)	(317,485)
Contractor's OH & Profit	11.50%		(7.48)	(1,081,801)
NET DIRECT CONSTRUCTION COSTS			\$52.82	\$7,640,805

PAYMENT COMPUTATION

Primary	\$8,600,000	Amort	480
Int Rate	7.45%	DCR	1.15

Secondary	\$500,000	Amort	
Int Rate	0.00%	Subtotal DCR	1.15

Additional		Amort	
Int Rate		Aggregate DCR	1.15

RECOMMENDED FINANCING STRUCTURE

\$675,319
0
0
\$99,820

Primary	\$8,600,000	Amort	480
Int Rate	7.45%	DCR	1.11

Secondary	\$500,000	Amort	0
Int Rate	0.00%	Subtotal DCR	1.11

Additional	\$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.11

30-YEAR PROFORMA

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,309,680	\$1,348,970	\$1,389,440	\$1,431,123	\$1,474,056	\$1,708,835	\$1,981,009	\$2,296,532	\$3,086,347
Secondary Income	31,680	32,630	33,609	34,618	35,656	41,335	47,919	55,551	74,656
Other Support Income: (describe)	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,341,360	1,381,601	1,423,049	1,465,740	1,509,712	1,750,171	2,028,927	2,352,083	3,161,003
Vacancy & Collection Loss	(100,602)	(103,620)	(106,729)	(109,931)	(113,228)	(131,263)	(152,170)	(176,406)	(237,075)
Employee or Other Non-Rental Units	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,240,758	\$1,277,981	\$1,316,320	\$1,355,810	\$1,396,484	\$1,618,908	\$1,876,758	\$2,175,677	\$2,923,928
EXPENSES at 4.00%									
General & Administrative	\$57,636	\$59,941	\$62,339	\$64,833	\$67,426	\$82,034	\$99,807	\$121,430	\$179,746
Management	49,630	51,119	52,653	54,232	55,859	64,756	75,070	87,027	116,957
Payroll & Payroll Tax	147,802	153,714	159,862	166,257	172,907	210,368	255,945	311,396	460,942
Repairs & Maintenance	66,513	69,173	71,940	74,818	77,810	94,668	115,178	140,132	207,430
Utilities	39,021	40,582	42,205	43,893	45,649	55,539	67,572	82,212	121,693
Water, Sewer & Trash	37,008	38,488	40,028	41,629	43,294	52,674	64,086	77,970	115,415
Insurance	23,145	24,071	25,034	26,035	27,076	32,942	40,080	48,763	72,181
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	35,200	36,608	38,072	39,595	41,179	50,101	60,955	74,161	109,777
Other	9,664	10,051	10,453	10,871	11,306	13,755	16,735	20,361	30,139
TOTAL EXPENSES	\$465,619	\$483,747	\$502,586	\$522,163	\$542,507	\$656,838	\$795,428	\$963,452	\$1,414,280
NET OPERATING INCOME	\$775,139	\$794,233	\$813,734	\$833,647	\$853,977	\$962,070	\$1,081,330	\$1,212,225	\$1,509,647
DEBT SERVICE									
First Lien Financing	\$675,319	\$675,319	\$675,319	\$675,319	\$675,319	\$675,319	\$675,319	\$675,319	\$675,319
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$99,820	\$118,915	\$138,415	\$158,328	\$178,658	\$286,751	\$406,011	\$536,906	\$834,328
DEBT COVERAGE RATIO	1.15	1.18	1.20	1.23	1.26	1.42	1.60	1.80	2.24
Cumulative Cash Flow	99,820	218,735	357,150	515,478	694,137	1,857,660	3,589,566	5,946,859	12,803,029

