

BOARD MEETING OF NOVEMBER 9, 2006

Beth Anderson, Chair

C. Kent Conine, Vice-Chair



Shadrick Bogany, Member

Sonny Flores, Member

Gloria Ray, 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 9, 2006**

ROLL CALL

	Present	Absent
Anderson, Beth, Chair	_____	_____
Conine, C. Kent, Vice-Chair	_____	_____
Bogany, Shadrick, Member	_____	_____
Flores, Sonny, Member	_____	_____
Ray, Gloria, Member	_____	_____
Salinas, Norberto, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

BOARD MEETING

November 9, 2006

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Capitol Extension, E1.030
9:30 am

A G E N D A

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

Elizabeth Anderson
 Chair of Board

PUBLIC HEARING ON THE STATE LOW INCOME HOUSING PLAN

Prior to receiving general public comment, the Governing Board extends an invitation to any member of the Public that wishes to provide public comment on the State Low Income Housing Plan prior to Board approval at this 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 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:

REPORT ITEMS

Executive Director's Report

1. Report on new \$428.6 million CDBG Disaster Relief Funding Action Plan
2. TDHCA Outreach Activities, October 2006
3. Second Release of RFP for property management

CONSENT AGENDA

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

Item 1: Approval of the following items presented in the Board materials:

Multifamily Division Items:

- | | | |
|--|---------------------------------|------------|
| a) Housing Tax Credit Amendments or Extensions | | |
| 05165 | Lincoln Park | Houston |
| 04003 | Villas on Sixth Street | Austin |
| 04170 | Gardens of Athens | Athens |
| 04176 | Gardens of Gladewater | Gladewater |
| 04250 | Knollwood Heights | Big Spring |
| 04409 | Evergreen at Plano Independence | Plano |
| 060148 | Pineywoods Orange Developments | Orange |
| 04224 | Commons of Grace | Houston |

Real Estate Analysis Division Items:

- b) Presentation, Discussion and Possible Determination for an Amendment to the Credit Amount for Woodside Manor Senior Community

Community Affairs Division Items:

- c) Presentation, Discussion and Possible Approval of Draft Public Housing Authority (PHA) Plan for Program Year 2007
- d) Presentation, Discussion and Possible Approval of Section 8 Payment Standards, Resolution #06-047

ACTION ITEMS**Item 2: Presentation, Discussion and Possible Approval of Portfolio Management & Compliance Division Items:**

- a) Presentation, Discussion and Possible Approval of Requests for Amendments to HOME Investment Partnerships Program (HOME) contracts:

1000298	Town of Anthony	Anthony
1000299	City of Pearsall	Pearsall
1000300	City of Balmorhea	Balmorhea
1000302	City of Presidio	Presidio
1000303	Town of Combes	Combes
1000308	Frio County	Pearsall
1000297	Zapata County	Zapata
1000301	Alpha Concepts, Inc.	Orange
1000253	City of Lewisville	Lewisville
1000264	City of Midland	Midland
1000305	City of Texarkana	Texarkana
531300	Center for Housing and Economic Opportunities Corporation	San Leanna

Item 3: Presentation, Discussion and Approval of Policy and Public Affairs Items:

- a) Presentation, Discussion and Possible Approval of the 2007 Regional Allocation Formula Methodology
- b) Presentation, Discussion and Possible Approval of the 2007 Affordable Housing Needs Score Methodology

Item 4: Presentation, Discussion and Possible Approval of Office of Colonia Initiatives Items:

- a) Presentation, Discussion and Possible Approval of Hidalgo County Self-Help Center Extension request

Item 5: Presentation, Discussion and Possible Approval of Multifamily Division Items – Specifically Housing Tax Credit Items:

- a) Presentation, Discussion and Possible Action on Housing Tax Credit Appeals (timely filed)
- | | | |
|--------|-------------------------|---------|
| 060032 | Spanish Creek Townhomes | El Paso |
|--------|-------------------------|---------|
- b) Presentation, Discussion and Possible Approval of Waivers to Eligibility for the 2004 & 2005 Credit Increase Policy
- c) Presentation, Discussion and Possible Approval of Award from the 2006 Waiting List
- | | | |
|--------|-----------------|------------|
| 060151 | Bluff's Landing | Georgetown |
|--------|-----------------|------------|
- d) Presentation, Discussion and Possible Issuance of Determination Notices for Housing Tax Credits Associated with Mortgage Revenue Bond Transactions with Other Issuers:
- | | |
|--------|---|
| 060417 | Artisan at Salado Heights, San Antonio, Texas
San Antonio HFC is the Issuer
Recommended Credit Amount of \$1,106,360 |
| 060418 | Southpark Apartments, Austin, Texas
Strategic HFC of Travis County is the Issuer
Recommended Credit Amount of \$638,559 |
| 060429 | Lakes of Goldshire, Rosenberg, Texas
Fort Bend County HFC is the Issuer
Recommended Credit Amount of \$0 |

- e) Presentation discussion and possible confirmation of approval or rescission of Determination Notices for Housing Tax Credits Associated with Mortgage Revenue Bond Transactions with Other Issuers:

060427 Mansions at Turkey Creek Houston
Houston HFC is the Issuer
Recommended Credit Amount of \$1,059,669

Item 6: Presentation, Discussion and Possible Approval of Multifamily Division Items – Specifically Multifamily Private Activity Bond Program Items:

- a) Presentation, Discussion and Possible Issuance of Multifamily Mortgage Revenue Bonds and Housing Tax Credits with TDHCA as the issuer For:

060617 Idlewilde Apartments, Harris County Texas for a bond Amount Not to Exceed \$15,000,000 and the Issuance of a Determination Notice Recommended Credit Amount of \$1,184,604. Resolution #06-045

- 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 2007, Resolution #06-046:

07602 Mesquite Creek Apartments Mesquite

Item 7: Presentation, Discussion and Possible Approval of Final Department Rules:

- a) Presentation, Discussion and Possible Approval for publication in the Texas Register of the Final Staff Appeals Process, to be codified at 10 Texas Administrative Code §1.7
- b) Presentation, Discussion and Possible Approval for publication in the Texas Register of the Final Board Appeals Process, to be codified at 10 Texas Administrative Code §1.8
- c) Presentation, Discussion and Possible Approval for publication in the Texas Register of the Alternative Dispute Resolution and Negotiated Rulemaking Process, to be codified at 10 Texas Administrative Code §1.17
- d) Presentation, Discussion and Possible Approval for publication in the Texas register of the final Energy Assistance Rules, to be codified at 10 Texas Administrative Code, Chapter 6
- e) Presentation, Discussion and Possible Approval for publication in the Texas Register of the final Community Services Block Grant Draft Rules to be codified at 10 Texas Administrative Code, Chapter 5, Subchapter A
- f) Presentation, Discussion and Possible Approval for publication in the Texas Register of the final Emergency Shelter Grants Program Rules, to be codified at 10 Texas Administrative Code, Chapter 5, Subchapter C
- g) Presentation, Discussion and Possible Approval for publication in the Texas Register of Final Amendments to Title 10, Part 1, Chapter 60, Subchapter A and Adopt Repeal of Title 10, Part 1, Subchapter A , Sections 1.11, 1.13 and 1.14
- h) Presentation, Discussion and Possible Approval for publication in the Texas Register of the Final Rule for Action by Department if Outstanding Balance Exists, to be codified at 10 Texas Administrative Code §1.13
- i) Presentation, Discussion and Possible Approval for publication in the Texas Register of the final Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, and Reserve for Replacement Rules and Guidelines, to be codified at 10 Texas Administrative Code §1.31 through §1.37

- j) Presentation, Discussion and Possible Approval of the Proposed Repeal of 10 Texas Administrative Code Chapter 49, 2005 Housing Tax Credit Program Qualified Allocation Plan And Rules and for the publication in the Texas Register of the final 2007 Housing Tax Credit Program Qualified Allocation Plan And Rules to be codified at 10 Texas Administrative Code Chapter 49
- k) Presentation, Discussion and Possible Approval of the 2007 Multifamily Application Submission Procedures Manual (ASPM) in accordance with §2306.67022 of Texas Government Code
- l) Presentation, Discussion and Possible Approval of the Proposed Repeal of 10 Texas Administrative Code Chapter 35, 2005 Multifamily Housing Revenue Bond Rules and for the publication in the Texas Register of the final 2007 Draft Multifamily Housing Revenue Bond Rules to be codified at 10 Texas Administrative Code Chapter 35
- m) Presentation, Discussion and Possible Approval of the Proposed Repeal of 10 Texas Administrative Code Chapter 51 2006 Housing Trust Fund Rules and Proposed Adoption of 10 Texas Administrative Code Chapters 51 2007 Housing Trust Funds Rules
- n) Presentation, Discussion and Possible Approval of the Housing Tax Credit Program 2007 Policy for Awarding Housing Tax Credit Commitments out of the 2008 Credit Ceiling to Rural Rescue Developments

EXECUTIVE SESSION

Elizabeth Anderson

- a) The Board may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.
- b) The Board may go into executive session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee.
- c) Consultation with Attorney Pursuant to §551.071, Texas Government Code:
 1. With Respect to pending litigation styled *TP Seniors II, Ltd. v. TDHCA* Filed in State Court in Travis County, Texas
 2. With Respect to pending litigation styled *Gary Traylor, et al. v. TDHCA*, Filed in Stat Court in Travis County, Texas
 3. With Respect to pending litigation styled *Dever v. TDHCA* Filed in Federal Court
 4. With Respect to pending litigation styled *Ballard v. TDHCA* and the State of Texas Filed in Federal Court
 5. With Respect to Any Other Pending Litigation Filed Since the Last Board Meeting

OPEN SESSION

Elizabeth Anderson

Action in Open Session on Items Discussed in Executive Session

ADJOURN

Elizabeth Anderson

To access this agenda & details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Nidia Hiroms, TDHCA, 221 East 11th Street, 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 Nidia Hiroms, 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.

REPORT ITEMS

Capital Advance: \$1,499,500
 Five-year rental subsidy: \$186,500
 Number of units 15

Texas

Dallas, TX
 Non-Profit Sponsor: CC Young Memorial Home Inc
 Capital Advance: \$4,216,500
 Five-year rental subsidy: \$806,000
 Number of units 54

Houston, TX
 Five-year rental subsidy: \$1,012,000
 Number of units 67

San Antonio, TX
 Non-Profit Sponsor: Retirement Housing Foundation
 Capital Advance: \$4,065,300
 Five-year rental subsidy: \$753,500
 Number of units 55

Waco, TX
 Non-Profit Sponsor: Mercy Housing Inc
 Co-Sponsor: Mercy Housing Colorado
 Capital Advance: \$4,208,400
 Five-year rental subsidy: \$821,500
 Number of units 55

Utah

Price, UT
 Non-Profit Sponsor: Comm Hsg Ser Inc
 Capital Advance: \$3,516,000
 Five-year rental subsidy: \$466,000
 Number of units 33

Project Description:
 The funds will be used for the new construction of two buildings for the very low-income elderly consisting of a total of 33 units. Some of the supportive services that will be provided are meals-on-wheels, housekeeping assistance, social activities and transportation.

Virginia

Kilmarnock, VA
 Non-Profit Sponsor: Bay Aging
 Capital Advance: \$1,515,900
 Five-year rental subsidy: \$299,500
 Number of units 19

Vinton, VA
 Non-Profit Sponsor: Metropolitan Housing and CDC, Inc.
 Capital Advance: \$5,824,400
 Five-year rental subsidy: \$1,150,500
 Number of units 73

Washington

Buckley, WA
 Non-Profit Sponsor: Enumclaw Community Hospital
 Capital Advance: \$2,042,700
 Five-year rental subsidy: \$318,500
 Number of units 20

Kennewick, WA
 Non-Profit Sponsor: Shalom Ecumenical Center
 Capital Advance: \$4,008,900
 Five-year rental subsidy: \$722,000
 Number of units 45

Spokane, WA
 Non-Profit Sponsor: East Central Community Organization
 Capital Advance: \$2,157,200
 Five-year rental subsidy: \$394,000
 Number of units 25

Vancouver, WA
 Non-Profit Sponsor: Columbia Non-Profit Housing

Capital Advance: \$5,479,700
 Five-year rental subsidy: \$866,500
 Number of units 56

Yakima, WA
 Non-Profit Sponsor: Diocese of Yakima Housing Services
 Capital Advance: \$3,544,700
 Five-year rental subsidy: \$640,000
 Number of units 40

Wisconsin

Milwaukee, WI
 Non-Profit Sponsor: Eternal Life Church of God in Christ
 Capital Advance: \$2,799,900
 Five-year rental subsidy: \$380,000
 Number of units 24

Town of Russell, WI
 Non-Profit Sponsor: Impact Seven INC
 Capital Advance: \$1,255,300
 Five-year rental subsidy: \$198,500
 Number of units 12

[FR Doc. E6-18071 Filed 10-27-06; 8:45 am]
 BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5089-N-01]

Allocations and Waivers Granted to and Alternative Requirements for CDBG Disaster Recovery Grantees Under Chapter 9 of Title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006

AGENCY: Office of the Secretary, HUD.
ACTION: Notice of allocation, waivers, and alternative requirements.

SUMMARY: This Notice advises the public of the allocations for grant funds for Community Development Block Grant (CDBG) disaster recovery grants for the purpose of assisting in the recovery in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, and Wilma in the Gulf of Mexico in 2005. As described in the Supplementary Information section of this notice, HUD is authorized by statute to waive statutory and regulatory requirements and specify alternative requirements for this purpose, upon the request of the State grantees. This notice also describes the application and reporting waivers and the common alternative requirements for the grants made under the subject appropriations act.
DATES: *Effective Date:* November 6, 2006.

FOR FURTHER INFORMATION CONTACT: Jan C. Opper, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451

Seventh Street, SW., Room 7286, Washington, DC 20410, telephone number (202) 708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877-8339. FAX inquiries may be sent to Mr. Opper at (202) 401-2044. (Except for the "800" number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Authority To Grant Waivers

Chapter 9 of Title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Pub. L. 109-234, approved June 15, 2006) (Public Law 109-234) appropriates \$5.2 billion in Community Development Block Grant funds for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure directly related to the consequences of the covered disasters. Public Law 109-234 authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of these funds and guarantees, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a request by the State and a finding by the Secretary that such a waiver would not be inconsistent with the overall purpose of the statute. The following application and reporting waivers and alternative requirements are in response to requests from the States receiving an allocation under this notice.

The Secretary finds that the following waivers and alternative requirements, as described below, are not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974, as amended, or the Cranston-Gonzalez National Affordable Housing Act, as amended.

Under the requirements of the Department of Housing and Urban Development Act, as amended (42 U.S.C. 3535(q)), regulatory waivers must be published in the *Federal Register*.

Except as described in this and other notices applicable to this grant, statutory and regulatory provisions governing the Community Development Block Grant program for States, including those at 24 CFR part 570, shall apply to the use of these funds. In accordance with Public Law 109-234, HUD will reconsider every waiver in this notice on the two-year anniversary of the day this notice is published.

Allocations

Public Law 109-234 (effective June 15, 2006) provides \$5.2 billion of supplemental appropriation for the CDBG program for: *necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, or Wilma.*

The law further notes: *That funds provided under this heading shall be administered through an entity or entities designated by the Governor of*

each State. And that: No State shall receive more than \$4.2 billion of the amount provided under this heading.

As provided for in Public Law 109-234, the funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers. Further, none of the funds made available under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program.

Also as required by the law, not less than \$1.0 billion of the \$5.2 billion

appropriation less \$27.0 million in administrative set-asides (which computes to 19.3311 percent of any State's allocation) shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas. Therefore, HUD is requiring that not less than 19.3311 percent of each State's grant be used for these activities.

From this supplemental appropriation, the Secretary is allocating funds as follows.

State	Disaster	Allocation amount (\$)
Alabama	Hurricane Katrina (FEMA-1605-DR)	\$21,225,574
Florida	Hurricane Katrina (FEMA-1602-DR), Hurricane Wilma (FEMA-1609-DR)	100,066,518
Louisiana	Hurricane Katrina (FEMA-1603-DR), Hurricane Rita (FEMA-1607-DR)	4,200,000,000
Mississippi	Hurricane Katrina (FEMA-1604-DR)	423,036,059
Texas	Hurricane Rita (FEMA-1606-DR)	428,671,849

State	Minimum amount for affordable rental housing (\$)
Alabama	\$4,103,146
Florida	19,344,001
Louisiana	811,907,984
Mississippi	81,777,703
Texas	82,867,166

The amounts in the table directly above are the minimum required for each State to use of its allocation from Public Law 109-234 for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas.

In Louisiana, the Department has reviewed data chronicling the massive impact of the disasters on affordable rental housing, including public housing, in the areas of the State most affected by disasters. In light of the unprecedented housing needs resulting from the disasters, the Secretary is carrying out his statutory duty to ensure that priority has been given to identified affordable rental housing by providing an alternative requirement. HUD is requiring that, before the State of Louisiana expends any funds to meet the minimum requirement for affordable rental housing under this notice (see table above), the Governor of Louisiana shall demonstrate to the Secretary's satisfaction that the State will provide funds or has identified dedicated resources sufficient to meet the key disaster recovery needs for repair, rehabilitation, and reconstruction of

affordable rental housing stock, including public housing, in the most impacted areas of the State.

HUD invites each State receiving an allocation to submit an Action Plan for Disaster Recovery in accordance with this notice.

The appropriations statute requires funds be used only for disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of hurricanes in the Gulf of Mexico in 2005. The statute directs that each grantee will describe in its Action Plan for Disaster Recovery how the use of the grant funds gives priority to infrastructure development and rehabilitation and the rehabilitation and reconstruction of the affordable rental housing stock including public and other HUD-assisted housing. HUD will monitor compliance with this direction and may be compelled to disallow expenditures if it finds uses of funds are not disaster-related, or funds allocated duplicate other benefits.

For the State of Louisiana, which suffered major impacts from two different hurricanes, HUD estimates that over 85 percent of the major and severe damage due to those storms is in the New Orleans-Metairie-Bogalusa Metropolitan Area (Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, and St. Tammany Parishes). HUD therefore expects that the State will target a substantial majority of its disaster recovery funds under Pub. L. 109-234 toward the disaster recovery needs in the New Orleans-Metairie-Bogalusa Metropolitan

Area, and has included an alternative requirement to that effect.

Prevention of Fraud, Abuse, and Duplication of Benefits

The statute also directs the Secretary to:

Establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits.

To meet this directive, HUD is pursuing five courses of action. First, this notice makes applicable specific reporting, written procedures, monitoring, and internal audit requirements for grantees. Second, to the extent its resources allow, HUD will institute risk analysis and on-site monitoring of grantee management of the grants and of the specific uses of funds. Third, HUD will be extremely cautious in considering any waiver related to basic financial management requirements. The standard, time-tested CDBG financial requirements will continue to apply. Fourth, HUD is collaborating with the HUD Office of Inspector General to plan and implement oversight of these funds. Fifth, HUD will follow the direction of the conference report, 109-494, and apply \$6 million of funds appropriated for the Working Capital Fund for "immediate enhancement of the capabilities of the Disaster Recovery Grant Reporting system by building

additional electronic controls that will increase accountability while further decreasing the risk of fraud, waste, or abuse.”

Waiver Justification

In general, waivers already granted to the States and alternative requirements already specified for CDBG disaster recovery grant funds provided under the Department of Defense Appropriations Act, 2006 (Pub. L. 109–148, approved December 30, 2005) (Appropriations Act) will also apply to grant funds provided under Public Law 109–234. This eliminates unnecessary inconsistencies in administration of the two grants and thus reduces the opportunities for technical errors. The notices in which these prior waivers and alternative requirements appear are 71 FR 7666, published February 13, 2006 (all five States); 71 FR 34448 (for Alabama), 71 FR 34451 (for Mississippi), and 71 FR 34457 (for Louisiana), all published June 14, 2006; 71 FR 43622, published August 1, 2006 (for Texas); 71 FR 51678 (for Florida), published August 30, 2006; and 71 FR 62372 (for Mississippi), published October 24, 2006, except that the provisions of paragraph four of the latter notice do not apply to the funds allocated under Pub. L. 109–234.

In addition to making applicable the requirements cited above, this notice specifies and provides for differences in program rules, waivers, or alternative requirements that are necessary due to the provisions of Public Law 109–234.

The provisions of this notice do not apply to funds provided under the regular CDBG program. The provisions provide additional flexibility in program design and implementation and implement statutory requirements unique to this appropriation.

Application for Allocation

The waivers and alternative requirements related to a State's application for its allocation are those delineated in a notice entitled, “Allocations and Common Application and Reporting Waivers Granted to and Alternative Requirements for CDBG Disaster Recovery Grantees Under the Department of Defense Appropriations Act, 2006,” published February 13, 2006 (71 FR 7666), with the changes noted below. HUD encourages each State receiving an allocation to submit an Action Plan for Disaster Recovery to HUD within 60 days of the publication date of this notice.

New elements added to the State's Action Plan for Disaster Recovery include a description of how the State will give priority to infrastructure

development and rehabilitation and how the State will give priority to the rehabilitation and reconstruction of the affordable rental housing stock including public and other HUD-assisted housing. The State must also explain how its choices for fund use will result in the State meeting the requirement to use not less than 19.3311 percent of its allocation for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas. The explanation should include how the State has considered the unique challenges that individuals with disabilities face in finding accessible and affordable housing.

Applicable Rules, Statutes, Waivers, and Alternative Requirements

1. *General note.* Except as described in this notice, the statutory, regulatory, and notice provisions that shall apply to the use of these funds are:

a. Those governing the funds appropriated under the Appropriations Act and already published in the *Federal Register*, including those in notices 71 FR 7666, published February 13, 2006 (for all five States); 71 FR 34448 (for Alabama), 71 FR 34451 (for Mississippi), and 71 FR 34457 (for Louisiana), all published June 14, 2006; 71 FR 43622 for Texas, published August 1, 2006; 71 FR 51678 (for Florida), published on August 30, 2006; and 71 FR 62372 (for Mississippi), published October 24, 2006, except that the provisions of paragraph four of the latter notice do not apply to the funds allocated under Public Law 109–234; and

b. Those governing the Community Development Block Grant program for States, including those at 42 U.S.C. 5301 *et seq.* and 24 CFR part 570.

2. *Action Plan additional elements.* a. In addition to the waivers and alternative requirements published in the “Allocations and Common Application and Reporting Waivers Granted to and Alternative Requirements for CDBG Disaster Recovery Grantees Under the Department of Defense Appropriations Act, 2006” notice published February 13, 2006, the disaster recovery grantees receiving funding under Public Law 109–234 must add the items in paragraph b below to those described in paragraph number 7 on page 7669 of that notice regarding the information required in the State's overall plan for disaster recovery for use of funds under Public Law 109–234.

b. The grantee's overall plan for disaster recovery will also include:

(i) An explanation of how the State will give priority to the rehabilitation and reconstruction of the affordable rental housing stock including public and other HUD-assisted housing, a description of the activities the State plans to undertake with grant funds under this priority, and a description of the unique challenges that individuals with disabilities face in finding accessible and affordable housing;

(ii) An explanation of how the State will give priority to infrastructure development and rehabilitation, and a description of the infrastructure activities it plans to undertake with grant funds; and

(iii) An explanation of how the method of distribution or use of funds described in accordance with the applicable notices will result in the State meeting the requirement that at least 19.3311 percent of its allocation under this notice shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas.

3. *Note that use of grant funds must relate to the covered disaster(s).* In addition to being eligible under 42 U.S.C. 5305(a) of this notice and meeting a CDBG national objective under the penultimate paragraph of 42 U.S.C. 5304(b)(3), Public Law 109–234 requires that activities funded under this notice must also be for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, and Wilma in communities included in Presidential disaster declarations.

4. *Alternative Requirements Regarding Targeting in Louisiana.* a. The State of Louisiana will target 70 percent of its disaster recovery funds under Pub. L. 109–234 towards the disaster recovery needs in the New Orleans-Metairie-Bogalusa Metropolitan Area; and

b. Before the State of Louisiana expends any funds to meet the minimum requirement for affordable rental housing under this notice, the Governor of Louisiana shall demonstrate to the Secretary's satisfaction that the State will provide funds or has identified dedicated resources sufficient to meet the key disaster recovery needs for repair, rehabilitation, and reconstruction of affordable rental housing stock, including public housing

disaster recovery in the most impacted areas of the State.

5. *Information collection approval note.* HUD has approval for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) under OMB control number 2506–0165, which expires August 31, 2007. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, nor is a person required to respond to, a collection of information unless the collection displays a valid control number.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this notice are as follows: 14.219; 14.228.

Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

Dated: October 25, 2006.

Roy A. Bernardi,
Deputy Secretary.

[FR Doc. 06–8978 Filed 10–26–06; 1:56 pm]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5067–N–02]

Extension of Period of Submission for Notices of Intent and Fungibility Plans in Accordance With HUD's Implementation Guidance for Section 901 of the Emergency Supplemental Appropriations To Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On July 28, 2006, HUD published a notice entitled, "Implementation Guidance for Section 901 of the Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006." This notice extends the period for eligible public housing agencies (PHAs) located within the most heavily impacted areas of Louisiana and Mississippi that are subject to a declaration by the President of a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in connection with Hurricanes Katrina or Rita to submit Notices of Intent and Fungibility Plans in accordance with the July 28, 2006, notice. Section 901 of the supplemental appropriations act authorizes PHAs to combine assistance provided under sections 9(d) and (e) of the United States Housing Act of 1937 (Act) and assistance provided under section 8(o) of the Act, for the purpose of facilitating the prompt, flexible, and efficient use of funds provided under these sections of the Act to assist families who were receiving housing assistance under the Act immediately prior to Hurricane Katrina or Rita and were displaced from their housing by the hurricanes. In addition to extending the PHA submission deadline, this notice removes the restriction that the combined funding may not be spent for uses under the housing choice voucher (HCV) program. If approved by HUD, the combined funding may now be used for eligible purposes under the HCV program. Any use of combined funds under the HCV program must also be in accordance with the requirement to assist those families who were receiving housing assistance under the public housing or HCV program immediately prior to Hurricane Katrina or Rita and were displaced from their housing by the hurricane. A PHA that already has an approved Fungibility Plan may request HUD approval to change the Plan in order to use the combined funds for HCV program eligible purposes. As provided in the July 28, 2006 Federal Register notice, PHAs must submit to HUD requests for approval of any substantial deviations from the approved Fungibility Plan, and HUD will respond to such requests within 10 calendar days.

DATES: Eligible PHAs must submit their Notices of Intent and Fungibility Plans no later than November 21, 2006.

FOR FURTHER INFORMATION CONTACT: For technical assistance and other questions concerning the Notice of Intent and Section 901 Fungibility Plan, PHAs should contact their local HUD Public

Housing Hub in New Orleans, Louisiana, or Jackson, Mississippi; or Bessy Kong, Deputy Assistant Secretary for Policy, Program, and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4216, Washington, DC 20410–5000, telephone (202) 708–0614 or 708–0713, extension 2548 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On July 28, 2006 (71 FR 42996), HUD published a notice entitled, "Implementation Guidance for Section 901 of the Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006." Section V.A. of the July 28, 2006, notice, entitled, "General Procedures for Combining Public Housing and Voucher Funds Under Section 901," instructs that PHAs interested in implementing the flexibility authorized in Section 901 should submit, in writing for HUD review and approval, no later than 45 days from the date of the notice or September 11, 2006: (1) A Notice of Intent to invoke Section 901 flexibility and (2) a detailed Section 901 Fungibility Plan describing the total amount under Section 901, and the source of those funds by account (HCV, Operating Fund, Capital Fund).

Some eligible PHAs are facing circumstances that precluded submission of their Notices of Intent and Fungibility plans by September 11, 2006, and require additional time to determine whether program funds are available to combine for other program uses. Therefore, HUD has extended the period during which eligible PHAs may submit their Notices of Intent and Fungibility Plans to no later than November 21, 2006, in order to allow sufficient time for HUD to review and approve the plans. HUD strongly recommends earlier submission, if possible, in the event resubmission of plans is required because of HUD's review determinations. HUD must approve all plans, including those that must be resubmitted, no later than December 31, 2006.

In addition to extending the PHA submission deadline, this notice removes the restriction that the combined funding may not be spent for uses under the housing choice voucher (HCV) program. If approved by HUD, the combined funding may now be used



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Michael Gerber
From: Gordon Anderson
cc: Brooke Boston, Michael Lyttle
Date: October 31, 2006
Re: TDHCA Outreach Activities

The attached document highlights outreach activities on the part of TDHCA staff for October 2006. The information provided focuses primarily on activities Executive and staff has taken on voluntarily, as opposed to those mandated by the Legislature (i.e., tax credit hearings, TEFRA hearings, etc.). This list may not account for every activity undertaken by staff, as there may be a limited number of events not brought to my attention.

For brevity sake, the chart provides the name of the event, its location, the date of the event, division(s) participating in the event, and an explanation of what role staff played in the event. Should you wish to obtain additional details regarding these events, I will be happy to provide you with this information.

TDHCA Outreach Activities, October 2006

A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public

Event	Location	Date	Division	Purpose
2006 Consolidated Hearings	Austin	October 2	Community Affairs, Multifamily, Portfolio Management and Compliance, Policy and Public Affairs	Public Hearing
Disability Issues meeting with DADS staff	Austin	October 2	Policy and Public Affairs	Meeting
Senate Finance Committee hearing	Austin	October 3	Executive, Legal, Policy and Public Affairs	Testimony
2006 Consolidated Hearings	Brownwood	October 4	Policy and Public Affairs	Public Hearing
2006 Consolidated Hearings	Beaumont	October 4	Executive, Multifamily, Community Affairs, Real Estate Analysis	Public Hearing
Long Term Recovery Committee Meeting	El Paso	October 4	Office of Colonia Initiatives	Participant
Circle of Ten, Inc. Funder's Forum	Athens	October 4	Single Family	Presentation
Texas Association of Regional Councils Conference	Houston	October 4-5	Policy and Public Affairs	Exhibitor
First Thursday Income Eligibility Training	Austin	October 5	Portfolio Management and Compliance	Training
2006 Consolidated Hearings	Midland	October 5	Executive, Policy and Public Affairs	Public Hearing
2006 Consolidated Hearings	Harlingen	October 10	Multifamily, Office of Colonia Initiatives	Public Hearing
Long Term Recovery Committee Meeting	El Paso	October 11	Office of Colonia Initiatives	Participant
Interagency Housing Partnership Meeting	Austin	October 13	Policy and Public Affairs	Participant
Novogradic Tax Credit Compliance training	Austin	October 13	Portfolio Management and Compliance	Presentation
2006 State NAACP Convention	Austin	October 13-14	Administration, Financial Administration, Policy and Public Affairs	Exhibitors
Senate IGR Committee hearing	Austin	October 16	Policy and Public Affairs	Testimony
Mental Health Transformation Workgroup	Austin	October 16	Policy and Public Affairs	Participant
Texas Apartment Association Board meeting	Dallas	October 19	Portfolio Management and Compliance	Presentation
Texas Association of Realtors' Continuing Education	Houston	October 19	Single Family	Training
Promoting Independence Advisory Committee	Austin	October 19	Policy and Public Affairs	Participant

Meeting with Texas Home of Your Own (HOYO) staff	Austin	October 20	Policy and Public Affairs	Participant
Interagency Housing Partnership	Austin	October 20	Policy and Public Affairs	Participant
Texas Association of Realtors' Continuing Education	Conroe	October 20	Single Family	Training
Mental Health Transformation Grant meeting	Austin	October 24	Policy and Public Affairs	Participant
Meeting with Dept. of Aging and Disability Services staff	Austin	October 24	Policy and Public Affairs	Participant
Texas Association of Realtors' Continuing Education	Bay City	October 25	Single Family	Training
Long Term Recovery Committee Meeting	El Paso	October 25	Office of Colonia Initiatives	Participant
2006 Texas Municipal League Conference	Austin	October 25-27	Policy and Public Affairs	Exhibitor
Texas Association of Realtors' Continuing Education	Houston	October 26	Single Family	Training
HOME/TBRA Implementation Workshop	Austin	October 31	Portfolio Management and Compliance	Training

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Item

Requests for extensions of deadlines or amendments involving material changes to Housing Tax Credit (HTC) applications are summarized below. The first amendment request below, HTC No. 05165, includes a request for an extension of commencement of substantial construction. The second amendment request, HTC No. 04003, includes a request for a refund of the amendment request fee and last request is for an extension on the deadline for construction loan closing and an extension for commencement of substantial construction.

Requested Action

The Board is requested to approve or deny the requests for amendments, extension and a refund.

Background and Recommendations

§2306.6712, Texas Government Code, classifies some changes as “material alterations” that must be approved by the Board. The requests presented below include material alterations. The code indicates that the Board should determine the disposition of a requested amendment if the amendment is a material alteration, would materially alter the development in a negative manner or would have adversely affected the selection of the application in the application round.

The requests and pertinent facts about the affected developments are summarized below. The recommendation of staff is included at the end of each write-up.

Limitations on the Approval of Amendment Requests

The approval of a request to amend an application does not exempt a development from the requirements of Section 504 of the Rehabilitation Act of 1973, fair housing laws, local and state building codes or other statutory requirements that are not within the Board’s purview. Notwithstanding information that the Department may provide as assistance, the development owner retains the ultimate responsibility for determining and implementing the courses of action that will satisfy applicable regulations.

HTC No. 05165, Lincoln Park

Summary of Amendment Request: The owner requests the Board’s acknowledgement and acceptance of a different mix of tenant income targeting from the target mix represented at the time of the award in the Department’s underwriting report. The changes are requested because the expected amount of the Annual Capital Contribution to subsidize operations was reduced by HUD, making it necessary to increase the revenues available from rents. The new targeting is distributed over the bedroom mix and over the various unit sizes within each bedroom type in a manner that equitably distributes the various income levels over all units. The changes are summarized below. Consistent with the Qualified Allocation Plan and Rules (QAP) requirement, the Applicant has provided written confirmation from the lender and the syndicator that the development is infeasible without the adjustment in units

Summary of Extension Request: The request to extend the deadline for commencement of substantial construction results from delays in closing the syndication agreement. The agreement could not be closed because of changes in the estimated operating revenues that are explained in the summary of the amendment request, below.

<u>Income Set-Aside</u>	<u>At Application</u>	<u>Requested Change</u>
30% of AMI	143	100
40% of AMI	7	0
50% of AMI	50	51
60% of AMI	0	49
Market Rate	50	50

Governing Law: §2306.6712, Texas Government Code. The code states that the Board must approve material alterations of a development, including a significant modification of the site plan and any other modification that is considered significant by the board.

Owner: Lincoln Park Apartments, LP
General Partner: Lincoln Park Apartments, LLC
Developers: APV Redevelopment Corporation
Principals/Interested Parties: Houston Housing Authority
Syndicator: MMA Financial
Construction Lender: Victory Street Public Facility Corporation (City of Houston)
Permanent Lender: Amegy Bank
Other Funding: Annual Capital Contributions
City/County: Houston/Harris
Set-Aside: General
Type of Area: Urban
Type of Development: New Construction
Population Served: General Population
Units: 200 HTC units and 50 market rate units
2005 Allocation: \$1,314,621
Allocation per HTC Unit: \$6,573
Extension Request Fee Paid: \$2,500
Note on Time of Request: Request for extension was submitted on-time.
New Deadline Requested: March 1, 2007
Prior Board Actions: 7/05 – Approved award of tax credits
Underwriting Reevaluation: The changes would not change the credit recommendation.

Staff Recommendations: Staff recommends approving the request. All units in the development are subsidized public housing units, including the market rate units. The changes would not have adversely affected the selection of the application in the application round.

Staff recommends approval of the extension as requested.

HTC No. 04003, Villas on Sixth Street

Summary of Request: The owner requests approval to change the number of carports in the development from 80 to 60. The carports are for rent at the option of interested tenants for \$20 per month and the cost of construction was not included in eligible basis in the application or in the Department’s underwriting report. Because the carports are commercial space rather than a common element of the development, the owner has asked that no substitute features be required to replace the 20 carports that were not built. The reduction in parking is still within city code and appears adequate for the development.

The owner also requests a refund of the \$2,500 amendment request fee that was paid.

- Governing Law: §2306.6712, Texas Government Code. The code states that the Board must approve material alterations of a development, including a significant modification of the site plan and any other modification that is considered significant by the board.
- Owner: Villas on Sixth Housing Associates, LP
- General Partner: Villas on Sixth Nonprofit Association
- Developers: Campbell-Hogue and Associates TX; Austin Housing Finance Corporation
- Principals/Interested Parties: Terry Campbell, James Hogue and Associates; Austin Housing Finance Corporation
- Syndicator: MMA Financial, LLC
- Construction Lender: MMA Construction Finance, LLC
- Permanent Lender: MMA Financial
- Other Funding: Austin Housing Finance Corporation
- City/County: Austin/Travis
- Set-Aside: General
- Type of Area: Urban
- Type of Development: New Construction
- Population Served: General Population
- Units: 136 HTC units and 24 market rate units
- 2004 Allocation: \$1,072,039
- Allocation per HTC Unit: \$7,883
- Prior Board Actions: 7/03 – Approved award of 2004 tax credits (forward commitment)
2/15/06 – Approved amendment regarding insignificant changes of the site, building and unit plans
- Underwriting Reevaluation: The changes would not change the credit recommendation.
- Staff Recommendation: Staff recommends approving the requested amendment but not the requested waiver of the fee. The amendment changes would not materially alter the development in a negative manner and would not have adversely affected the selection of the application in the application round.**

HTC No. 04170, The Gardens of Athens (Substantively same as 04176 below)

Summary of Request: The owner requests approval to substitute a 100% masonry exterior, an upgrade from the 75% masonry originally proposed, for a security fence with controlled access gates. Although the fence was built, the gates, at the request of the City of Athens, were not installed and with this amendment, will not be installed. The City's intention was to promote the easy access of emergency vehicles to this elderly development. The fence and gate were worth three points in the Threshold requirements but the points were not needed because the application had more Threshold points than necessary. In comparison, the 100% masonry exterior was worth three points in the Selection section of the application, two additional points over the single point that the 75% masonry originally proposed.