COST CERTIFICATION - Primrose of Shadow Creek, Austin, HTC#1424

Reviewed by: RM

Date: 6/8/04

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S ACQUISITION ELIGIBLE BASIS	TDHCA ACQUISITION ELIGIBLE BASIS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost						
Purchase of land	\$0	\$0				
Purchase of buildings	\$0	\$0				
(2) Rehabilitation/New Construction Cost						
On-site work	\$1,210,441	\$1,210,441			\$1,210,441	\$1,210,441
Off-site improvements	\$0	\$0				
(3) Construction Hard Costs						
New structures/rehabilitation hard costs	\$7,972,703	\$7,640,805			\$7,972,703	\$7,640,805
(4) Contractor Fees & General Requirements						
Contractor overhead	\$184,450	\$177,025			\$183,663	\$177,025
Contractor profit	\$553,351	\$531,075			\$550,989	\$531,075
General requirements	\$553,351	\$531,075			\$550,989	\$531,075
(6) Eligible Indirect Fees	\$524,999	\$524,999			\$524,999	\$524,999
(7) Eligible Financing Fees	\$898,755	\$898,755			\$898,755	\$898,755
(8) All Ineligible Costs	\$1,568,242	\$1,568,242				
(9) Developer Fees						
Developer overhead	\$0	\$230,283	\$0	\$0	\$0	\$230,283
Developer fee	\$1,784,707	\$1,496,843	\$0	\$0	\$0	\$1,496,843
(10) Development Reserves	\$200,583	\$200,583				
TOTAL DEVELOPMENT COSTS	\$15,451,582	\$15,010,126	\$0	\$0	\$13,676,419	\$13,241,301

Deduct from Basis:						
All grant proceeds used to finance costs in eligible basis					\$0	\$0
B.M.R. loans used to finance cost in eligible basis						
Non-qualified non-recourse financing					\$0	\$0
Non-qualified portion of higher quality units [42(d)(3)]					\$0	\$0
Commercial Space Cost					\$0	\$0
TOTAL ELIGIBLE BASIS			\$0	\$0	\$13,676,419	\$13,241,301
High Cost Area Adjustment					130%	130%
TOTAL ADJUSTED BASIS			\$0	\$0	\$17,779,345	\$17,213,692
Applicable Fraction			100%	100%	100%	100%
TOTAL QUALIFIED BASIS			\$0	\$0	\$17,779,345	\$17,213,692
Applicable Percentage			0.00%	0.00%	3.47%	3.47%
TOTAL AMOUNT OF TAX CREDITS			\$0	\$0	\$617,082	\$597,449
Syndication Proceeds	0.943345077		\$0	\$0	\$5,821,213	\$5,636,010

	Application	Approved	Cost Cert Reques	TDHCA/Reconciled	GAP
Total Tax Credits	612,094	525,100	617,344	617,082	56,222
Net Syndication Proceeds	4,827,000	4,953,505	5,823,684	5,821,213	530,369

Balance to be Recaptured

n/a

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Items

Requests for extensions to commence substantial construction.

Required Action

Approve or deny the requests for extensions associated with 2003 Housing Tax Credit commitments.

Background

Pertinent facts about the developments requesting extensions are given below. The requests were each accompanied by a mandatory \$2,500 extension request fee.

**Arbor Woods Apartments, HTC Development No. 03004
(forward commitment, formerly 02074)**

Summary of Request: Soil cleanup under the Voluntary Cleanup Program administered by the Texas Department of Environmental Quality caused delays. Cleanup was initiated to abate contamination by prior owners. Applicant anticipates completion date of September 30, 2004. Upon completion, applicant must obtain a "No Further Action Letter" and, then, can proceed with development.

Applicant:	Arbor Woods Housing, L.P.
General Partner:	Arbor Woods Development, LLC
Principals/Interested Parties:	Cheryl and Brian Potashnik
Syndicator:	MMA Financial
Construction Lender:	Chase Manhattan Bank
Permanent Lender:	Midland Mortgage Investment Corporation
Other Funding:	Housing Services of Texas (a nonprofit formed by principals of the applicant)
City/County:	Dallas/Dallas
Set-Aside:	General/Family
Type of Development:	New Construction
Units:	120 HTC and 31 market rate units
2003 Allocation:	\$1,059,304
Allocation per HTC Unit:	\$8,828
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of Substantial Construction
Note on Time of Request:	Request was submitted on time
Current Deadline:	November 12, 2004
New Deadline Requested:	February 28, 2005
New Deadline Recommended:	February 28, 2005
Prior Extensions:	The deadline to sign the Commitment Notice was extended from 8/21/03 to 12/1/03 so that the applicant could investigate the extent of the abatement that would be necessary.

Staff Recommendation: **Approve extension as requested.**

Millpoint Townhomes Apartments, HTC Development No. 03053

Summary of Request: Construction is under way but rain in four of the last five weeks has caused delays.

Applicant:	Millpoint Townhomes, Ltd.
General Partner:	Millpoint Affordable Housing, L.L.C.
Principals/Interested Parties:	LCJ Management, Inc. (developer); James E., C. Craig, Larry C., Charles E. and James M. Washburn
Syndicator:	MMA Financial
Construction Lender:	MMA Financial
Permanent Lender:	MMA Financial
Other Funding:	NA
City/County:	Henderson/Rusk
Set-Aside:	Rural/Family
Type of Development:	New Construction
Units:	76 HTC units
2003 Allocation:	\$515,338
Allocation per HTC Unit:	\$6,781
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of Substantial Construction
Note on Time of Request:	Request was submitted 11/2/04. Deadline was 10/13/04.
Current Deadline:	November 12, 2004
New Deadline Requested:	February 10, 2005
New Deadline Recommended:	February 10, 2005
Prior Extensions:	None
Staff Recommendation:	Approve extension as requested.

Tigoni Villas Apartments, HTC Development No. 03136

Summary of Request: Applicant was delayed by litigation until June 2004. By August 27, 2004, building permits were issued and contractor was notified to proceed. Site work is under construction.

Applicant:	Tigoni Villas, L.P.
General Partner:	Lone Star Housing Corporation
Principals/Interested Parties:	Cathy Graugnard
Syndicator:	MMA Financial, LLC
Construction Lender:	Stearns Bank
Permanent Lender:	Monarch Financial
Other Funding:	NA
City/County:	San Antonio/Bexar
Set-Aside:	General/Family
Type of Development:	New Construction
Units:	112 HTC and 28 market rate units
2003 Allocation:	\$851,994
Allocation per HTC Unit:	\$7,607
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of Substantial Construction
Note on Time of Request:	Request was submitted on time
Current Deadline:	November 12, 2004
New Deadline Requested:	January 12, 2005
New Deadline Recommended:	January 12, 2005
Prior Extensions:	None
Staff Recommendation:	Approve extension as requested.

Park Meadows Villas, Housing Tax Credit Development No. 03140

Summary of Request: Applicant requests extension because of the delay caused by finding a new general contractor after the original was dismissed.

Applicant:	LHA Park Meadows, Ltd.
General Partner:	LPMD-1, LLC
Principals/Interested Parties:	City of Lubbock Housing Authority (100% control of GP); Landmark Housing Development, LLC (developer) owned by Kent Hance Sr., Ron Hance, Susan Sorrells
Syndicator:	Lend Lease Real Estate Investments
Construction Lender:	JP Morgan Chase Bank
Permanent Lender:	JP Morgan Chase Bank
Other Funding:	NA
City/County:	Lubbock/Lubbock
Set-Aside:	General and Nonprofit
Type of Development:	New Construction
Units:	100 HTC and 12 market rate units
2003 Allocation:	\$737,372
Allocation per HTC Unit:	\$7,374
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of Substantial Construction
Note on Time of Request:	Request was submitted on time
Current Deadline:	November 12, 2004
New Deadline Requested:	January 12, 2005
New Deadline Recommended:	January 12, 2005
Prior Extensions:	None
Staff Recommendation:	Approve extension as requested.

Sterling Springs Villas, HTC Development No. 03145

Summary of Request: Applicant requests extension because of the delay caused by finding a new general contractor after the original was dismissed.

Applicant:	LHD Sterling Springs, L.P.
General Partner:	Landmark TC Management, LLC (managing GP) owned by Kent Hance Sr., Ron Hance and Susan Sorrells Crossroads Housing Development Corporation (co-GP, nonprofit CHDO)
Principals/Interested Parties:	Landmark Housing Development, LLC (developer) owned by Kent Hance Sr., Ron Hance and Susan Sorrells
Syndicator:	Related Capital
Construction Lender:	JP Morgan Chase Bank
Permanent Lender:	JP Morgan Chase Bank
Other Funding:	NA
City/County:	Midland/Midland
Set-Aside:	General
Type of Development:	New Construction
Units:	114 HTC and 6 market rate units
2003 Allocation:	\$845,579
Allocation per HTC Unit:	\$7,417
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of Substantial Construction
Note on Time of Request:	Request was submitted on time
Current Deadline:	November 12, 2004
New Deadline Requested:	January 12, 2005
New Deadline Recommended:	January 12, 2005
Prior Extensions:	Commitment extended from 8/21/03 to 10/10/03
Staff Recommendation:	Approve extension as requested.

Summit Senior Village Apartments, HTC Development No. 03159

Summary of Request for Extension: Problems associated with closing the HUD financing caused the applicant to abandon that financing and obtain a conventional loan. Applicant was also delayed by the need to obtain an amendment to the application in October of 2003. The same reasons that created a need to extend the deadline for closing the construction loan have led to the present request to extend the deadline for commencement of construction.