Governing Law: §2306.6712, Texas Government Code. The code states that the Board must approve material alterations of a development, including any modification that is considered significant by the board.

Owner: The Gardens of Athens, L.P.

General Partner: Continental Realty, Inc.

Developers: Continental Realty, Inc.

Principals/Interested Parties: Ivan L. Haugh and Mary Lou Haugh, owners of GP and developer

Syndicator: Boston Capital

Construction Lender: First State Bank

Permanent Lender: Column Capital

Other Funding: City of Athens grant

City/County: Athens/Henderson

Set-Aside: General

Type of Area: Rural

Type of Development: New Construction

Population Served: Elderly Population

Units: 32 HTC units and 4 market rate units

2004 Allocation: \$241,701

Allocation per HTC Unit: \$7,553

Prior Board Actions: 7/04 – Approved award of tax credits

Underwriting Reevaluation: Based on the cost certification review and analysis, it does not appear that the requested change would negatively impact the development and the original credit amount is still recommended.

Staff Recommendation: Staff recommends approving the request. The changes would not have adversely affected the selection of the application in the application round.

HTC No. 04176, The Gardens of Gladewater (Substantively same as 04170 above)

Summary of Request: The owner requests approval to substitute a 100% masonry exterior, an upgrade from the 75% masonry originally proposed, for a security fence with controlled access gates. Although the fence was built, the gates, at the request of the Gladewater Fire Department, were not installed and with this amendment, will not be installed. The City's intention was to promote the easy access of emergency vehicles to this elderly development. The fence and gate were worth three points in the Threshold requirements but the points were not needed because the application had more Threshold points than necessary. In comparison, the 100% masonry exterior was worth three points in the Selection section of the application, two additional points over the single point that the 75% masonry originally proposed.

Governing Law: §2306.6712, Texas Government Code. The code states that the Board must approve material alterations of a development, including any modification that is considered significant by the board.

Owner: The Gardens of Gladewater, L.P.

General Partner: Continental Realty, Inc.

Developers: Continental Realty, Inc.

Principals/Interested Parties: Ivan L. Haugh and Mary Lou Haugh, owners of GP and developer

Syndicator: Boston Capital

Construction Lender: First State Bank

Permanent Lender: Column Capital, LLC

Other Funding: City of Gladewater (grant)

City/County: Gladewater/Gregg

Set-Aside: General

Type of Area: Rural

Type of Development: New Construction

Population Served: Elderly Population

Units: 32 HTC units and 4 market rate units

2004 Allocation: \$256,808

Allocation per HTC Unit: \$8,025

Prior Board Actions: 7/04 – Approved award of tax credits

Underwriting Reevaluation: Based on the cost certification review and analysis, it does not appear that the requested change would negatively impact the development and the original credit amount is still recommended.

Staff Recommendation: Staff recommends approving the request. The changes would not have adversely affected the selection of the application in the application round.

HTC No. 04250, Knollwood Heights

Summary of Request: The owner requests approval to substitute 66 carports, worth two points in the application, for barbeque grills and picnic tables, worth one point. The application proposed 126 open parking spaces but the developer actually built 66 spaces as carports, one for each unit. Fifty-six open spaces were built instead of 60, leaving the development with 122 parking spaces instead of 126 as proposed. There is no charge to the tenants for the carport spaces. The development also substituted free washers and dryers in the units for an on-site laundry room.

The reason for the first change was that the barbeque and picnic facilities, although built, were built as part of another feature. The unified feature combined the barbeque and picnic facilities with a gazebo and sitting area. Because the gazebo and the barbeque and picnic facilities scored points as separate scoring items, the Department required them to be built as separate features. The parking remains adequate. The reason for the second change was that washers and dryers in the units appeared better for the tenants than a laundry room upon final consideration.

Governing Law: §2306.6712, Texas Government Code. The code states that the Board must approve material alterations of a development, including any modification that is considered significant by the board.

Owner: Knollwood Heights Apartments, LP

General Partner: Knollwood Heights Housing, LLC

Developers: Justin Zimmerman

Principals/Interested Parties: Justin and Leah Zimmerman

Syndicator: Related Capital Company

Construction Lender: American Mortgage Acceptance Corporation

Permanent Lender: American Mortgage Acceptance Corporation

Other Funding: NA

City/County: Big Spring/Howard

Set-Aside: General

Type of Area: Rural

Type of Development: New Construction

Population Served: General Population

Units: 64 HTC units

2004 Allocation: \$448,391

Allocation per HTC Unit: \$7,006

Prior Board Actions: 7/04 – Approved award of tax credits

Underwriting Reevaluation: The information supplied by the owner indicates that the change is unlikely to have an effect on the tax credit allocation and the change may be recommended for approval.

Staff Recommendation: **Staff recommends approving the request. The changes would not materially alter the development in a negative manner and would not have adversely affected the selection of the application in the application round.**

HTC No. 04409, Evergreen at Plano Independence Senior Community

Summary of Request: The owner requests approval for three changes in the development. The parking changed from 75 open spaces, 162 carports and 88 garages (325 total spaces) to 44 open spaces, 172 carports and 88 garages (304 total spaces) for an overall reduction of 21 spaces. The parking still exceeds the code requirement of one space per unit. The development is an elderly development and the parking appears adequate. This change resulted from the fact that the development plans were not finalized until after the development was underwritten for the award of tax credits.

Second, the owner requests approval to substitute a gazebo with sitting area, that is fully roofed and extends outward from one of the breezeways to be approximately 660 square feet in size, in place of self-cleaning or continuous-cleaning ovens as proposed in the application. The owner states that the contractor failed to install the appropriate equipment specified in the application.

The third request includes changes in the site plan and building plans. Although the development still consists of one four-story building with continuous breezeways on each level, the building design and footprint differ from the plans that were underwritten in the application. The unit mix, unit sizes and mix of rent restrictions are the same in the cost certification documents as in the application.

Governing Law: §2306.6712, Texas Government Code. The code states that the Board must approve material alterations of a development, including a significant modification of the site plan.

Owner: PWA-Plano Independence Senior Community, L.P.

General Partner: Don Maison (Managing GP); Michael Anderson (Co-GP)

Developers: Brad Forslund, Anthony Sisk

Principals/Interested Parties: NA – named above

Syndicator: MMA Financial

Construction Lender: MMA Financial

Permanent Lender: MMA Financial

Other Funding: Tax Exempt Bonds – TDHCA is issuer

City/County: Plano/Collin

Set-Aside: General

Type of Area: Exurban

Type of Development: New Construction

Population Served: Elderly Population

Units: 250 HTC units

2004 Allocation: \$585,335

Allocation per HTC Unit: \$2,341

Prior Board Actions: 5/04 – Approved award of tax credits

Underwriting Reevaluation: The changes appear to have no negative impact on the feasibility of the development and no change in the original award of tax credits is recommended pending review of the cost certification.

Staff Recommendation: **Staff recommends approving the request. The changes would not materially alter the development in a negative manner and would not have adversely affected the selection of the application in the application round.**

HTC No. 060148, Pineywoods Orange Development (2006 Hurricane Rita Application)

Summary of Request: The owner requests approval to change the land in the development because of the inability of the seller to provide clear title to two of the 35 scattered sites. The development is comprised of 50 single family residences and the two homes that were proposed for the lots in question can still be built on the remaining land. The total area of the land would be reduced by 0.3 acres from an original size of approximately 18 acres.

Governing Law: §2306.6712, Texas Government Code. The code states that the Board must approve material alterations of a development, including a significant modification of the site plan.

Owner: Pineywoods Old Town Ltd.

General Partner: Pineywoods Home Team Affordable Housing, Inc. (PHTAHI)

Developers: Pineywoods Home Team Affordable Housing, Inc.

Principals/Interested Parties: Doug Dowler, Executive Director of PHTAHI

Syndicator: NEF, Inc.

Construction Lender: HOME Funds (City of Orange)

Permanent Lender: First Housing

Other Funding: NA

City/County: Orange/Orange

Set-Aside: Nonprofit

Type of Area: Rural

Type of Development: New Construction

Population Served: General Population

Units: 49 HTC units and 1 employee units

2006 Allocation: \$547,817

Allocation per HTC Unit: \$11,180

Prior Board Actions: 7/06 – Approved award of tax credits

Underwriting Reevaluation: The changes would not change the credit recommendation.

Staff Recommendation: **Staff recommends approving the request. The application would lose its Pre-Application points because of the change but would still have received an award pursuant to the Hurricane Rita Policy. Therefore, the changes would not have adversely affected the selection of the application in the application round.**

Commons of Grace Apartments, HTC Development No. 04224

At the TDHCA Board meeting on June 26, 2006, the Applicant requested an extension of the deadline for construction loan closing and commencement of substantial construction due to the delay in receiving the commitment of HOME funds from the City of Houston.

The Board approved the extensions with the condition that the City of Houston would commit the funds at the next available city council meeting. On October 4, 2006, the City Council voted to commit the HOME funds to the Commons of Grace development. A copy of the resolution is attached with the request.

Due to the delayed vote of the Houston City Council, the Applicant cannot meet the deadlines that were previously extended by the TDHCA Board. The Applicant requests that the deadline for Construction Loan Closing be extended to November 15, 2006 and the deadline for Commencement of Substantial Construction be extended to February 28, 2007. The Applicant states in the request that they will be able to meet the Placement in Service of December 31, 2007.

Pertinent facts about the development are given below.

Applicant:	TX Commons of Grace, LP
General Partner:	TX Commons of Grace Development, LLC
Developer:	Pleasant Hill Community Development Corporation
Principals/Interested Parties:	GC Community Development Corporation (Nonprofit, 99% of GP); B&L Housing Development Corporation (Leroy Bobby Leopold, 1% of GP)
Syndicator:	Credit Suisse
Construction Lender:	Citigroup
Permanent Lender:	GMAC Commercial Mortgage / Freddie Mac
Other Funding:	City of Houston (HOME)
City/County:	Houston/Harris
Set-Aside:	Nonprofit
Type of Area:	Urban/Exurban
Type of Development:	New Construction
Population Served:	Elderly
Units:	86 HTC and 22 market rate units
2004 Allocation:	\$660,701
Allocation per HTC Unit:	\$7,683
Extension Request Fee Paid:	\$2,500
Type of Extension Request:	Construction Loan Closing and Commencement of Substantial Construction
Current Deadline:	Construction Loan Closing and Commencement of Substantial Construction – November 30, 2006 Placement in Service - December 31, 2007
New Deadlines Requested:	Construction Loan Closing and Commencement of Substantial Construction – November 30, 2006. Placement in Service - December 31, 2007
New Deadline Recommended:	Construction Loan Closing – November 15, 2006 Commencement of Substantial Construction – February 28, 2007
Prior Extensions:	Commencement of Construction extended from 5/31/06 to 11/30/06 Commencement of Construction extended from 3/31/06 to 5/31/06 Commencement of Construction extended from 12/1/05 to 3/31/06. Construction Loan Closing extended from 5/31/06 to 11/30/06

Construction Loan Closing extended from 3/31/06 to 5/31/06
Construction Loan Closing extended from 9/1/05 to 12/1/05.
Construction Loan closing extended from 6/1/05 to 9/1/05.

Staff Recommendation:

Staff recommends approving both extensions.

COATS | ROSE

HTC No. 05165

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October 5, 2006

VIA ELECTRONIC SUBMISSION

Robbye Meyer
Director, Multifamily Finance
Texas Department of Housing
and Community Affairs
221 East 11th Street
Austin, Texas 78701

RE: Lincoln Park Apartments
TDHCA No. 05165

Dear Robbye:

This letter is written on behalf of Lincoln Park Apartments, LP ("Project Owner"). The Project Owner received a commitment for an annual allocation of 2005 Housing Tax Credits in the amount of \$1,200,00 (the "Commitment") from the TDHCA for Lincoln Park Apartments (the "Project"). The Project is an existing public housing property which will be demolished and reconstructed as a 250-unit development in Houston, Texas. We are requesting TDHCA's consent to revise certain self-imposed the income levels that were set forth in the tax credit application, without changing the income level commitments for which points were awarded.

The Project Owner committed to the TDHCA in the application that it would meet the following income and rental restrictions:

- (i) 10% of the units set-aside with incomes at or below 30% AMGI (§49.9(g)(3) - 22 points);
- (ii) 9% or more of the units to receive ACC subsidy (§49.9(g)(5) - 18 points); and
- (iii) 80% or less of the units to have rents plus utility allowance restricted to the maximum tax credit rent (§49.9(g)(7) - 7 points).

Because the Project includes public housing units, the Project Owner must also meet HUD requirements in connection with income and rent restrictions. In order to present an accurate picture of the rental income to be derived from the Project, the application showed income restrictions in excess of those required for the points claimed under the Housing Tax Credit

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Robbye Meyer
Texas Department of Housing
and Community Affairs
October 5, 2006
Page 2

Program. In particular, the application provided additional income tiering at the 30%, 40% and 50% AMGI levels. A public housing unit's rent is limited to 30% of the tenant's monthly income. Public housing units receive an operating subsidy from HUD that is designed to cover the deficit between rental income and operating expenses (but not including debt service) attributable to the unit. Because the Project's permanent debt is a soft Capital Funds loan from the Houston Housing Authority, the extra income tiering shown in the application did not adversely affect the underwriting.

Since the submission of the application, HUD has revised its calculation of operating subsidy to a project expense level ("PEL") method. The new calculation has changed the allowable expenses and subsidy levels for mixed-financed developments that include public housing. Anticipated reduced ACC subsidy resulting from the PEL method of calculation and rising operating expenses experienced in other developments operated by the Houston Housing Authority indicate that the Project will encounter operating deficits that that will not be covered by ACC subsidy unless adjustments are made. The Project Owner therefore proposes to adjust the self-imposed income restrictions that were not mandated by the Housing Tax Credit Program or the election of Selection Criteria. Additionally, the Project Owner has proposed, and HUD has agreed, to treat the 50 market rate units (formerly to be public housing subject to 80% AMGI limitation) as true market rate units without any income limitations. These adjustments will increase the cash flow from the Project. It is anticipated that such additional cash flow will be used to meet any operating deficits after the maximum ACC subsidy has been applied. After all operating expenses have been paid, if there is any excess cash flow from the market rate units it will be applied against the soft permanent loan.

The income levels to be served are proposed as follows:

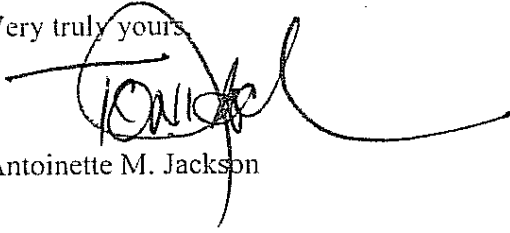
AMI	Application: Households Served	Proposed: Households Served
0-30%	143	100
31-40%	7	
41-50%	50	51
51-60%		49
Market	50	50
Total	250	250

The proposed changes do not affect any points awarded to the application. The Project will have four (4) times the 25 units at 0-30% AMGI which are needed to qualify for 22 points under §49.9(g)(3) of the 2005 QAP. Eighty percent (80%) of the units remain rent-restricted to not more than the maximum tax credit rentals, so the Project continues to qualify for the 7 points provided under §49.9(g)(7). Finally, 80% of the units will receive the ACC subsidy, which more than fulfills the requirements for 18 points under §49.9(g)(5).

Robbye Meyer
Texas Department of Housing
and Community Affairs
October 5, 2006
Page 3

The proposed income level adjustments are needed to retain the economic viability of the Project in view of the change in ACC subsidy and increasing operating costs. The increased cash flow will be advantageous to the Project, but is not enough to support hard debt, as is demonstrated by the enclosed updated Rent Schedule, Annual Operating Expenses and 30-Year Rental Housing Operating Proforma, so there is not material effect upon the financing of the Project. Since no restriction that was relied upon by the TDHCA in the scoring of the application will be altered, and the requested adjustments are not material to the requirements of the TDHCA's Housing Tax Credit Program, we believe that the requested modification does not rise to the level of requiring a formal amendment as set out under §49.17(c)(1) of the 2005 QAP or §50.17(d)(1) of the 2006 QAP, as applicable. Our investor has requested confirmation from TDHCA that this adjustment to the income levels does not adversely affect our credit allocation. For this reason, we request that you provide a written response to this letter, confirming that the described adjustments are acceptable to the TDHCA and will not adversely affect the Project's tax credit allocation.

Thank you very much for your further consideration of this request. If you have any questions, please do not hesitate to call.

Very truly yours

Antoinette M. Jackson

Enclosures: Rent Schedule
Annual Operating Expenses
30-Year Rental Housing Operating Proforma

cc: Barry Palmer
Horace Allison

COATS | ROSE

TAMEA A. DULA
OF COUNSEL

tdula@coatsrose.com
Direct Dial
(713) 653-7322
Direct Fax
(713) 890-3918

October 13, 2006

By Federal Express

Mr. Ben Sheppard
Texas Department of Housing
and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

RE: Project - Lincoln Park Apartments, Houston, Texas (TDHCA # 05165);
Project Owner – Lincoln Park Apartments, LP;
Request to Amend 2005 9% Housing Tax Credit Application; and
Request to Extend Commencement of Substantial Construction Deadline.

Dear Ben:

You have advised me that the Project Owner's request for the TDHCA's consent to the elimination of self-imposed income limitations unrelated to Selection Criteria (see Toni Jackson's letter to Robby Meyer of October 3, 2006), will need to be a formal amendment for consideration by the TDHCA Board. Pursuant to our conversation, please regard the October 3, 2006 letter as a formal request to amend the Project's 2005 application. We ask that the amendment be taken to the Board at its November 2006 meeting, if at all possible. Additionally, the Project Owner requests that the Commencement of Substantial Construction deadline be extended until March 1, 2007

The equity and construction loan closing on the Project is currently scheduled for October 23-24, 2006. A substantial potential operating deficit was first recognized on September 14, 2006, when a change in the CFO at Houston Housing Authority (the Project Sponsor) resulted in the issuance of a new proforma for the Project. The proforma showed an operating deficit due to increases in anticipated operating expenses and lower than expected operating subsidy because of HUD's change in calculating operating subsidy for public housing units. This problem and a proposed solution (adjusting income levels not required for Selection Criteria elections) was discussed within the development team, and then was proposed to the construction lender and the syndicator on September 25, 2006. On October 3, 2006, the Houston Housing Authority was advised that the syndicator would not close on the transaction without written

COATS | ROSE | YALE | RYMAN | LEE
A Professional Corporation

3 East Greenway Plaza, Suite 2000 Houston, Texas 77046-0307

Phone: 713-651-0111 Fax: 713-651-0220

Web: www.coatsrose.com

Mr. Ben Sheppard
October 13, 2006
Page 2

evidence of TDHCA's consent to the adjustment in income levels. Toni Jackson's letter was immediately initiated, requesting that the TDHCA consent to the adjustment as a non-material change to the application. If the closing is delayed, however, because the adjustment of self-imposed income levels must be considered by the TDHCA Board, then the Project Owner will not be able to meet the Commencement of Substantial Construction deadline. We accordingly request that this deadline be extended until March 1, 2007.

Enclosed please find the following:

1. A check in the amount of \$2,500.00 to cover the amendment request fee;
2. A check in the amount of \$2,500.00 to cover the extension request fee; and
3. A 2006 Multifamily Rental Housing Document and Payment Receipt.

Please acknowledge receipt of the enclosed checks by stamping the Document and Payment Receipt in your customary manner and faxing it to the undersigned at 713-890-3918 (fax).

Thank you for your careful consideration of these requests. If you need any additional information in order to reach a recommendation to the Board, please do not hesitate to call either me (713-653-7322) or Toni Jackson of our firm (713-653-7392). Toni has already received a request from Lisa Vecchietti for additional information, and we expect to be able to provide it within the time frame required.

Very truly yours,



Tamea A. Dula

Enclosures

cc: Tom Gouris
Ernie Etuk
Horace Allison
Barry Palmer
Toni Jackson



CAMPBELL
HOGUE
AND ASSOCIATES, INC.

VIA OVERNIGHT DELIVERY

September 29, 2006

Mr. Ben Sheppard, Housing Specialist
Texas Department of Housing and Community Affairs - HTC Program
221 East 11th Street
Austin, TX 78701-5120

Re: Villas on Sixth Apartments
TDHCA #04003

RECEIVED
SEP 29 2006
LIHTC

Dear Ben:

Please consider this an official waiver request for the deficiency outlined on the letter from Gavin Read dated July 31, 2006 on the above referenced property. The deficiency refers to the fact that we built 60 carports (to be rented by the residents) while the original plans called for 80. Enclosed please find a check for \$2,500.00 pursuant to the instructions in regards to a change. Please note however that we would like to request a waiver of this charge as 1) the deficiency is in relation to a *commercial portion* of the development and not the tax credit portion, and 2) the request should not require substantial staff time to review.

A waiver is warranted in regards to the parking issue for the following reasons:

1. the property is in an urban location and as a result, parking is limited to 1:1 pursuant to a variance by the City of Austin.
2. because parking is tight adding the full amount of covered parking would reduce the number of free parking spaces for the residents which are already at a premium.
3. the cost of the existing 60 parking stalls has been removed from eligible basis and covered parking is therefore an *optional* amenity for which the residents pay (at their option) an amount in addition to the maximum allowable rent under the tax credit program. Accordingly the carports relate to the commercial component of the development.
4. the reduction in cost (approximately \$12,500) as a result of building fewer carports did not affect the outcome of gap calculation nor the level of credits awarded. A copy of the cost certification is enclosed for your reference.
5. the original scoring would have been unchanged with the reduced number of carports.
6. the original income proforma (copy enclosed for reference) included income of \$600/month for carports and we are currently charging \$20/month for each of the

MINNESOTA

19245 State Hwy #7

Shorewood, MN
55331

[952] 401-1087
FX [952] 380-4900

WASHINGTON

1200 112th Ave., NE
Suite C-143

Bellevue, WA
98004-3700

[425] 455-3879
FX [425] 454-3468

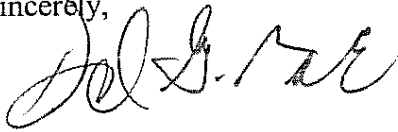
Mr. Ben Sheppard
September 28, 2006
Page 2 of 2

60 stalls which is in excess of the proforma but since the department limits the amount of ancillary income for underwriting purposes the revenue is unchanged.

We feel that our decision to reduce the number of carports was made in the best interests of the residents and that a change would not be appropriate. In addition, since the carports are essentially considered a commercial component of the Development, not tax credit related, the rules pertaining to providing a substitute feature should not apply. If the Department determines that the rules pertaining to substitute features must be applied, it would be the election of the Owner to build the remaining 20 carports, even though that is not the preferred course of action.

We respectfully request your consideration to issue a waiver in regards to the reduction on the number of carports and that the fee for this amendment be returned. We look forward to hearing from you soon in regards to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D.G. Rae", written in a cursive style.

David G. Rae
Vice President/CFO

COSTEL...
SEP 14 2006

Application Amendment Request
Texas Department of Housing and Community Affairs
The Gardens of Athens, File # 04-170

The Gardens of Athens, L.P. formally requests an Application Amendment to TDHCA File # 04-170. Included is a check for \$2,500 as requested by the TDHCA for all Application Amendment Requests along with supporting documentation and explanation.


Reason for the Proposed Change:

The reason for the proposed change requested for the exclusion of the full perimeter fencing with controlled access gate is due to the City of Athens request *"that the privacy gate not be installed to allow for the timely entrance for emergency vehicles into the complex"*, cited from the attached letter from Pam J. Burton, City Administrator. Contact information for Pam Burton is provided on the official City of Athens letterhead that the request was printed.

Point Breakdown-Substitute Features:

The exclusion of the full perimeter fencing with controlled access gate is worth 3 points on the application. The loss of these points would not affect the amenity threshold points or additional amenity points. The Gardens of Athens received the maximum 12 points on page 16 with an actual total of 19 points, leaving 7 unused points. Also, The Gardens of Athens received the maximum 6 points on page 18 with an actual total of 13 points, again leaving 7 unused points. Finally, 100% masonry (3 points) on exterior was provided when only 75% masonry on exterior (1 point) was applied for, providing an additional 2 points and an additional substitutable amenity. A total of 14 unused points for amenities could be substituted for the loss of the 3 points awarded to the full perimeter fencing with controlled access gate leaving the total application and amenities points unaffected by the change. Attached is the original application self-scoring section (Pages 16-18) with provided amenities highlighted and marked with a (-) and amenities substituted or not provided marked with a (*) to support the above analysis.

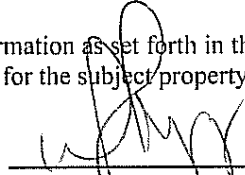
The Undersigned hereby certifies that the Development information as set forth in this Application Amendment Request is to the best of his/her knowledge, true and accurate for the subject property.



Document Author
Joshua D. Caton

Financial Manager

9/12/2006

By: 

Authorized Signature
Name: George D. Hopper

Title: Vice President

Date: 9/12/2006

Application Amendment Request
 Texas Department of Housing and Community Affairs
 The Gardens of Gladewater, File # 04-176

RECEIVED
OCT 04 2006

Multifamily Finance Division

The Gardens of Gladewater, L.P. formally requests an Application Amendment to TDHCA File # 04-176. Included is a check for \$2,500 as requested by the TDHCA for all Application Amendment Requests along with supporting documentation and explanation.

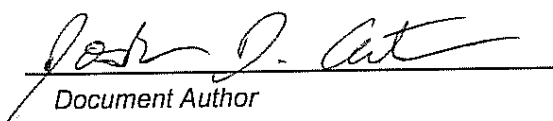
Reason for the Proposed Change:

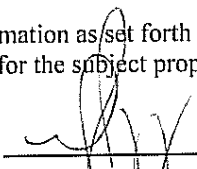
The reason for the proposed change requested for the exclusion of the full perimeter fencing with controlled access gate is due to the Gladewater Fire Department's request "*that because of the possible delay of emergency service Fire, Police, EMS do to a gated entrance that would require some type of code, or key locking mechanism....that your company would not place a gate at the entrance. I feel that the residence of the Garden of Gladewater would also be better served if by free access through the entrance not impeding or requiring them to stop in inclement weather to roll down there window on their vehicle to enter a code or to utilize a key*", cited from the attached letter from Chief Wayne A. Smith of the Gladewater Fire Department. Contact information for Chief Smith is provided on the official Gladewater Fire Department letterhead that the original request was printed.

Point Breakdown-Substitute Features:

The exclusion of the full perimeter fencing with controlled access gate is worth 3 points on the application. The loss of these points would not affect the amenity threshold points or additional amenity points. The Gardens of Gladewater received the maximum 12 points on page 16 with an actual total of 19 points, leaving 7 unused points. Also, The Gardens of Gladewater received the maximum 6 points on page 18 with an actual total of 13 points, again leaving 7 unused points. Finally, 100% masonry (3 points) on exterior was provided when only 75% masonry on exterior (1 point) was applied for, providing an additional 2 points and an additional substitutable amenity. A total of 14 unused points for amenities could be substituted for the loss of the 3 points awarded to the full perimeter fencing with controlled access gate leaving the total application and amenities points unaffected by the change. Attached is the original application self-scoring section (Pages 16-18) with provided amenities highlighted and marked with a (-) and amenities substituted or not provided marked with a (*) to support the above analysis.

The Undersigned hereby certifies that the Development information as set forth in this Application Amendment Request is to the best of his/her knowledge, true and accurate for the subject property.


 Document Author
 Joshua D. Caton
 Administration
 10/2/2006

By: 
 Authorized Signature
 Name: George D. Hopper
 Title: Vice President
 Date: 10/2/2006

KNOLLWOOD HEIGHTS APARTMENTS, LP

HTC No. 04250

1730 E. REPUBLIC ROAD, SUITE F
SPRINGFIELD, MISSOURI

PHONE: (417) 883-1632 FAX: (417) 883-6343

September 14, 2006

Ben Sheppard
Multifamily Finance and Production Division
Texas Department of Housing and Community Affairs
211 East 11th, St.
Austin, Texas 78711-3941

RE: Response to Final Inspection Report Follow-up Notice Dated August 16, 2006
Knollwood Heights Apartments – TDHC File No: 04250 – CMTS: 4084

Dear Mr. Shepard:

We have been working through the Final Inspection Process with the Portfolio Management & Compliance Division (PCM) of TDHC. There are four issues that we need to address with you that possibly require administrative and/or Board approval. For Reference, attached is the correspondence from Knollwood Heights Apartments, LP and PCM.

The following is an explanation of each of the outstanding deficiencies.

- Deficiency 2 & 4

The original application called for barbeque grills and picnic tables (1 pt) and a gazebo with sitting area (1 pt).

What was actually constructed was a large covered pavilion that included barbeque grills and tables. Per the QAP, this amenity would qualify for (2 pts).

- Deficiency 3

The original application called for an on site laundry room (1 pt).

During construction we utilized funds from our budget, (contingency) to provide a full size washer and dryer in each unit. This was done at no charge to the residents. Per the QAP, the amenity would qualify for (3 pts).

- Deficiency 6

The original application called for 126 uncovered parking places.

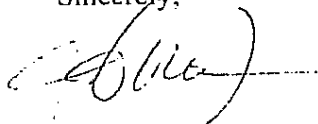
During construction we utilized funds from our budget, (contingency) to upgrade the property by providing 66 carports. One carport is assigned to each unit free of charge to the residents. Per the QAP, this amenity would qualify for (2 pts).

However, this did reduce the total number of parking spaces from 126 to 122.
The property currently has 56 uncovered spaces and 66 covered spaces.

We feel that the changes made to the property are all upgrades funded through the approved contingency budget and are truly greater assets to the residents of Knollwood Heights Apartments. Further more, these upgrades actually score more points than what was in the original application.

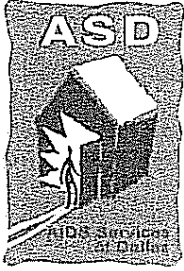
Mr. Sheppard, I look forward to discussing our options for curing these deficiencies with you. At your convenience, please contact me at (417) 861-9615.

Sincerely,



Justin M. Zimmerman
Member

CC: Jo En Taylor
Senior Portfolio Analyst, PMC



A Recipient of Two Awards
For Excellence in Affordable Housing from
The Metropolitan Life Foundation

August 1, 2006

Mr. Ben Sheppard
TDHCA
221 East 11th Street
Austin, TX 78701

RE: Application Amendment Plan
Evergreen at Plano Independence Senior Community
TDHCA # 04409

Dear Mr. Shepherd:

In response to the Follow-Up Notice dated July 6, 2006, we would like to address the Parking and Self-Cleaning Oven issues as follows:

Parking

The property has 304 total parking spaces, which is a 1.20 per unit ratio, and exceeds City Code of 1.0 per unit by 54 spaces. Attached is a copy of the City Code. The parking numbers used in the Application were an estimate. We have found from our experience that 3 out of 4 residents have cars (.75 parking ratio) and with this knowledge, we believe 44 uncovered spaces and 10 covered spaces are more than sufficient for visitors and any future parking needs.

Self-Cleaning Ovens

We instructed the design team and the general contractor in writing to meet all TDHCA requirements. We were told we were receiving self-cleaning ovens; unfortunately the self-cleaning ovens were omitted. Since self-cleaning ovens is not a point scoring item, we would like to substitute this amenity with another amenity listed under "Common Amenities", a Gazebo with a sitting area. It is important to note, ovens in general on this property get minimal use and the self-cleaning feature would be rarely used. The property also provides catered meals and the number of participants is increasing. The gazebo area is used and appreciated more than the self-cleaning ovens.

A Community Housing Development Organization
An Equal Opportunity Employer



Equal Housing Opportunity

A Project of the PWA Coalition of Babel, Inc.

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1-800-710-7554
FAX (214) 941-8144
(e-mail: info@aldsdallas.org)
www.aldsdallas.org

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(e-mail: dmaison@aldsdallas.org)

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(e-mail: manderson@aldsdallas.org)

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Nelda Cain Pickens
Bill Pralther
Paula Reese
John "Spanks" Sluder
Chuck and Stuart Taylor
Vernella Thomas
Lon Trent
Jim A. Whittanburg IV

Co-Founders

Michael R. Merdian (1956-1993)
Daryl Moore (1960-1988)

Mr. Ben Sheppard
August 1, 2006
Page 2

Attached are pictures and a floor plan of the Gazebo with a sitting area.

Please do not hesitate to call me at 214.941.0523 should you have any questions. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Don Maison".

Don Maison
Managing Member of GP

Pineywoods Old Town Ltd.
P. O. Box 635188
Nacogdoches, Texas 75961
(936) 559-9615 (936) 559-9625 (fax)

September 14, 2006

Texas Department of Housing & Community Affairs
P. O. Box 13941
221 East 11th. St.
Austin, TX 78701
Attn: Mr. Ben Sheppard

Subject: 2006 Hurricane Rita HTC Application
Request for Amendment to TDHCA #060148
Pineywoods Orange Development

Dear Mr. Sheppard:

Pineywoods Old Town Ltd., TDHCA #040148, respectfully requests authorization for amendment to our 2006 Hurricane Rita HTC Application.

As a result of title problems, the sellers were unable to secure clear titles to the following properties:

1. 1212 Third St. (Lot 30 blk. E ½ of East Sheldon)
2. 2308 Fifth St. (Abstr. 172 D Sinclair TR 029)

The number of units proposed in the application for site #1, 4537 Tulane (14 acres), will be increased by two (2) units from 16 to 18 to replace the two deleted lots.

There will be no additional sites acquired and no change in development costs.

Pineywoods Old Town Ltd. does not anticipate any adverse affects from increasing the number of homes on the 14-acre plot.

Thank you in advance for your consideration to, and approval of our request for this amendment.

Sincerely yours,

Pineywoods Old Town Ltd.



Douglas R. Dowler
Executive Director of its General Partner

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ADDENDUM**

DATE: October 17, 2006 **PROGRAM:** 9% HTC **FILE NUMBER:** 05165

DEVELOPMENT NAME

Lincoln Park Apartments

APPLICANT

Name: Lincoln Park Apartments, LP **Type:** For-profit
Address: 2640 Fountainview **City:** Houston **State:** TX
Zip: 77057 **Contact:** Horace Allison **Phone:** (713) 260-0767 **Fax:** (713) 260-0815

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name: Lincoln Park Apartments, LLC **(%):** 0.01 **Title:** Managing General Partner
Name: APV Redevelopment Corporation **(%):** N/A **Title:** Nonprofit Owner of MGP/Developer
Name: Housing Authority of the City of Houston (HACH) **(%):** N/A **Title:** Parent of APV Redevelopment

PROPERTY LOCATION

Location: 790 West Little York **QCT** **DDA**
City: Houston **County:** Harris **Zip:** 77091

REQUEST

<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
\$1,200,000	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	
Special Purpose (s): General Population, Urban/Exurban			

RECOMMENDATION

RECOMMEND CONTINUED APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$1,314,621¹ ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

1. Receipt, review and acceptance of evidence from each local taxing authority indicating the development will receive a 100% property tax exemption.
2. Receipt, review and acceptance by cost certification that all applicable Texas Department of State Health Services regulations with regard to asbestos testing were followed prior to demolition of the existing buildings and evidence that lead-based paint testing was performed and recommendations for removal, as applicable, were followed.
3. Receipt, review and acceptance of evidence the Applicant will develop the site so that all finished

¹ The recommended tax credit allocation incorporates the October 12, 2006 TDHCA Board approval to award additional tax credits to developments from the 2004 and 2005 competitive round based on a 14% increase in sitework and direct construction costs.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ADDENDUM**

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, and documentation of cost of flood insurance for the buildings and for the tenant's contents for buildings within the 100-year floodplain.

4. Receipt, review, and acceptance of an opinion by a CPA or tax attorney providing the basis for eligibility of the subject development for 9% tax credits given the accrual of interest and balloon payment on the proposed federally-funded permanent loan.
5. Receipt, review and acceptance of a revised syndication commitment or executed agreement providing sufficient equity to fill the gap in financing reflected in the current sources and uses statement.
6. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the tax credit amount may be warranted.

ADDENDUM

In the 2005 9% HTC application cycle Lincoln Park Apartments was awarded a Housing Tax Credit allocation of \$1,200,000 annually for ten years. At application, the Housing Authority of the City of Houston (HACH) submitted a letter dated February 23, 2005 indicating their commitment to provide the subject development with an operating subsidy for 250 proposed public housing units, 50 of which would be market rate units within public housing income levels. The original underwriting report contained the conditions found above plus: Receipt, review and acceptance of the final contract rents under the operating subsidy provided by HACH.

A letter dated October 5, 2006 and signed by a representative of Coats | Rose states, "The Project is an existing public housing facility which will be demolished and reconstructed as a 250-units development...We are requesting TDHCA's consent to revise certain self-imposed income levels that were set forth in the tax credit application, without changing the income level commitments for which points were awarded.

Since submission of the application, HUD has revised its calculation of operating subsidy to a project expense level (PEL) method...Anticipated reduced ACC subsidy resulting from the PEL method of calculation and rising operating expenses experienced in other developments operated by the Houston Housing Authority indicate that the Project will encounter operating deficits that will not be covered by ACC subsidy unless adjustments are made [to the income restrictions selected at application]...Additionally, the Project Owner has proposed, and HUD has agreed, to treat the 50 market rate units (formerly to be public housing subject to 80% AMGI limitation) as true market rate units without any income limitations...After all operating expenses have been paid, if there is any excess cash flow from the market rate units it will be applied against the soft permanent loan."