Applicant:	MAEDC Gainesville Seniors, L.P.
General Partner:	MAEDC Gainesville GP, LLC
Principals/Interested Parties:	James French
Syndicator:	MMA Financial
Construction Lender:	Red Mortgage Capital Group
Permanent Lender:	Red Mortgage Capital Group
Other Funding:	NA
City/County:	Gainesville/Cooke
Set-Aside:	General/Elderly
Type of Development:	New Construction
Units:	68 HTC and 8 market rate units
2003 Allocation:	\$476,268
Allocation per HTC Unit:	\$7,004
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of Substantial Construction
Note on Time of Request:	Request was submitted on time.
Current Deadline:	November 12, 2004
New Deadline Requested:	February 28, 2005
New Deadline Recommended:	February 28, 2005
Prior Extensions:	Construction loan closing extended from 8/11/04 to 9/30/04 Construction loan closing extended from 6/11/04 to 8/11/04 Carryover extended from 11/1/03 to 12/15/03 Commitment extended from 8/21/03 to 10/10/03
Staff Recommendation:	Approve extension as requested.

Pinnacle Pointe Apartments, HTC Development No. 03162

Summary of Request: Applicant experienced delays in working with adjacent property owners and the lenders involved in these adjacent properties to obtain easements for water and storm sewers. The city requires that all off-site utility work be complete before on-site construction may commence. The off-site requirements were unexpected and contradicted information previously obtained from engineers.

Applicant:	Pinnacle Pointe Associates LP
General Partner:	Pinnacle Pointe General, LLC
Principals/Interested Parties:	Campbell-Hogue & Associates TX, Inc.
Syndicator:	MMA Financial
Construction Lender:	MMA Financial
Permanent Lender:	MMA Financial
Other Funding:	NA
City/County:	Victoria/Victoria
Set-Aside:	General
Type of Development:	New Construction
Units:	143 HTC units
2003 Allocation:	\$871,732
Allocation per HTC Unit:	\$6,096
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of Substantial Construction
Note on Time of Request:	Request was submitted on time
Current Deadline:	November 12, 2004
New Deadline Requested:	February 1, 2005
New Deadline Recommended:	February 1, 2005
Prior Extensions:	None
Staff Recommendation:	Approve extension as requested.

The Manor at Jersey Village, HTC Development No. 03182

Summary of Request: Approval of the plat by the City of Jersey Village has taken longer than anticipated, delaying the start of construction. The City's Director of Public Works is new, possibly causing the delay. Applicant has completed a past development, from start of construction to completion in approximately six months and is confident that the current development can be completed similarly.

Applicant:	The Manor at Jersey Village, Ltd.
General Partner:	Artisan/American Corporation (51%), Inland General Construction Company (49%)
Principals/Interested Parties:	Elizabeth Young, Vernon Young
Syndicator:	PNC Bank
Construction Lender:	Davis-Penn Mortgage Company
Permanent Lender:	Davis-Penn Mortgage Company
Other Funding:	NA
City/County:	Jersey Village/Harris
Set-Aside:	General/Elderly
Type of Development:	New Construction
Units:	160 HTC and 40 market rate units
2003 Allocation:	\$782,354
Allocation per HTC Unit:	\$4,890
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Commencement of Substantial Construction
Note on Time of Request:	Request was submitted on time
Current Deadline:	November 12, 2004
New Deadline Requested:	January 12, 2005
New Deadline Recommended:	January 12, 2005
Prior Extensions:	None
Staff Recommendation:	Approve extension as requested.

Arbor Woods Housing, L.P.

per

September 24, 2004

Ms. Edwina P. Carrington
Texas Department of Housing & Community Affairs
507 Sabine Street, Ste. 400
Austin, Texas 78711

RECEIVED
SEP 29 2004
EXECUTIVE

RE: Arbor Woods Apartments, TDHCA#03004

Dear Ms. Carrington:

I hereby request an extension of Commencement of Substantial Construction for the above-referenced development to February 28, 2004. The property was entered into the Voluntary Cleanup Program ("VCP") administered by Texas Department of Environmental Quality ("TCEQ") in connection with addressing on-site contamination caused by prior owners and operators of the property. Remediation of the tract was initiated in June 2004. Soils that exceed the clean up target levels are being excavated and properly disposed off-site. Site clean up activities are expected to be completed by September 30, 2004. Upon completion of clean up activities, a Soil Response Action Completion Report will be submitted to TCEQ and then a "No Further Action Letter" will be requested. Once this letter is received, Arbor Woods can then proceed with structural improvements and with infrastructure installation at the site.