The proposed changes are presented in the chart below

Income Set-aside	At Application	Requested Change
30% of AMI	143	100
40% of AMI	7	0
50% of AMI	50	51
60% of AMI	0	49
Market Rate	50	50

A draft regulatory agreement, submitted upon request, indicates the development will have 200 public housing units and 50 unrestricted market rate units. The project will be eligible to receive operating subsidies toward payment of operational costs of the Public Housing Units. The development's public housing unit rents, based on the average income for public housing tenants, are lower than the maximum rents allowed under HTC guidelines. Based on past experience with public housing units (PHUs), the Underwriter has assumed the subsidy will be equal to the PHUs prorated share of expenses less the tenant contribution and that no debt can be serviced by the public housing units.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ADDENDUM**

The Applicant's secondary income and vacancy and collection loss reflect current TDHCA underwriting guidelines. However, the Underwriter anticipates that the Public Housing Units will operate at an occupancy level of 100%. Therefore, the Underwriter's estimate of Vacancy and Collection Loss has been changed to reflect a standard rate of 7.5% of potential gross income only for the units that will not operate as Public Housing Units. This change results in a total vacancy and collection loss rate of 4.17% of the development's potential gross income. In addition, the underwriting analysis includes additional subsidy based on projected operating expenses as a source of secondary income. As a result of these differences, the Applicant's effective gross income is not within 5% of the Underwriter's estimate. The Applicant's total annual operating expense and net operating income figures are also vary by more than 5% compared to the Underwriter's estimates. Therefore, the Underwriter's Year 1 proforma is used to create a 30-year proforma. There is no true debt service associated with the subject development; however, the long-term health of the development can be determined based on projected cashflow. Assuming the operating subsidy for the public housing units will increase annually to cover all operating expenses associated with those units, the development will maintain a positive cashflow and can be characterized as feasible for the long term.

The Applicant's total development cost has increased from \$20,529,296 to \$21,708,190. This increase is consistent with the Underwriter's current total development cost estimate. Both the eligible basis method and gap method of determining the tax credit allocation indicates tax credits above the \$1,200,000 TDHCA allocation limit per development. Therefore, the Applicant continues to qualify for the recommended tax credit allocation of \$1,200,000 annually for ten years. At the October 12, 2006 TDHCA Board meeting, the Board approved a proposal to award additional tax credits to developments from the 2004 and 2005 competitive round to compensate for increases in development costs. The proposal calls for additional credits to be calculated based on a 14% increase in sitework and direct construction costs. Applying this increase to the Applicant's original tax credit award would yield additional credits of \$114,621, for a total allocation of \$1,314,621. It appears that the syndication rate of \$0.85 estimated at application has increased based on the Applicant's projection of syndication proceeds. However, a revised commitment was not submitted and, therefore, the underwriting analysis continues to assume a syndication rate of \$0.85 resulting in net proceeds of \$11,174,279. The underwriting analysis indicates the total development cost less the Housing Authority contribution and syndication proceeds results in a gap in permanent financing of \$3,174,897. Deferred fees and/or partnership contribution in this amount do not appear to be repayable within 10 years of stabilized operation, but appear to be repayable within 15 years of cash flow from the market rate units only. Moreover this level of fee deferral is more than the original anticipated developer fee and contractor fees combined, thus additional equity must be identified for this development to still be feasible. Since no new financial information was provided, receipt, review and acceptance of a revised syndication commitment or executed agreement is a condition of this addendum.

As stated in the original underwriting report, the proposed soft first lien from the related party lender likely originates from a federal source. The commitment indicates an interest rate of AFR to avoid characterization of the loan as below market federal funds. However, all interest will accrue and it is not clear that the resulting balloon payment will be repayable at the end of the loan term. If the Applicant is unable to pay the balloon, the loan may be characterized as a federally-sourced grant and there may be an issue with the development's eligibility for 9% tax credits. Receipt, review, and acceptance of an opinion by a CPA or tax attorney providing the basis for eligibility of the subject development for 9% tax credits given the accrual of interest and balloon payment on the proposed federally-funded permanent loan continues to be a condition of this addendum.

SUMMARY OF SALIENT RISKS AND ISSUES

- The Applicant's effective gross income, total annual operating expense and net operating income are each more than 5% outside of the Underwriter's verifiable range.
- Significant locational risk exists regarding the site's location in the 100-year floodplain.
- The development could potentially achieve an excessive profit level (i.e., a DCR above 1.30) if the maximum tax credit rents can be achieved in this market.

MULTIFAMILY COMPARATIVE ANALYSIS

Lincoln Park Apartments, Houston, 9% HTC #05165 ADDENDUM

Type of Unit	Number	Bedrooms	No. of Baths	Size In SF	Gross Rent Lmt.	Rent Collected		Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trash
TC 30%	5	1	1	733	\$343	\$264		\$1,320	\$0.36	\$54.00	\$32.31
TC 50%	4	1	1	733	571	264		1,056	0.36	54.00	32.31
TC 60%	3	1	1	733	686	264		792	0.36	54.00	32.31
MR	2	1	1	733		575		1,150	0.78	54.00	32.31
TC 30%	5	1	1	742	343	264		1,320	0.36	54.00	32.31
TC 50%	3	1	1	742	571	264		792	0.36	54.00	32.31
TC 60%	2	1	1	742	686	264		528	0.36	54.00	32.31
MR	2	1	1	742		575		1,150	0.77	54.00	32.31
TC 30%	5	1	1	774	343	264		1,320	0.34	54.00	32.31
TC 50%	3	1	1	774	571	264		792	0.34	54.00	32.31
TC 60%	4	1	1	774	686	264		1,056	0.34	54.00	32.31
MR	2	1	1	774		575		1,150	0.74	54.00	32.31
TC 30%	5	1	1	783	343	264		1,320	0.34	54.00	32.31
TC 50%	2	1	1	783	571	264		528	0.34	54.00	32.31
TC 60%	3	1	1	783	686	264		792	0.34	54.00	32.31
MR	2	1	1	783		575		1,150	0.73	54.00	32.31
TC 30%	6	2	1	923	411	264		1,584	0.29	64.00	36.31
TC 50%	4	2	1	923	686	264		1,056	0.29	64.00	36.31
TC 60%	4	2	1	923	823	264		1,056	0.29	64.00	36.31
MR	6	2	1	923		640		3,840	0.69	64.00	36.31
TC 30%	7	2	1	987	411	264		1,848	0.27	64.00	36.31
TC 50%	5	2	1	987	686	264		1,320	0.27	64.00	36.31
TC 60%	4	2	1	987	823	264		1,056	0.27	64.00	36.31
MR	4	2	1	987		640		2,560	0.65	64.00	36.31
TC 30%	6	2	1	1,018	411	264		1,584	0.26	64.00	36.31
TC 50%	4	2	1	1,018	686	264		1,056	0.26	64.00	36.31
TC 60%	3	2	1	1,018	823	264		792	0.26	64.00	36.31
MR	3	2	1	1,018		640		1,920	0.63	64.00	36.31
TC 30%	8	2	1	1,050	411	264		2,112	0.25	64.00	36.31
TC 50%	4	2	1	1,050	686	264		1,056	0.25	64.00	36.31
TC 60%	5	2	1	1,050	823	264		1,320	0.25	64.00	36.31
MR	3	2	1	1,050		640		1,920	0.61	64.00	36.31
TC 30%	13	2	1	1,056	411	264		3,432	0.25	64.00	36.31
TC 50%	9	2	1	1,056	686	264		2,376	0.25	64.00	36.31
TC 60%	9	2	1	1,056	823	264		2,376	0.25	64.00	36.31
MR	5	2	2	1,056		640		3,200	0.61	64.00	36.31
MR	5	3	2	1,230		750		3,750	0.61	74.00	47.31
TC 30%	37	3	2	1,316	475	264		9,768	0.20	74.00	47.31
TC 50%	12	3	2	1,316	793	264		3,168	0.20	74.00	47.31
TC 60%	11	3	2	1,316	951	264		2,904	0.20	74.00	47.31
MR	12	3	3	1,316		750		9,000	0.57	74.00	47.31
TC 30%	2	3	2	1,329	475	264		528	0.20	74.00	47.31
TC 60%	1	3	2	1,329	951	264		264	0.20	74.00	47.31
MR	2	3	2	1,329		750		1,500	0.56	74.00	47.31
TC 30%	1	3	2	1,332	475	264		264	0.20	74.00	47.31
TC 50%	1	3	2	1,332	951	264		264	0.20	74.00	47.31
MR	2	3	2	1,332		750		1,500	0.56	74.00	47.31
TOTAL:	250		AVERAGE:	1,063	\$471	\$346		\$86,580	\$0.33	\$65.36	\$39.26

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Lincoln Park Apartments, Houston, 9% HTC #05165 ADDENDUM

				TDHCA	TDHCA App	APPLICANT App	APPLICANT				
INCOME								Comptroller's Region 6			
Total Net Rentable Sq Ft: 265,777								IREM Region Houston			
POTENTIAL GROSS RENT				\$1,039,080	\$964,848	\$964,848	\$1,413,312	\$4.00	Per Unit Per Month		
Secondary Income				15,000	15,000	12,000	12,000	\$0.00	Per Unit Per Month		
Other Support Income: Operating Subsidy				86,124	0	0	0	\$0.00	Per Unit Per Month		
POTENTIAL GROSS INCOME				\$1,140,204	\$979,848	\$976,848	\$1,425,312				
Vacancy & Collection Loss				(47,520)	(73,489)	(73,260)	(106,896)	-7.50%	of Potential Gross Income		
Employee or Other Non-Rental Units or Concessions				0	0	0	0				
EFFECTIVE GROSS INCOME				\$1,092,684	\$906,359	\$903,588	\$1,318,416				
EXPENSES								PER SQ FT	PER UNIT	% OF EGI	
General & Administrative	0.33%	\$408	0.38	\$101,953	\$86,835	\$62,900	\$84,000	\$0.32	\$336	6.37%	
Management	7.83%	342	0.32	85,558	45,318	45,100	60,000	0.23	240	4.55%	
Payroll & Payroll Tax	24.45%	1,069	1.01	267,125	232,500	230,000	285,046	1.07	1,140	21.62%	
Repairs & Maintenance	10.86%	475	0.45	118,674	119,727	76,250	161,250	0.61	645	12.23%	
Utilities	4.49%	186	0.18	49,020	93,280	152,500	55,000	0.21	220	4.17%	
Water, Sewar, & Trash	0.78%	384	0.38	95,941	97,612	132,500	107,000	0.40	428	6.12%	
Property Insurance	7.32%	321	0.30	80,134	66,444	52,500	200,000	0.75	800	15.17%	
Property Tax	0.00%	0	0.00	0	0	0	0	0.00	0	0.00%	
Reserve for Replacements	4.58%	200	0.19	50,000	62,500	50,000	62,500	0.24	250	4.74%	
Supp serv, sec, compl fees	4.89%	205	0.19	51,250	105,600	101,750	41,250	0.16	165	3.13%	
TOTAL EXPENSES	82.32%	\$3,599	\$3.39	\$899,655	\$909,816	\$903,500	\$1,056,046	\$3.97	\$4,224	80.10%	
NET OPERATING INC	17.67%	\$772	\$0.73	\$193,029	(\$3,456)	\$88	\$262,370	\$0.99	\$1,049	19.90%	
DEBT SERVICE											
First Lien Mortgage	0.00%	\$0	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	0.00%	
HA Funding	0.00%	\$0	\$0.00	0	0	0	0	\$0.00	\$0	0.00%	
Additional Financing	0.00%	\$0	\$0.00	0	0	0	0	\$0.00	\$0	0.00%	
NET CASH FLOW	17.67%	\$772	\$0.73	\$193,029	(\$3,456)	\$88	\$262,370	\$0.99	\$1,049	19.90%	
AGGREGATE DEBT COVERAGE RATIO				N/A	N/A	N/A	N/A				
RECOMMENDED DEBT COVERAGE RATIO				N/A	N/A	N/A	N/A				
CONSTRUCTION COST											
Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	TDHCA App	APPLICANT App	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)	0.00%	\$0	\$0.00	\$0.00	\$0	\$0	\$0	\$0	\$0.00	\$0	0.00%
Off-Sites	0.00%	0	0.00	0.00%	0	0	0	0	0.00	0	0.00%
Sitework	3.65%	3,151	2.96	2.96	787,771	1,521,750	1,521,750	787,771	2.96	3,151	3.63%
Direct Construction	60.02%	51,886	48.81	48.81	12,971,509	11,867,301	11,181,050	13,188,281	49.62	52,753	60.75%
Contingency	2.48%	1,367	1.29	1.29	341,852	600,000	600,000	341,852	1.29	1,367	1.57%
General Req'ts	3.37%	1,857	1.75	1.75	464,168	700,000	700,000	464,168	1.75	1,857	2.14%
Contractor's G & A	1.64%	900	0.85	0.85	225,000	225,000	225,000	225,000	0.85	900	1.04%
Contractor's Profit	1.64%	900	0.85	0.85	225,000	700,000	700,000	225,000	0.85	900	1.04%
Indirect Construction	8.15%	7,043	6.62	6.62	1,760,626	711,126	711,126	1,760,626	6.62	7,043	6.11%
Ineligible Costs	14.11%	12,196	11.47	11.47	3,048,998	2,413,000	2,413,000	3,048,998	11.47	12,196	14.05%
Developer's G & A	0.00%	0	0.00	0.00%	0	295,474	295,474	0	0.00	0	0.00%
Developer's Profit	0.36%	5,693	5.36	5.36	1,423,326	1,181,896	1,181,896	1,423,326	5.36	5,693	6.56%
Interim Financing	1.13%	973	0.91	0.91	243,168	450,000	450,000	243,168	0.91	973	1.12%
Reserves	0.55%	475	0.45	0.45	118,808	348,199	550,000	0	0.00	0	0.00%
TOTAL COST	100.00%	\$86,441	\$81.31	\$81.31	\$21,610,226	\$21,013,746	\$20,529,296	\$21,708,190	\$81.68	\$86,833	100.00%
Construction Cost Recap	69.48%	\$60,061	\$56.50	\$56.50	\$15,015,300	\$15,614,051	\$14,927,800	\$15,232,072	\$57.31	\$60,928	70.17%
SOURCES OF FUNDS											
First Lien Mortgage	0.00%	\$0	\$0.00	\$0.00	\$0	\$0	\$0	\$0			
HA Funding	34.05%	\$29,436	\$27.69	\$27.69	7,359,015	10,329,296	10,329,296	7,359,015	7,359,015	\$1,423,326	Developer Fee Available
HTC Syndication Proceeds	59.97%	\$51,836	\$48.76	\$48.76	12,959,000	10,200,000	10,200,000	12,959,000	11,174,279		% of Dev. Fee Deferred
Deferred Developer Fees	3.85%	\$3,414	\$3.21	\$3.21	853,512	0	0	853,512	3,174,897	223%	
Additional (Excess) Funds Req'd	2.03%	\$1,755	\$1.65	\$1.65	438,699	484,450	0	536,663	0		15-Yr Cumulative Cash Flow
TOTAL SOURCES					\$21,610,226	\$21,013,746	\$20,529,296	\$21,708,190	\$21,708,190	\$5,430,928	

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Lincoln Park Apartments, Houston, 9% HTC #05165 ADDENDUM

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$49.03	\$13,029,828
Adjustments				
Exterior Wall Finish	3.04%		\$1.49	\$396,107
Elderly/9-Ft. Ceilings	3.38%		1.66	440,409
Roofing			0.00	0
Subfloor			(1.12)	(287,670)
Floor Cover			2.22	590,025
Porches/Balconies	\$15.13	13085	0.74	197,976
Plumbing	\$800	258	0.66	175,440
Built-In Appliances	\$1,075	250	1.58	418,750
Interior Stairs	\$1,089	237	0.97	250,093
Patio	\$4.85	7082	0.13	34,348
Heating/Cooling			1.73	459,794
Garages/Carports			0.00	0
Comm &/or Aux Bldgs	\$58.65	13,428	2.86	760,663
Other			0.00	0
SUBTOTAL			61.95	16,463,761
Current Cost Multiplier	1.07		4.34	1,152,463
Local Multiplier	0.90		(6.19)	(1,646,376)
TOTAL DIRECT CONSTRUCTION COSTS			\$60.09	\$15,969,848
Plans, specs, survy, bid pmt	3.90%		(\$2.34)	(\$622,824)
Interim Construction Interest	3.38%		(2.03)	(530,992)
Contractor's OH & Profit	11.50%		(6.91)	(1,830,533)
NET DIRECT CONSTRUCTION COSTS			\$46.81	\$12,971,509

PAYMENT COMPUTATION

Primary	\$0	Amort	
Int Rate		DCR	
Secondary	\$7,359,015	Amort	
Int Rate		Subtotal DCR	
Additional	\$12,959,000	Amort	
Int Rate		Aggregate DCR	

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$0
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$193,029

Primary	\$0	Amort	
Int Rate		DCR	#DIV/0!
Secondary	\$7,359,015	Amort	
Int Rate		Subtotal DCR	#DIV/0!
Additional	\$12,959,000	Amort	
Int Rate		Aggregate DCR	#DIV/0!

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	\$1,039,080	\$1,070,252	\$1,102,360	\$1,135,431	\$1,169,494	\$1,365,764	\$1,571,702	\$1,822,033	\$2,448,660
Secondary Income	15,000	15,450	15,914	16,391	16,883	19,572	22,689	26,303	35,348
Other Support Income: Operating Subsidy	86,124	122,161	153,399	185,861	219,600	409,253	639,243	918,188	1,667,057
POTENTIAL GROSS INCOME	1,140,204	1,207,863	1,271,671	1,337,683	1,405,976	1,794,589	2,233,634	2,766,524	4,151,066
Vacancy & Collection Loss (47,520)	(50,340)	(52,999)	(55,750)	(58,597)	(61,544)	(74,376)	(83,091)	(115,300)	(173,003)
Employee or Other Non-Rental Units or Conces	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,092,864	\$1,157,524	\$1,218,672	\$1,281,932	\$1,347,380	\$1,710,212	\$2,140,543	\$2,651,224	\$3,978,063
EXPENSES at 4.00%									
General & Administrative	\$101,953	\$106,031	\$110,272	\$114,683	\$119,270	\$145,110	\$176,549	\$214,799	\$317,955
Management	85,568	90,635	95,423	100,376	105,501	133,911	167,606	207,593	311,485
Payroll & Payroll Tax	267,125	277,810	286,923	300,480	312,499	380,203	462,575	562,793	833,071
Repairs & Maintenance	118,674	123,421	128,356	133,492	138,832	168,910	205,505	250,028	370,102
Utilities	49,020	50,861	53,020	55,141	57,346	69,771	84,887	103,278	152,876
Water, Sewer & Trash	95,941	99,779	103,770	107,921	112,236	136,554	166,139	202,134	299,208
Insurance	80,134	83,340	86,673	90,140	93,746	114,056	138,767	168,831	249,911
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	50,000	52,000	54,000	56,243	58,493	71,166	86,584	105,342	155,933
Other	51,250	53,300	55,432	57,649	59,955	72,945	88,748	107,976	159,831
TOTAL EXPENSES	\$899,855	\$937,296	\$975,951	\$1,016,125	\$1,057,880	\$1,292,626	\$1,577,360	\$1,922,773	\$2,850,372
NET OPERATING INCOME	\$193,029	\$220,227	\$242,722	\$265,807	\$289,500	\$417,587	\$563,183	\$728,451	\$1,127,691
DEBT SERVICE									
First Lien Financing	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Second Lien	0	0	0	0	0	0	0	0	0

HTC ALLOCATION ANALYSIS -Lincoln Park Apartments, Houston, 9% HTC #05165

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				
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$787,771	\$787,771	\$787,771	\$787,771
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$13,188,281	\$12,971,509	\$13,188,281	\$12,971,509
(4) Contractor Fees & General Requirements				
Contractor overhead	\$225,000	\$225,000	\$225,000	\$225,000
Contractor profit	\$225,000	\$225,000	\$225,000	\$225,000
General requirements	\$464,168	\$464,168	\$464,168	\$464,168
(5) Contingencies				
	\$341,852	\$341,852	\$341,852	\$341,852
(6) Eligible Indirect Fees				
	\$1,760,626	\$1,760,626	\$1,760,626	\$1,760,626
(7) Eligible Financing Fees				
	\$243,168	\$243,168	\$243,168	\$243,168
(8) All Ineligible Costs				
	\$3,048,998	\$3,048,998		
(9) Developer Fees				
Developer overhead				
Developer fee	\$1,423,326	\$1,423,326	\$1,423,326	\$1,423,326
(10) Development Reserves				
		\$118,808		
TOTAL DEVELOPMENT COSTS	\$21,708,190	\$21,610,226	\$18,659,192	\$18,442,420

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			\$18,659,192	\$18,442,420
High Cost Area Adjustment			130%	130%
TOTAL ADJUSTED BASIS			\$24,256,950	\$23,975,146
Applicable Fraction			80%	80%
TOTAL QUALIFIED BASIS			\$19,301,277	\$19,077,046
Applicable Percentage			8.10%	8.10%
TOTAL AMOUNT OF TAX CREDITS			\$1,563,403	\$1,545,241

Syndication Proceeds	0.8500	\$13,288,929	\$13,134,546
Total Tax Credits (Eligible Basis Method)		\$1,563,403	\$1,545,241
Syndication Proceeds		\$13,288,929	\$13,134,546
Requested Tax Credits		\$1,200,000	
Syndication Proceeds		\$10,200,000	
Gap of Syndication Proceeds Needed		\$14,349,175	
Total Tax Credits (Gap Method)		\$1,688,138	
Original Award (\$1.2M limit)		\$1,200,000	
Additional Credits approved by Board 10/12/06		\$114,621	
Total Credits		\$1,314,621	
Total Syndication Proceeds		\$11,174,279	



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Ben Sheppard
From: Diamond Unique Thompson
cc: Tom Gouris
Date: October 9, 2006
Re: Amendment Request for Villas on Sixth # 04003

The Applicant has submitted a request for a waiver of a deficiency dated July 31, 2006 on the above referenced development. The Applicant claims that the building of 60 carports instead of the 80 originally outlined in the plans does not affect the outcome of gap calculation or the level of credits. Staff has taken into account the affect of building the 60 carports as compared to the 80, and while the smaller number of carports did result in a slightly lower gap calculation, and an additional \$7,200 (a 20% increase over original estimate) in income each year, the credit recommendation as represented in the original underwriting report remains unchanged.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Ben Sheppard, Multifamily Finance Production
From: Raquel Morales, Real Estate Analysis
cc: File
Date: October 11, 2006
Re: Amendment Request for The Gardens of Athens, #04170

In conjunction with the cost certification for The Gardens of Athens, I have reviewed the owner's request to exclude the full perimeter fence with controlled access gate as one of the development amenities originally committed. According to the owner the City of Athens requested that the privacy gate not be installed in order to allow for emergency vehicles into the complex. A copy of the letter from the City of Athens was also provided. Additionally, the owner's cost certification reflects that the development provided 100% masonry on the exterior of the buildings when only 75% was originally committed.

Based on the cost certification review and analysis, it does not appear that the requested change would negatively impact the development and the original credit amount is still recommended.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Ben Sheppard, Multifamily Finance Production
From: Raquel Morales, Real Estate Analysis
cc: File
Date: October 11, 2006
Re: Amendment Request for The Gardens of Gladewater, #04176

In conjunction with the cost certification for The Gardens of Gladewater, I have reviewed the owner's request to exclude the full perimeter fence with controlled access gate as one of the development amenities originally committed. According to the owner the Gladewater Fire Department requested that the privacy gate not be installed in order to allow for emergency vehicles into the complex. A copy of the letter from the Gladewater Fire Department was also provided. Additionally, the owner's cost certification reflects that the development provided 100% masonry on the exterior of the buildings when only 75% was originally committed.

Based on the cost certification review and analysis, it does not appear that the requested change would negatively impact the development and the original credit amount is still recommended.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Ben Sheppard, Multifamily Finance Production Division
From: Brenda Hull, Real Estate Analysis
cc: File
Date: October 9, 2006
Re: Evaluation of addition of carports, 9% HTC #04250, Knollwood Heights

Per your request dated September 18, 2006 for an evaluation of the addition of 66 carports, I have performed a cost evaluation of the changes and determined that the additional cost does not have a significant impact on the development's construction cost analysis. The Applicant has indicated that contingency funds were utilized for the carports and they will be provided free of charge to the residents. There is no impact on the income of the development. The requested change is unlikely to have an effect on the tax credit allocation and can be recommended for approval.

Please contact me if I can be of further assistance.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Ben Sheppard
From: Raquel Morales *RM*
cc: File
Date: September 22, 2006
Re: Amendment Request for Evergreen at Plano, #04409

In conjunction with the cost certification submitted for this development I have reviewed the above referenced amendment request made in a letter dated August 1, 2006. The owner is asking for approval for changes made to the development with respect to the number of parking spaces available as well as a substitution for one of the amenities originally committed at application. It was further discovered that changes to the site plan and building plans were also made. Although the unit sizes and mix of rent restrictions are the same at cost certification, the building design and footprint differ from the plans underwritten in the application.

At application the owner estimated a total of 325 parking spaces consisting of 75 surface parking spaces, 162 carports and 88 garages. At cost certification it has been confirmed that 304 parking spaces consisting of 44 surface parking spaces, 172 carports and 88 garages have been provided. This amounts to 1.20 spaces per unit which exceeds the City of Plano's requirement of 1.0 per unit. The Underwriter's cost certification analysis included a re-evaluation of the total development costs using current 2006 Marshall & Swift Residential Cost Handbook costs. Based on the information provided in the cost certification, the Underwriter's current cost estimate is within 5% of the owner's final development costs, which takes into account the additional covered parking spaces and difference in building design. As stated above, the unit sizes, unit mix and total net rentable square footage have remained the same from that approved at application.

Based on the Underwriter's analysis it does not appear that the requested changes would have a negative impact on the feasibility of this development. It should be noted that the final credit amount may be impacted based upon the information provided in the cost certification but unrelated to the changes being requested. This issue will be reconciled with the owner at cost certification and prior to issuance of IRS Forms 8609.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ADDENDUM**

DATE: October 4, 2006 **PROGRAM:** 9% HTC **FILE NUMBER:** 060148

DEVELOPMENT NAME

Pineywoods Orange Development

APPLICANT

Name: Pineywoods Old Town Ltd. **Contact:** Doug Dowler
Address: PO Box 635188
City: Nacogdoches **State:** TX **Zip:** 75963
Phone: (936) 559-9615 **Fax:** (936) 559-9625 **Email:** ddowler@pineywoodshometeam.com

KEY PARTICIPANTS

Name: Pineywoods Home Team Affordable Housing, Inc. **Title:** .01% Managing General Partner of Applicant and Developer
Name: Doug Dowler **Title:** Executive Director of GP

PROPERTY LOCATION

Location: Multiple sites in Orange, Texas
City: Orange **Zip:** 77631
County: Orange **Region:** 5 QCT DDA

REQUEST

<u>Program</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
HTC	\$562,630	N/A	N/A	N/A
Proposed Use of Funds:	New construction	Type:	Single Family Rental	
Target Population:	Family	Other:	Rural, Non-Profit	

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$547,817¹ ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance of an acceptable site inspection report;
2. Receipt, review, and acceptance of a flood hazard mitigation plan to include, at a minimum, consideration and documentation of flood plain reclamation sitework costs, building flood insurance and tenant flood insurance costs prior to the initial closing on the property;
3. Receipt, review, and acceptance by commencement of construction of evidence that all Phase I Environmental Site Assessment recommendations and subsequent environmental investigation report recommendations have been carried out; and
4. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-

¹ The recommended tax credit allocation incorporates the July 28, 2006 TDHCA Board approval to raise the underwriting applicable percentage rates for the 2006 Application Round to 3.69% and 8.46% for the 30% and the 70% credit, respectively

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

evaluated and an adjustment to the credit amount may be warranted.

ADDENDUM

At the time the original underwriting report was posted for the May 9, 2006 Board meeting, the recommended credit amount in the write-up (\$538,534) was not reflected in the spreadsheets. The posted spreadsheets indicated an incorrect annual credit recommendation of \$548,291 based on the gap in permanent financing. The spreadsheets should have reflected tax credit proceeds of \$4,610,243 and deferred developer fees of \$83,534 rather than total tax credit proceeds of \$4,693,777. Following the July 28, 2006 Board meeting staff updated each of the underwriting analyses to reflect the increase of applicable percentage (to 3.69% and 8.46% for the 30% and the 70% credit, respectively). The credit recommendations based on the gap in permanent financing did not receive an increase in the recommended credit amount in the updated analysis. Because the incorrect gap-based spreadsheets were posted with the write-up, staff did not apply the applicable percentage increase to the development. This addendum corrects this oversight. In addition to the applicable percentage increase, the Applicant is now acquiring fewer lots than originally intended.

The Applicant originally intended to acquire 20 lots of various sizes, a total of 18 acres, and develop 50 units. The sellers of two lots, 1212 Third Street and 2308 Fifth Street, were unable to acquire clear title and therefore the Applicant is unable to acquire those two lots. The Applicant intends to increase the number of units on a 14-acre lot from 16 to 18. The Earnest Money Contracts submitted for the two sites indicate sales prices of \$2,500 and \$1,560 respectively. The site acquisition costs are reduced by a total of \$4,060 from the time of application.

The Applicant's operating expenses and net operating income differs from the Underwriter's by more than 5%; therefore, the Underwriter's NOI will be used to size the debt. The proforma and estimated debt service result in a debt coverage ratio (DCR) above the current underwriting maximum guideline of 1.30. Therefore, the recommended financing structure reflects an increase in the permanent mortgage based on the interest rate and amortization period indicated in the permanent financing documentation submitted at application. In order to reduce the projected debt service to an acceptable 1.30, the Underwriter had to consider the HOME funds and any anticipated deferred developer fee.

The underwriting analysis assumes an increase in the permanent loan amount to \$1,097,657 based on the terms reflected in the lender's commitment except a reduction in the term to 360 months. As a result the development's gap in financing will decrease. However, the Applicant is re-loaning the HOME funds it receives and in theory it could do so at the lender's higher rate and a 30 year amortization. This loan provides the Development with a cushion in the long-term feasibility because it only needs to be paid out of cash flow and as such, the long-term feasibility of the Development remains positive. At the same time this loan reduces the amount of first lien needed to meet the 1.30 DCR test to \$873,657.

The Applicant's total development cost is within 5% of the Underwriter's estimate; therefore, the Applicant's cost schedule will be used to determine the development's need for permanent funds and to calculate eligible basis. The Applicant's eligible basis of \$5,070,460 and the revised underwriting applicable percentage rate support annual tax credits of \$557,649. This figure will be compared to the tax credits calculated based on the gap in need for permanent funds to determine the recommended allocation. The Applicant's request will not limit the tax credits recommended as the requested allocation was most likely based on an understated applicable percentage rate.

The Applicant's total development cost estimate less the permanent loan of \$873,657 and the HOME funds of \$224,000 indicates the need for \$4,689,717 in gap funds. Based on the submitted syndication terms, a tax credit allocation of \$547,817 annually would be required to fill this gap in financing. Of the two possible tax credit allocations, the gap-driven amount (\$547,817) and adjusted eligible basis-derived estimate (\$557,649), the gap-driven amount of \$547,817 is recommended. The Underwriter's recommended financing structure indicates no need for deferred developer fees.

The syndication rate of 85.6% is considerably below the average current rate which may be due to the single family nature of the transaction. To the extent that a higher syndication rate is ultimately received, less credits may be necessary to help the development fill the financing gap and therefore if the rate increases the financing structure should be re-reviewed.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

SUMMARY OF SALIENT RISKS AND ISSUES

- The Applicant's estimated operating expenses/operating proforma are more than 5% outside of the Underwriter's verifiable range(s).
- Significant environmental/locational risk(s) exist regarding potential flood plain.
- The development could potentially achieve an excessive profit level (i.e., a DCR above 1.30) if the maximum tax credit rents can be achieved in this market.
- The seller of the property has an identity of interest with the Applicant.
- An ad valorem property tax exemption may be received, which could affect the financial feasibility of the development.
- 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:	_____	Date:	October 4, 2006
	<i>Brenda Hull</i>		
Director of Real Estate Analysis:	_____	Date:	October 4, 2006
	<i>Tom Gouris</i>		

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Pineywoods Orange Development, Orange, 9% HTC, #060148

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Fair Quality Single Family Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$61.23	\$4,071,549
Adjustments				
Exterior Wall Finish (included in base)			\$0.00	\$0
Elderly/9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			(2.05)	(136,325)
Floor Cover			2.05	136,325
Porches/Balconies	\$15.72	11,167	2.64	175,482
Plumbing	\$765	150	1.73	114,750
Built-In Appliances	\$1,675	50	1.26	83,750
Stairs/Fireplaces			0.00	0
Enclosed Corridors	\$51.31		0.00	0
Heating/Cooling			0.00	0
Garages/Carports	\$16.22	22,233	6.09	405,091
Comm &/or Aux Bldgs	\$69.10	2,200	2.29	152,015
Subdivision Discount	-15%		(9.16)	(610,732)
SUBTOTAL			66.04	4,391,904
Current Cost Multiplier	1.03		1.98	131,757
Local Multiplier	0.66		(9.25)	(614,857)
TOTAL DIRECT CONSTRUCTION COSTS			\$58.78	\$3,908,795
Plans, specs, survy, bld perm	3.90%		(\$2.29)	(\$152,443)
Interim Construction Interest	3.38%		(1.98)	(131,922)
Contractor's OH & Profit	11.50%		(6.76)	(449,511)
NET DIRECT CONSTRUCTION COSTS			\$47.74	\$3,174,919

PAYMENT COMPUTATION

Primary	\$740,000	Amort	480
Int Rate	6.70%	DCR	2.07
Secondary	\$224,000	Amort	
Int Rate	6.00%	Subtotal DCR	2.07
Additional		Amort	
Int Rate		Aggregate DCR	2.07

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$84,995		
Secondary Debt Service	0		
Additional Debt Service	0		
NET CASH FLOW	\$25,463		
Primary	\$1,097,657	Amort	360
Int Rate	6.70%	DCR	1.30
Secondary	\$224,000	Amort	0
Int Rate	6.00%	Subtotal DCR	1.30
Additional	\$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.30

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
POTENTIAL GROSS RENT	\$373,848	\$385,063	\$396,615	\$408,514	\$420,769
Secondary Income	9,000	9,270	9,540	9,835	10,130
Other Support Income: none	0	0	0	0	0
POTENTIAL GROSS INCOME	382,848	394,333	406,163	418,348	430,899
Vacancy & Collection Loss	(28,714)	(28,575)	(30,462)	(31,376)	(32,317)
Employee or Other Non-Rental	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$354,134	\$364,758	\$375,701	\$386,972	\$398,581
EXPENSES at 4.00%					
General & Administrative	\$10,074	\$10,797	\$10,549	\$20,331	\$21,145
Management	17,707	18,235	18,765	19,349	19,929
Payroll & Payroll Tax	59,058	61,420	63,877	66,432	69,089
Repairs & Maintenance	32,711	34,020	35,380	36,795	38,267
Utilities	6,780	7,051	7,333	7,627	7,932
Water, Sewer & Trash	25,305	26,400	27,456	28,555	29,697
Insurance	16,625	17,290	17,982	18,701	19,449
Property Tax	29,916	31,113	32,357	33,652	34,998
Reserve for Replacements	10,000	10,400	10,816	11,249	11,699
Other	27,420	28,517	29,657	30,844	32,078
TOTAL EXPENSES	\$243,676	\$253,246	\$263,193	\$273,533	\$284,281
NET OPERATING INCOME	\$110,458	\$111,512	\$112,508	\$113,439	\$114,300
DEBT SERVICE					
First Lien Financing	\$84,995	\$84,995	\$84,995	\$84,995	\$84,995
Second Lien	0	0	0	0	0
Other Financing	0	0	0	0	0
NET CASH FLOW	\$25,463	\$26,517	\$27,512	\$28,444	\$29,305
DEBT COVERAGE RATIO	1.30	1.31	1.32	1.33	1.34

YEAR 10	YEAR 15	YEAR 20	YEAR 30
\$487,787	\$565,479	\$655,545	\$880,997
11,743	13,513	15,782	21,209
0	0	0	0
499,530	579,092	671,326	902,206
(37,465)	(43,432)	(50,349)	(67,665)
0	0	0	0
\$462,065	\$535,660	\$620,977	\$834,541
\$25,726	\$31,299	\$38,080	\$50,368
23,103	26,783	31,049	41,727
84,057	102,268	124,425	184,180
46,558	56,045	68,917	102,015
9,650	11,741	14,284	21,144
36,131	43,959	53,482	78,167
23,663	28,789	35,026	51,848
42,680	51,805	63,029	93,298
14,233	17,317	21,066	31,187
39,027	47,483	57,770	85,513
\$344,728	\$418,089	\$507,132	\$746,447
\$117,337	\$117,571	\$113,845	\$88,094
\$84,995	\$84,995	\$84,995	\$84,995
0	0	0	0
0	0	0	0
\$32,342	\$32,576	\$28,849	\$3,099
1.38	1.38	1.34	1.04

HTC ALLOCATION ANALYSIS - Pineywoods Orange Development, Orange, 9% HTC, #060148

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	\$148,700	\$148,700		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$367,902	\$367,902	\$367,902	\$367,902
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$3,037,377	\$3,174,919	\$3,037,377	\$3,174,919
(4) Contractor Fees & General Requirements				
Contractor overhead	\$68,186	\$68,186	\$68,106	\$68,186
Contractor profit	\$204,557	\$204,557	\$204,317	\$204,557
General requirements	\$204,557	\$204,557	\$204,317	\$204,557
(5) Contingencies				
	\$170,464	\$170,464	\$170,264	\$170,464
(6) Eligible Indirect Fees				
	\$474,196	\$474,196	\$474,196	\$474,196
(7) Eligible Financing Fees				
	\$77,400	\$77,400	\$77,400	\$77,400
(8) All Ineligible Costs				
	\$48,057	\$48,057		
(9) Developer Fees				
			\$690,582	
Developer overhead	\$138,540	\$138,540		\$138,540
Developer fee	\$554,160	\$554,160		\$554,160
(10) Development Reserves				
	\$293,278	\$120,904		
TOTAL DEVELOPMENT COSTS	\$5,787,374	\$5,752,542	\$5,294,460	\$5,434,881

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis		\$224,000	\$224,000
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		\$5,070,460	\$5,210,881
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		\$6,591,598	\$6,774,145
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$6,591,598	\$6,774,145
Applicable Percentage		8.46%	8.46%
TOTAL AMOUNT OF TAX CREDITS		\$557,649	\$573,093

Syndication Proceeds	0.8561	\$4,773,887	\$4,906,094
Total Tax Credits (Eligible Basis Method)		\$557,649	\$573,093
Syndication Proceeds		\$4,773,887	\$4,906,094
Requested Tax Credits		\$562,630	
Syndication Proceeds		\$4,816,526	
Gap of Syndication Proceeds Needed		\$4,689,717	
Total Tax Credits (Gap Method)		\$547,817	

G.C. Community Development Corporation
9410 Mesa Drive, Houston TX 77028

October 24, 2006

Ms. Robbye Meyer
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

RECEIVED
OCT 24 2006
LIHTC

Re: Commons of Grace in Houston, Texas (the "Project")
TDHCA No. 04224

Dear Robbye:

I represent the general partner of TX Commons of Grace, L.P. ("Owner"), the owner of the Commons of Grace Senior Estates in Houston, Texas. On June 26, 2006, the Board of TDHCA approved a request for an extension of (1) construction loan closing and (2) commencement of substantial construction deadline for the Project. The new deadline was set for November 30, 2006. At that time, Owner thought that the November 30, 2006 deadline would provide sufficient time to work through the process of awarding HOME funds from the City of Houston and finalizing arrangements with financing providers.

However, as you are aware, the Project encountered additional delays. Nonetheless, we are happy to report that the City of Houston has given its commitment for HOME funds, now, and a revised development and financing team is in place to proceed. Owner expects that the construction loan will be closed by November 10, 2006 and construction of the Project will commence by November 13, 2006. But it is unlikely that "substantial construction," as defined in the QAP as 10% of the total development costs, will be met by November 30, 2006.

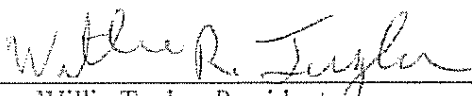
Given this situation, Owner respectfully requests an extension for the construction loan closing deadline and the commencement of substantial construction deadline to February 28, 2007. Owner is confident that its construction schedule will be adequate to place the Project in service by the deadline of December 31, 2007.

The applicable extension fee of \$2,500, payable to TDHCA, was sent under separate cover to Ben Sheppard for delivery today.

If you have any further questions about Commons of Grace, please feel free to contact me.

Sincerely,

TX Commons of Grace Development, LLC
By: G.C. Community Development Corporation, its managing member


By: Willie Taylor, President

Controller's Office

To the Honorable Mayor and City Council of the City of Houston:

I hereby certify, with respect to the money required for the contracts, agreements, obligation or expenditure contemplated by the ordinance set out below that:

- () Funds have been encumbered out of funds previously appropriated for such purpose.
- () Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- () Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- () No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- () That the money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- () A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated hereby by this reference.
- () Other - Grant Funds Available

Madeline D. Appel
 Madeline D. Appel
 City Controller of the City of Houston

Date: October 3, 2006

FUND REF: 5000 3900 5201 AMOUNT: \$700,000.00 ENCUMB. NO.: 4500010356
 SN# 4600007152
 OA# 4600007152

*MRC
H-13*

DE

City of Houston Ordinance No. 2006-1002

AN ORDINANCE APPROVING AND AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF HOUSTON AND TX COMMONS OF GRACE, LP TO PROVIDE A \$700,000.00 LOAN OF FEDERAL "HOME" FUNDS FOR ELIGIBLE COSTS IN CONNECTION WITH THE CONSTRUCTION OF AN APARTMENT BUILDING TO BE LOCATED IN THE 8900 BLOCK OF TIDWELL ROAD, HOUSTON, TEXAS, TO HOUSE LOW INCOME ELDERLY RESIDENTS; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON:

Section 1. The City Council hereby approves and authorizes the contract, agreement or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston and to take all actions necessary to effectuate the City's intent and objectives in approving such contract, agreement, or other undertaking in the event of changed circumstances. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents. The City Attorney is hereby authorized to take all action necessary to enforce legal obligations under said contract without further authorization from City Council.

Section 2. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 4th day of October, 2006.

APPROVED this _____ day of _____, 2006.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is OCT 10 2006.

Cornelius
City Secretary

(Prepared by Legal Dept. *Jean White*
Senior Assistant City Attorney

(Requested by Milton Wilson, Jr., Director, Department of Housing and Community Development)

Real Estate Analysis Division

BOARD ACTION ITEM

November 9, 2006

Action Item

Presentation, discussion and possible determination for an amendment to the credit amount of Woodside Manor Senior Community.

Requested Action

Approve or deny with changes the amendment to the credit amount.

Background

060421 Woodside Manor Senior Community

The Board approved an annual housing tax credit allocation of \$646,769 in 4% non-competitive credits during the August 2006 Board meeting. In October 2006 the Applicant submitted updated information including a new cost schedule identifying a credit request of \$747,193. The updated underwriting analysis recommends an annual credit allocation of \$716,232. This amount is less than the requested amount due in large part to the overstatement of contingency and developer fees.

Recommendation

Staff recommends approval of the credit amount amendment. It should be noted that because this is a non-competitive 4% award, this does not impact the 2006 credit ceiling.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ADDENDUM**

DATE: October 19, 2006

PROGRAM: 4% HTC

FILE NUMBER: 060421

DEVELOPMENT NAME

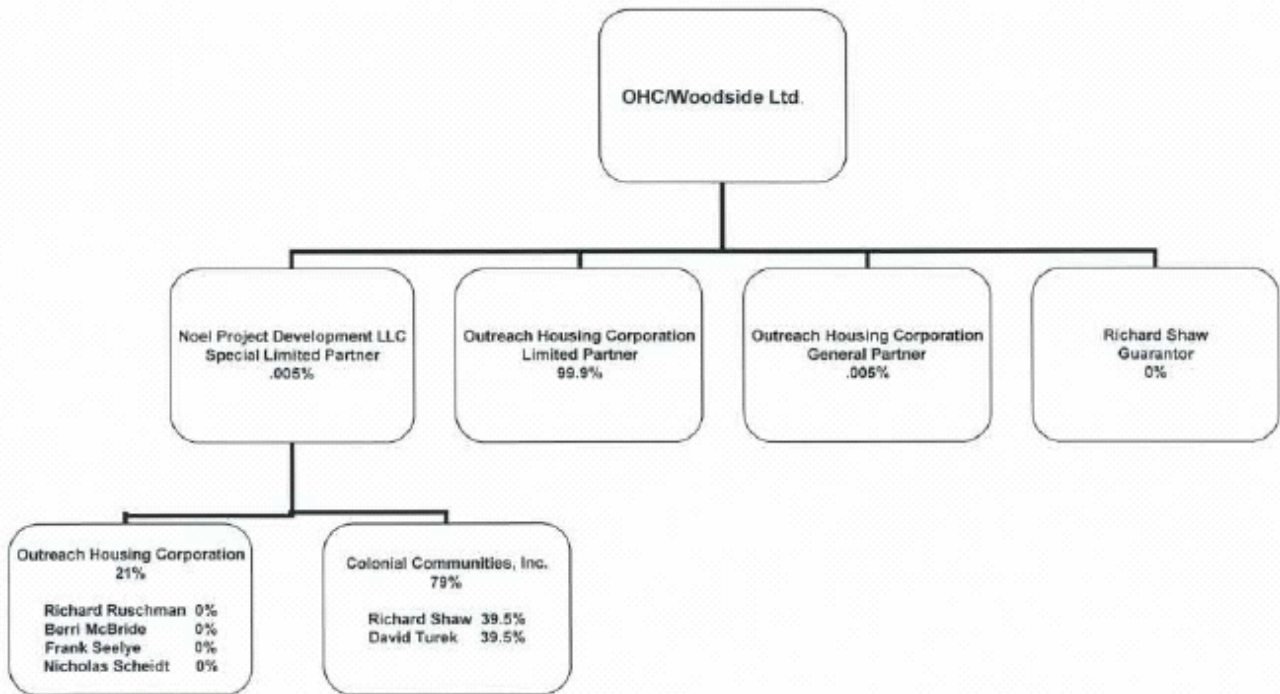
Woodside Manor Senior Community

APPLICANT

Name: OHC/Woodside Ltd **Contact:** Richard Shaw
Address: 17103 Preston Road, Suite 250
City: Dallas **State:** TX **Zip:** 75248
Phone: (972) 733-0096 **Fax:** (972) 733-1864 **Email:** richard@brasha.com; mary@brasha.com

KEY PARTICIPANTS

OHC/Woodside Ltd



PROPERTY LOCATION

Location: East of US75 and west of Hempel, and north of Loop 336
City: Conroe **Zip:** 77303
County: Montgomery **Region:** 6 QCT DDA

REQUEST

<u>Program</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
HTC	\$716,232*	N/A	N/A	N/A
Proposed Use of Funds:	<u>New construction</u>	Type:	<u>Multifamily</u>	
Target Population:	<u>Elderly</u>	Other:	<u>Urban/Exurban</u>	

*The Applicant subsequently revised the requested tax credit allocation to \$747,193.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ADDENDUM**

RECOMMENDATION

- RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$721,538 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance, before commencement of construction, of evidence that all Phase I Environmental Site Assessment and subsequent environmental investigation report recommendations have been carried out.
2. Receipt, review, and acceptance before commencement of construction of a flood hazard mitigation plan to include, at a minimum, certification by a qualified architect or engineer that the construction plans are in accordance with TDHCA guidelines (“must develop the site so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements”), and consideration and documentation of building flood insurance and tenant flood insurance costs.
3. Receipt, review, and acceptance, before commencement of construction, of an assessment of the subject site for the possible presence of sources of excessive noise, and evidence that any subsequent recommendations have been carried out.
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.

ADDENDUM

The purpose of this addendum is to reconcile the difference between the Applicant’s and Underwriter’s direct construction cost estimates and make any changes that may result from this reconciliation. Based on a review of the submitted architectural plans by the Real Estate Analysis division, the Underwriter’s original direct construction cost estimate used in the analysis has been adjusted to reflect overlooked development characteristics.

In addition, the applicable fraction used in the original underwriting report was incorrect, leading to an overstatement of the eligible costs. The original applicable fraction used was 81.82%, while the correct applicable fraction, based on net rentable square footage, is 81.69%. Therefore, this addendum reflects an adjusted applicable fraction of 81.69%.

Lastly, the Applicant has resubmitted the development cost schedule and requested a higher tax credit allocation due to the use of an outdated, lower applicable percentage in the development cost schedule submitted in the original application. As a result, the Applicant’s original request was lower than the amount the Applicant qualifies for when using the more current applicable percentage. The Applicant has revised the requested amount of tax credit to \$747,193 annually, based on the higher applicable percentage.

The following sections are only those that are directly and materially affected by this re-evaluation.

CONSTRUCTION COST ESTIMATE EVALUATION

Direct Construction Cost: Based on the re-evaluation of the Applicant’s direct construction costs, the Applicant’s direct construction cost estimate is 5.32% or \$519K higher than the Underwriter’s estimate derived from the Marshall & Swift *Residential Cost Handbook*.

Construction Cost Conclusion: While the Applicant’s direct construction cost estimate is not within 5% of the Underwriter’s estimate, the Applicant’s total development cost is within 5% of the Underwriter’s revised estimate; therefore, the Applicant’s cost schedule, with adjustments noted in the original underwriting report, will be used to determine the development’s need for permanent funds and to calculate eligible basis. The Applicant’s adjusted eligible basis of \$18,769,006 supports annual tax credits of \$721,538, based on an applicable percentage of 3.62% as of July 1, 2006. This figure will be compared to the Applicant’s request and the tax credits calculated based on the gap in need for permanent funds to determine the recommended allocation.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ADDENDUM**

FINANCING STRUCTURE ANALYSIS

Financing Conclusions: As stated in the original report, the proforma analysis results in a debt coverage ratio below the Department's minimum guideline of 1.10. The current underwriting analysis assumes a decrease in the permanent loan amount to \$12,879,132 based on the terms reflected in the application materials. As a result the development's gap in financing will increase. Of note, the permanent lender's commitment reflects a minimum DCR of 1.10.

The Applicant's adjusted total development cost estimate less the adjusted permanent loan of \$12,879,132 indicates the need for \$8,183,468 in gap funds. Based on the submitted syndication terms, a tax credit allocation of \$835,128 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, Applicant's revised request (\$747,193), the gap-driven amount (\$835,128), and revised eligible basis-derived estimate (\$721,538), the eligible basis estimate of \$721,538 is recommended, resulting in proceeds of \$7,070,396 based on a syndication rate of 98%.

The Underwriter's recommended financing structure indicates the need for \$1,113,072 in additional permanent funds. Deferred developer fees in this amount appear to be repayable from development cashflow within ten years of stabilized operation.

SUMMARY OF SALIENT RISKS AND ISSUES

- ⊘ The Applicant's operating expenses and operating proforma 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/locational risk exists due to part of the site being located in the 100 year floodplain.
- ⊘ The development would need to capture a majority of the projected market area demand (i.e., capture rate exceeds 50%).
- ⊘ The anticipated ad valorem property tax exemption may not be received or may be reduced, which could affect the financial feasibility of the development.
- ⊘ The significant financing structure changes being proposed have not been reviewed by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist.

Underwriter:

Cameron Dorsey

Date: October 19, 2006

Director of Real Estate Analysis:

Tom Gouris

Date: October 19, 2006

MULTIFAMILY COMPARATIVE ANALYSIS

Woodside Manor Senior Community, Conroe, 4% HTC, 060421 - ADDENDUM

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	Wir, Swr, Trsh
TC 60%	88	1	1	700	\$686	\$631	\$55,528	\$0.90	\$55.00	\$34.00
MR	18	1	1	700	N/A	\$700	12,600	1.00	55.00	34.00
TC 60%	68	2	1	840	823	\$753	51,204	0.90	70.00	35.00
MR	16	2	1	840	N/A	800	12,800	0.95	70.00	35.00
TC 60%	24	2	2	920	823	753	18,072	0.82	70.00	35.00
MR	6	2	2	920	N/A	875	5,250	0.95	70.00	35.00
TOTAL:	220		AVERAGE:	783	N/A	\$707	\$155,454	\$0.90	\$62.77	\$34.52

INCOME Total Net Rentable Sq Ft: 172,360

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$27.18

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

TDHCA	Orig. TDHCA	Orig. APP	APPLICANT
\$1,865,448	\$1,865,448	\$1,842,888	\$1,842,888
71,752	71,752	39,600	39,600
\$1,937,200	\$1,937,200	\$1,993,968	\$1,993,968
(145,290)	(145,290)	(147,384)	(147,384)
0	0		
\$1,791,910	\$1,791,910	\$1,846,584	\$1,846,584

Comptroller's Region 6

IREM Region Houston

\$15.00 Per Unit Per Month

\$42.23 Per Unit Per Month

-7.39% of Potential Gross Income

EXPENSES

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	4.29%	\$350	0.45
Management	4.00%	326	0.42
Payroll & Payroll Tax	10.13%	825	1.05
Repairs & Maintenance	5.00%	407	0.52
Utilities	4.53%	369	0.47
Water, Sewer, & Trash	4.04%	329	0.42
Property Insurance	3.37%	274	0.35
Property Tax 2.8955	7.11%	579	0.74
Reserve for Replacements	2.46%	200	0.26
Other: compl fees	1.21%	99	0.13
TOTAL EXPENSES	46.13%	\$3,758	\$4.80
NET OPERATING INC	53.87%	\$4,387	\$5.60

TDHCA	Orig. TDHCA	Orig. APP	APPLICANT
\$76,911	\$76,911	\$34,000	\$34,000
71,676	71,676	73,720	73,720
181,587	181,587	175,500	175,500
89,528	89,528	57,500	57,500
81,222	81,222	70,000	70,000
72,327	72,327	74,000	74,000
60,326	60,326	55,000	55,000
127,402	127,402	140,000	140,000
44,000	44,000	44,000	44,000
21,700	21,700	21,700	21,700
\$826,680	\$826,680	\$745,420	\$745,420
\$965,230	\$965,230	\$1,101,164	\$1,101,164

PER SQ FT	PER UNIT	% OF EGI
\$0.20	\$155	1.84%
0.43	335	3.99%
1.02	798	9.50%
0.33	261	3.11%
0.41	318	3.79%
0.43	336	4.01%
0.32	250	2.98%
0.81	636	7.58%
0.26	200	2.38%
0.13	99	1.18%
\$4.32	\$3,388	40.37%
\$6.39	\$5,005	59.63%

DEBT SERVICE

Column Capital	50.38%	\$4,103	\$5.24
Additional Financing	0.00%	\$0	\$0.00
NET CASH FLOW	3.49%	\$284	\$0.36

\$902,706	\$902,706	\$902,706	\$902,706
0	0		
\$62,524	\$62,524	\$198,458	\$198,458
1.07	1.07	1.22	1.22
1.10	1.10		

\$5.24	\$4,103	48.89%
\$0.00	\$0	0.00%
\$1.15	\$902	10.75%

AGGREGATE DEBT COVERAGE RATIO

RECOMMENDED DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		5.59%	\$5,227	\$6.67
Off-Sites		0.00%	0	0.00
Sitework		8.01%	7,489	9.56
Direct Construction		47.43%	44,345	56.60
Contingency	5.00%	2.77%	2,592	3.31
General Req'ts	5.88%	3.26%	3,045	3.89
Contractor's G & A	1.93%	1.07%	1,000	1.28
Contractor's Profit	5.96%	3.31%	3,091	3.95
Indirect Construction		3.32%	3,105	3.96
Ineligible Costs		4.75%	4,436	5.66
Developer's G & A	3.46%	2.66%	2,483	3.17
Developer's Profit	11.54%	8.85%	8,273	10.56
Interim Financing		7.53%	7,042	8.99
Reserves		1.46%	1,364	1.74
TOTAL COST	100.00%	\$93,492	\$119.33	
Construction Cost Recap		65.85%	\$61,561	\$78.58

TDHCA	Orig. TDHCA	Orig. APP	APPLICANT
\$1,150,000	\$1,150,000	\$1,150,000	\$1,150,000
0	0	0	0
1,647,500	1,647,500	1,647,500	1,647,500
9,755,852	8,751,134	10,275,000	10,275,000
570,168	519,932	600,000	600,000
670,000	623,918	670,000	670,000
220,000	207,973	220,000	220,000
680,000	623,918	680,000	680,000
683,100	683,100	683,100	683,100
976,020	978,907	742,850	742,850
546,365	370,994	725,000	725,000
1,820,000	1,820,000	1,820,000	1,820,000
1,549,150	1,549,150	1,549,150	1,549,150
300,000	300,000	300,000	300,000
\$20,568,155	\$19,226,525	\$21,062,600	\$21,062,600
\$13,543,520	\$12,374,375	\$14,092,500	\$14,092,500

PER SQ FT	PER UNIT	% of TOTAL
\$6.67	\$5,227	5.46%
0.00	0	0.00%
9.56	7,489	7.82%
59.61	46,705	48.78%
3.48	2,727	2.85%
3.89	3,045	3.18%
1.28	1,000	1.04%
3.95	3,091	3.23%
3.96	3,105	3.24%
4.31	3,377	3.53%
4.21	3,295	3.44%
10.56	8,273	8.64%
8.99	7,042	7.35%
1.74	1,364	1.42%
\$122.20	\$95,739	100.00%
\$81.76	\$64,057	66.91%

SOURCES OF FUNDS

Column Capital	64.42%	\$60,227	\$76.87
Additional Financing	0.00%	\$0	\$0.00
HTC Proceeds: Column Capital	34.12%	\$31,902	\$40.72
Deferred Developer Fees	3.86%	\$3,610	\$4.61
Additional (Excess) Funds Req'd	-2.40%	(\$2,247)	(\$2.87)
TOTAL SOURCES			

\$13,250,000	\$13,250,000	\$13,250,000	\$13,250,000
0	0	0	0
7,018,400	7,018,400	7,018,400	7,018,400
794,200	794,200	794,200	794,200
(494,445)	(1,836,075)	0	0
\$20,568,155	\$19,226,525	\$21,062,600	\$21,062,600

RECOMMENDED

\$12,879,132	Developer Fee Available
0	\$2,448,131
7,070,396	% of Dev. Fee Deferred
1,113,072	45%
0	15-Yr Cumulative Cash Flow
\$21,062,600	\$3,600,265

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Woodside Manor Senior Community, Conroe, 4% HTC, 060421 - ADDENDUM

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook
Average Quality Townhouse Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$60.81	\$10,480,418
Adjustments				
Exterior Wall Finish	4.00%		\$2.43	\$419,217
Elderly	3.00%		1.82	314,413
Roofing			0.00	0
Subfloor			(1.65)	(284,394)
Floor Cover			2.81	484,332
Porches/Balconies	\$18.15	26,295	2.77	477,254
Plumbing	(\$1.082)	220	(1.38)	(238,000)
Built-In Appliances	\$2,200	220	2.81	484,000
Stairs/Fireplaces		0	0.00	0
Enclosed Corridors	\$50.89	0	0.00	0
Heating/Cooling			2.20	379,192
Garages/Carports	\$5,290	80	2.46	423,200
Comm &/or Aux Bldgs	\$61.63	6,434	2.30	396,511
Other: fire sprinklers				0
SUBTOTAL			77.37	13,336,142
Current Cost Multiplier	1.04		3.09	533,446
Local Multiplier	0.89		(8.51)	(1,466,976)
TOTAL DIRECT CONSTRUCTION COSTS			\$71.96	\$12,402,612
Plans, specs, survy, bid prm	3.90%		(\$2.81)	(\$483,702)
Interim Construction Interest	3.38%		(2.43)	(418,588)
Contractor's OH & Profit	11.50%		(8.28)	(1,426,300)
NET DIRECT CONSTRUCTION COSTS			\$58.45	\$10,074,022

PAYMENT COMPUTATION

Primary	\$13,250,000	Amort	480
Int Rate	6.25%	DCR	1.07
Secondary			
Int Rate	\$0	Amort	
	0.00%	Subtotal DCR	1.07
Additional			
Int Rate		Amort	
		Aggregate DCR	1.07

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$877,439
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$87,791

Primary	\$12,879,132	Amort	480
Int Rate	6.25%	DCR	1.10
Secondary			
Int Rate	\$0	Amort	0
	0.00%	Subtotal DCR	1.10
Additional			
Int Rate	\$0	Amort	0
	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	\$1,866,448	\$1,921,411	\$1,979,054	\$2,038,425	\$2,099,578	\$2,433,987	\$2,821,657	\$3,271,074	\$4,396,050
Secondary Income	71,752	73,905	76,122	78,406	80,758	93,621	108,532	125,818	169,089
Other Support Income: (describ)	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,937,200	1,995,316	2,055,176	2,116,831	2,180,336	2,527,607	2,930,189	3,396,893	4,565,140
Vacancy & Collection Loss	(145,290)	(149,649)	(154,138)	(158,762)	(163,525)	(189,571)	(219,764)	(254,767)	(342,385)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,791,910	\$1,845,668	\$1,901,038	\$1,958,069	\$2,016,811	\$2,338,037	\$2,710,425	\$3,142,126	\$4,222,754
EXPENSES at 4.00%									
General & Administrative	\$76,911	\$79,988	\$83,187	\$86,515	\$89,975	\$109,469	\$133,185	\$162,040	\$239,859
Management	71,676	73,827	76,042	78,323	80,672	93,521	108,417	125,685	168,910
Payroll & Payroll Tax	181,587	188,851	196,405	204,261	212,431	258,455	314,450	382,577	566,307
Repairs & Maintenance	89,528	93,109	96,833	100,707	104,735	127,426	155,033	188,622	279,206
Utilities	81,222	84,471	87,850	91,364	95,018	115,604	140,650	171,123	253,303
Water, Sewer & Trash	72,327	75,220	78,229	81,358	84,613	102,944	125,248	152,383	225,564
Insurance	60,326	62,739	65,249	67,859	70,573	85,863	104,465	127,098	188,136
Property Tax	127,402	132,498	137,798	143,310	149,042	181,333	220,619	268,417	397,322
Reserve for Replacements	44,000	45,760	47,590	49,494	51,474	62,626	76,194	92,701	137,221
Other	21,700	22,568	23,471	24,410	25,386	30,886	37,577	45,719	67,675
TOTAL EXPENSES	\$826,680	\$859,031	\$892,654	\$927,599	\$963,920	\$1,168,127	\$1,415,839	\$1,716,364	\$2,523,504
NET OPERATING INCOME	\$965,230	\$986,637	\$1,008,384	\$1,030,470	\$1,052,891	\$1,169,909	\$1,294,586	\$1,425,762	\$1,699,251
DEBT SERVICE									
First Lien Financing	\$877,439	\$877,439	\$877,439	\$877,439	\$877,439	\$877,439	\$877,439	\$877,439	\$877,439
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	\$87,791	\$109,198	\$130,945	\$153,030	\$175,452	\$292,470	\$417,147	\$548,323	\$821,811
DEBT COVERAGE RATIO	1.10	1.12	1.15	1.17	1.20	1.33	1.48	1.62	1.94

HTC ALLOCATION ANALYSIS -Woodside Manor Senior Community, Conroe, 4% HTC, 060421 - ADDENDUM

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	\$1,150,000	\$1,150,000		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,647,500	\$1,647,500	\$1,647,500	\$1,647,500
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$10,275,000	\$9,755,852	\$10,275,000	\$9,755,852
(4) Contractor Fees & General Requirements				
Contractor overhead	\$220,000	\$220,000	\$220,000	\$220,000
Contractor profit	\$680,000	\$680,000	\$680,000	\$680,000
General requirements	\$670,000	\$670,000	\$670,000	\$670,000
(5) Contingencies				
	\$600,000	\$570,168	\$596,125	\$570,168
(6) Eligible Indirect Fees				
	\$683,100	\$683,100	\$683,100	\$683,100
(7) Eligible Financing Fees				
	\$1,549,150	\$1,549,150	\$1,549,150	\$1,549,150
(8) All Ineligible Costs				
	\$742,850	\$976,020		
(9) Developer Fees				
			\$2,448,131	
Developer overhead	\$725,000	\$546,365		\$546,365
Developer fee	\$1,820,000	\$1,820,000		\$1,820,000
(10) Development Reserves				
	\$300,000	\$300,000		
TOTAL DEVELOPMENT COSTS	\$21,062,600	\$20,568,155	\$18,769,006	\$18,142,135

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		\$18,769,006	\$18,142,135
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		\$24,399,708	\$23,584,776
Applicable Fraction		82%	82%
TOTAL QUALIFIED BASIS		\$19,931,996	\$19,266,283
Applicable Percentage		3.62%	3.62%
TOTAL AMOUNT OF TAX CREDITS		\$721,538	\$697,439

Syndication Proceeds	0.9799	\$7,070,396	\$6,834,251
Total Tax Credits (Eligible Basis Method)		\$721,538	\$697,439
Syndication Proceeds		\$7,070,396	\$6,834,251
Requested Tax Credits		\$747,193	
Syndication Proceeds		\$7,321,789	
Gap of Syndication Proceeds Needed		\$8,183,468	
Total Tax Credits (Gap Method)		\$835,128	
Original Recommendation		\$646,769	
Syndication Proceeds		\$6,337,728	
Original Request		\$716,232	
Syndication Proceeds		\$7,018,400	

**COMMUNITY AFFAIRS DIVISION
SECTION 8 PROGRAM**

**BOARD ACTION REQUEST
November 9, 2006**

Action Item

Approval of Section 8 Streamlined 2007 Annual Public Housing Agency (PHA) Plan.

Required Action

Staff recommends approval of the proposed Streamlined 2007 PHA Plan for the Texas Department of Housing and Community Affairs (Department) Section 8 Program written in compliance with 42 U.S.C.1437(c-1)(a) and (b).

Background

Section 511 of the Quality Housing and Work Responsibility Act (QHWRA), (Public Law No. 105-276), signed into law on October 21, 1998, made several changes to the requirements for entities which administer the Section 8 Housing Choice Voucher Program (HCVP). 42 U.S.C. 1437(c-1)(b) requires public housing agencies such as the Department to submit an Annual Plan.

On June 24, 2003 (FR-4753-F-02), HUD published in the *Federal Register* (Vol. 68, No. 121, Page 37664) a final rule "Deregulation for Small Housing Agencies," that simplifies and streamlines HUD's regulatory requirements for small PHAs that administer the public housing and voucher assistance programs under the United States Housing Act of 1937.

PHAs administering only vouchers are eligible to submit the new streamlined Annual PHA Plan. This year's plan covers the third year of the five year plan that is currently in effect. On June 13, 2006, HUD changed the Department's HCVP budget year from July 1st through June 30th to January 1st through December 31st. At that time, the Department asked HUD if the Department would be required to submit a new PHA plan. On September 28, 2006, HUD responded that the Department must submit a new plan to cover the change in our fiscal year. The streamlined annual plan is limited to reporting only a few select components, and a certification listing any components (programs and policies) changed since submission of the last Annual Plan.

Recommendation

Approve 2007 Annual PHA Plan as presented by staff.

PHA Plans
Streamlined Annual
Version

**U.S. Department of Housing and
Urban Development**
Office of Public and Indian
Housing

OMB No. 2577-0226
(exp. 05/31/2006)

This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937 that introduced 5-year and annual PHA Plans. The full PHA plan provides a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission and strategies for serving the needs of low-income and very low-income families. This form allows eligible PHAs to make a streamlined annual Plan submission to HUD consistent with HUD's efforts to provide regulatory relief for certain types of PHAs. Public reporting burden for this information collection is estimated to average 11.7 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

Privacy Act Notice. The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Information in PHA plans is publicly available.

Streamlined Annual PHA Plan
for Fiscal Year: 2007

PHA Name:

**Texas Department of Housing
and Community Affairs**

NOTE: This PHA Plan template (HUD-50075-SA) is to be completed in accordance with instructions contained in previous Notices PIH 99-33 (HA), 99-51 (HA), 2000-22 (HA), 2000-36 (HA), 2000-43 (HA), 2001-4 (HA), 2001-26 (HA), 2003-7 (HA), and any related notices HUD may subsequently issue.

Streamlined Annual PHA Plan Agency Identification

PHA Name: Texas Department of Housing and Community Affairs

PHA Number: TX901

PHA Fiscal Year Beginning: (01/2007-+)

PHA Programs Administered:

Public Housing and Section 8 **Section 8 Only** **Public Housing Only**
Number of public housing units: Number of S8 units: **1540** Number of public housing units:
Number of S8 units:

PHA Consortia: (check box if submitting a joint PHA Plan and complete table)

Participating PHAs	PHA Code	Program(s) Included in the Consortium	Programs Not in the Consortium	# of Units Each Program
Participating PHA 1:				
Participating PHA 2:				
Participating PHA 3:				

PHA Plan Contact Information:

Name: **E. E. Fariss** Phone: **(512) 475-3897**
TDD: **1-800-735-2989** Email (if available): **efariss@tdhca.state.tx.us**

Public Access to Information

Information regarding any activities outlined in this plan can be obtained by contacting:
(select all that apply)

PHA's main administrative office PHA's development management offices

Display Locations For PHA Plans and Supporting Documents

The PHA Plan revised policies or program changes (including attachments) are available for public review and inspection. Yes No.

If yes, select all that apply:

Main administrative office of the PHA
 PHA development management offices
 Main administrative office of the local, county or State government
 Public library PHA website Other (list below)

PHA Plan Supporting Documents are available for inspection at: (select all that apply)

Main business office of the PHA PHA development management offices

Other (list below)

Streamlined Annual PHA Plan

Fiscal Year 2006

[24 CFR Part 903.12(c)]

Table of Contents

[24 CFR 903.7(r)]

Provide a table of contents for the Plan, including applicable additional requirements, and a list of supporting documents available for public inspection.

A. PHA PLAN COMPONENTS

- 1. Site-Based Waiting List Policies
903.7(b)(2) Policies on Eligibility, Selection, and Admissions
- 2. Capital Improvement Needs
903.7(g) Statement of Capital Improvements Needed
- 3. Section 8(y) Homeownership
903.7(k)(1)(i) Statement of Homeownership Programs
- 4. Project-Based Voucher Programs
- 5. PHA Statement of Consistency with Consolidated Plan. Complete only if PHA has changed any policies, programs, or plan components from its last Annual Plan.
- 6. Supporting Documents Available for Review
- 7. Capital Fund Program and Capital Fund Program Replacement Housing Factor, Annual Statement/Performance and Evaluation Report
- 8. Capital Fund Program 5-Year Action Plan

B. SEPARATE HARD COPY SUBMISSIONS TO LOCAL HUD FIELD OFFICE

Form HUD-50076, PHA Certifications of Compliance with the PHA Plans and Related Regulations: Board Resolution to Accompany the Streamlined Annual Plan identifying policies or programs the PHA has revised since submission of its last Annual Plan, and including Civil Rights certifications and assurances the changed policies were presented to the Resident Advisory Board for review and comment, approved by the PHA governing board, and made available for review and inspection at the PHA's principal office;

For PHAs Applying for Formula Capital Fund Program (CFP) Grants:

Form HUD-50070, Certification for a Drug-Free Workplace;

Form HUD-50071, Certification of Payments to Influence Federal Transactions; and

Form SF-LLL & SF-LLL a, Disclosure of Lobbying Activities.

1. Site-Based Waiting Lists (Eligibility, Selection, Admissions Policies)

[24 CFR Part 903.12(c), 903.7(b)(2)]

Exemptions: Section 8 only PHAs are not required to complete this component.

***N/A to AGENCY**

A. Site-Based Waiting Lists-Previous Year

1. Has the PHA operated one or more site-based waiting lists in the previous year? If yes, complete the following table; if not skip to B.

Site-Based Waiting Lists				
Development Information: (Name, number, location)	Date Initiated	Initial mix of Racial, Ethnic or Disability Demographics	Current mix of Racial, Ethnic or Disability Demographics since Initiation of SBWL	Percent change between initial and current mix of Racial, Ethnic, or Disability demographics

2. What is the number of site based waiting list developments to which families may apply at one time?
3. How many unit offers may an applicant turn down before being removed from the site-based waiting list?
4. Yes No: Is the PHA the subject of any pending fair housing complaint by HUD or any court order or settlement agreement? If yes, describe the order, agreement or complaint and describe how use of a site-based waiting list will not violate or be inconsistent with the order, agreement or complaint below:

B. Site-Based Waiting Lists – Coming Year

If the PHA plans to operate one or more site-based waiting lists in the coming year, answer each of the following questions; if not, skip to next component.

1. How many site-based waiting lists will the PHA operate in the coming year?
2. Yes No: Are any or all of the PHA’s site-based waiting lists new for the upcoming year (that is, they are not part of a previously-HUD-approved site based waiting list plan)?

- If yes, how many lists?
3. Yes No: May families be on more than one list simultaneously
If yes, how many lists?
4. Where can interested persons obtain more information about and sign up to be on the site-based waiting lists (select all that apply)?
- PHA main administrative office
 - All PHA development management offices
 - Management offices at developments with site-based waiting lists
 - At the development to which they would like to apply
 - Other (list below)

2. Capital Improvement Needs

[24 CFR Part 903.12 (c), 903.7 (g)]

***N/A to AGENCY**

Exemptions: Section 8 only PHAs are not required to complete this component.

A. Capital Fund Program

1. Yes No Does the PHA plan to participate in the Capital Fund Program in the upcoming year? If yes, complete items 7 and 8 of this template (Capital Fund Program tables). If no, skip to B.
2. Yes No: Does the PHA propose to use any portion of its CFP funds to repay debt incurred to finance capital improvements? If so, the PHA must identify in its annual and 5-year capital plans the development(s) where such improvements will be made and show both how the proceeds of the financing will be used and the amount of the annual payments required to service the debt. (Note that separate HUD approval is required for such financing activities.).

B. HOPE VI and Public Housing Development and Replacement Activities (Non-Capital Fund)

Applicability: All PHAs administering public housing. Identify any approved HOPE VI and/or public housing development or replacement activities not described in the Capital Fund Program Annual Statement.

1. Yes No: Has the PHA received a HOPE VI revitalization grant? (if no, skip to #3; if yes, provide responses to the items on the chart located on the next page, copying and completing as many times as necessary).
2. Status of HOPE VI revitalization grant(s):

HOPE VI Revitalization Grant Status	
a. Development Name:	
b. Development Number:	
c. Status of Grant:	
<input type="checkbox"/>	Revitalization Plan under development
<input type="checkbox"/>	Revitalization Plan submitted, pending approval
<input type="checkbox"/>	Revitalization Plan approved
<input type="checkbox"/>	Activities pursuant to an approved Revitalization Plan underway

3. Yes No: Does the PHA expect to apply for a HOPE VI Revitalization grant in the Plan year?
If yes, list development name(s) below:
4. Yes No: Will the PHA be engaging in any mixed-finance development activities for public housing in the Plan year? If yes, list developments or activities below:
5. Yes No: Will the PHA be conducting any other public housing development or replacement activities not discussed in the Capital Fund Program Annual Statement? If yes, list developments or activities below:

3. Section 8 Tenant Based Assistance--Section 8(y) Homeownership Program
(if applicable) [24 CFR Part 903.12(c), 903.7(k)(1)(i)]

1. Yes No: Does the PHA plan to administer a Section 8 Homeownership program pursuant to Section 8(y) of the U.S.H.A. of 1937, as implemented by 24 CFR part 982 ? (If “No”, skip to the next component; if “yes”, complete each program description below (copy and complete questions for each program identified.)

The Department may collaborate with one or more PHAs that have a successful voucher homeownership program.

2. Program Description:

The Department may implement a Section 8 Homeownership program.

- a. Size of Program

- Yes No: Will the PHA limit the number of families participating in the Section 8 homeownership option?

If the answer to the question above was yes, what is the maximum number of participants this fiscal year? **25 or fewer participants**

b. PHA-established eligibility criteria

- Yes No: Will the PHA's program have eligibility criteria for participation in its Section 8 Homeownership Option program in addition to HUD criteria? If yes, list criteria:

c. What actions will the PHA undertake to implement the program this year (list)?

3. Capacity of the PHA to Administer a Section 8 Homeownership Program:

The PHA has demonstrated its capacity to administer the program by (select all that apply):

- Establishing a minimum homeowner downpayment requirement of at least 3 percent of purchase price and requiring that at least 1 percent of the purchase price comes from the family's resources.
- Requiring that financing for purchase of a home under its Section 8 homeownership will be provided, insured or guaranteed by the state or Federal government; comply with secondary mortgage market underwriting requirements; or comply with generally accepted private sector underwriting standards.
- Partnering with a qualified agency or agencies to administer the program (list name(s) and years of experience below):
- Demonstrating that it has other relevant experience (list experience below):

The Department may collaborate with one or more PHAs that have a successful voucher homeownership program.