Enclosed is a check in the amount of \$2,500 which represents the extension fee. If you should require additional information please do not hesitate calling me at 214-891-7810.

Sincerely,



Cheryl Potashnik

MILLPOINT TOWNHOMES, LTD.
P.O. BOX 489
NEW CANEY, TEXAS 77357

(P) 281-689-2030
(F) 281-689-0103

November 2, 2004

DELEVERED VIA FAXIMILE

Ben Sheppard
Texas Dept. of Housing & Community Affairs
507 Sabine, Suite 400
Austin, TX 78701

RE: Millpoint Townhomes: Henderson, Texas
TDHCA Project #03053

Dear Mr. Sheppard:

This letter is intended as a request for a 90 day extension of the substantial construction deadline for the above referenced project. Due to construction delays over the past 60 days, the requirement of having 50% of the foundations will not be met. The weather at the jobsite has been the primary reason for these setbacks as it has rained for 4 of the last 5 weeks. At the present time, the jobsite is prepared for most of these foundations to be poured and I see no reason why they could not be completed within the requested extension. Please take this into consideration when making the decision for this request. Enclosed is the required extension fee.

I have attached a list of the additional information on the project you requested. If you have any questions, please feel free to contact me at 281-689-2030 x.24.

Sincerely,

Craig Washburn
Millpoint Townhomes, Ltd.
Member of the G.P.

Enclosures

TIGONI VILLAS, L.P.

OCT 19 AM 12:10

October 12, 2004

Ms. Jo En Taylor
Texas Department of Housing and Community Affairs
507 Sabine
Austin, Texas 78701

**RE: Tigoni Villas TDHCA #03136
Request for Extension of Substantial Construction**

Dear Ms. Taylor:

We are requesting an extension on the Substantial Construction deadline of November 12, 2004.

This request is due to the several issues. As you are aware, we were in litigation until June 2004. This litigation caused the construction process to literally stop until it was resolved. Once we resolved the litigation, we proceeded as quickly as possible. The plat was recorded, filed and building permits issued on August 27, 2004. The Contractor received notice to proceed at that time.

The site work is under construction, but we will not have 50% of the slabs poured by the November 12, 2004 deadline. We would like to extend our deadline for 60 days until January 12, 2005.

If you have any questions or need any additional information, please contact me at (210) 490-9440.

Sincerely,
Tigoni Villas, L.P.



Cathy Graugnard

RECEIVED
OCT 13 2004
COMPLIANCE

October 11, 2004

Ms. Emily Price
Texas Department of Housing and Community Affairs
507 Sabine Street, 6th Floor
Austin, Texas 78711

Re: Request for Extension of the Commencement of Substantial Construction Deadline for LIHTC #03159, Summit Senior Village, Gainesville, TX

Dear Ben:

Pursuant to the information provided in the 2003 HTC Development Timeline and Required HTC Progress Reports, the purpose of this letter is to request an extension to February 28, 2005 for meeting the deadline for "Commencement of Substantial Construction". An HTC Program Document and Payment Receipt, along with a check in the amount of \$2,500, are included with the letter.

As your agency is well aware, this project is currently operating approximately 90 days behind the ideal timeline for HTC developments. This rolling 90-day lag is due to two issues. First, we requested and received a major amendment to the development in October of last year. That amendment caused a need to request additional extensions from TDHCA, both of which were granted, to meet the Carry Over and Construction Loan Closing deadlines. Additionally, in pursuing financing, significant misrepresentations were made to the team, by very visible HUD Lenders the team was working with, regarding the suitability and firm likelihood of the project receiving HUD financing. The truth and facts of the matter were that major time barriers to that financing, relative to the expectations of TDHCA, as well as our deal/ownership structure which caused the team to abandon HUD after investing a minimum of 45 days in the process. Even though the team was faced with the aforementioned challenges both Carry Over and the Construction Loan Closing have occurred by the TDHCA required deadlines. All of the team members have been working diligently to maintain the development's momentum. A new deadline of February 28, 2005 for attaining the Commencement of Substantial Construction requirements is in line with the 90-day delay we have continued to experience.

We believe we will accomplish the requirements for Commencement of Substantial Construction prior to the requested deadline, however we wanted to ensure we did not have to request a second extension if weather or other uncontrollable events occur.

If you have questions regarding this request, please contact me at (214) 849-9802.