4. Use of the Project-Based Voucher Program

Intent to Use Project-Based Assistance

***N/A to AGENCY**

Yes No: Does the PHA plan to "project-base" any tenant-based Section 8 vouchers in the coming year? If the answer is "no," go to the next component. If yes, answer the following questions.

1. Yes No: Are there circumstances indicating that the project basing of the units, rather than tenant-basing of the same amount of assistance is an appropriate option? If yes, check which circumstances apply:

- low utilization rate for vouchers due to lack of suitable rental units
- access to neighborhoods outside of high poverty areas
- other (describe below):

2. Indicate the number of units and general location of units (e.g. eligible census tracts or smaller areas within eligible census tracts):

5. PHA Statement of Consistency with the Consolidated Plan

[24 CFR Part 903.15]

For each applicable Consolidated Plan, make the following statement (copy questions as many times as necessary) only if the PHA has provided a certification listing program or policy changes from its last Annual Plan submission.

1. Consolidated Plan jurisdiction: (provide name here)

2. The PHA has taken the following steps to ensure consistency of this PHA Plan with the Consolidated Plan for the jurisdiction: (select all that apply)
 - The PHA has based its statement of needs of families on its waiting lists on the needs expressed in the Consolidated Plan/s.
 - The PHA has participated in any consultation process organized and offered by the Consolidated Plan agency in the development of the Consolidated Plan.
 - The PHA has consulted with the Consolidated Plan agency during the development of this PHA Plan.
 - Activities to be undertaken by the PHA in the coming year are consistent with the initiatives contained in the Consolidated Plan. (list below)
 - Other: (list below)

3. The Consolidated Plan of the jurisdiction supports the PHA Plan with the following actions and commitments: (describe below)

6. Supporting Documents Available for Review for Streamlined Annual PHA Plans

PHAs are to indicate which documents are available for public review by placing a mark in the “Applicable & On Display” column in the appropriate rows. All listed documents must be on display if applicable to the program activities conducted by the PHA.

List of Supporting Documents Available for Review		
Applicable & On Display	Supporting Document	Related Plan Component
X	<i>PHA Certifications of Compliance with the PHA Plans and Related Regulations and Board Resolution to Accompany the Standard Annual, Standard Five-Year, and Streamlined Five-Year/Annual Plans;</i>	5 Year and Annual Plans
X	<i>PHA Certifications of Compliance with the PHA Plans and Related Regulations and Board Resolution to Accompany the Streamlined Annual Plan</i>	Streamlined Annual Plans
X	<i>Certification by State or Local Official of PHA Plan Consistency with Consolidated Plan.</i>	5 Year and standard Annual Plans
X	Fair Housing Documentation Supporting Fair Housing Certifications: Records reflecting that the PHA has examined its programs or proposed programs, identified any impediments to fair housing choice in those programs, addressed or is addressing those impediments in a reasonable fashion in view of the resources available, and worked or is working with local jurisdictions to implement any of the jurisdictions’ initiatives to affirmatively further fair housing that require the PHA’s involvement.	5 Year and Annual Plans
N/A	Housing Needs Statement of the Consolidated Plan for the jurisdiction(s) in which the PHA is located and any additional backup data to support statement of housing needs for families on the PHA’s public housing and Section 8 tenant-based waiting lists.	Annual Plan: Housing Needs
N/A	Most recent board-approved operating budget for the public housing program	Annual Plan: Financial Resources
N/A	Public Housing Admissions and (Continued) Occupancy Policy (A&O/ACOP), which includes the Tenant Selection and Assignment Plan [TSAP] and the Site-Based Waiting List Procedure.	Annual Plan: Eligibility, Selection, and Admissions Policies
N/A	Deconcentration Income Analysis	Annual Plan: Eligibility, Selection, and Admissions Policies
N/A	Any policy governing occupancy of Police Officers and Over-Income Tenants in Public Housing. <input type="checkbox"/> Check here if included in the public housing A&O Policy.	Annual Plan: Eligibility, Selection, and Admissions Policies
X	Section 8 Administrative Plan	Annual Plan: Eligibility, Selection, and Admissions Policies
N/A	Public housing rent determination policies, including the method for setting public housing flat rents. <input type="checkbox"/> Check here if included in the public housing A & O Policy.	Annual Plan: Rent Determination
N/A	Schedule of flat rents offered at each public housing development. <input type="checkbox"/> Check here if included in the public housing A & O Policy.	Annual Plan: Rent Determination
X	Section 8 rent determination (payment standard) policies (if included in plan, not necessary as a supporting document) and written analysis of Section 8 payment standard policies. <input type="checkbox"/> Check here if included in Section 8 Administrative Plan.	Annual Plan: Rent Determination
N/A	Public housing management and maintenance policy documents, including policies for the prevention or eradication of pest infestation (including cockroach infestation).	Annual Plan: Operations and Maintenance
N/A	Results of latest Public Housing Assessment System (PHAS) Assessment (or other applicable assessment).	Annual Plan: Management and Operations
N/A	Follow-up Plan to Results of the PHAS Resident Satisfaction Survey (if necessary)	Annual Plan: Operations and Maintenance and Community Service & Self-

List of Supporting Documents Available for Review		
Applicable & On Display	Supporting Document	Related Plan Component
		Sufficiency
X	Results of latest Section 8 Management Assessment System (SEMAP)	Annual Plan: Management and Operations
X	Any policies governing any Section 8 special housing types <input checked="" type="checkbox"/> Check here if included in Section 8 Administrative Plan	Annual Plan: Operations and Maintenance
N/A	Public housing grievance procedures <input type="checkbox"/> Check here if included in the public housing A & O Policy	Annual Plan: Grievance Procedures
X	Section 8 informal review and hearing procedures. <input checked="" type="checkbox"/> Check here if included in Section 8 Administrative Plan.	Annual Plan: Grievance Procedures
N/A	The Capital Fund/Comprehensive Grant Program Annual Statement /Performance and Evaluation Report for any active grant year.	Annual Plan: Capital Needs
N/A	Most recent CIAP Budget/Progress Report (HUD 52825) for any active CIAP grants.	Annual Plan: Capital Needs
N/A	Approved HOPE VI applications or, if more recent, approved or submitted HOPE VI Revitalization Plans, or any other approved proposal for development of public housing.	Annual Plan: Capital Needs
N/A	Self-evaluation, Needs Assessment and Transition Plan required by regulations implementing Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. See PIH Notice 99-52 (HA).	Annual Plan: Capital Needs
N/A	Approved or submitted applications for demolition and/or disposition of public housing.	Annual Plan: Demolition and Disposition
N/A	Approved or submitted applications for designation of public housing (Designated Housing Plans).	Annual Plan: Designation of Public Housing
N/A	Approved or submitted assessments of reasonable revitalization of public housing and approved or submitted conversion plans prepared pursuant to section 202 of the 1996 HUD Appropriations Act, Section 22 of the US Housing Act of 1937, or Section 33 of the US Housing Act of 1937.	Annual Plan: Conversion of Public Housing
N/A	Documentation for required Initial Assessment and any additional information required by HUD for Voluntary Conversion.	Annual Plan: Voluntary Conversion of Public Housing
N/A	Approved or submitted public housing homeownership programs/plans.	Annual Plan: Homeownership
N/A	Policies governing any Section 8 Homeownership program (Section _____ of the Section 8 Administrative Plan)	Annual Plan: Homeownership
N/A	Public Housing Community Service Policy/Programs <input type="checkbox"/> Check here if included in Public Housing A & O Policy	Annual Plan: Community Service & Self-Sufficiency
N/A	Cooperative agreement between the PHA and the TANF agency and between the PHA and local employment and training service agencies.	Annual Plan: Community Service & Self-Sufficiency
N/A	FSS Action Plan(s) for public housing and/or Section 8. The Department has requested an FSS exception, pending HUD response.	Annual Plan: Community Service & Self-Sufficiency
N/A	Section 3 documentation required by 24 CFR Part 135, Subpart E for public housing.	Annual Plan: Community Service & Self-Sufficiency
N/A	Most recent self-sufficiency (ED/SS, TOP or ROSS or other resident services grant) grant program reports for public housing.	Annual Plan: Community Service & Self-Sufficiency
N/A	Policy on Ownership of Pets in Public Housing Family Developments (as required by regulation at 24 CFR Part 960, Subpart G). <input type="checkbox"/> Check here if included in the public housing A & O Policy.	Annual Plan: Pet Policy
X	The results of the most recent fiscal year audit of the PHA conducted under the Single Audit Act as implemented by OMB Circular A-133, the results of that audit and the PHA's response to any findings.	Annual Plan: Annual Audit
N/A	Other supporting documents (optional) (list individually; use as many lines as necessary)	(specify as needed)
N/A	Consortium agreement(s) and for Consortium Joint PHA Plans <u>Only</u> : Certification that consortium agreement is in compliance with 24 CFR Part 943 pursuant to an opinion of counsel on file and available for inspection.	Joint Annual PHA Plan for Consortia: Agency Identification and Annual Management and Operations

7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary		*N/A to AGENCY			
PHA Name:		Grant Type and Number Capital Fund Program Grant No: Replacement Housing Factor Grant No:			Federal FY of Grant:
<input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/ Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:) <input type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
Line No.	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations				
3	1408 Management Improvements				
4	1410 Administration				
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures				
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Nondwelling Structures				
13	1475 Nondwelling Equipment				
14	1485 Demolition				
15	1490 Replacement Reserve				
16	1492 Moving to Work Demonstration				
17	1495.1 Relocation Costs				
18	1499 Development Activities				
19	1501 Collateralization or Debt Service				
20	1502 Contingency				
21	Amount of Annual Grant: (sum of lines 2 – 20)				
22	Amount of line 21 Related to LBP Activities				
23	Amount of line 21 Related to Section 504 compliance				
24	Amount of line 21 Related to Security – Soft Costs				

7. Capital Fund Program Annual Statement/Performance and Evaluation Report and Replacement Housing Factor

Annual Statement/Performance and Evaluation Report				*N/A to AGENCY	
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF) Part I: Summary					
PHA Name:			Grant Type and Number Capital Fund Program Grant No: Replacement Housing Factor Grant No:		Federal FY of Grant:
<input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/ Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:)					
<input type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
Line No.	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
25	Amount of Line 21 Related to Security – Hard Costs				
26	Amount of line 21 Related to Energy Conservation Measures				

Annual Statement/Performance and Evaluation Report								
Capital Fund Program and Capital Fund Program Replacement Housing Factor (CFP/CFPRHF)								
Part II: Supporting Pages								
PHA Name:			Grant Type and Number Capital Fund Program Grant No: Replacement Housing Factor Grant No:			Federal FY of Grant:		
Development Number Name/HA-Wide Activities	General Description of Major Work Categories	Dev. Acct No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised	Funds Obligated	Funds Expended	

8. Capital Fund Program Five-Year Action Plan

*N/A to AGENCY

Capital Fund Program Five-Year Action Plan					
Part I: Summary					
PHA Name					
		<input type="checkbox"/> Original 5-Year Plan <input type="checkbox"/> Revision No:			
Development Number/Name/HA-Wide	Year 1	Work Statement for Year 2	Work Statement for Year 3	Work Statement for Year 4	Work Statement for Year 5
		FFY Grant: PHA FY:	FFY Grant: PHA FY:	FFY Grant: PHA FY:	FFY Grant: PHA FY:
	Annual Statement				
CFP Funds Listed for 5-year planning					
Replacement Housing Factor Funds					

**COMMUNITY AFFAIRS DIVISION
SECTION 8 PROGRAM**

**BOARD ACTION REQUEST
November 9, 2006**

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 annually a payment standard schedule that establishes voucher payment standard amounts for each Fair Market Rent (FMR) area in the PHA jurisdiction. The PHA must establish payment standard amounts for each "unit size," defined as the number of bedrooms (one-bedroom, two-bedrooms, etc.) in each housing unit.

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 unit size. TDHCA operates its Housing Choice Voucher Program in 37 counties. Staff recommends establishing its payment standard at 100 percent of FMR for 32 of those counties and 110 percent of FMR for the remaining 5 counties. Of the 37 counties in which TDHCA provides Section 8 housing assistance, 32 counties will remain at 100 percent of FMR, 4 counties (Caldwell, Johnson, Denton, and Ellis) will remain at 110 percent of FMR, and 1 county (Guadalupe County) will increase from 100 percent to 110 percent of FMR. The four counties currently at 110% of FMR will remain at 110% so that the Department can continue to cover its portion of the housing assistance payments for tenants in those counties. Guadalupe County FMR will increase to 110% because the FMR decreased for Guadalupe County but actual rent amounts in that county did not.

Staff recommends these payment standards because it will allow current tenants to continue to afford the units they have selected, will help new tenants find affordable units, and should allow TDHCA to stay within the budget that we expect for fiscal year 2007. The attached Exhibit A details the TDHCA recommended payment standards.

Recommendation

Approve the Payment Standards for Housing Choice Vouchers, Resolution #06-047 as presented by staff.

RESOLUTION NO. 06-047

**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 100 percent of FMR in the areas so referenced in the attached Payment Standards;

WHEREAS, the Department wishes to establish payment standards at 110 percent of FMR in the areas so referenced in the attached Payment Standards; 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:

The Governing Board hereby approves and adopts the attached Section 8 Payments Standards for Housing Choice Vouchers for each jurisdiction in which the Department participates as a PHA. The Payment Standards are attached as Exhibit A.

This Resolution shall be in full force and effect from and upon their adoption. The Department shall initiate the Payment Standards effective January 1, 2007.

Written notice of the date, hour, and place of the meeting of the Board at which this Resolution was considered, and 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 Texas Government Code § 2306 and Texas Register and Texas Government Code, respectively.

PASSED AND APPROVED this 9th day of November 2006.

Chair of the Governing Board

ATTEST:

Secretary to the Board

VOUCHER PAYMENT STANDARDS

	Bedroom Size					
	REGION	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Aransas County:</u>						
HUD FMR	S	377	468	557	812	837
Payment Standard		377	468	557	812	837
% of Payment Standard		100%	100%	100%	100%	100%
<u>Atacosa County:</u>						
HUD FMR	S	328	382	504	637	655
Payment Standard		328	382	504	637	655
% of Payment Standard		100%	100%	100%	100%	100%
<u>Austin County:</u>						
HUD FMR	H	491	492	592	786	810
Payment Standard		491	492	592	786	810
% of Payment Standard		100%	100%	100%	100%	100%
<u>Bosque County:</u>						
HUD FMR	F	418	419	504	612	734
Payment Standard		418	419	504	612	734
% of Payment Standard		100%	100%	100%	100%	100%
<u>Brazoria County:</u>						
HUD FMR	H	518	577	663	914	982
Payment Standard		518	577	663	914	982
% of Payment Standard		100%	100%	100%	100%	100%
<u>Burnet County:</u>						
HUD FMR	S	408	477	627	789	811
Payment Standard		408	477	627	789	811
% of Payment Standard		100%	100%	100%	100%	100%
<u>Caldwell County:</u>						
HUD FMR	S	601	685	836	1137	1315
Payment Standard		661	754	920	1251	1447
% of Payment Standard		110%	110%	110%	110%	110%
<u>Chambers County:</u>						
HUD FMR	H	569	633	768	1024	1287
Payment Standard		569	633	768	1024	1287
% of Payment Standard		100%	100%	100%	100%	100%
<u>Colorado County:</u>						
HUD FMR	H	403	445	504	666	684
Payment Standard		403	445	504	666	684
% of Payment Standard		100%	100%	100%	100%	100%
<u>Comanche County:</u>						
HUD FMR	F	407	437	517	658	718
Payment Standard		407	437	517	658	718
% of Payment Standard		100%	100%	100%	100%	100%
<u>Crockett County:</u>						
HUD FMR	F	416	417	504	650	671
Payment Standard		416	417	504	650	671
% of Payment Standard		100%	100%	100%	100%	100%

VOUCHER PAYMENT STANDARDS

	Bedroom Size					
	REGION	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Denton County:</u>						
HUD FMR	F	591	658	798	1059	1283
Payment Standard		650	724	878	1165	1411
% of Payment Standard		110%	110%	110%	110%	110%
<u>Ellis County:</u>						
HUD FMR	F	591	658	798	1059	1283
Payment Standard		650	724	878	1165	1411
% of Payment Standard		110%	110%	110%	110%	110%
<u>Erath County:</u>						
HUD FMR	D	406	440	549	670	690
Payment Standard		406	440	549	670	690
% of Payment Standard		100%	100%	100%	100%	100%
<u>Falls County:</u>						
HUD FMR	F	331	452	509	649	674
Payment Standard		331	452	509	649	674
% of Payment Standard		100%	100%	100%	100%	100%
<u>Fort Bend County:</u>						
HUD FMR	H	569	633	768	1024	1287
Payment Standard		569	633	768	1024	1287
% of Payment Standard		100%	100%	100%	100%	100%
<u>Freestone County:</u>						
HUD FMR	F	331	452	509	665	686
Payment Standard		331	452	509	665	686
% of Payment Standard		100%	100%	100%	100%	100%
<u>Galveston County:</u>						
HUD FMR	H	569	633	768	1024	1287
Payment Standard		569	633	768	1024	1287
% of Payment Standard		100%	100%	100%	100%	100%
<u>Guadalupe County:</u>						
HUD FMR	S	521	579	715	922	1120
Payment Standard		573	637	787	1014	1232
% of Payment Standard		110%	110%	110%	110%	110%
<u>Hidalgo County:</u>						
HUD FMR	S	490	538	635	761	875
Payment Standard		490	538	635	761	875
% of Payment Standard		100%	100%	100%	100%	100%
<u>Jim Wells County:</u>						
HUD FMR	S	337	453	504	670	691
Payment Standard		337	453	504	670	691
% of Payment Standard		100%	100%	100%	100%	100
<u>Johnson County:</u>						
HUD FMR	F	565	605	745	1010	1135
Payment Standard		622	666	820	1111	1249
% of Payment Standard		110%	110%	110%	110%	110%

VOUCHER PAYMENT STANDARDS

	Bedroom Size					
	REGION	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Kerr County:</u>						
HUD FMR	S	506	548	616	795	819
Payment Standard		506	548	616	795	819
% of Payment Standard		100%	100%	100%	100%	100%
<u>Lee County:</u>						
HUD FMR	S	403	459	509	696	718
Payment Standard		403	459	509	696	718
% of Payment Standard		100%	100%	100%	100%	100%
<u>Limestone County:</u>						
HUD FMR	F	328	456	504	645	668
Payment Standard		328	456	504	645	668
% of Payment Standard		100%	100%	100%	100%	100%
<u>Live Oak County:</u>						
HUD FMR	S	348	437	504	645	668
Payment Standard		348	437	504	645	668
% of Payment Standard		100%	100%	100%	100%	100%
<u>Llano County:</u>						
HUD FMR	S	519	523	688	823	848
Payment Standard		519	523	688	823	848
% of Payment Standard		100%	100%	100%	100%	100%
<u>Mason County:</u>						
HUD FMR	F	416	417	504	650	671
Payment Standard		416	417	504	650	671
% of Payment Standard		100%	100%	100%	100%	100%
<u>McLennan County:</u>						
HUD FMR	F	505	506	629	788	813
Payment Standard		505	506	629	788	813
% of Payment Standard		100%	100%	100%	100%	100%
<u>Medina County:</u>						
HUD FMR	S	443	492	579	692	842
Payment Standard		443	492	579	692	842
% of Payment Standard		100%	100%	100%	100%	100%
<u>Menard County:</u>						
HUD FMR	F	416	417	504	650	671
Payment Standard		416	417	504	650	671
% of Payment Standard		100%	100%	100%	100%	100%
<u>Navarro County:</u>						
HUD FMR	F	470	479	578	702	725
Payment Standard		470	479	578	702	725
% of Payment Standard		100%	100%	100%	100%	100%
<u>Nueces County:</u>						
HUD FMR	S	545	560	695	954	1040
Payment Standard		545	560	695	954	1040
% of Payment Standard		100%	100%	100%	100%	100%

VOUCHER PAYMENT STANDARDS

	Bedroom Size					
	REGION	0 BR	1 BR	2 BR	3 BR	4 BR
<u>Robertson County:</u>						
HUD FMR	H	517	585	714	905	932
Payment Standard		517	585	714	905	932
% of Payment Standard		100%	100%	100%	100%	100%
<u>Schleicher County:</u>						
HUD FMR	F	416	417	504	650	671
Payment Standard		416	417	504	650	671
% of Payment Standard		100%	100%	100%	100%	100%
<u>Waller County:</u>						
HUD FMR	H	569	633	768	1024	1287
Payment Standard		569	633	768	1024	1287
% of Payment Standard		100%	100%	100%	100%	100%
<u>Wharton County:</u>						
HUD FMR	H	404	454	504	667	687
Payment Standard		404	454	504	667	687
% of Payment Standard		100%	100%	100%	100%	100%

PORTFOLIO MANAGEMENT AND COMPLIANCE DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Item

Presentation, discussion and possible approval of requests for amendments to HOME Investment Partnerships Program (HOME) contracts involving modifications that significantly decrease the benefits to be received by the Department.

Requested Action

Approve or deny the requests for amendments.

Background

The 2006 HOME Rules in the Texas Administrative Code, Title 10, Part 1, Chapter 53, Rule §53.62(b)(3) state that 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.

Department policy requires that the commitment rate and expenditure rate of each contract be analyzed when processing extension requests. Extension requests will only be considered by the Department to complete activities that are in process and that have been committed in the TDHCA Contract System. Commitment is defined as contract funds that have been pledged to an eligible household. These funds must be entered electronically into the TDHCA Contract System by the Administrator, and the funds must be approved electronically by the Department in the TDHCA Contract System. Before commitments are entered in the TDHCA Contract System, the environmental process must be completed and all household and budget information must be verified by the Administrator. Documentation must be submitted to the Department to substantiate the commitment of funds.

Town of Anthony Contract Number 1000298

Summary of Request

The Town of Anthony (City) is requesting a six (6) month extension to extend the end date of their contract from September 30, 2006 to March 31, 2007. The City states that delays in contract administration were experienced due to restrictive income requirements. The contract start date was October 1, 2004. The City states that although funds have not been committed in the TDHCA Contract system, progress has been made in contract administration, assistance has been pledged to the four (4) required households, and a six (6) month extension is necessary to ensure proper completion of the contract.

This amendment request was previously presented at the October 12, 2006 board meeting. Because the vote resulted in a "No Action", the City has requested to be placed on the agenda for a second time.

Amendment Number:	1
Activity Type:	Owner Occupied Rehabilitation (OCC)
Contract Executor:	Mayor Art Franco
Contract Consultant:	Colina-Vargas & Associates
Contract Start Date:	October 1, 2004
Contract End Date:	September 30, 2006
Service Area:	Urban/Exurban area of Anthony, El Paso County
Total Budget Amount:	\$187,546
Project Amount:	\$180,333
Administration Amount:	\$7,213
Households Required:	4
Households Committed:	0
Amount Drawn:	\$0

Requested Action

The Department has denied the amendment request and does not recommend approval. To date, twenty four (24) months since the contract start date, the City has not committed nor drawn contract funds through the TDHCA Contract System. If the board chooses to approve the amendment, the City must meet the following requirements:

- Termination of contract with current consultant.
- Compliance with 2006 HOME Program rules, except for funding cap.
- 18-month contract term.
- Environmental clearance within six (6) months of amendment approval date.
- Demolition of homes must be completed ninety (90) days prior to the amended contract end date. Homes not demolished prior to the deadline become the responsibility of the Administrator for completion.
- Commitment of all contract funds in the TDHCA Contract System must be completed ninety (90) days prior to the amended contract end date. Funds not committed prior to the deadline will not be eligible for reimbursement.
- Inclusion of language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.
- Inclusion of language in any subcontract that failure of subcontractor/consultant to adequately perform under this contract may result in penalties up to and including Debarment from performing additional work for the Department.
- Authority of the Department to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- Method of assistance provided.
- Submission of a Monthly Contract Progress Report in a form prescribed by the Department.

City of Pearsall Contract Number 1000299

Summary of Request

The City of Pearsall (City) is requesting a six (6) month extension to extend the end date of their contract from September 30, 2006 to March 31, 2007. The City states that delays in contract administration were experienced due to problems with selection of applicants, verification of eligibility, differences among committee members and lack of interest by local contractors. The contract start date was October 1, 2004. The City states that although funds have not been committed in the TDHCA Contract system, progress has been made in contract administration, assistance has been pledged to the ten (10) required households, and a six (6) month extension is necessary to ensure proper completion of the contract.

This amendment request was previously presented at the October 12, 2006 board meeting. Because the vote resulted in a "No Action", the City has requested to be placed on the agenda for a second time.

Amendment Number:	1
Activity Type:	Owner Occupied Rehabilitation (OCC)
Contract Executor:	Mayor George Cabasos
Contract Consultant:	Colina-Vargas & Associates
Contract Start Date:	October 1, 2004
Contract End Date:	September 30, 2006
Service Area:	Rural area of Pearsall, Frio County
Total Budget Amount:	\$520,000
Project Amount:	\$500,000
Administration Amount:	\$20,000
Households Required:	10
Households Committed:	0
Amount Drawn:	\$0

Requested Action

The Department has denied the amendment request and does not recommend approval. To date, twenty four (24) months since the contract start date, the City has not committed nor drawn contract funds. If the board chooses to approve the amendment, the City must meet the following requirements:

- Termination of contract with current consultant.
- Compliance with 2006 HOME Program rules, except for funding cap.
- 18-month contract term.
- Environmental clearance within six (6) months of amendment approval date.
- Demolition of homes must be completed ninety (90) days prior to the amended contract end date. Homes not demolished prior to the deadline become the responsibility of the Administrator for completion.
- Commitment of all contract funds in the TDHCA Contract System must be completed ninety (90) days prior to the amended contract end date. Funds not committed prior to the deadline will not be eligible for reimbursement.
- Inclusion of language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.
- Inclusion of language in any subcontract that failure of subcontractor/consultant to adequately perform under this contract may result in penalties up to and including Debarment from performing additional work for the Department.
- Authority of the Department to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- Method of assistance provided.
- Submission of a Monthly Contract Progress Report in a form prescribed by the Department.

City of Balmorhea Contract Number 1000300

Summary of Request

The City of Balmorhea (City) is requesting a six (6) month extension to extend the end date of their contract from September 30, 2006 to March 31, 2007. The City states that delays in contract administration were experienced due to restrictive income requirements and lack of interest among contractors. The contract start date was October 1, 2004. The City states that although funds have not been committed in the TDHCA Contract system, progress has been made in contract administration, assistance has been pledged to the ten (10) required households, and a six (6) month extension is necessary to ensure proper completion of the contract.

This amendment request was previously presented at the October 12, 2006 board meeting. Because the vote resulted in a "No Action", the City has requested to be placed on the agenda for a second time.

Amendment Number:	1
Activity Type:	Owner Occupied Rehabilitation (OCC)
Contract Executor:	Mayor Mike A. Rodriguez
Contract Consultant:	Colina-Vargas & Associates
Contract Start Date:	October 1, 2004
Contract End Date:	September 30, 2006
Service Area:	Rural area of Balmorhea, Reeves County
Total Budget Amount:	\$520,000
Project Amount:	\$500,000
Administration Amount:	\$20,000
Households Required:	10
Households Committed:	0
Amount Drawn:	\$0

Requested Action

The Department has denied the amendment request and does not recommend approval. To date, twenty four (24) months since the contract start date, the City has not committed nor drawn contract funds. If the board chooses to approve the amendment, the City must meet the following requirements:

- Termination of contract with current consultant.
- Compliance with 2006 HOME Program rules, except for funding cap.
- 18-month contract term.
- Environmental clearance within six (6) months of amendment approval date.
- Demolition of homes must be completed ninety (90) days prior to the amended contract end date. Homes not demolished prior to the deadline become the responsibility of the Administrator for completion.
- Commitment of all contract funds in the TDHCA Contract System must be completed ninety (90) days prior to the amended contract end date. Funds not committed prior to the deadline will not be eligible for reimbursement.
- Inclusion of language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.
- Inclusion of language in any subcontract that failure of subcontractor/consultant to adequately perform under this contract may result in penalties up to and including Debarment from performing additional work for the Department.
- Authority of the Department to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- Method of assistance provided.
- Submission of a Monthly Contract Progress Report in a form prescribed by the Department.

City of Presidio Contract Number 1000302

Summary of Request

The City of Presidio (City) is requesting a six (6) month extension to extend the end date of their contract from September 30, 2006 to March 31, 2007. The City states that delays in contract administration were experienced due to procurement issues and adobe construction techniques. The contract start date was October 1, 2004. The City states that although funds have not been committed in the TDHCA Contract system, progress has been made in contract administration, assistance has been pledged to the nine (9) required households, and a six (6) month extension is necessary to ensure proper completion of the contract.

This amendment request was previously presented at the October 12, 2006 board meeting. Because the vote resulted in a "No Action", the City has requested to be placed on the agenda for a second time.

Amendment Number:	1
Activity Type:	Owner Occupied Rehabilitation (OCC)
Contract Executor:	Mayor Alcee M. Tavarez
Contract Consultant:	Colina-Vargas & Associates
Contract Start Date:	October 1, 2004
Contract End Date:	September 30, 2006
Service Area:	Rural Area of Presidio, Presidio County
Total Budget Amount:	\$466,802
Project Amount:	\$448,848
Administration Amount:	\$17,954
Households Required:	9
Households Committed:	0
Amount Drawn:	\$0

Requested Action

The Department has denied the amendment request and does not recommend approval. To date, twenty four (24) months since the contract start date, the City has not committed nor drawn contract funds. If the board chooses to approve the amendment, the City must meet the following requirements:

- Termination of contract with current consultant.
- Compliance with 2006 HOME Program rules, except for funding cap.
- 18-month contract term.
- Environmental clearance within six (6) months of amendment approval date.
- Demolition of homes must be completed ninety (90) days prior to the amended contract end date. Homes not demolished prior to the deadline become the responsibility of the Administrator for completion.
- Commitment of all contract funds in the TDHCA Contract System must be completed ninety (90) days prior to the amended contract end date. Funds not committed prior to the deadline will not be eligible for reimbursement.
- Inclusion of language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.
- Inclusion of language in any subcontract that failure of subcontractor/consultant to adequately perform under this contract may result in penalties up to and including Debarment from performing additional work for the Department.
- Authority of the Department to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- Method of assistance provided.
- Submission of a Monthly Contract Progress Report in a form prescribed by the Department.

Town of Combes Contract Number 1000303

Summary of Request

The Town of Combes (City) is requesting a six (6) month extension to extend the end date of their contract from September 30, 2006 to March 31, 2007. The City states that delays in contract administration were experienced due to backlog of work, lack of interest among contractors, and the high cost of construction. The contract start date was October 1, 2004. The City states that although funds have not been committed in the TDHCA Contract system, progress has been made in contract administration, assistance has been pledged to the five (5) required households, and a six (6) month extension is necessary to ensure proper completion of the contract.

This amendment request was previously presented at the October 12, 2006 board meeting. Because the vote resulted in a "No Action", the City has requested to be placed on the agenda for a second time.

Amendment Number:	1
Activity Type:	Owner Occupied Rehabilitation (OCC)
Contract Executor:	Mayor Silvestre Garcia
Contract Consultant:	Colina-Vargas & Associates
Contract Start Date:	October 1, 2004
Contract End Date:	September 30, 2006
Service Area:	Urban/Exurban area of Combes, Cameron County
Total Budget Amount:	\$228,962
Project Amount:	\$220,156
Administration Amount:	\$8,806
Households Required:	5
Households Committed:	0
Amount Drawn:	\$0

Requested Action

The Department has denied the amendment request and does not recommend approval. To date, twenty four (24) months since the contract start date, the City has not committed nor drawn contract funds. If the board chooses to approve the amendment, the City must meet the following requirements:

- Termination of contract with current consultant.
- Compliance with 2006 HOME Program rules, except for funding cap.
- 18-month contract term.
- Environmental clearance within six (6) months of amendment approval date.
- Demolition of homes must be completed ninety (90) days prior to the amended contract end date. Homes not demolished prior to the deadline become the responsibility of the Administrator for completion.
- Commitment of all contract funds in the TDHCA Contract System must be completed ninety (90) days prior to the amended contract end date. Funds not committed prior to the deadline will not be eligible for reimbursement.
- Inclusion of language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.
- Inclusion of language in any subcontract that failure of subcontractor/consultant to adequately perform under this contract may result in penalties up to and including Debarment from performing additional work for the Department.
- Authority of the Department to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- Method of assistance provided.
- Submission of a Monthly Contract Progress Report in a form prescribed by the Department.

Frio County Contract Number 1000308

Summary of Request

Frio County (County) is requesting a six (6) month extension to extend the end date of their contract from September 30, 2006 to March 31, 2007. The County states that delays in contract administration were experienced due to applicant eligibility issues and lack of response from area contractors. The contract start date was October 1, 2004. The County states that although funds have not been committed in the TDHCA Contract system, progress has been made in contract administration, assistance has been pledged to the ten (10) required households, and a six (6) month extension is necessary to ensure proper completion of the contract.

This amendment request was previously presented at the October 12, 2006 board meeting. Because the vote resulted in a "No Action", the County has requested to be placed on the agenda for a second time.

Amendment Number:	1
Activity Type:	Owner Occupied Rehabilitation (OCC)
Contract Executor:	Judge Carlos A. Garcia
Contract Consultant:	Colina-Vargas & Associates
Contract Start Date:	October 1, 2004
Contract End Date:	September 30, 2006
Service Area:	Rural area of Frio County
Total Budget Amount:	\$520,000
Project Amount:	\$500,000
Administration Amount:	\$20,000
Households Required:	10
Households Committed:	0
Amount Drawn:	\$0

Requested Action

The Department has denied the amendment request and does not recommend approval. To date, twenty four (24) months since the contract start date, the County has not committed nor drawn contract funds. If the board chooses to approve the amendment, the County must meet the following requirements:

- Termination of contract with current consultant.
- Compliance with 2006 HOME Program rules, except for funding cap.
- 18-month contract term.
- Environmental clearance within six (6) months of amendment approval date.
- Demolition of homes must be completed ninety (90) days prior to the amended contract end date. Homes not demolished prior to the deadline become the responsibility of the Administrator for completion.
- Commitment of all contract funds in the TDHCA Contract System must be completed ninety (90) days prior to the amended contract end date. Funds not committed prior to the deadline will not be eligible for reimbursement.
- Inclusion of language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.
- Inclusion of language in any subcontract that failure of subcontractor/consultant to adequately perform under this contract may result in penalties up to and including Debarment from performing additional work for the Department.
- Authority of the Department to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- Method of assistance provided.
- Submission of a Monthly Contract Progress Report in a form prescribed by the Department.

Zapata County Contract Number 1000297

Summary of Request

Zapata County (County) is requesting a six (6) month extension to extend the end date of their contract from September 30, 2006 to March 31, 2007. The County states that delays in contract administration were experienced due to applicant eligibility issues and lack of response from area contractors. The contract start date was October 1, 2004. The County states that although funds have not been committed in the TDHCA Contract system, progress has been made in contract administration, assistance has been pledged to the ten (10) required households, and a six (6) month extension is necessary to ensure proper completion of the contract.

The County did not appeal to the Department's initial denial of the request within the time period allowed. If the amendment request is considered, the County also requests a waiver of the time allowed to appeal as stated in 10 Texas Administrative Code §1.7.

Amendment Number:	1
Activity Type:	Owner Occupied Rehabilitation (OCC)
Contract Executor:	Judge David Morales
Contract Consultant:	Colina-Vargas & Associates
Contract Start Date:	October 1, 2004
Contract End Date:	September 30, 2006
Service Area:	Rural area of Zapata County
Total Budget Amount:	\$520,000
Project Amount:	\$500,000
Administration Amount:	\$20,000
Households Required:	10
Households Committed:	0
Amount Drawn:	\$0

Requested Action

The Department has denied the amendment request and does not recommend approval. To date, twenty four (24) months since the contract start date, the County has not committed nor drawn contract funds. If the board chooses to approve the amendment, the County must meet the following requirements:

- Termination of contract with current consultant.
- Compliance with 2006 HOME Program rules, except for funding cap.
- 18-month contract term.
- Environmental clearance within six (6) months of amendment approval date.
- Demolition of homes must be completed ninety (90) days prior to the amended contract end date. Homes not demolished prior to the deadline become the responsibility of the Administrator for completion.
- Commitment of all contract funds in the TDHCA Contract System must be completed ninety (90) days prior to the amended contract end date. Funds not committed prior to the deadline will not be eligible for reimbursement.
- Inclusion of language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.
- Inclusion of language in any subcontract that failure of subcontractor/consultant to adequately perform under this contract may result in penalties up to and including Debarment from performing additional work for the Department.
- Authority of the Department to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- Method of assistance provided.
- Submission of a Monthly Contract Progress Report in a form prescribed by the Department.

Alpha Concepts, Inc Contract Number 1000301

Summary of Request

Alpha Concepts (Administrator) is requesting a twelve (12) month extension to extend the end date of their contract from September 30, 2006 to September 30, 2007. The Administrator states that delays in contract administration were experienced due to applicant eligibility issues. The contract start date was October 1, 2004. The City states that a twelve (12) month extension is necessary to ensure proper completion of the contract.

Amendment Number:	1
Activity Type:	Homebuyer Assistance (HBA)
Contract Executor:	Debra S. Huffman, Executive Director
Contract Start Date:	October 1, 2004
Contract End Date:	September 30, 2006
Service Area:	Rural areas of Orange, Vidor, Bridge City, Orangefield, and West Orange
Total Budget Amount:	\$364,000
Project Amount:	\$350,000
Administration Amount:	\$14,000
Households Required:	29
Households Committed:	0
Amount Drawn:	\$0

Requested Action

The Department has denied the amendment request and does not recommend approval. To date, twenty four (24) months since the contract start date, the Administrator has not committed nor drawn contract funds. If the board chooses to approve the amendment, the Administrator must meet the following requirements:

- Compliance with 2006 HOME Program rules, except for funding cap.
- 18-month contract term.
- Environmental clearance within six (6) months of amendment approval date.
- Commitment of all contract funds in the TDHCA Contract System must be completed ninety (90) days prior to the amended contract end date. Funds not committed prior to the deadline will not be eligible for reimbursement.
- Inclusion of language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.
- Inclusion of language in any subcontract that failure of subcontractor/consultant to adequately perform under this contract may result in penalties up to and including Debarment from performing additional work for the Department.
- Authority of the Department to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- Method of assistance provided.
- Submission of a Monthly Contract Progress Report in a form prescribed by the Department. The report must specify all progress made towards meeting contract performance requirements by the end of the amended contract term. The report must be completed and submitted by the 10th day of each month until the end of the amended contract term.

City of Lewisville Contract Number 1000253

Summary of Request

The City of Lewisville (City) is requesting to reduce the number of assisted households from eight (8) to six (6), or a reduction of twenty five (25%) percent. The reduction in the number of units will result in deobligated funds of \$97,881. The City is also requesting a six (6) month extension in order to complete construction and a modification in the required income limits as indicated in the chart below:

	2006 Income Limits (4 Person)	Original	Requested	Change	Percent Change
30% AMFI	\$19,950	8	3	(5)	62.5%
50% AMFI	\$33,250	0	3	3	37.5%
Total		8	6	(2)	25.0%

	Original	Requested	Change	Percent Change
Households	8	6	(2)	25.0%
Budget	\$432,640	\$334,759	(\$97,881)	23.0%

Amendment Number: 1
Activity Type: Owner Occupied Assistance (OCC) Contract (Reconstruction)
Contract Executor: Claude King, City Manager
Contract Start Date: October 1, 2004
Contract End Date: September 30, 2006
Requested End Date: March 31, 2007
Service Area: Urban/Exurban area of Lewisville, Denton County
Total Budget Amount: \$432,640
Project Amount: \$416,000
Administration Amount: \$16,640
Amount Committed: \$321,884
Amount Drawn: \$0
Households Required: 8
Households Committed: 6

Requested Action

Because this request significantly decreases the benefits to be received by the Department, staff is unable to recommend the approval of the amendment. If the board chooses to approve the amendment, the required beneficiaries would be reduced from eight (8) to six (6), the contract end date would be extended to March 31, 2007, the contract amount would be reduced to \$334,759, and the income limits would be changed according to the table shown above.

Approval of this amendment would require the City to provide the Department with a Monthly Contract Progress Report in a form prescribed by the Department. The report must specify all progress made towards meeting contract performance requirements by the end of the amended contract term. The Monthly Contract Progress Report must be completed and submitted by the 10th day of each month until the end of the amended contract term.

City of Midland Contract Number 1000264

Summary of Request

The City of Midland (City) is requesting to reduce the number of assisted households from ten (10) to six (6), or a reduction of forty (40%) percent. The reduction in the number of units will result in deobligated funds of \$33,500. The City is also requesting a six (6) month extension in order to provide down payment assistance to three additional households.

	Original	Requested	Change	Percent Change
Households	10	6	(4)	40.0%
Budget	\$75,000	\$41,500	(\$33,500)	45.0%

Amendment Number: 1
Activity Type: Home Buyer Assistance (HBA) Contract
Contract Executor: Rick Menchaca, City Manager
Contract Start Date: October 1, 2004
Contract End Date: September 30, 2006
Requested End Date: March 31, 2007
Service Area: Urban/Exurban area of Midland, Midland County
Total Budget Amount: \$78,000
Project Amount: \$75,000
Administration Amount: \$3,000
Amount Committed: \$41,500
Amount Drawn: \$19,000
Households Required: 10
Households Committed: 6

Requested Action

Because this request significantly decreases the benefits to be received by the Department, staff is unable to recommend the approval of the amendment. If the board chooses to approve the amendment, the required beneficiaries would be reduced from ten (10) to six (6), the contract end date would be extended to March 31, 2007, and the contract amount would be reduced to \$41,500.

Approval of this amendment would require the City to provide the Department with a Monthly Contract Progress Report in a form prescribed by the Department. The report must specify all progress made towards meeting contract performance requirements by the end of the amended contract term. The Monthly Contract Progress Report must be completed and submitted by the 10th day of each month until the end of the amended contract term.

City of Texarkana Contract Number 1000305

Summary of Request

The City of Texarkana (City) is requesting additional funds of \$29,755 in order to have sufficient funds to assist an additional household. The City is also requesting to extend the end date for six (6) months from September 30, 2006 to March 31, 2007 in order to have sufficient time to complete construction.

	Original	Requested	Change	Percent Increase
Households	2	2	-0-	0.0%
Budget	\$84,645	114,400	\$29,755	35.0%

On August 19, 2004, the City was awarded \$81,389 for reconstruction of two (2) homes. The City originally requested \$500,000 for reconstruction of nine (9) homes. Due to funds availability and the score and rank of their application, the City received a partial award. Because the cost to reconstruct a home is \$55,000, the City currently does not have sufficient funds to complete the reconstruction of the second unit.

Amendment Number: 1
Activity Type: Owner Occupied Assistance (OCC) Contract (Reconstruction)
Contract Executor: George T. Shackelford, City Manager
Contract Consultant: Craig Lindholm
Contract Start Date: October 1, 2004
Contract End Date: September 30, 2006
Requested End Date: March 31, 2007
Service Area: Urban/Exurban area of Texarkana, Bowie County
Total Budget Amount: \$84,645
Project Amount: \$81,389
Administration Amount: \$3,256
Amount Committed: \$55,000
Amount Drawn: \$55,000
Households Required: 2
Households Committed: 1

Requested Action

Because this request significantly decreases the benefits to be received by the Department, staff is unable to recommend the approval of the amendment. If the board chooses to approve the amendment, the contract amount would be increased to \$114,400, including 4% (\$4,400) in administrative funds.

Approval of this amendment would require the City to provide the Department with a Monthly Contract Progress Report in a form prescribed by the Department. The report must specify all progress made towards meeting contract performance requirements by the end of the amended contract term. The Monthly Contract Progress Report must be completed and submitted by the 10th day of each month until the end of the amended contract term.

Center for Housing and Economic Opportunities Corporation Contract Number 531300

Summary of Request

Center for Housing and Economic Opportunities Corporation (Administrator) has previously requested an amendment to extend the development period because of delays with the leasing process. The contract start date was March 31, 2003; the first amendment was executed on April 6, 2006 extending the development period for six (6) months to August 31, 2006.

The Administrator is requesting a second amendment to extend the development period for an additional six (6) months to February 28, 2007 so that their first loan payment is due on March 2007. The Administrator states that another six (6) month extension is necessary to complete the initial lease-up of the property.

Amendment Number:	2
Activity Type:	Rental Housing Development (RHD)
Contract Executor:	Mike S. Harms, Executive Director
Contract Start Date:	March 31, 2003
Contract End Date:	August 31, 2006
Requested End Date:	February 28, 2007
Service Area:	Kenedy, Karnes County
Total Budget Amount:	\$1,379,602
Project Amount:	\$1,319,859
Administration Amount:	\$59,743
Households Required:	20
Households Assisted:	14
Amount Drawn:	\$1,379,602

Requested Action

The Department recommends approval of six (6) one-month extensions (September up to and including February 2007) to complete the initial lease-up of the property. The one month extensions should cease upon lease-up to breakeven or lease-up of nineteen (19) units. At the end of the sixth one-month extension, full payment of principal and interest begin on March 2007. The Department also recommends that no additional loan extensions be granted past March 2007.

Approval of this amendment would require the Administrator to provide the Department with a monthly rent roll, Profit and Loss statement, and current leasing activities. The monthly information must be completed and submitted by the 10th day of each month until the end of the amended loan term.

Town of Anthony

P.O. BOX 1269
ANTHONY, TEXAS 79821

(915) 886-3944

October 13, 2006

RECEIVED
OCT 16 2006
EXECUTIVE

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

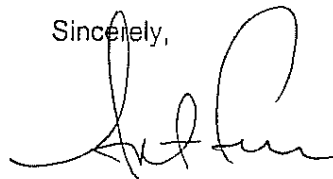
RE: APPEAL OF DECISION TO TERMINATE
HOME PROGRAM CONTRACT

Dear Mr. Gerber:

Thank you for the opportunity afforded us to appeal the decision to terminate the Owner-Occupied Housing Assistance Program being implemented under our HOME Investment Partnerships Program Contract. Due to the "no action" vote of the TDHCA Governing Board, the Town of Anthony now is allowed to resubmit the appeal for consideration at the next board meeting.

Please accept this letter as our formal request for the reconsideration of our appeal. Thank you for arranging to hear this appeal, and for the support and assistance your agency provides for our community.

Sincerely,



Art Franco
Mayor

cc: Ms. Lucy Trevino, Director, PMC
Ms. Kelly Crawford, Acting Director, PMC

own of Anthony

P.O. BOX 1269
ANTHONY, TEXAS 79821

(915) 886-3944

Fax:
915 886
3115

August 15, 2006

Ms. Kelly Crawford, Acting Director
Portfolio Management and Compliance
HOME Program
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RE: ANTHONY HOME PROGRAM OCC CONTRACT #1000298;
REQUEST FOR EXTENSION

Dear Ms. Crawford:

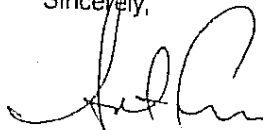
Thank you for your letter of August 8, 2006, concerning the completion status of our HOME Owner-Occupied Housing Assistance Project. Our contract will expire on September 30, 2006, and we are in need of an extension of the contract period, to ensure the proper completion of our project.

This program has experienced delays due to the consultations and request process surrounding the need to raise the income level in the eligibility criteria. Four months ago, we submitted a request to your offices for authorization to raise the applicable income level for the selection criteria to 50% of the AMFI, and we are still awaiting your response. As you know, the applicable income level is an essential part of the criteria for selection of the recipients of assistance from the program. Until we receive approval from the HOME Program to change this figure, we cannot finalize the selection of recipients.

Please accept this as our official request for an extension of the contract period for our project. We also respectfully request that you notify us of the approval of that extension right away, so that we may be assured that obligations to the construction contractors now working in this program will be met.

We will be grateful for your favorable consideration of our request and your prompt notice of approval, which will allow us to proceed expeditiously with this project. Thank you very much for the assistance your agency provides for our residents in need of affordable housing.

Sincerely,

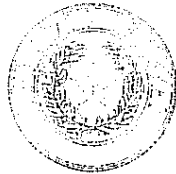


Art Franco
Mayor

RECEIVED

AUG 23 2006

COMPLIANCE



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

September 8, 2006

The Honorable Art Franco
Mayor, Town of Anthony
P.O. Box 1269
Anthony, TX 79821

RICK PERRY
Governor

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogary
C. Kent Conine
Sonny Flores
Vidal Gonzalez
Norberto Salinas

Re: Denial of Request for Extension, HOME OCC Contract #1000298

Dear Mayor Franco:

MICHAEL GERBER
Executive Director

The Texas Department of Housing and Community Affairs (Department) has received your letter dated August 15, 2006 requesting an extension to the above-referenced contract. The Town of Anthony (City) states that delays in contract administration were experienced due to restrictive income requirements.

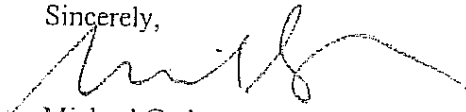
Approximately two years after the start date of this contract, the City has not received environmental clearance and has neither committed nor drawn any contract funds. The causes noted by the City for failure to complete all activities within the 24 month contract term are not sufficient to substantiate these delays. The City's failure to complete contract performance requirements within the contract term results in a significant decrease in benefit to the Department and to the City. The Department has determined that approval of an extension is not justified, and therefore, the extension request is denied.

Pursuant to 10 Texas Administrative Code §1.7, the City may appeal this decision to the Department's Governing Board. For the appeal to be considered, it must be received by Kelly Crawford, Acting Director of Portfolio Management and Compliance, no later than ten days after the date of this letter.

If the City does not wish to appeal the decision, your contract will terminate on the existing contract end date. Please sign the enclosed Certificate of Completion and return to the Department. Once received, the Department will close the contract and proceed with the deobligation of these funds.

The Department appreciates the City's efforts to provide decent, safe, sanitary, and affordable housing for low and moderate income citizens of Texas. If you have any questions, please feel free to contact me or Kelly Crawford, Acting Director of Portfolio Management and Compliance at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,


Michael Gerber
Executive Director

MG/vag

Enclosure (Certificate of Completion)

cc: Carlos Colina-Vargas, Colina-Vargas & Associates, Consultant

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOME Investment Partnerships Program
CERTIFICATE OF COMPLETION

Administrator: Town of Anthony
 Address: 401 Oak st.
 City: Anthony TX 79821

Contract No. 1000298
 Contract Beginning 10/01/2004
 Contract End Date: 9/30/2006
 Activity Code: OCC

CONTRACT BALANCES

	BUDGET	DRAWS TO DATE	REMAINING BALANCE
Total Federal Project Draws	\$180,333.00	\$0.00	\$180,333.00
Total Administrative Draws	\$7,213.00	\$0.00	\$7,213.00
TDHCA Program Income	\$0.00	\$0.00	\$0.00
TDHCA State Funds	\$0.00	\$0.00	\$0.00
TOTALS	\$187,546.00	\$0.00	187,546.00

MATCH INFORMATION

MATCH CODE/TYPE	AMOUNT	MATCH CODE/TYPE	AMOUNT	
				Required Match
				\$30,657.00
				Reported Match
				\$0.00

PERFORMANCE (NUMBER OF UNITS COMPLETED)

# OF UNITS REQUIRED	# OF UNITS SETUP	# OF UNITS COMPLETED
4	0	0

CERTIFICATION

I hereby certify that all activities undertaken by the Administrator with funds provided under the contract identified above hereof, have, to the best of my knowledge, been carried out in accordance with the contract agreement, that the State of Texas is under no obligation to make any further payment to the Administrator under the contract agreement, and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date. I also know that upon TDHCA approval of this Certificate of Completion this contract is closed, subject to additional review by the federal agency granting the contract funds.

(Print) Name of Signature Authority _____ Signature _____ Date _____

(TDHCA USE ONLY) Portfolio Management Approval

PMC authorizes that the remaining balance of \$187,546.00 be deobligated from CSAS and CDB.

Portfolio Management Supervisor _____ Date _____

PMC Staff -- Initials _____ Date ____ / ____ / ____

Town of Anthony

P.O. BOX 1269
ANTHONY, TEXAS 79821

September 18, 2006

(915) 886-3944

Mr. Michael Geber, Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711

RE: . APPEAL OF DECISION TO TERMINATE
HOME PROGRAM PROJECT # 100298

Dear Mr. Geber:

In response to your letter of September 8, 2006, announcing your intent to terminate our HOME Owne-Occupied Housing Assistance Project, please be informed that we are appealing this decision to the Governing Board of TDHCA. We welcome the opportunity to demonstrate to the body and to our staff that significant progress has been achieved in our project, and that the project can be completed within a period of six months.

Thank you for arranging for our appeal. We are grateful for the support and assistance your agency provides forward our housing improvement efforts, and we appreciate the opportunity to continue our project, which will improve the quality of life for our very lowest income residents.

Sincerely,



Myriam P. Uribe
Town Clerk



CITY OF PEARSALL

GATEWAY TO THE WINTERGARDEN

**DELIVERED BY FACSIMILE AND
CERTIFIED MAIL NO. 7004 2890 0000 1638 5607
RETURN RECEIPT REQUESTED**

October 13, 2006

COPY

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

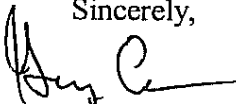
**RE: Re-Submission of our Appeal of Decision to Terminate Home Program Project –
Contract No. 1000299**

Dear Mr. Gerber:

Thank you for the opportunity afforded us to appeal the decision to terminate our Owner-Occupied Housing Assistance Program being implemented under HOME Investment Partnerships Program Contract #1000299. Due to the "no action" vote of the TDHCA Governing Board, the City of Pearsall will be allowed to re-submit our appeal for consideration at the next board meeting.

Please accept this request for the re-submission of our appeal. Thank you support and assistance your agency provides for our community.

Sincerely,



George Cabasos
Mayor

cc: Ms. Lucy Trevino, Director, PMC
✓Ms. Kelly Crawford, Acting Director, PMC
City Council Members
Jose G. "Pepe" Trevino, City Manager
Richard "Dick" O'Neil, City Attorney
Carlos Colina-Vargas, AICP
Files

RECEIVED
OCT 16 2006
COMPLIANCE



CITY OF PEARSALL

GATEWAY TO THE WINTERGARDEN

August 15, 2006

COPY

Ms. Kelly Crawford, Acting Director
Portfolio Management and Compliance
HOME Program
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

**RE: PEARSALL HOME PROGRAM OCC CONTRACT #1000299;
REQUEST FOR EXTENSION**

Dear Ms. Crawford:

Thank you for your letter of August 8, 2006, concerning the completion status of our HOME Owner-Occupied Housing Assistance Project. Our contract will expire on September 30, 2006, and we are in need of an extension of the contract period, to ensure the proper completion of our project.

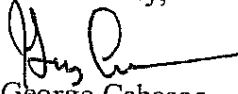
This program has experienced serious delays due to: (1) problems with selection and verification of eligibility; (2) differences of opinion among committee members and a lengthy review process that resulted in an unusual number of meetings; and (3) a lack of interest by local contractors. At this time, we feel that our program is back on track and we are ready to proceed with the completion.

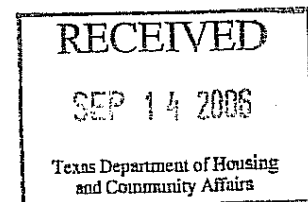
Please accept this as our official request for an extension of the contract period for our project.

We also respectfully request that you notify us of the approval of that extension right away, so that we may be assured that obligations to the construction contractors now working in this program will be met.

We will be grateful for your favorable consideration of our request and your prompt notice of approval, which will allow us to proceed expeditiously with this project. Thank you very much for the assistance that your agency provides for our residents in need of affordable housing.

Sincerely,


George Cabasos
Mayor

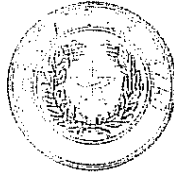


cc: Carlos Colina-Vargas
Files

RECEIVED

SEP 15 2006

COMPLIANCE



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

September 21, 2006

RICK PERRY
Governor

The Honorable George Cabasos
Mayor, City of Pearsall
213 S. Oak Street
Pearsall, TX 78061

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogany
C. Kent Conine
Sonny Flores
Vidal Gonzalez
Norberto Salinas

Re: Denial of Request for Extension, HOME OCC Contract #1000299

Dear Mayor Cabasos:

MICHAEL GERBER
Executive Director

The Texas Department of Housing and Community Affairs (Department) has received your letter dated August 15, 2006 requesting an extension to the above-referenced contract. The City of Pearsall states that delays in contract administration were experienced due to problems with selection of applicants, verification of eligibility, differences among committee members and lack of interest by local contractors.

Approximately two years after the start date of this contract, the County has not received environmental clearance and has neither committed nor drawn any contract funds. The causes noted by the City for failure to complete all activities within the 24 month contract term are not sufficient to substantiate these delays. The City's failure to complete contract performance requirements within the contract term results in a significant decrease in benefits to the Department and to the City. The Department has determined that approval of an extension is not justified, and therefore, the extension request is denied.

Pursuant to 10 Texas Administrative Code §1.7, the County may appeal this decision to the Department's Governing Board. For the appeal to be considered, it must be received by Kelly Crawford, Acting Director of Portfolio Management and Compliance, no later than ten days after the date of this letter.

If the County does not wish to appeal the decision, your contract will terminate on the existing contract end date. Please sign the enclosed Certificate of Completion and return to the Department. Once received, the Department will close the contract and proceed with the deobligation of these funds.

The Department appreciates the City's efforts to provide decent, safe, sanitary, and affordable housing for low and moderate income citizens of Texas. If you have any questions, please feel free to contact me or Kelly Crawford, Acting Director of Portfolio Management and Compliance at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,

Michael Gerber
Executive Director

MG/vag

Enclosure (Certificate of Completion)

cc: Carlos Colina-Vargas, Colina-Vargas & Associates, Consultant

221 EAST 11th • P.O. BOX 13941 • AUSTIN, TEXAS 78711-3941 • (800) 525-0657 • (512) 475-3800

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOME Investment Partnerships Program
CERTIFICATE OF COMPLETION

Administrator: City of Pearsall
 Address: 213 S. Oak St.
 City: Pearsall TX 78061

Contract No. 1000299
 Contract Beginning 10/01/2004
 Contract End Date: 9/30/2006
 Activity Code: OCC

CONTRACT BALANCES

	BUDGET	DRAWS TO DATE	REMAINING BALANCE
Total Federal Project Draws	\$500,000.00	\$0.00	\$500,000.00
Total Administrative Draws	\$20,000.00	\$0.00	\$20,000.00
TDHCA Program Income	\$0.00	\$0.00	\$0.00
TDHCA State Funds	\$0.00	\$0.00	\$0.00
TOTALS	\$520,000.00	\$0.00	520,000.00

MATCH INFORMATION

MATCH CODE/TYPE	AMOUNT	MATCH CODE/TYPE	AMOUNT	
				Required Match
				\$89,304.00
				Reported Match
				\$0.00

PERFORMANCE (NUMBER OF UNITS COMPLETED)

# OF UNITS REQUIRED	# OF UNITS SETUP	# OF UNITS COMPLETED
10	0	0

CERTIFICATION

I hereby certify that all activities undertaken by the Administrator with funds provided under the contract identified above hereof, have, to the best of my knowledge, been carried out in accordance with the contract agreement, that the State of Texas is under no obligation to make any further payment to the Administrator under the contract agreement, and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date. I also knowlege that upon TDHCA approval of this Certificate of Completion this contract is closed, subject to additional review by the federal agency granting the contract funds.

Print) Name of Signature Authority _____ Signature _____ Date _____

(TDHCA USE ONLY) Portfolio Management Approval

P/MC authorizes that the remaining balance of \$520,000.00 be deobligated from CSAS and CDB.

Portfolio Management Supervisor _____ Date _____

P/MC Staff -- Initials _____ Date ____/____/____



CITY OF PEARSALL

GATEWAY TO THE WINTERGARDEN

**DELIVERED BY FACSIMILE AND
CERTIFIED MAIL NO. 74004 2890 0000 1638 5553
RETURN RECEIPT REQUESTED**

September 15, 2006

→ Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RE: Appeal of Decision to Terminate Home Program Project – Contract No. 1000299

Dear Mr. Gerber:

In response to your letter of September 20, 2006, announcing your intent to terminate our HOME Owner-Occupied Housing Assistance Project, please be informed that we are appealing this decision to the Governing Board of TDHCA. We welcome the opportunity to demonstrate to that body and to your staff that significant progress has been achieved in our project, and that the project can be completed within a period of six months.

Thank you for arranging for our appeal. We are grateful for the support and assistance your agency provides toward our housing improvement efforts, and we appreciate the opportunity to continue our project, which will improve the quality of life for our very lowest income residents.

Sincerely,

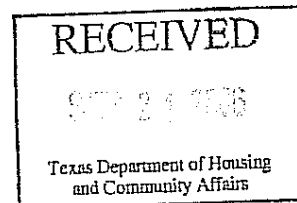
George Cabasos
Mayor

RECEIVED

SEP 22 2006

COMPLIANCE

cc: Ms. Lucy Trevino, HOME Program
→ City Council Members
Jose G. "Pepe" Trevino, City Manager
Richard "Dick" O'Neil, City Attorney
Carlos Colina-Vargas, AICP
Files



State of Texas
House of Representatives



RECEIVED
OCT 31 2006
EXECUTIVE

P.O. Box 777
Alpine, TX 79851-0777
(432) 857-7585

Pete P. Gallego

District 74

P.O. Box 2910
Austin, Texas 78768-2910
(512) 465-0566

P.O. Box 420665
Del Rio, TX 78842-0665
(850) 774-0800

October 26, 2006

Mr. Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

Dear Mr. Gerber:

I am unclear of the status of the appeal made by the City of Balmorhea and the associate actions taken by the Texas Department of Housing and Community Affairs during the meeting on October 11, 2006. Consequently, I respectfully request that this item be once again placed on the November board meeting agenda.

It is my understanding that the individual responsible for completing the grant application and implementing its requirements is no longer an employee for the city. Since this individual's dismissal, Mayor Mike Rodriguez has personally assumed the responsibilities of this project and has contacted contractors in the area who are ready to start construction on the housing units.

There is a tremendous need for this project in the Balmorhea area. The majority of residents live at or below poverty level. Terminating the project would have devastating consequences. Please reconsider the appeal of the City of Balmorhea. At a time when health care costs are rising and job growth in the area is negative, projects such as HOME Owner-Occupied Housing Assistance are critical.

Thank you in advance for you time and consideration. If can be of further insight or assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Pete P. Gallego".

Pete P. Gallego

PPG/kf

CITY OF BALMORHEA

P. O. BOX 323 (432) 375-2307
BALMORHEA, TEXAS 79718

October 13, 2006 RECEIVED
OCT 16 2006
EXECUTIVE

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711


RE: APPEAL OF DECISION TO TERMINATE HOME PROGRAM PROJECT

Dear Mr. Gerber:

Due to the "no action" vote of the TDHCA Governing Board, the City of Balmorhea is now allowed to resubmit the appeal for consideration at the next board meeting. We would appreciate the opportunity to present our case and let them know that we are committed to do whatever we need to keep this grant going.

Thank you for arranging for our appeal. We are grateful for the support and assistance your agency provides toward our housing improvement efforts, and we appreciate the opportunity to continue our project, which will improve the quality of life for our very lowest income residents.

Sincerely,



Mike A. Rodriguez
Mayor

cc: Ms. Lucy Trevino, HOME Program

RECEIVED
OCT 17 2006
COMPLIANCE

City of Balmorhea

Oasis of West Texas

10 San Antonio
PO Box 323
Balmorhea, TX 79718

(432) 375-2307
Fax (432) 375-2200
CityBalm@waveband.net

August 15, 2006

Ms. Kelly Crawford, acting Director
Portfolio Management and Compliance
HOME Program
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711

RE: BALMORHEA HOME PROGRAM OCC CONTRACT # 1000300; REQUEST FOR EXTENSION

Dear Ms. Crawford:

Thank you for your letter of August 8, 2006, concerning the completion status of our HOME Owner Occupied Housing Assistance Project. Our contract will expire on September 30, 2006 and we are in the need of an extension of the contract period, to ensure the proper completion of our project.

As your staff has been informed, we had experienced serious delays at the beginning of the program, due to encountering the need to raise the income level in the eligibility criteria and the process of obtaining HOME Program approval for the revision. Our program also experienced delays because of the lack of interest among contractors in our area. At this time, we feel that our project is back on track and we are ready to proceed with the completion.

Please accept this as our official request for an extension of the contract period for our project. We also respectfully request that you notify us of the approval of the extension right away, so that we may be assured that obligations to the construction contractors now working in this program will be met.

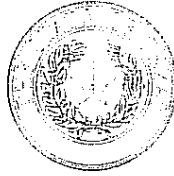
We will be grateful for your favorable consideration of our request and your prompt notice of approval, which will allow us to proceed expeditiously with this project. Thank you very much for the assistance that you agency provides for our residents in need of affordable housing.

Sincerely



Mike A. Rodriguez
Mayor





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

September 8, 2006

The Honorable Mike A. Rodríguez
Mayor, City of Balmorhea
P.O. Box 323
Balmorhea, TX 79718

RICK PERRY
Governor

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogany
C. Kent Conine
Sonny Flores
Vidal Gonzalez
Norberto Salinas

Re: Denial of Request for Extension, HOME OCC Contract #1000300

Dear Mayor Rodriguez:

MICHAEL GERBER
Executive Director

The Texas Department of Housing and Community Affairs (Department) has received your letter dated August 15, 2006 requesting an extension to the above-referenced contract. The City of Balmorhea (City) states that delays in contract administration were experienced due to restrictive income requirements and lack of interest among contractors.

Approximately two years after the start date of this contract, the City has not received environmental clearance and has neither committed nor drawn any contract funds. The causes noted by the City for failure to complete all activities within the 24 month contract term are not sufficient to substantiate these delays. The City's failure to complete contract performance requirements within the contract term results in a significant decrease in benefit to the Department and to the City. The Department has determined that approval of an extension is not justified, and therefore, the extension request is denied.

Pursuant to 10 Texas Administrative Code §1.7, the City may appeal this decision to the Department's Governing Board. For the appeal to be considered, it must be received by Kelly Crawford, Acting Director of Portfolio Management and Compliance, no later than ten days after the date of this letter.

If the City does not wish to appeal the decision, your contract will terminate on the existing contract end date. Please sign the enclosed Certificate of Completion and return to the Department. Once received, the Department will close the contract and proceed with the deobligation of these funds.

The Department appreciates the City's efforts to provide decent, safe, sanitary, and affordable housing for low and moderate income citizens of Texas. If you have any questions, please feel free to contact me or Kelly Crawford, Acting Director of Portfolio Management and Compliance at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,

Michael Gerber
Executive Director

MG/vag

Enclosure (Certificate of Completion)

cc: Carlos Colina-Vargas, Colina-Vargas & Associates, Consultant

221 EAST 11th ▪ P.O. BOX 13941 ▪ AUSTIN, TEXAS 78711-3941 ▪ (800) 525-0657 ▪ (512) 475-3800

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOME Investment Partnerships Program
CERTIFICATE OF COMPLETION

City: City of Balmorhea

Contract No. 1000300

Address: P.O. Box 323

Contract Beginning 10/01/2004

Contract End Date: 9/30/2006

City: BALMORHEA TX 79718

Activity Code: OCC

CONTRACT BALANCES

	BUDGET	DRAWS TO DATE	REMAINING BALANCE
Total Federal Project Draws	\$500,000.00	\$0.00	\$500,000.00
Total Administrative Draws	\$20,000.00	\$0.00	\$20,000.00
TDHCA Program Income	\$0.00	\$0.00	\$0.00
TDHCA State Funds	\$0.00	\$0.00	\$0.00
TOTALS	\$520,000.00	\$0.00	\$20,000.00

MATCH INFORMATION

MATCH CODE/TYPE	AMOUNT	MATCH CODE/TYPE	AMOUNT	
				Required Match
				\$80,000.00
				Reported Match
				\$0.00

PERFORMANCE (NUMBER OF UNITS COMPLETED)

# OF UNITS REQUIRED	# OF UNITS SETUP	# OF UNITS COMPLETED
10	0	0

CERTIFICATION

I hereby certify that all activities undertaken by the Administrator with funds provided under the contract identified above hereof, have, to the best of my knowledge, been carried out in accordance with the contract agreement, that the State of Texas is under no obligation to make any further payment to the Administrator under the contract agreement, and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date. I also acknowledge that upon TDHCA approval of this Certificate of Completion this contract is closed, subject to additional review by the federal agency granting the contract funds.

Print) Name of Signature Authority _____

Signature _____

Date _____

(TDHCA USE ONLY) Portfolio Management Approval

MC authorizes that the remaining balance of \$520,000.00 be deobligated from CSAS and CDB.

Portfolio Management Supervisor _____

Date _____

MC Staff -- Initials _____ Date ____ / ____ / ____

City of Balmorhea

Oasis of West Texas

310 San Antonio
PO Box 323
Balmorhea, TX 79718

(432) 375-2307
Fax (432) 375-2200
CityBalm@waveband.net

September 15, 2006

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

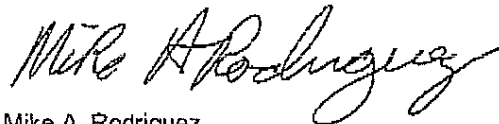
RE: APPEAL OF DECISION TO TERMINATE HOME PROGRAM PROJECT

Dear Mr. Gerber:

In response to your letter of September 8, 2006, announcing your intent to terminate our HOME Owner-Occupied Housing Assistance Project, please be informed that we are appealing this decision to the Governing Board of TDHCA. We welcome the opportunity to demonstrate to that body and to your staff that significant progress has been achieved in our project, and that the project can be completed within a period of six months.

Thank you for arranging for our appeal. We are grateful for the support and assistance your agency provides toward our housing improvement efforts, and we appreciate the opportunity to continue our project, which will improve the quality of life for our very lowest income residents.

Sincerely,



Mike A. Rodriguez
Mayor

cc: Ms. Lucy Trevino, HOME Program

MR GERBER

Town of Combes
P.O. Box 280, 306 Templeton Avenue
Combes, Texas 78535
956/425-7131, fax 956/412-6795

October 13, 2006

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

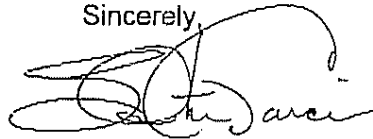
RE: APPEAL OF DECISION TO TERMINATE
HOME PROGRAM CONTRACT

Dear Mr. Gerber:

Thank you for the opportunity afforded us to appeal the decision to terminate the Owner-Occupied Housing Assistance Program being implemented under our HOME Investment Partnerships Program Contract. Due to the "no action" vote of the TDHCA Governing Board, the Town of Combes now is allowed to resubmit the appeal for consideration at the next board meeting.

Please accept this request for the reconsideration of our appeal. Thank you for arranging this appeal and for the support and assistance your agency provides for our community.

Sincerely,



Silvestre Garcia
Mayor

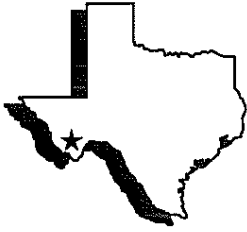
RECEIVED

OCT 17 2006

COMPLIANCE

cc: Ms. Lucy Trevino, Director, PMC
Ms. Kelly Crawford, Acting Director, PMC

RECEIVED
OCT 18 2006
EXECUTIVE



City of Presidio

October 27, 2006

Michael Gerber, Executive Director
Texas Dept. of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711

RECEIVED
OCT 27 2006
EXECUTIVE

Dear Mr. Gerber:

The City of Presidio is again appealing the decision to deny our request for an extension, for the HOME OCC Contract #1000302. Unfortunately, due to a Council Meeting scheduled the same day as TDHCA's Board Meeting, neither I, nor City Administrator Cynthia Clarke, is able to attend. A City Council Member has also resigned her position, therefore, a quorum would be hard to achieve if a member were to attend these proceedings. However, I have given Tom Nance, who will be attending the hearing on behalf of another city, the authority to speak for the City of Presidio.

Mr. Nance will show the Board the extensive work that has already been accomplished for this program, including, providing all the necessary documents required by each applicant to qualify for the program. The City Council gave the Planning and Zoning Commission the authority to conduct the selection process and the scoring. Twelve applications were received, and nine were qualified. These nine were carefully considered and are very low income and elderly. Their housing situation is deplorable, and TDHCA's program was their only hope for suitable housing. Financial information, deeds and tax records, photos and drawings have all been compiled into individual files for each applicant.

Mr. Ramon Rodriguez, the City's Code Enforcement Officer, wrote a letter to Mr. Kimball Thompson, HOME Inspection Specialist, for permission to use adobe construction. Adobe construction is a common and popular building technique in Presidio. Waiting for a response from your office was a contributing factor in the delay of starting construction. We have since learned that we should not have addressed our request to Mr. Thompson, and this was an error on our part.

The DCOP-Development Corporation of Presidio is providing the funding for start up expenses. They have authorized \$55,000 towards the construction cost of the first house. Two contractors have been authorized to build the homes; these are local contractors, who have met all of TDHCA's requirements for the project.

P.O. Box 1899 • Presidio, Texas 79845 • (432) 229-3517 • FAX : 229-3505

This is our only request for an extension, and we feel that we can accomplish the construction of these 9 homes, well within the 18 months time period. The City will meet all of the requirements you are stipulating.

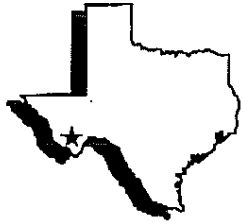
Please reconsider your denial of our request for an extension, as your program is the only one available to help those that are truly in need.

Thank you for allowing us to appeal the previous decision, and we are grateful for the support and assistance your agency provides to help those in need of the very basic quality of life issues – decent housing.

Sincerely,

A handwritten signature in black ink, appearing to read "Alcee M. Tavaréz". The signature is fluid and cursive, with a long horizontal stroke at the end.

Alcee M. Tavaréz
Mayor



City of Presidio

October 13, 2006

RECEIVED
OCT 16 2006
EXECUTIVE

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RE: APPEAL OF DECISION TO TERMINATE HOME PROGRAM CONTRACT

Dear Mr. Gerber:

Thank you for the opportunity afforded us to appeal the decision to terminate our Owner-Occupied Housing Assistance Program being implemented under the city's HOME Investment Partnerships Program Contract. Due to the "no action" vote of the TDHCA Governing Board, the City of Presidio is now allowed to resubmit the appeal for consideration at the next board meeting.

Please accept this request for reconsideration of our appeal. Thank you for arranging this appeal, and for the support and assistance your agency provides for our community.

Sincerely,

Alcee M. Tavarez
Mayor

cc: Ms. Lucy Trevino, Director, PMC
Ms. Kelly Crawford, Acting Director, PMC



City of Presidio

August 15, 2006

Ms. Kelly Crawford, Acting Director
Portfolio Management and Compliance
HOME Program
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RE: PRESIDIO HOME PROGRAM OCC CONTRACT #1000302;
REQUEST FOR EXTENSION

Dear Ms. Crawford:

Thank you for your letter of August 8, 2006, concerning the completion status of our HOME Owner-Occupied Housing Assistance Project. Our contract will expire on September 30, 2006, and we are in need of an extension of the contract period, to ensure the proper completion of our project.

This program has experienced serious delays due to: (1) consultations concerning the use of adobe construction, a preferred construction technique in this locality; (2) the submission of an official request for approval of adobe construction, and the wait for a response from your staff, which took more than three months; and (3) differences of opinion regarding procurement of construction contracts. At this time, we feel that our program is back on track and we are ready to proceed with the completion.

Please accept this as our official request for an extension of the contract period for our project. We also respectfully request that you notify us of the approval of that extension right away, so that we may be assured that obligations to the construction contractors now working in this program will be met.