Sincerely,

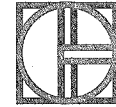

James R. French
Special Limited Partner

VIA OVERNIGHT DELIVERY

October 12, 2004

Ms. Brooke Boston,
Director Multifamily Programs
Texas Department of Housing &
Community Affairs - HTC Program
507 Sabine, Suite 400
Austin, TX 78701

RECEIVED
OCT 19 2004
LIHTC



C A M P B E L L
H O G U E
AND ASSOCIATES, INC.

Re: Pinnacle Pointe Apartments
Victoria, Texas
TDHCA Project # 03162

Dear Ms. Boston:

Regretfully we are writing to request an extension on the deadline for the Commencement of Substantial Construction for the above-referenced project (from the current filing date of November 12, 2004) to February 1, 2005.

The reason we are forced to make this request is that we had several unforeseen complications arise during our application for site development permit while working with the City of Victoria. We originally had expected to receive the Site Development Permit and Building Permit soon after we closed the construction loan last summer.

While working with two (2) separate adjacent property owners to obtain easements for both off-site water and storm sewer easements, we ran into unforeseen delays obtaining consents from their lenders and one ground lessor involved with one of the adjacent properties. Additionally we found out just prior to our plat being filed that the City would be require us to have all of the off-site utility work complete and accepted by the City prior to our starting any on-site construction. This came as a complete surprise to us, since our local engineers had told us previously we could start on-site work immediately after the plat filing. The City also apparently does not allow for any bonding of this type of work, which is customary in the industry.

As you will see by the attached photographs, we are underway with the off-site utility work, and expect to have everything complete and approved by the City by no later than November 15, 2004. Thereafter, we can file our plat and start on-site construction. At the present time we estimate having 50% of the foundations poured by the middle of January. We do not feel these delays will impact our ability to complete the construction and obtain Certificates of Occupancy well before the end of 2005.

We respectfully request you consider this extension request. Please find enclosed a check in the amount of \$2,500.00 as required by the QAP. Any questions or comments please let us know.

Sincerely,

David G. Rae
Vice President/CFO

DR/enclosures

PARK MEADOWS VILLAS

October 7, 2004

Ms. Brooke Boston
Texas Department of Housing and Community Affairs
507 Sabine, Suite 400
Austin, TX 78711-3941

Re: Park Meadows Villas
Commencement of Substantial Construction, TDHCA #03140

Dear Ms. Boston:

We respectfully request an extension for the Commencement of Substantial Construction for Park Meadows Villas (owner – LHA Park Meadows, LP) until January 12, 2005.

Due to unforeseeable circumstances, Park Meadows Villas, dismissed the original general contractor and has hired a replacement general contractor. The replacement general contractor is in the process of restarting the construction activity. As a result of this change, construction is approximately two months behind schedule.

We appreciate your assistance in this matter and are working diligently to avoid any further delays. Enclosed please find the extension fee of \$2,500.

If you have any questions or need additional information, please call me at 512-527-9335 x102. Thank you for your time and attention in this matter.

Sincerely,



Ron Hance

STERLING SPRINGS VILLAS

October 7, 2004

Ms. Brooke Boston
Texas Department of Housing and Community Affairs
507 Sabine, Suite 400
Austin, TX 78711-3941

Re: Sterling Springs Villas
Commencement of Substantial Construction, TDHCA #03145

Dear Ms. Boston:

We respectfully request an extension for the Commencement of Substantial Construction for Sterling Springs Villas (owner – LHD Sterling Springs, LP) until January 12, 2005.

Due to unforeseeable circumstances, Sterling Springs Villas, dismissed the original general contractor and has hired a replacement general contractor. The replacement general contractor is in the process of restarting the construction activity. As a result of this change, construction is approximately two months behind schedule.

We appreciate your assistance in this matter and are working diligently to avoid any further delays. Enclosed please find the extension fee of \$2,500.

If you have any questions or need additional information, please call me at 512-527-9335 x102. Thank you for your time and attention in this matter.

Sincerely,



Ron Hance

ARTISAN/AMERICAN CORP.

5325 Katy Freeway, Suite One
Houston, Texas 77007
(713) 626-1400
FAX: (713) 626-1098

October 13, 2004

Ms. Brooke Boston, Director Multifamily Programs
Texas Department of Housing and Community Affairs
Low Income Housing Tax Credit Program
507 Sabine, Suite 400
Austin, Texas 78701

RE: The Manor at Jersey Village - TDHCA #03182
HTC Progress Report - 2003 Commencement of Substantial Construction
Request for Extension of Filing Date

Dear Ms. Boston,

Artisan/American Corp. is the sole member of Jersey Village Management, LLC, which is one of the general partners of The Manor at Jersey Village, Ltd. ("**Owner**"), the owner of the referenced property ("**Jersey Village**"), and this letter is sent on Owner's behalf.