We will be grateful for your favorable consideration of our request and your prompt notice of approval, which will allow us to proceed expeditiously with this project. Thank you very much for the assistance that your agency provides for our residents in need of affordable housing.

Sincerely,

Alcee M. Tavaréz
Mayor

RECEIVED

AUG 21 2006

COMPLIANCE

(432)

P.O. Box 1899 • Presidio, Texas 79845 • (432) 229-3517 • FAX: 229-3505



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

September 8, 2006

The Honorable Alcee M. Tavares
Mayor, City of Presidio
PO Box 13941
Presidio, TX 78711

RICK PERRY
Governor

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogany
C. Kent Conine
Sonny Flores
Vidal Gonzalez
Norberto Salinas

Re: Denial of Request for Extension, HOME OCC Contract #1000302

Dear Mayor Tavares:

MICHAEL GERBER
Executive Director

The Texas Department of Housing and Community Affairs (Department) has received your letter dated August 15, 2006 requesting an extension to the above-referenced contract. The City of Presidio (City) states that delays in contract administration were experienced due to procurement issues and adobe construction techniques.

Approximately two years after the start date of this contract, the City has not received environmental clearance and has neither committed nor drawn any contract funds. The causes noted by the City for failure to complete all activities within the 24 month contract term are not sufficient to substantiate these delays. The City's failure to complete contract performance requirements within the contract term results in a significant decrease in benefit to the Department and to the City. The Department has determined that approval of an extension is not justified, and therefore, the extension request is denied.

Pursuant to 10 Texas Administrative Code §1.7, the City may appeal this decision to the Department's Governing Board. For the appeal to be considered, it must be received by Kelly Crawford, Acting Director of Portfolio Management and Compliance, no later than ten days after the date of this letter.

If the City does not wish to appeal the decision, your contract will terminate on the existing contract end date. Please sign the enclosed Certificate of Completion and return to the Department. Once received, the Department will close the contract and proceed with the deobligation of these funds.

The Department appreciates the City's efforts to provide decent, safe, sanitary, and affordable housing for low and moderate income citizens of Texas. If you have any questions, please feel free to contact me or Kelly Crawford, Acting Director of Portfolio Management and Compliance at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,

Michael Gerber
Executive Director

MG/vag

Enclosure (Certificate of Completion)

cc: Carlos Colina-Vargas, Colina-Vargas & Associates, Consultant

221 EAST 11th • P.O. BOX 13941 • AUSTIN, TEXAS 78711-3941 • (800) 525-0657 • (512) 475-3800

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOME Investment Partnerships Program
CERTIFICATE OF COMPLETION

City of Presidio
 102 W. O'Reilly
 Presidio TX 79845

Contract No. 1000302
 Contract Beginning 10/01/2004
 Contract End Date: 9/30/2006
 Activity Code: OCC

CONTRACT BALANCES

	BUDGET	DRAWS TO DATE	REMAINING BALANCE
Total Federal Project Draws	\$448,848.00	\$0.00	\$448,848.00
Total Administrative Draws	\$17,954.00	\$0.00	\$17,954.00
TDHCA Program Income	\$0.00	\$0.00	\$0.00
TDHCA State Funds	\$0.00	\$0.00	\$0.00
TOTALS	\$466,802.00	\$0.00	466,802.00

MATCH INFORMATION

MATCH CODE/TYPE	AMOUNT	MATCH CODE/TYPE	AMOUNT	
				Required Match
				\$67,327.00
				Reported Match
				\$0.00

PERFORMANCE (NUMBER OF UNITS COMPLETED)

# OF UNITS REQUIRED	# OF UNITS SETUP	# OF UNITS COMPLETED
<input type="text" value="9"/>	<input type="text" value="0"/>	<input type="text" value="0"/>

CERTIFICATION

I hereby certify that all activities undertaken by the Administrator with funds provided under the contract identified above are, to the best of my knowledge, being carried out in accordance with the contract agreement, that the State of Texas is under no obligation to make any further payment to the Administrator under the contract agreement, and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date. I also acknowledge that upon TDHCA approval of this Certificate of Completion this contract is closed, subject to additional review by the federal agency granting the contract funds.

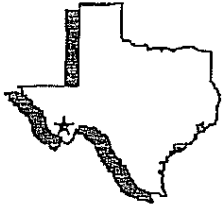
Print) Name of Signature Authority _____ Signature _____ Date _____

(TDHCA USE ONLY) Portfolio Management Approval

MC authorizes that the remaining balance of \$466,802.00 be deobligated from CSAS and CDB.

Portfolio Management Supervisor _____ Date _____

MC Staff -- Initials _____ Date ____/____/____



City of Presidio

September 15, 2006

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RE: APPEAL OF DECISION TO TERMINATE HOME PROGRAM PROJECT

Dear Mr. Gerber:

In response to your letter of September 8, 2006, announcing your intent to terminate our HOME Owner-Occupied Housing Assistance Project, please be informed that we are appealing this decision to the Governing Board of TDHCA. We welcome the opportunity to demonstrate to that body and to your staff that significant progress has been achieved in our project, and that the project can be completed within a period of six months.

Thank you for arranging for our appeal. We are grateful for the support and assistance your agency provides toward our housing improvement efforts, and we appreciate the opportunity to continue our project, which will improve the quality of life for our very lowest income residents.

Sincerely,

Alcee Tavaréz
Mayor

cc: Ms. Lucy Trevino, HOME Program

Town of Combes
P.O. Box 280, 306 Templeton Avenue
Combes, Texas 78535
956/425-7131, fax 956/412-6795

October 13, 2006

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

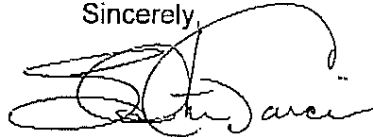
RE: APPEAL OF DECISION TO TERMINATE
HOME PROGRAM CONTRACT

Dear Mr. Gerber:

Thank you for the opportunity afforded us to appeal the decision to terminate the Owner-Occupied Housing Assistance Program being implemented under our HOME Investment Partnerships Program Contract. Due to the "no action" vote of the TDHCA Governing Board, the Town of Combes now is allowed to resubmit the appeal for consideration at the next board meeting.

Please accept this request for the reconsideration of our appeal. Thank you for arranging this appeal and for the support and assistance your agency provides for our community.

Sincerely,



Silvestre Garcia
Mayor

cc: Ms. Lucy Trevino, Director, PMC
Ms. Kelly Crawford, Acting Director, PMC

RECEIVED
OCT 16 2006
COMPLIANCE

Town of Combes
P.O. Box 280, 306 Templeton Street
Combes, Texas 78535
956/425-7131, fax 956/412-6795

August 15, 2006

Ms. Kelly Crawford, Acting Director
Portfolio Management and Compliance
HOME Program
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

**RE: COMBES HOME PROGRAM OCC CONTRACT #1000303;
REQUEST FOR EXTENSION**

Dear Ms. Crawford:

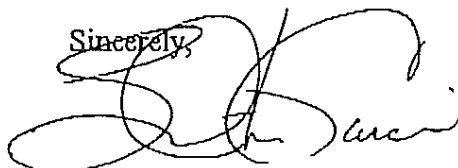
Thank you for your letter of August 8, 2006, concerning the completion status of our HOME Owner-Occupied Housing Assistance Project. Our contract will expire on September 30, 2006, and we are in need of an extension of the contract period, to ensure the proper completion of our project.

This program has experienced serious delays due to: (1) a backlog of work being experienced by the tech support personnel responsible for the implementation; (2) a lack of interest among area contractors; and (3) the current high costs of construction, which have fostered an over-cautious attitude regarding commitment of funds. At this time, we feel that our program is back on track and we are ready to proceed with the completion.

Please accept this as our official request for an extension of the contract period for our project. We also respectfully request that you notify us of the approval of that extension right away, so that we may be assured that obligations to the construction contractors now working in this program will be met.

We will be grateful for your favorable consideration of our request and your prompt notice of approval, which will allow us to proceed expeditiously with this project. Thank you very much for the assistance your agency provides for our residents in need of affordable housing.

Sincerely,



Silvestre Garcia
Mayor



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

September 8, 2006

The Honorable Silvestre Garcia
Mayor, Town of Combes
P. O. Box 280
Combes, TX 78535

RICK PERRY
Governor

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
C. Kent Conine
Sonny Flores
Vidal Gonzalez
Norberto Salinas

Re: Denial of Request for Extension, HOME OCC Contract #1000303

Dear Mayor Garcia:

MICHAEL GERBER
Executive Director

The Texas Department of Housing and Community Affairs (Department) has received your letter dated August 15, 2006 requesting an extension to the above-referenced contract. The Town of Combes (City) states that delays in contract administration were experienced due to a backlog of work, lack of interest among contractors, and the high cost of construction.

Approximately two years after the start date of this contract, the City has not received environmental clearance and has neither committed nor drawn any contract funds. The causes noted by the City for failure to complete all activities within the 24 month contract term are not sufficient to substantiate these delays. The City's failure to complete contract performance requirements within the contract term results in a significant decrease in benefit to the Department and to the City. The Department has determined that approval of an extension is not justified, and therefore, the extension request is denied.

Pursuant to 10 Texas Administrative Code §1.7, the City may appeal this decision to the Department's Governing Board. For the appeal to be considered, it must be received by Kelly Crawford, Acting Director of Portfolio Management and Compliance, no later than ten days after the date of this letter.

If the City does not wish to appeal the decision, your contract will terminate on the existing contract end date. Please sign the enclosed Certificate of Completion and return to the Department. Once received, the Department will close the contract and proceed with the deobligation of these funds.

The Department appreciates the City's efforts to provide decent, safe, sanitary, and affordable housing for low and moderate income citizens of Texas. If you have any questions, please feel free to contact me or Kelly Crawford, Acting Director of Portfolio Management and Compliance at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,

Michael Gerber
Executive Director

MG/vag

Enclosure (Certificate of Completion)

cc: Carlos Colina-Vargas, Colina-Vargas & Associates, Consultant

221 EAST 11th • P.O. BOX 13941 • AUSTIN, TEXAS 78711-3941 • (800) 525-0657 • (512) 475-3800

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOME Investment Partnerships Program
CERTIFICATE OF COMPLETION

Administrator: City of Combes
 Address: P.O. Box 280
 City: Combes TX 78535

Contract No. 1000303
 Contract Beginning 10/01/2004
 Contract End Date: 9/30/2006
 Activity Code: OCC

CONTRACT BALANCES

	BUDGET	DRAWS TO DATE	REMAINING BALANCE
Total Federal Project Draws	\$220,156.00	\$0.00	\$220,156.00
Total Administrative Draws	\$8,806.00	\$0.00	\$8,806.00
TDHCA Program Income	\$0.00	\$0.00	\$0.00
TDHCA State Funds	\$0.00	\$0.00	\$0.00
TOTALS	\$228,962.00	\$0.00	228,962.00

MATCH INFORMATION

MATCH CODE/TYPE	AMOUNT	MATCH CODE/TYPE	AMOUNT	
				Required Match
				\$39,628.00
				Reported Match
				\$0.00

PERFORMANCE (NUMBER OF UNITS COMPLETED)

<u># OF UNITS REQUIRED</u>	<u># OF UNITS SETUP</u>	<u># OF UNITS COMPLETED</u>
5	0	0

CERTIFICATION

I hereby certify that all activities undertaken by the Administrator with funds provided under the contract identified above hereof, have, to the best of my knowledge, been carried out in accordance with the contract agreement, that the State of Texas is under no obligation to make any further payment to the Administrator under the contract agreement, and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date. I also know that upon TDHCA approval of this Certificate of Completion this contract is closed, subject to additional review by the federal agency granting the contract funds.

(Print) Name of Signature Authority _____ Signature _____ Date _____

(TDHCA USE ONLY) Portfolio Management Approval

PMC authorizes that the remaining balance of \$228,962.00 be deobligated from CSAS and CDB.

Portfolio Management Supervisor _____ Date _____

PMC Staff -- Initials _____ Date ____ / ____ / ____

Town of Combes
P.O. Box 280, 306 Templeton Avenue
Combes, Texas 78535
956/425-7131, fax 956/412-6795

September 15, 2006

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

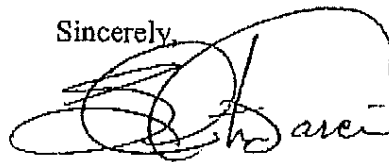
RE: APPEAL OF DECISION TO TERMINATE HOME PROGRAM PROJECT

Dear Mr. Gerber:

In response to your letter of September 8, 2006, announcing your intent to terminate our HOME Owner-Occupied Housing Assistance Project, please be informed that we are appealing this decision to the Governing Board of TDHCA. We welcome the opportunity to demonstrate to that body and to your staff that significant progress has been achieved in our project, and that the project can be completed within a period of six months.

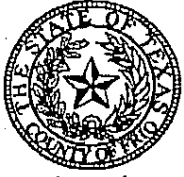
Thank you for arranging for our appeal. We are grateful for the support and assistance your agency provides toward our housing improvement efforts, and we appreciate the opportunity to continue our project, which will improve the quality of life for our very lowest income residents.

Sincerely,

A handwritten signature in black ink, appearing to read "Silvestre Garcia", written over a horizontal line.

Silvestre Garcia
Mayor

cc: Ms. Lucy Trevino, HOME Program



OFFICE OF THE FRIO COUNTY JUDGE

OFFICE: (830) 334-2154 • FAX: (830) 334-0010
300 E. SAN ANTONIO ST. • BOX 7 • PEARSALL, TEXAS 78061

Carlos A. Garcia
COUNTY JUDGE

October 13, 2006

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RECEIVED
OCT 13 2006
EXECUTIVE

RE: APPEAL OF DECISION TO TERMINATE
HOME PROGRAM CONTRACT

Dear Mr. Gerber:

Thank you for the opportunity afforded us to appeal the decision to terminate the Owner-Occupied Housing Assistance Program being implemented under our HOME Investment Partnerships Program Contract. Due to the "no action" vote of the TDHCA Governing Board, Frio County now is allowed to resubmit the appeal for consideration at the next board meeting.

Please accept this as our formal request for the reconsideration of our appeal. Thank you for arranging to hear this appeal, and for the support and assistance your agency provides for our communities.

Sincerely,

Carlos A. Garcia
County Judge

cc: Ms. Lucy Trevino, Director, PMC
Ms. Kelly Crawford, Acting Director, PMC

OFFICE OF THE FRIO COUNTY JUDGE

OFFICE: (830) 334-2154 • FAX: (830) 334-0010
500 E. SAN ANTONIO ST. • BOX 7 • PEARSALL, TEXAS 78061

August 16, 2006

Carlos A. Garcia
COUNTY JUDGE

Ms. Kelly Crawford, Acting Director
Portfolio Management and Compliance
HOME Program
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711

Re: HOME PROGRAM OCC CONTRACT #1000308-FRIO COUNTY;
REQUEST FOR EXTENSION

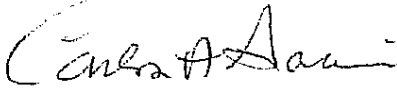
Dear Ms. Crawford:

Thank you for your letter of August 8, 2006, concerning the completion status of our HOME Owner-Occupied Housing Assistance Project. Since our contract is scheduled to expire on September 30, 2006, we are in need of an extension of the contract period, to ensure the proper completion of our project.

As your staff has been informed, we have experienced serious delays at the beginning of the program, due to confusion regarding the eligibility of the recipients and the documentation necessary. We also experienced delays caused by the lack of response from contractors in our area. At this time, we feel that our project is back on track and we are ready to proceed with the completion; however, it is necessary that we be notified that the extension is granted, so that we may be assured that our obligations to the future construction contractors in the program will be met.

We will be grateful for your favorable consideration of our request and your prompt notice of approval, which will allow us to proceed expeditiously with this project. Thank you very much for the assistance that your agency provides for our residents in need of affordable housing.

Sincerely,



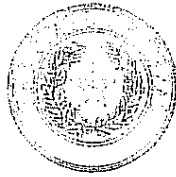
Carlos A. Garcia

CAG/mg

xc: Files
xc: Hon. Jesus Salinas
Frio County Commissioner,
Precinct No. 1
405 S. Ash
Pearsall, Texas 78061

xc: Hon. Richard R. Muzquiz
Frio County Commissioner,
Precinct No. 2
P.O. Box 215
Moore, Texas 78057

RECEIVED
AUG 17 2006
COMPLIANCE



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

September 8, 2006

The Honorable Carlos A. Garcia
County Judge, Frio County
500 E. San Antonio Street
Pearsall, TX 78061

Re: Denial of Request for Extension, HOME OCC Contract #1000308

Dear Judge Garcia:

The Texas Department of Housing and Community Affairs (Department) has received your letter dated August 16, 2006 requesting an extension to the above-referenced contract. Frio County (County) states that delays in contract administration were experienced due to applicant eligibility issues and lack of response from area contractors.

Approximately two years after the start date of this contract, the County has not received environmental clearance and has neither committed nor drawn any contract funds. The causes noted by the County for failure to complete all activities within the 24 month contract term are not sufficient to substantiate these delays. The County's failure to complete contract performance requirements within the contract term results in a significant decrease in benefit to the Department and to the County. The Department has determined that approval of an extension is not justified, and therefore, the extension request is denied.

Pursuant to 10 Texas Administrative Code §1.7, the County may appeal this decision to the Department's Governing Board. For the appeal to be considered, it must be received by Kelly Crawford, Acting Director of Portfolio Management and Compliance, no later than ten days after the date of this letter.

If the County does not wish to appeal the decision, your contract will terminate on the existing contract end date. Please sign the enclosed Certificate of Completion and return to the Department. Once received, the Department will close the contract and proceed with the deobligation of these funds.

The Department appreciates the County's efforts to provide decent, safe, sanitary, and affordable housing for low and moderate income citizens of Texas. If you have any questions, please feel free to contact me or Kelly Crawford, Acting Director of Portfolio Management and Compliance at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,

Michael Gerber
Executive Director

MG/vag

Enclosure (Certificate of Completion)

cc: Carlos Colina-Vargas, Colina-Vargas & Associates, Consultant

221 EAST 11th • P.O. BOX 13941 • AUSTIN, TEXAS 78711-3941 • (800) 525-0657 • (512) 475-3800

RICK PERRY
Governor

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogary
C. Kent Conine
Sonny Flores
Vidal Gonzalez
Norberto Salinas

MICHAEL GERBER
Executive Director

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOME Investment Partnerships Program
CERTIFICATE OF COMPLETION

Administrator: Frio County
 Address: 500 E. San Antonio
 City: Pearsall TX 78061

Contract No. 1000308
 Contract Beginning 10/01/2004
 Contract End Date: 9/30/2006
 Activity Code: OCC

CONTRACT BALANCES

	BUDGET	DRAWS TO DATE	REMAINING BALANCE
Total Federal Project Draws	\$500,000.00	\$0.00	\$500,000.00
Total Administrative Draws	\$20,000.00	\$0.00	\$20,000.00
TDHCA Program Income	\$0.00	\$0.00	\$0.00
TDHCA State Funds	\$0.00	\$0.00	\$0.00
TOTALS	\$520,000.00	\$0.00	520,000.00

MATCH INFORMATION

MATCH CODE/TYPE	AMOUNT	MATCH CODE/TYPE	AMOUNT	
				Required Match
				\$96,360.00
				Reported Match
				\$0.00

PERFORMANCE (NUMBER OF UNITS COMPLETED)

OF UNITS REQUIRED: 10 # OF UNITS SETUP: 0 # OF UNITS COMPLETED: 0

CERTIFICATION

I hereby certify that all activities undertaken by the Administrator with funds provided under the contract identified above hereof, have, to the best of my knowledge, been carried out in accordance with the contract agreement, that the State of Texas is under no obligation to make any further payment to the Administrator under the contract agreement, and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date. I also know that upon TDHCA approval of this Certificate of Completion this contract is closed, subject to additional review by the federal agency granting the contract funds.

(Print) Name of Signature Authority _____ Signature _____ Date _____

(TDHCA USE ONLY) Portfolio Management Approval

PMC authorizes that the remaining balance of \$520,000.00 be deobligated from CSAS and CDB.

Portfolio Management Supervisor _____ Date _____

PMC Staff -- Initials _____ Date ____/____/____



OFFICE OF THE FRIO COUNTY JUDGE

OFFICE: (830) 334-2154 • FAX: (830) 334-0010
500 E. SAN ANTONIO ST. • BOX 7 • PEARSALL, TEXAS 78061

September 15, 2006

Carlos A. Garcia
COUNTY JUDGE

Mr. Michael Gerber Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711

RE APPEAL OF DECISION TO TERMINATE HOME PROGRAM PROJECT

Dear Mr. Gerber:

In response to your letter of September 8, 2006, announcing your internet to terminate our HOME Owner-Occupied Housing Assistance Project, please be informed that we are appealing this decision to the Governing Board of TDHCA. We welcome the opportunity to demonstrate to that body and to your staff that significant progress has been achieved in our project, and that the project can be completed within a period of six months.

Thank you for arranging for our appeal. We are grateful for the support and assistance your agency provides towards our housing improvements efforts, and we appreciate the opportunity to continue our project, which will improve the quality of life for our very lowest income residents.

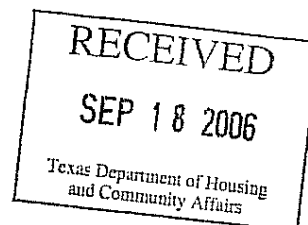
Sincerely,

Carlos A. Garcia
County Judge

CAG/pt

cc: Ms Lucy Trevino, HOME Program

RECEIVED
SEP 19 2006
COMPLIANCE





DAVID MORALES
ZAPATA COUNTY JUDGE

OFFICE: (956) 765-9920
FAX: (956) 765-9926

RECEIVED

OCT 24 2006

EXHIBITIVE

P.O. Box 99
ZAPATA, TEXAS 78076

October 24, 2006

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RE: APPEAL OF DECISION TO TERMINATE
HOME PROGRAM CONTRACT

Dear Mr. Gerber:

Please be advised that the Zapata County Commissioners Court decided on October 23, 2006, to appeal TDHCA's decision to terminate our HOME Owner-Occupied Housing Assistance Program. At the instruction of the Commissioners Court, Zapata County is appealing this decision to the Governing Board of TDHCA. We welcome the opportunity to demonstrate to that body and to the HOME Program staff that progress has been achieved in our program, and that the program can be completed within a reasonable period of time.

Thank you for arranging for this appeal, and for the support and assistance your agency provides for our housing improvements efforts. The Zapata County Commissioners will appreciate the opportunity to continue this program to improve the quality of life for the county's very lowest income residents.

Sincerely,


David Morales
County Judge

cc: Ms. Lucy Trevino, Director, PMC
Ms. Kelly Crawford, Acting Director, PMC



**COPY FOR YOUR
INFORMATION**

DAVID MORALES
ZAPATA COUNTY JUDGE

OFFICE: (956) 765-9920
FAX: (956) 765-9926

P.O. Box 99
ZAPATA, TEXAS 78076

September 15, 2006

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RE: APPEAL OF DECISION TO TERMINATE HOME PROGRAM PROJECT

Dear Mr. Gerber:

In response to your letter of September 8, 2006, announcing your intent to terminate our HOME Owner-Occupied Housing Assistance project, please be informed that we are appealing this decision to the Governing Board of TDHCA. We welcome the opportunity to demonstrate to that body and to your staff that significant progress has been achieved in our project, and that the project can be completed within a period of six months.

Thank you for arranging for our appeal. We are grateful for the support and assistance your agency provides toward our housing improvement efforts, and we appreciate the opportunity to continue our project, which will improve the quality of life for our very lowest income residents.

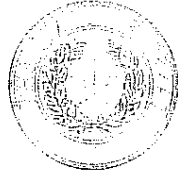
Sincerely,

David Morales
David Morales
County Judge
Jose E. Vela
Zapata County
Commissioner

cc: Ms. Lucy Trevino, HOME Program

*9/26/06
per Anna the County
was not going
to appeal.*

RECEIVED
SEP 19 2006
Texas Department of Housing
and Community Affairs



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

September 8, 2006

The Honorable David Morales
County Judge, Zapata County
PO Box 99
Zapata, TX 78076

RICK PERRY
Governor

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogany
C. Kent Conine
Sonny Flores
Vidal Gonzalez
Norberto Salinas

Re: Denial of Request for Extension, HOME OCC Contract #1000297

Dear Judge Morales:

MICHAEL GERBER
Executive Director

The Texas Department of Housing and Community Affairs (Department) has received your letter dated ~~August 15, 2006~~ requesting an extension to the above-referenced contract. Zapata County (County) states that delays in contract administration were experienced due to slow application response, issues with income eligibility, and lack of environmental clearance.

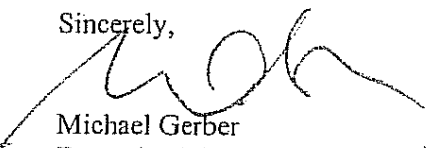
Approximately two years after the start date of this contract, the County has not received environmental clearance and has neither committed nor drawn any contract funds. The causes noted by the County for failure to complete all activities within the 24 month contract term are not sufficient to substantiate these delays. The County's failure to complete contract performance requirements within the contract term results in a significant decrease in benefit to the Department and to the County. The Department has determined that approval of an extension is not justified, and therefore, the extension request is denied.

Pursuant to 10 Texas Administrative Code §1.7, the County may appeal this decision to the Department's Governing Board. For the appeal to be considered, it must be received by Kelly Crawford, Acting Director of Portfolio Management and Compliance, no later than ten days after the date of this letter.

If the County does not wish to appeal the decision, your contract will terminate on the existing contract end date. Please sign the enclosed Certificate of Completion and return to the Department. Once received, the Department will close the contract and proceed with the deobligation of these funds.

The Department appreciates the County's efforts to provide decent, safe, sanitary, and affordable housing for low and moderate income citizens of Texas. If you have any questions, please feel free to contact me or Kelly Crawford, Acting Director of Portfolio Management and Compliance at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,


Michael Gerber
Executive Director

MG/vag

Enclosure (Certificate of Completion)

cc: Carlos Colina-Vargas, Colina-Vargas & Associates, Consultant

221 EAST 11th • P.O. BOX 13941 • AUSTIN, TEXAS 78711-3941 • (800) 525-0657 • (512) 475-3800

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

HOME Investment Partnerships Program

CERTIFICATE OF COMPLETION

Administrator: Zapata County

Contract No. 1000297

Address:

Contract Beginning 10/01/2004

Contract End Date: 9/30/2006

City:

Activity Code: OCC

CONTRACT BALANCES

	BUDGET	DRAWS TO DATE	REMAINING BALANCE
Total Federal Project Draws	\$500,000.00	\$0.00	\$500,000.00
Total Administrative Draws	\$20,000.00	\$0.00	\$20,000.00
TDHCA Program Income	\$0.00	\$0.00	\$0.00
TDHCA State Funds	\$0.00	\$0.00	\$0.00
TOTALS	\$520,000.00	\$0.00	520,000.00

MATCH INFORMATION

MATCH CODE/TYPE	AMOUNT	MATCH CODE/TYPE	AMOUNT	
				Required Match
				\$77,250.00
				Reported Match
				\$0.00

PERFORMANCE (NUMBER OF UNITS COMPLETED)

<u># OF UNITS REQUIRED</u>	<u># OF UNITS SETUP</u>	<u># OF UNITS COMPLETED</u>
10	0	0

CERTIFICATION

I hereby certify that all activities undertaken by the Administrator with funds provided under the contract identified above hereof, have, to the best of my knowledge, been carried out in accordance with the contract agreement, that the State of Texas is under no obligation to make any further payment to the Administrator under the contract agreement, and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date. I also know that upon TDHCA approval of this Certificate of Completion this contract is closed, subject to additional review by the federal agency granting the contract funds.

(Print) Name of Signature Authority _____ Signature _____ Date _____

(TDHCA USE ONLY) Portfolio Management Approval

PMC authorizes that the remaining balance of \$520,000.00 be deobligated from CSAS and CDB.

Portfolio Management Supervisor _____ Date _____

PMC Staff -- Initials _____ Date ____/____/____



DAVID MORALES
ZAPATA COUNTY JUDGE

OFFICE: (956) 765-9920
FAX: (956) 765-9926 ✓

P.O. Box 88
ZAPATA, TEXAS 78076

August 15, 2006

Ms. Kelly Crawford, Acting Director
Portfolio Management and Compliance
HOME Program
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, TX 78711

RE: ZAPATA COUNTY HOME PROGRAM OCC CONTRACT #1000297;
REQUEST FOR EXTENSION

Dear Ms. Crawford:

Thank you for your letter of August 8, 2006, concerning the completion status of our HOME Owner-Occupied Housing Assistance Project. Our contract will expire on September 30, 2006, and we are in need of an extension of the contract period, to ensure the proper completion of our project.

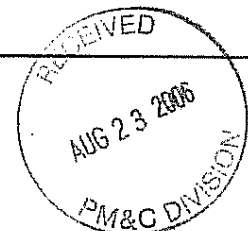
This program has experienced serious delays due to: (1) a slow response to the application solicitation, which created a further delay in the selection of recipients; (2) differences of opinion regarding income levels for eligibility; and (3) the delay of environmental clearance, which was prevented due to the lack of selection of recipients. At this time, our program is back on track and we are ready to proceed with the completion.

Please accept this as our official request for an extension of the contract period for our program. We also respectfully request that you notify us of the approval of that extension right away, so that we may be assured that obligations to the construction contractors now working in this program will be met.

We will be grateful for your favorable consideration of our request and your prompt notice of approval, which will allow us to proceed expeditiously with this project. Thank you very much for the assistance your agency provides for our residents in need of affordable housing.

Sincerely,

David Morales
County Judge



Alpha Concepts Inc.

September 29, 2006

Ms. Valerie Gonzales
Portfolio Analysis Manager
Texas Department of Housing
And Urban Development
Austin, TX 78701-2410

FAX: 512-475-0220 Time: 3:45 P.M

Re: Appeal Deniel
Letter of Request, Amendment to HBA
HOME Contract No. 1000301

9 pages

Dear Ms. Gonzales,

This letter is acknowledgment of the receipt of your PDF file dated 9/28/06, which included a denial letter in regards to the HOME, Homebuyers Assistance Contract #1000301. This file was sent to me but, I was unable to retrieve the actual denial letter.

The Contract period began on 10/1/04, and contract signed on 12/20/04. On January 3, 2005, Mr. Doran contacted me via e-mail notifying me that we needed to submit the TX Application for Payee ID Number Form due to the fact it had been omitted previously. This delay ultimately affected our targeted execution date of the HBA Program by approximately three months.

Alpha Concepts Inc., is respectfully request TDHCA to:

(A) Amend the contract: Article 1: Contract Period, Contract termination day of September 30, 2006, by continuing to fund the contract for an additional 12 (twelve) months/1 year, indemnifying recipients the full two years funding, as per program guidelines and Performance Statement, as specified in our HOME Application.

Alpha Concepts Inc., has diligently pursued eligible applicants for quite some time. The candidates interviewed suffered many different difficulties due to credit worthiness, income limits, and eligible applicants decided to decline assistance due to the lack of property availability. Recently our office has an increased interest and inquiries in the HBA program.

Prior to Hurricane Rita that hit our community on September 24, 2005, there were approximately 300 properties on the market for sale (as per Joyce Klienknect, Realtor) due to property damage. After the Hurricane, the property availability decreased to approximately 179 properties on the market for sale.

As per the Economic Development Strategic Plan for Orange County, TX, presented to the community in June, one of the major weaknesses identified in this report, or barriers to corporate expansion are: Lack of available housing, and high property taxes (see enclosure).

SEP 29 2006

1011.10th Street, Orange, Texas 77630

Ph: 409-886-7920 * Fax: 409-886-0366 *Email: debrah@exp.net

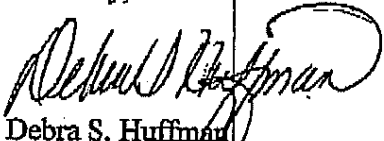
COMPLIANCE

Alpha Concepts Inc.

If it is our greatest desire to assist our community in home ownership. Your consideration in honoring our request to extend our contract is greatly appreciated.

Please contact me if you have any questions.

Sincerely,



Debra S. Huffman
Executive Director

Enclosure

* REPORT NOT IN TOTAL CONTEXT. HIGHLIGHTED RELIVENT ISSUES.

REPORT 2: Strategic Recommendations

TABLE OF CONTENTS

INTRODUCTION 1

STRATEGIC RECOMMENDATIONS 16

CONCLUSION 26

June, 2006

Delivered to:

**Orange County
Economic Development Corporation**

Prepared by:

Angelou Economics
technology-based economic development

MIKE BARNES GROUP, INC.

* Re: lack of available housing opportunities.

Orange County's Competitive Assets

As analyzed in *Report 1: Baseline Analysis*, Orange County has several core assets that will entice the relocation and expansion of companies in the county.

Major strengths include:

- Central location between Houston and Louisiana on Interstate 10
- No corporate or personal income taxes
- Lamar State College graduates and training programs
- Low cost of land
- Port of Orange and adjacent waterways
- Low cost of living
- Strong cultural assets and the Stark Foundation
- Growing tourism sector with good outdoor recreational assets
- Growing desire to collaborate within the county on economic development issues

* Major weaknesses, or barriers to corporate expansion, are:

- Low levels of post-secondary education in workforce
- Underperforming K-12
- Lack of young professional workforce
- * High property taxes on manufacturers compared to Louisiana
- * Lack of available housing
- Lack of retail, restaurants, and hotels
- Rising wages due to low availability of workers
- Lack of commercial air service, with poor service into Beaumont
- Lack of image or poor curbside appeal of cities in the county
- Perception of hurricane damage by companies or workers considering relocation to Orange County

Orange County's Marketing Messages

Orange County will need to craft a clear and positive marketing message to guide its economic development efforts. Key messaging will drive the communication concepts behind all future collateral materials, public relations, advertising, and prospect proposals – any and all communication vehicles. The following are the key messages recommended for Orange County.

- Orange County's history as a center of commerce and industry dates back more than 150 years, and that tradition continues today in the 21st century.
- Orange County's central location provides tremendous transportation benefits. Served by highway, rail and river, the region's pro-business attitude and low cost of doing business can help businesses succeed in the global marketplace.
- Orange County provides short commutes, good schools, and safe communities in order to meet career objectives as well as personal and family goals.
- Orange County government leaders will work with you to find success and create a balanced life with a vibrant environment where people and businesses thrive.

When asked what Orange County's greatest strengths and weaknesses are, residents responded:

What is Orange County's biggest asset? (Top Mentions)

- Friendly family-oriented people
- Water
- Highway
- Lamar State College
- Chemical Row
- Museum and theater
- Cost of living
- Location

What is Orange County's biggest challenge? (Top Mentions)

- Attracting well-paying jobs and companies
- Unemployment
- Resistant to change, negative attitudes
- Litter, debris, blight
- Lack of retail / restaurants
- Keeping young people here
- Lack of good health care
- * Lack of new housing and home repair

When asked what Orange County's future reconstruction and economic development focus should be, residents responded:

How should the Orange County Economic Development Corporation respond to problems brought on by the hurricanes? (Top Mentions)

- Concentrate on bringing more businesses and jobs to the area
- Encourage economic growth
- A strong marketing effort to provide jobs for people who moved away but want to return
- Help retrain the workforce
- Push for more cleanup and do it faster; pressure to homeowners to clean up
- Need more apartments
- Use it as an opportunity to build the community back even better than before
- Consider incentives to entice businesses to grow and return
- Improve county image
- Attract hotels, restaurants, and retail to improve Quality of Life

Target Industry Recommendations

The consulting team recommends the following industries be targeted for growth in Orange County:

1. **Manufacturing**
Focus on: chemicals, construction materials, plastics, and industrial equipment
2. **Food processing and packaging**
3. **Shipbuilding/repair**
4. **Port-Related Distribution**
5. **Retail and Restaurants**
6. **Tourism and Hotels**
7. **Residential development**

The targeting of industries by communities and their economic development agencies accomplishes several goals. First, it provides clarification as to which industries and companies should be recruited to the county, which drives how marketing campaigns and incentives are designed. By targeting, EDCs can more effectively use their limited marketing funds for productive efforts. Targeting also helps to diversify an economy into new areas that may be emerging. Targeting also signals to existing employers that they are strongly valued and that the communities seeks to support them, often through stronger collaboration on workforce training initiatives or recruiting workers to the area. Finally, targeting helps create a new image and brand for a community that will guide the entire economic development effort.

We provide a brief description of each target industry here, and will provide the OCEDC with more detailed profiles in the *Appendix* for internal use by staff.

Manufacturing: Orange County has a long history as a manufacturing hub. Shipbuilding during WWII brought the town's population to 60,000 nearly overnight. Lumber mills were also a big part of the economy. More recently, Orange County's manufacturing base is primarily in petrochemicals, with Dupont and Chevron leading the pack. Several metal and packaging companies employ hundreds of workers, and some ship repair remains.

Food processing and packaging: Today, Orange County has no food processing but finds itself in a part of the U.S. where distribution-based food processing is growing. Orange County has all the assets to compete for food processors: rail, ports, interstate, and a traditional manufacturing workforce. While food processors generally do not pay high wages, they can keep workers employed from manufacturing or construction industries that lose their jobs. After reconstruction in Orange County slows, these jobs can keep people employed in the county.

Shipbuilding/Repair: With the devastation in the Gulf of Mexico due to the hurricanes, new facilities for shipbuilding and repair are needed. Orange County has seen some corporate expansion in this industry and is poised to win more. Finding workers for these companies will require a regional and national search.

Port-Related Distribution: The Port of Orange remains an important asset for the local economy, with quasi-deep water shipping capability and connections to multiple rail lines. The Port has an industrial park with water frontage and utility service including natural gas, water and wastewater, and electricity. Existing, available industrial warehouse space is also available for new companies to consider. Orange County's location along I-10 provides an opportunity for distribution centers to receive goods and supplies through the port for distribution to Gulf Coast states.

Retail and Restaurants: Orange County still relies on neighboring counties to serve the retail consumption of its residents. Retail sales per capita in Orange County are significantly less than neighboring Beaumont and Houston and only partially attributed to lower incomes in the county. A more directed effort to bring retailers and restaurants to Orange County along major corridors will improve the quality of life of local residents and improve tax revenue for local governments.