Owner respectfully requests a 60-day extension of the deadline for filing the Jersey Village HTC Progress Report - 2003 Commencement of Substantial Construction. The new filing deadline would be January 12, 2005. A cashier's check in the amount of \$2,500 made payable to Texas Department of Housing and Community Affairs was sent via overnight delivery for your receipt October 13, 2004.

Owner is requesting the extension because it is highly unlikely that sufficient construction will have taken place in order to meet the promulgated November 12, 2004 filing deadline. The delay Owner has experienced was unanticipated and is due to the fact that Owner has not yet received final approval of its plat, which was first submitted to the City of Jersey Village in May of 2004. Unfortunately, the City of Jersey Village engaged a new Director of Public Works, and it appears that this change played a significant role in the delay. Notwithstanding, Owner has been in regular contact with the City and the new Director and received what has been described as the City's final comments to the plat on October 5, 2004. Owner is currently making the necessary revisions and expects to resubmit the plat by Tuesday, October 19, 2004, at which time Owner anticipates that it will be approved, building permits will be issued, and construction will begin.

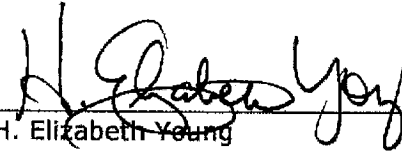
It should be noted that Jersey Village is very similar to the recently constructed Lovett Manor (also an LIHTC property), and virtually identical parties, Sun America, (Limited Partner), Artisan/American Corp. (Developer) and Inland General Construction Co. (General Contractor), are involved in both transactions. Because of this, Owner is confident that it will be able to meet a construction schedule similar to that of Lovett Manor, which was essentially completed within six months of commencement of construction.

Texas Department of Housing and Community Affairs
August 13, 2004
Page 2

Thank you for your consideration and please do not hesitate to call if you have further questions.

Yours truly,

Artisan/American Corp.,
a Texas corporation

By: 
H. Elizabeth Young

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 12, 2004

Action Item

Request for amendments to Housing Tax Credit (HTC) application involving material changes.

Requested Action

Approve or deny the request for amendment.

Background and Recommendations

Pertinent facts about the development requesting an amendment are summarized below. The recommendation of staff is provided at the end of the write-up.

Sedona Springs Village Apartments, HTC Development No. 04120

Summary of Request: Applicant requests approval to (1) change from gas to electric heating and water heating; (2) upgrade from vinyl flooring to ceramic tile in kitchens and bathrooms; and (3) upgrade all two bedroom one bathroom units (16 HTC units and 2 market rate units) to have two bathrooms. The increase in bathrooms would also increase the rentable area of the units and of the development as a whole. The scoring of the Application would not have been affected by any of the items requested.

Applicant requests item (1) as a cost saving measure. Regarding item (1), the pipes and vents associated with plumbing for gas are considerably more expensive and put more constraints on design than wiring for electricity. Applicant's architect stated that Aqua-Therm units, which provide both hot water and space heating, were planned for use with gas on the lower level of each building to minimize the number of vents. The lower levels would have used wall vents, which are unattractive but do not affect the remainder of a building's design. Conventional gas heating units would have been used on the upper level because vents could have been run through the roof. Progress in planning caused the recognition of a latent problem in the original plan. Aqua-Therm uses a grid of small cells of hot water to heat the air flowing into the HVAC ducts. The hard water of west Texas rapidly clogs the cells, increasing maintenance and replacements. Items (2) and (3) are requested to increase market demand.

Governing QAP:	2004 QAP, §50.18(c)
Applicant:	LHD Sedona Springs, LP
General Partner:	Landmark TC Management, LLC (100% GP)
Principals/Interested Parties:	Kent Hance, Ron Hance, Susan Sorrells (100% control of GP & developer), Odessa Housing Authority (0.01% limited partner)
Syndicator:	Lend Lease Real Estate Investments
Construction Lender:	JP Morgan Chase Bank
Permanent Lender:	JP Morgan Chase Bank
City/County:	Odessa/Ector
Set-Aside:	General
Allocation Category:	Urban/Exurban
Type of Development:	New Construction
Population Served:	Family
Units:	85 HTC units and 15 market rate units
2004 Allocation:	\$647,355
Allocation per HTC Unit:	\$7,616
Prior Board Actions:	Approved award of tax credits: July 28, 2004
Underwriting Reevaluation:	Real Estate Analysis recommends no change in the credit allocation.
Staff Recommendation:	Approve all items in the request.

SEDONA SPRINGS VILLAGE

September 20, 2004

Ms. Brooke Boston
Texas Department of Housing and Community Affairs
507 Sabine, Suite 400
Austin, TX 78711-3941

Re: Change Request, Sedona Springs Village, TDHCA #04120

Dear Ms. Boston:

We respectfully submit a request for the following changes to the application for tax credits for Sedona Springs Village (owner – LHD Sedona Springs, LP).

1. Flooring: Tile flooring in units as a replacement of vinyl flooring
 - a. Recommendation of the property management and general contractor for both benefit to the tenant and long-term maintenance purposes
2. Utilities: Electric heating and water heating instead of gas heating and water heating
 - a. Recommendation of the general contractor for long-term maintenance purposes. If gas heating is used, the upstairs heating equipment must be Aqua-Therm which increases maintenance problems.
3. Change all 2 Bedroom/1 Bath Units to 2 Bedroom/2 Bath Units
 - a. Originally a recommendation of the architect to reduce the number of building types resulting in more efficient construction and reduced costs. After the drawings were essentially completed, the architect discovered that he was unable to make a reduction the number of building types, but as the drawings are complete and have been submitted to the engineers, the applicant requests permission to continue with this change.

The changes requested above would NOT affect the score of the application. The request would NOT modify any of the following: site plan, unit number or mix, tenant services, modify the architecture design, or density. The requested WOULD affect the square footage of the some of the units and buildings, but would not result in any decrease of square footage, but an increase in square footage.

Enclosed please find:

1. Exhibit 3. Activity Overview – Amended
2. Development Cost Schedule - Amended
3. Rent Schedule – Amended
4. Utility Allowance Schedule – Amended

SEDONA SPRINGS VILLAGE

5. Statement of Annual Expenses – Amended
6. Sources and Uses – Amended
7. 30 year Proforma – Amended
8. Unit & Building Plans - Amended

If you have any questions or need additional information, please call Aubrea Hance at 512-527-9335 x101. Thank you for your time and attention in this matter.

Sincerely,



Ron Hance
Managing Member of the General Partner

1. NCSHA – Conference and Election of Board Member
Edwina P. Carrington, Executive Director, was elected to the Board of the National Council of State Housing Agencies.
2. Houser Award
Edwina P. Carrington, Executive Director, was presented the Texas Houser Award (one of three given statewide) by the Texas Low Income Housing Service.
3. NCSHB – Election of Board Member
Mr. C. Kent Conine, Board Vice-Chair, was elected First Vice President of the National Council of State Housing Boards.
4. Affordable Housing Partnership with the Texas Association of Realtors
Texas Department of Housing and Community Affairs will enter into a partnership with the Texas Association of Realtors
5. Department Outreach Activities – Meetings, Trainings, Conferences, Workshops for September and October, 2004
The Department attended many trainings, conferences, etc. during the months of September and October, 2004.
6. Award Recognition of Community Affairs Staff Member by the US Department of Energy (Central Region)
Joe Guerrero of the Community Affairs Division received a special award from the Department of Energy.

EXECUTIVE SESSION

Elizabeth Anderson

If permitted by law, the Board may discuss any item listed on This agenda in Executive Session
Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning the Proposed 2005 Housing Tax Credit Program Qualified Allocation Plan And Rules
Consultation with Attorney Pursuant to §551.071, Texas Government Code, Concerning Pending or Contemplated Litigation

OPEN SESSION

Elizabeth Anderson

Action in Open Session on Items Discussed in Executive Session

REPORT ITEMS

Executive Directors Report

1. NCSHA – Conference and Election of Board Member
2. Houser Award
3. NCSHB – Election of Board Member
4. Affordable Housing Partnership with the Texas Association of Realtors
5. Department Outreach Activities – Meetings, Trainings, Conferences, Workshops for September and October, 2004
6. Award Recognition of Community Affairs Staff Member by the US Department of Energy (Central Region)

ADJOURN

Elizabeth Anderson

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact the Board Secretary, Delores Groneck, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-3934 and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Delores Groneck, 512-475-3934 at least three days before the meeting so that appropriate arrangements can be made.

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