Tourism and Hotels: Orange County has many unique cultural venues such as the art museum, community playhouse, and regional theater. The Stark Foundation continues to contribute to the arts and culture of Orange County. The lack of hotels in Orange County has resulted in a loss of spending by tourists and business travelers. Water amenities may prove to be the greatest tourism draw for the county, and more can be done to enhance these amenities.

* **Residential development:** There is currently a lack of housing, both single-family and apartments, in Orange County as shown by low vacancies and rising costs. Many employers are concerned that a lack of housing limits their ability to recruit workers from outside the state. Some workers in the county choose to live in neighboring Beaumont. Furthermore, the hurricane season made matters worse by damaging existing housing. The economic development potential of Orange County will be limited without new stock of housing for existing and future workers.

STRATEGIC RECOMMENDATIONS

Orange County finds itself in a unique position to expand its economic development effort into new industries, new areas of focus, and through new partners. This effort will require a new vision and mission statement.

Orange County's Mission Statement for Economic Development:

Orange County will expand its industry clusters in manufacturing, services, and retail by building on its quality of life and business climate, while creating the supportive environment for existing businesses and the workforce that they require.

This mission emphasizes the need for Orange County to capitalize on its quality of life amenities and low cost of business to attract and retain a diverse set of industries. It also acknowledges the community's need to build stronger support systems for existing businesses as well as the need to attract a workforce (particularly young professional) to allow businesses to the county to grow and remain competitive.

For Orange County to attain this mission, the community must achieve the following goals:

Orange County's Goals for Economic Development:

Goal One: Expand the marketing efforts by Orange County to companies and workers that will consider relocating to the county.

Goal Two: Expand internal communication to Orange County residents and businesses on economic development issues and the successes of Orange County.

Goal Three: Improve the readiness of Orange County's workforce for current and future industries.

Goal Four: Expand tourism and retail assets in Orange County.

* **Goal Five:** Promote more residential development in Orange County.

The consulting provides specific strategies and recommendations to the Orange County Economic Development Corporation that will result in new action in support of these goals.

The goals represent a significant expansion of the priorities for economic development in Orange County, recognizing that long-term economic success will come from a combination of industrial expansion, tourism and retail expansion, and workforce preparedness.

Goal Five: Promote more residential development in Orange County.

* Strategy 5.1: Identify areas within the county that can support large scale residential development, and market them to state and national homebuilders.

Given the scope and size of Orange County, coupled with the need for residential development, the OCEDC should seek input from the respective cities and balance of unincorporated county for information relative to tracts in excess of 20 acres suitable for residential development. This can be obtained from the respective Planning/Zoning Departments, Appraisal District, and sources within the respective communities/county. Minimum thresholds should be in place including utilities, existing roads, and the ability for the education systems to absorb new students upon the completion of new residences.

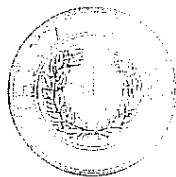
Once a number of these larger tracts have been identified, the OCEDC can put forth a concentrated marketing effort oriented toward luring the larger institutional builders into Orange County. The effort to accomplish this is much easier if the larger tracts have been identified.

Likewise, there should be a similar effort aimed at the provision of "affordable" housing opportunities that may include multi-family development. Having these tracts identified and approved prior to the solicitation of the developers will enhance the attractiveness of Orange County overall to these developments.

Strategy 5.2: Encourage local homeowners to make improvements to their homes and follow local ordinances through a "Beautify Orange County" campaign.

The Orange County Economic Development Corporation appreciates the work done by the existing "Keep Orange County Beautiful" organization. Given this appreciation, the OCEDC encourages this organization's expansion and higher profile. Perhaps, alignment with Keep Texas Beautiful, coupled with the provision of meeting space and connectivity with the Chamber of Commerce in terms of supporting this effort would net more pronounced and immediate results. Given the development of Shangri-La, the Stark Foundation could provide additional linkages for this organization in an effort to garner county-wide support.

The OCEDC recognizes the effort of local communities in their respective code enforcement activities. The unification and coordination of code enforcement among the respective cities, with leadership provided by the city managers, would offer tremendous aid in the enhanced appearance of Orange County. The OCEDC endorses this effort and lends its facilitation to this effort as needed. This collaborative effort could also include a "Yard of the Month" award. This effort could be a foundation to an ongoing partnership of the cities, Keep Orange Beautiful, the Stark Foundation, the Chamber of Commerce(s), and the OCEDC.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

September 25, 2006

RICK PERRY
Governor

Ms. Debra S. Huffman
Executive Director, Alpha Concepts, Inc.
1011 10th Street
Orange, TX 77630

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogany
C. Kent Conine
Sonny Flores
Vidal Gonzalez
Norberto Salinas

Re: Denial of Request for Extension, HOME HBA Contract #1000301

Dear Ms. Huffman:

MICHAEL GERBER
Executive Director

The Texas Department of Housing and Community Affairs (Department) has received your letter dated August 15, 2006 requesting a one year extension to the above-referenced contract. Alpha Concepts, Inc. (Alpha Concepts) states that delays in contract administration were experienced due to restrictive income requirements and lack of housing availability.

Approximately two years after the start date of this contract, Alpha Concepts has not received environmental clearance and has neither committed nor drawn any project funds. The causes noted by the Alpha Concepts for failure to complete all activities within the 24 month contract term are not sufficient to substantiate these delays. Alpha Concepts' failure to complete contract performance requirements within the contract term results in a significant decrease in benefit to the Department. The Department has determined that approval of an extension is not justified, and therefore, the extension request is denied.

Pursuant to 10 Texas Administrative Code §1.7, Alpha Concepts may appeal this decision to the Department's Governing Board. For the appeal to be considered, it must be received by Kelly Crawford, Acting Director of Portfolio Management and Compliance, no later than ten days after the date of this letter.

If Alpha Concepts does not wish to appeal the decision, the contract will terminate on the existing contract end date of September 30, 2006. Please submit a refund for the \$1,314.20 in administrative funds drawn to date, sign the enclosed Certificate of Completion (COC) and return it to the Department. Once the administrative funds are refunded and the COC is received, the Department will close the contract and proceed with the deobligation of these funds.

If you have any questions, please feel free to contact me or Kelly Crawford, Acting Director of Portfolio Management and Compliance at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,

Michael Gerber
Executive Director

MG/vag

Enclosure (Certificate of Completion)

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOMES Investment Partnerships Program
CERTIFICATE OF COMPLETION

Administrator: Alpha Concepts, Inc.
 Address: 1011 N. 10th St.
 City: Orange TX 77630

Contract No. 1000301
 Contract Beginning 10/01/2004
 Contract End Date: 9/30/2006
 Activity Code: HBA

CONTRACT BALANCES

	BUDGET	DRAWS TO DATE	REMAINING BALANCE
Total Federal Project Draws	\$350,000.00	\$0.00	\$350,000.00
Total Administrative Draws	\$14,000.00	\$1,314.20	\$12,685.80
TDHCA Program Income	\$0.00	\$0.00	\$0.00
TDHCA State Funds	\$0.00	\$0.00	\$0.00
TOTALS	\$364,000.00	\$1,314.20	362,685.80

MATCH INFORMATION

MATCH CODE/TYPE	AMOUNT	MATCH CODE/TYPE	AMOUNT	
				Required Match
				\$3,150.00
				Reported Match
				\$0.00

PERFORMANCE (NUMBER OF UNITS COMPLETED)

# OF UNITS REQUIRED	# OF UNITS SETUP	# OF UNITS COMPLETED
29	0	0

CERTIFICATION

I hereby certify that all activities undertaken by the Administrator with funds provided under the contract identified above hereof, have, to the best of my knowledge, been carried out in accordance with the contract agreement, that the State of Texas is under no obligation to make any further payment to the Administrator under the contract agreement, and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date. I also know that upon TDHCA approval of this Certificate of Completion this contract is closed, subject to additional review by the federal agency granting the contract funds.

(Print) Name of Signature Authority _____ Signature _____ Date _____

(TDHCA USE ONLY) Portfolio Management Approval

PMC authorizes that the remaining balance of \$362,685.80 be deobligated from CSAS and CDB.

Portfolio Management Supervisor _____ Date _____

PMC Staff -- Initials _____ Date ____ / ____ / ____

Alpha Concepts Inc.

August 15, 2006

Ms. Lucy Trevino
Portfolio Analysis Manager
Texas Department of Housing
And Urban Development
Austin, TX 78701-2410

FAX: 512-475-0220 on 8/15/06: 12:40 p.m.
Original forwarded via Mail: 8/15/06

Re: Letter of Request, Amendment to HBA 9 pages
HOME Contract No. 1000301

Dear Ms. Trevino,

This letter is acknowledgment of the receipt of your letter dated August 8, 2006, received on August 11, 2006, in regards to Contract Status Report for HOME HBA : Contract #1000301. The Contract period began on 10/1/04, and contract signed on 12/20/04. On January 3, 2005, Mr. Doran contacted me via e-mail notifying me that we needed to submit the TX Application for Payee ID Number Form due to the fact it had been omitted previously. This delay ultimately affected our targeted execution date of the HBA Program by approximately three months.

Alpha Concepts Inc., is respectfully request TDHCA to:

(A) Amend the contract: Article 1: Contract Period, Contract termination day of September 30, 2006, by continuing to fund the contract for an additional 12 (twelve) months/1 year, indemnifying recipients the full two years funding, as per program guidelines and Performance Statement, as specified in our HOME Application.

Alpha Concepts Inc., has diligently pursued eligible applicants for quite some time. The candidates interviewed suffered many different difficulties due to credit worthiness, income limits, and eligible applicants decided to decline assistance due to the lack of property availability. Recently our office has an increased interest and inquiries in the HBA program.

Prior to Hurricane Rita that hit our community on September 24, 2005, there were approximately 300 properties on the market for sale (as per Joyce Klienknect, Realtor) due to property damage. After the Hurricane, the property availability decreased to approximately 179 properties on the market for sale.

As per the Economic Development Strategic Plan for Orange County, TX, presented to the community in June, one of the major weaknesses identified in this report, or barriers to corporate expansion are: Lack of available housing, and high property taxes (see enclosure).

1011 10th Street, Orange, Texas 77630
Ph: 409-886-7920 * Fax: 409-886-0366 *Email: debrah@exp.net

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AUG 18 2006

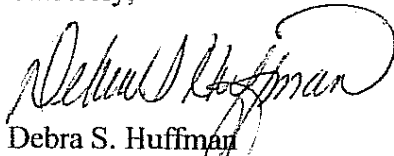
COMPLETED

Alpha Concepts Inc.

If it is our greatest desire to assist our community in home ownership. Your consideration in honoring our request to extend our contract is greatly appreciated.

Please contact me if you have any questions.

Sincerely,



Debra S. Huffman
Executive Director

Enclosure



September 14, 2006

Valerie Gonzales
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711-3941
Fax: 512-475-3359

8-6
30% 3-30%
3-50%

6 month extension
\$52 K → \$55 K
30% AMFI → 50%

Re: Amendment/Program Design Revision, Contract 1000253

Dear Ms. Gonzales:

The City of Lewisville is requesting amendments and revisions of its Grant Contract and Program Design for HOME OCC Contract 1000253. These changes will raise the individual project cap in the local program design from \$52,000 to the maximum amount allowed by TDHCA, \$55,000 and allow for higher amounts on reconstruction projects using local match to pay the difference. The amendment will increase the income targeting from 30% AMFI to 50% and less AMFI. We request to have our amendment put on the agenda for Board approval on October 12, as the number of projects that are ready to proceed exceed 25% of the total units being performed. We further ask that funds not be de-obligated until the amendments are considered by the TDHCA Board. Finally, we request a six month extension for the construction phase and administration of the grant.

Reconstruction and maximum allowable costs:

Costs of construction materials have increased substantially since the original Program Design was approved. The City requires the flexibility of utilizing the maximum allowable amount on at least one project that will now require reconstruction. The City cannot proceed on this project with the existing Program Design limits of \$52,000. The City is not requesting any change that would require special consideration or waiving of established guidelines. There is one unit that will need up to \$71,300 to complete reconstruction. However local CDBG funds can be layered to pay for demolition bringing the needed local match on that single project to around \$13,000 after HOME funds are expended. Please see attached Addendum #1 page 1 to this request.

Income Targeting:

The City is also requesting to increase assistance to those persons who are 50% and below the area median income. Because we knew there was a possibility that some clients would fall out of the program due to feasibility and budget constraints, and yet we could not be certain until bids were received, the City proceeded with inspections and bidding on several clients in the 50% income bracket even though TDHCA guidance indicated only two clients could be approved by staff at that level. The City ended up with three clients completed and with projects being set up at 50%. Another client at that level is also eligible but inspections and bids have not been completed. We request an agenda item for TDHCA Board approval amending the contract

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SEP 15 2006

COMPLIANCE

P.O. Box 299002
Lewisville, Texas 75029-9002

Amendment Request
Page 1 of 7

to allow for four units at the 50% income level. Please see attached Addendum #1 Page 2 and 3 to this request.

Regarding clients at the 50% income level: we realize that HUD reporting and state targets do not distinguish between 32% and 49%. However, in the spirit of assisting the lowest income clients, please be aware that all four additional projects requested would be at or below 35.5%.

Please note that our staff has reviewed our original application scoring and compared TDHCA award recommendations. In our estimation, the City would still have been awarded a grant had we applied with the 50% AMFI targeting for up to six of eight homes in the first place, even though that would have meant a lower score. Even an applicant that scored 26 points lower than Lewisville was funded in the same region and urban/exurban category.

Obligated Funds:

The City requests that funds not obligated on September 30 be allowed to remain in the system until we have an opportunity for the TDHCA Board to review these requests. In addition to the request for additional units in the 50% range, there is also the potential for change orders because the City is administering a program that emphasizes rehabilitation over reconstruction. When performing rehab work, change orders cannot always be prevented or anticipated, especially as some units require slab foundation stabilization that could cause other deficiencies and extensive electrical, plumbing and mechanical work.

Status of Set-ups:

Two client set-ups are complete and waiting TDHCA staff approval. More bids were received on Friday, September 8. These have now been awarded but the final submission packets with a revised schedule of values, contract/subcontractor info and client signatures are being finalized today. We understand our consultant, A & J HOWCO Services, Inc. will work this weekend to have these set-ups and hard packets to TDHCA by Monday or Tuesday at the latest for your review. One further project had to be re-bid after the first bids were not responsive (both falling outside of the 15% range for acceptable bids). However, four bids were accepted this week and we are happy to say that project is also being awarded and set up with the others for a total of six set-ups in the system, but with three of those being at the 50% level. (Note: Client Reed was accepted first, followed by McDonald and then Tunmire. Should they not all be accepted, this is the order of priority.)

Extenuating circumstances: Staffing

- First we should report that the original intent of the City was to use in-house staff for most administrative duties of the grant and to use consultants primarily for inspections, work write-ups and construction management. The City has a Grants Coordinator whose regular duties are CDBG grant and project administration who would take primary responsibility for the HOME grant. He has a Grants Specialist whose primary responsibility is a CDBG-funded homebuyer program and oversight of social service funding and planning. He also had a Grants Specialist that worked exclusively on transit grants.
- City staff touched base with the consultant that Lewisville had used twice before, had local knowledge and provided us with cost-estimating/ rehab management software. (The City had a successful smaller HOME grant in 1997 and has since done just three moderate rehabs

under \$20,000 using CDBG funds.) The consultant was not available due to health reasons. The City wanted to wait for his availability to participate in an RFP. A round of marketing and applications at least was conducted but selection of a consultant for inspections and other project management duties was put on hold.

- At the time that the HOME award was made, the City considered adding a staff member to handle the administration of the HOME grant and future housing programs but decided the position could not be supported financially.
- In Spring of 2005 the grants specialist who handled transit programs left our employment. A decision was made not to replace him because the City was handing those grants over to a new transit entity in October 2005. That transfer actually created more work for a six-month duration to be handled with fewer staff. The Grants Coordinator assumed responsibilities for the transfer of the grant and transit assets as well as the day-to-day operation of the transit programs. The HOME grant again was on hold.
- Hurricanes Katrina and Rita also affected the Grants office capacity. Lewisville responded locally by surveying the needs of those displaced from their Gulf Coast homes and helped set up a Hurricane Assistance Center for southern Denton County. Our Grants office staffed the center for several weeks supplementing the efforts of local nonprofits with housing referral and information. In November of 2005 another round of HOME marketing and applications was conducted and previous applicants were asked to turn in updated applications.
- In February 2006 the City was notified by TDHCA staff that it must show substantial progress. At this time we proceeded with an RFP to hire not only someone for the inspection and construction duties but also for administrative tasks. The RFP process took considerable time but A&J HOWCO Services was engaged for administrative support and a temporary employee with considerable rehab experience was hired on staff to conduct inspections, write-ups, cost estimates, bids and to perform progress and final inspections.
- In April 2006, the City's remaining Grants Specialist had a serious health condition and was out for a period of 8 weeks in which time the Grants Coordinator covered the full CDBG program, including homebuyer applications, three homebuyer education classes, as well as the HOME grant. The assistance of A&J HOWCO made it possible to complete intake of sixteen applications and eligibility determinations for those that qualified or might qualify at the 50% level as well environmental reviews and all other administrative tasks.

Extenuating Circumstances: Client Eligibility

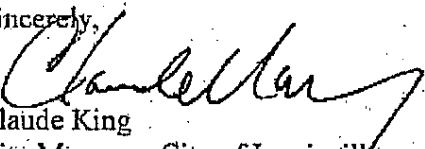
There were over a dozen potential clients that, at one time or another, we thought would qualify under 30% AMFI that fell out:

- one was chosen by the Chamber of Commerce and Leadership Lewisville for a makeover project and no longer wished to request HOME assistance;
- one apparently qualifies but has been in between ICU, rehab and wound care hospitals for over five months; despite staff efforts to facilitate his application the client could not furnish all necessary documentation; same client was also unable to pay back taxes;
- one had moved to a nursing home;
- one has passed away;
- one client cashed in equity in her home with a reverse mortgage and no longer meets ownership criteria;
- one was disqualified because the upstairs of her house has been converted into a rental unit;

- one household with a disabled unemployed member has found work and no longer qualifies at the 30 or 50% level;
- one household withdrew because of the requirement to maintain hazard insurance; the clients changed their minds and re-applied when offered another opportunity this summer; the household qualifies at 30% but after inspections and the engineering assessment, a feasibility determination threw them into the reconstruction category; the project was bid and the project had a chance at fitting in the budget, however, the client again withdrew deciding against having their current home demolished for reconstruction;
- two clients that appeared eligible did not respond to mailed invitations to apply even with the offer of assistance in completing paperwork. Home visits were made to each and they again expressed interest but did not turn in an application or call for offered help to complete it;
- three applicants fell just above the 30% income limit at between 32.2 and 33.3 (One irony is that these clients have seen their Social Security income inch up each year but our income limits from HUD have not changed in four years. They might actually have qualified three years ago);
- one more client qualified, but only at 50%; inspections, work write-ups and bids were taken but the house was not feasible for rehab; reconstruction bids were just too high to work with due to the size of the house.

The Department's favorable and timely response to these matters will be appreciated. We wish to maximize the funds we can spend for the benefit of our special needs population as well as to meet your Department's goals. Please contact our Grants Coordinator, Jamey Kirby at 972-219-3780 for any additional information or coordination that may be required.

Sincerely,



Claude King
City Manager, City of Lewisville

ADDENDUM NO. 1

PROGRAM DESIGN

CITY OF LEWISVILLE

CONTRACT NO. 1000253

Change 1

Please change paragraph 3 A from:

“The maximum amount of HOME assistance to be provided to an applicant for rehabilitation assistance shall be **\$52,000**. In the event that **Fifty-two thousand (\$52,000)** is not sufficient to complete the needed repairs, the Local HOME Supervisor or his/her designee may authorize additional funds to the applicant subject to the availability of funds, or the Administrator may be required to either:

to read:

“The maximum amount of HOME assistance to be provided to an applicant for rehabilitation assistance shall be **\$55,000**. In the event that **Fifty-five thousand (\$55,000)** is not sufficient to complete the needed repairs, the Local HOME Supervisor or his/her designee may authorize additional funds to the applicant subject to the availability of funds, or the Administrator may be required to either:

Change 2

Please change paragraph 3 D from:

“The maximum amount of assistance provided for reconstruction shall be **\$52,000** which is equal to or less than \$55,000, this amount is equal or less than the HUD 221(d) 3 limits of \$98,688.”

To read:

“The maximum amount of assistance provided for reconstruction shall be **\$55,000** which is equal to or less than \$55,000, this amount is equal or less than the HUD 221(d) 3 limits of \$98,688.”

PAGE 2 - ADDENDUM NO. 1

PROGRAM DESIGN

CITY OF LEWISVILLE

CONTRACT NO. 1000253

Change 3

Please change paragraph 4 A

“iii. In addition some administrators choose to serve persons at lower income levels and are restricted to this lower income level by the Department.

If Administrator’s contract with the Department contains more restrictive income targeting, household must meet the stricter requirements. These requirements are listed here: 30% AMFI”

To read

iii. In addition some administrators choose to serve persons at lower income levels and are restricted to this lower income level by the Department.

If Administrator’s contract with the Department contains more restrictive income targeting, household must meet the stricter requirements.

These requirements are listed here: 50% AMFI

PAGE 3 - ADDENDUM NO. 1**PROGRAM DESIGN****CITY OF LEWISVILLE****CONTRACT NO. 1000253****Change 4**

Please change paragraph 4 B

The current income limits published annually by the Department must be used to verify income eligibility of each household served. Under no condition can a household that exceeds the limits below be served with HOME FUNDS.

COUNTY OF Denton (Dallas MSA) Median Family Income:

2004 INCOME LIMITS FOR 30% AMFI

ONE PERSON IN HOUSEHOLD	TWO PERSONS IN HOUSEHOLD	THREE PERSONS IN HOUSEHOLD	FOUR PERSONS IN HOUSEHOLD	FIVE PERSONS IN HOUSEHOLD	SIX PERSONS IN HOUSEHOLD	SEVEN PERSONS IN HOUSEHOLD
\$ 13,950	\$15,950	\$17,950	\$19,950	\$21,550	\$23,150	\$24,750

To read

The current income limits published annually by the Department must be used to verify income eligibility of each household served. Under no condition can a household that exceeds the limits below be served with HOME FUNDS.

COUNTY OF Denton (Dallas MSA) Median Family Income:

2005 INCOME LIMITS FOR 50% AMFI

ONE PERSON IN HOUSEHOLD	TWO PERSONS IN HOUSEHOLD	THREE PERSONS IN HOUSEHOLD	FOUR PERSONS IN HOUSEHOLD	FIVE PERSONS IN HOUSEHOLD	SIX PERSONS IN HOUSEHOLD	SEVEN PERSONS IN HOUSEHOLD
\$ 23,300	\$26,600	\$29,950	\$33,250	\$35,900	\$38,550	\$41,250



Office of
City Manager

P.O. Box 1152
Midland, TX 79702-1152

432.685.7203
Fax 432.686.1600

August 22, 2006

Kelly Crawford, Acting Director
Portfolio Management and Compliance Division
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, Texas 78711-3941

RE: HOME HBA Contract # 1000264
Contract Extension Request

Dear Ms. Crawford:

The City of Midland has received your letter of August 8, 2006 and does request a six month extension to the Contract. We do understand that TDHCA will only approve extensions to allow the timely completion of projects that have been setup and committed in the TDHCA contract system. We further understand that funds that are not committed to a project will be de-obligated after September 30, 2006.

As requested, we have supplied your office with a current Contract Status Report on the contract.

Thank you for consideration of our request. Please call Sylvester Cantu, Community Development Administrator at 432.685.7408 if you have any questions.

Sincerely,

Rick Menchaca
City Manager

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AUG 25 2006
COMPLIANCE



CITY OF TEXARKANA, TEXAS

P. O. BOX 1967 75504

PHONE 903-798-3900

FAX 903-798-3933

August 14, 2006

Lucy Trevino
Manager, Financial Management
Portfolio Management and Compliance
221 East 11th Street
Austin, Texas 78701-2410

*a/c - they are
val - reporting:
① 4 months
ext - in
② \$ 28,611 additional
funds.
Please log in
the list
L.*

Re: City of Texarkana, Texas Contract #1000305

Dear Ms. Trevino:

On August 19, 2004, the TDHCA Governing Board approved an award of \$81,389.00 for the reconstruction of two (2) units under the City of Texarkana, Texas Owner Occupied Assistance Program. Our original request was for \$500,000 for the reconstruction of nine (9) units. Obviously, funding was reduced, and we are very grateful for the award we have received. We are, however, limited in our ability to complete the reconstruction of two (2) units with the amount awarded, since the average cost of replacement units is \$55,000 each.

Following the receipt of the award, the City submitted a request (letter enclosed) to amend the award so that the City could reconstruct additional units. As set forth in the program description, Texarkana performs only housing reconstructions, no rehabilitations. Therefore, an award of \$81,389 would allow for reconstruction of only one house (\$55,000) leaving a remaining balance of \$26,389, resulting in a deficit of \$28,611 (plus administrative cost) for the completion of an additional unit.

The request for additional funds was denied. Our next strategy was to combine these funds with the award the City received in 2005. However, the City received no award in 2005. The City will complete one unit on August 20 and in so doing, the City will meet the deadline expending only \$55,000 for the one unit (activity 24899). We understand that the City will be obligated to send the balance of funds (\$26,389) back to TDHCA.

It is the City's preference that these funds be used for their intended purpose - Texarkana, Texas housing reconstruction. Therefore, we are inquiring regarding the

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AUG 22 2006

COMPLIANCE



possibility of: 1) obtaining a 6-month extension on these funds; and 2) obtaining an additional appropriation of \$28,611 to complete one additional unit.

If funds were made available, we could easily complete the entire process within 6 months. The City is scheduled to begin construction on 6 CDBG units on October 1, 2006 which would be completed by January 31, 2007. Since the City uses the HOME criteria for CDBG applicants, any of these applicants would qualify for the HOME award, allowing the City to use CDBG funds for another homeowner. All of these applicants have the necessary documentation concerning ownership and incomes. The documentation is current as of October 2006, but can be updated within a 24-hour period.

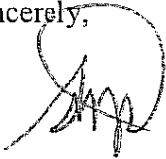
In an effort to provide verification of the City's ability to meet a new deadline, we have enclosed the following:

- TDHCA Contract Status Report
- List of Eligible TDHCA applicants
- City of Texarkana Housing Reconstruction Schedule

I would also like to refer you to the report on the TDHCA monitoring visit conducted in April 2005 which demonstrates the City's capacity to meet the agency's performance standards.

We sincerely appreciate your consideration of this request. Please contact me if you should need additional information.

Sincerely,



George T. Shackelford
City Manager

Cc: Charlie Bassett, Director of Finance
Craig Lindholm, Consultant

Enclosures



CITY OF TEXARKANA, TEXAS

P. O. BOX 1967 75504

PHONE 903-798-3900

FAX 903-798-3933

January 5, 2005

Eric Pike
Director
Single Family Finance Production Division
Texas Dept of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711 – 3941

Re: 2004 HOME Application Number 2004-0132
Contract Number 1000305

Dear Mr. Pike:

On August 19, 2004, the TDHCA Governing Board approved an award of \$81,389.00 for the reconstruction of two (2) units under the City of Texarkana, Texas Owner Occupied Assistance Program. Our original request was for \$500,000 for the reconstruction of nine (9) units. Obviously, funding was reduced, and we are very grateful for the award we have received. We are, however, limited in our ability to complete the reconstruction of 2 units the amount awarded, since the average cost of replacement units is \$50,000 each.

We are therefore writing to request that if funds are made available, from the return of an award, or through any other means, consideration would be given to increasing the City's award at a to at least \$100,000 plus administrative costs. Obviously, we would be interested in any un-obligated funds beyond these also. Thank you for your consideration of this request.

Sincerely,

George T. Shackelford
City Manager

Cc: James Bramlett, Mayor
Charlie Bassett, Finance Director
Citizen's Advisory Committee



Center For Housing and Economic Opportunities Corporation

504 River Oaks Drive

San Leanna, Texas 78748

512-292-3919

Fax 512-292-0134 Cell Phone 512-796-0746

E-Mail - MikeSHarms@aol.com

August 3, 2006

Texas Department of Housing and Community Affairs
c/o Tom Gouris - Director of Real Estate Analysis
P.O. Box 13941
221 E. 11th Street
Austin, Texas 787011

Re: Kenedy Senior Housing
HOME Project # 531300

Dear Mr. Gouris,

We are requesting an additional 6 months extension on the start date of our loan payments for Kenedy Senior Housing. The current start date for the loan is September 1, 2006. We have been actively marketing the units since we opened in August of last year. We have made good progress since February. At the current time we have 12 out of the 20 units rented and an additional two (2) units scheduled for occupancy on September 1st. This will give us 70% occupancy. The following is attached for your review:

- Current marketing and proposed marketing plan is attached.
- Current Operating and Expense Report (January 1, 2006 to July 31, 2006)
- Current Rent Roll

Please advise if you need any documentation of our current operating costs such as:

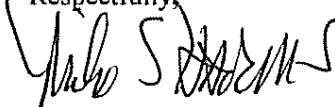
- Office Manager
- Part-time maintenance person
- CP& L Electric for community building and site lighting
- City of Kenedy for water, wastewater, and garbage
- Telephone
- Office Supplies
- Liability Insurance
- Taxes (we are currently tax exempt for 2006).

Also enclosed are the current Modification, Renewal and Extension Agreements.

Thus, we respectfully request an extension until February 1, 2007 in order to allow sufficient time for full rent-up. We will then have sufficient revenue to begin making payments.

If you have any questions, please feel free to call at your convenience.

Respectfully,



Mike S. Harms
Executive Director

cc: Betty Gallegos - Financial Management, Compliance Division

RECEIVED

AUG 07 2006

COMPLIANCE

Center For Housing and Economic Opportunities Corporation
504 River Oaks Drive
San Leanna, Texas 78748
512-292-3919 Fax 512-292-0134
Cell Phone 512-796-0746
E-Mail - MikeSHarms@aol.com

August 1, 2006

Leasing and Marketing Summary
Kenedy Senior Housing
TDHCA-HOME Project 531300

Leasing and Marketing Activities
March 1, 2006 to July 31, 2006

1. A Continuous Classified ad runs weekly in the "Countywide", the local Karnes County newspaper
2. Display & classified ads were run in the following newspapers:
 - The "Countywide" which covers Karnes County and part of Wilson Countywide Builders
 - The "Beeville Bee Picayune" based in Beeville which in addition to Bee County ran special display ads for coverage in Three Rivers (Live Oak County and George West (Live Oak County)
 - Floresville Chronicle Journal (Wilson County)
3. An article and picture of Kenedy Senior Housing was published in the "Countywide" on May 10, 2006
4. Radio advertisements for 30 days in April which ran morning and noon on KAML, a local Kenedy radio station
5. Meeting with the following persons/businesses to offer a \$ 150 referral fee for potential residents:
 - Bonnie Alonzo Realtor
 - The staff of Home Health Care at Kaiser Hospital, Kenedy
 - Brown Realtors, Karnes City
 - Janie Olivarez, Meals-On-Wheels Director, Kenedy
 - Patsy Marchant - Gift Store manager, Kaiser Hospital, Kenedy
 - Manager, Head-to-Toe Beauty Salon
 - Teresa Kunshick, Kenedy - Medical Rental Equipment to Seniors business
 - Current Residents of Kenedy Senior Housing
6. Installed Banner on community building
7. Contacted the following Texas Centers for Independent Living organizations for referral of persons with disabilities:
 - Accessible Communities Inc.,, Corpus Christi
 - San Antonio Independent Living Services, San Antonio
 - ARCIL, San Marcos
8. Conducted several meetings with Kenedy Housing Authority regarding referral of Section 8 clients to Kenedy Senior Housing.

RECEIVED
AUG 07 2006
COMPLIANCE

Proposed Leasing and Advertising Activities: Three (3) Month Plan

September

- Open House for Local Residents with display ad and press release and highway directional signage.
- Continued classified advertising in Kenedy and Beeville newspapers

October:

- Grand opening inviting local elected officials, State elected officials, Congressman, key local leaders such as Chamber of Commerce ED, Community Action ED, Housing Authority ED, and key business persons.
- Continued classified advertising in Kenedy and Beeville newspapers

November:

- Continued classified advertising in local newspapers
- Expanding classified advertising in San Antonio Express newspaper



Mike S. Harms – Executive Director

Date: August 3, 2006

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
ASSET MANAGEMENT REVIEW & RECOMMENDATIONS
SECOND AMENDMENT**

DATE: October 31, 2006

PROGRAM: HOME

FILE NUMBER: 531300001

Kenedy Senior Housing

BORROWER

Name: Center for Housing and Economic Opportunities, Corp (CHEO) Type: For Profit Non-Profit Municipal Other
 Address: 504 River Oaks Drive City: San Leanna State: Texas
 Zip: 78748 Contact: Mike S. Harms Phone: 512 292-3919 Fax: 512 292-0134

CORPORATE OFFICERS

Name: Mike Harms Title: Executive Director
 Name: Jon Hall Title: President
 Name: Al Rodriguez Title: Vice President
 Name: Norma Johnson Title: Secretary/Treasurer
 Name: John Montoya Title: Board Member
 Name: Pete Montoya Title: Board Member/General Contractor
 Name: Lillian Pena Title: Board Member

**DEVELOPMENT NAME
PROJECT INFORMATION**

Location: 413 Graham Street, Karnes County, Kenedy, Texas 78119
 Development Status: Completed Incomplete Year Built: 2005 Vacancy: 30% Initial Lease-up
 Total Units: 20 Restricted Units: 20 # Rental Buildings: 5 # Common Area Bldgs: 1
 Net Rentable SF: 15,468 Av Unit SF: 773 Common Area SF: 1,140 Site Acreage: 3.71 Acs
 Property Type: Multifamily SFR Rental SF Owner Occ. Elderly Special Use
 Original Activity: New Construction Rehabilitation Acquisition Development

**VALUATION INFORMATION
ASSESSED VALUE**

Land: \$59,642 Valuation by: Karnes County Appraisal District
 Building: \$957,760 Assessment Year: 2006
 Comment: Per Appraisal Card from Karnes County Appraisal District the property is Exempt

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
ASSET MANAGEMENT REVIEW & RECOMMENDATIONS
SECOND AMENDMENT

TDHCA LOAN INFORMATION (AMORTIZED PORTION) 531300001

<u>ORIGINAL TERMS</u>		<u>CURRENT LOAN STATUS</u>	
Loan Amt:	\$335,873	Loan Date:	11-5-03
Interest:	0%	Monthly P&I:	\$6,032
Amort.:	30	Maturity:	8-1-2036
Term:	30	Balloon Pmt:	N/A
Lien Position:	1st	Balloon Maturity:	-----
Additional Terms:	Loan should be re-evaluated at five year intervals from conversion to Permanent and re-amortized based upon historical performance.		
Principal Bal.:	\$335,873	Status Date:	-----
Principal Due:	\$932.98	Next Pmt Due:	9-1-2006
Interest Due:	\$0.00	Days Delinquent:	--
Escrow Due:	\$0.00	Pmts Delinquent:	--
Other:	\$-----		
Total Due :	\$932.98		
Comments:	This loan has not yet been converted from construction to Permanent.		

TDHCA LOAN INFORMATION (DEFERRED PORTION) 531300002

<u>ORIGINAL TERMS</u>		<u>CURRENT LOAN STATUS</u>	
Loan Amt:	\$858,986	Loan Date:	11-5-03
Interest:	0%	Monthly P&I:	N/A
Amort.:		Maturity:	8-1-2036
Term:		Balloon Pmt:	\$-----
Lien Position:		Balloon Maturity:	-----
Additional Terms:	Deferred Loan. Loan should be re-evaluated at five year intervals from conversion to Permanent and re-amortized based upon historical performance.		
Principal Bal.:	\$983,986	Status Date:	-----
Principal Due:	\$983,986	Next Pmt Due:	9-1-2011
Interest Due:	\$0.00	Days Delinquent:	--
Escrow Due:	\$0.00	Pmts Delinquent:	--
Other:	\$		
Total Due :	\$983,986	Due on 9-1-2011	
Comments:	This loan has not yet been converted from construction to Permanent		

BACKGROUND

The original underwriting report was dated February 3, 2003. Construction began in January 2004, in about September of 2004 construction progress slowed precipitously. Several of the suppliers called regarding unpaid bills even though the General Contractor had signed all bills paid with lien affidavits, and had supplied subcontractor and suppliers paid lists to Center for Housing and Economic Opportunities Corp. (CHEO). Soon thereafter, it was apparent to the owner and developer that the General Contractor would not be able to complete construction and the Contractor, Fuentes Construction, LLC, fell into a state of financial collapse. It took a month to legally terminate the General Construction Contract. TDHCA agreed to allow CHEO to continue the construction as owner/builders. CHEO was able to successfully complete the project within six (6) months of taking control as owner/builder. CHEO continued to make draws based upon completion of work but indicate they used draws of remaining Contractor and Developer fees to repay subcontractors. According to TDHCA records the total funding to date is \$1,254,601.50 which is made up of \$59,743.00 in CHDO Operating funds and \$1,194,858.50 in CHDO Project funds. This is 100% of the allocation which was approved by the Board on February 13, 2003.

As a result of taking over the construction duties in midstream CHEO had cost overruns and they requested additional forgivable loan funds for the project. Several of the increases resulting from the failure of the general contractor included completing and/or building interior streets, parking, sidewalks, curb, and gutters repairing/completion of sewer lines, completing the underground 4" PVC conduit for electrical service to the

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
ASSET MANAGEMENT REVIEW & RECOMMENDATIONS
SECOND AMENDMENT

buildings, as well as other miscellaneous uncompleted construction items.

CHEO requested a six (6) month extension, and an increase of \$125,000 to cover additional needed construction costs and construction costs that have already paid for using Developers fees, Contractors Fees, and personal funds provided by the Applicant, CHEO and the Executive Director of CHEO, Mike Harms. According to the Applicant all contractors have been paid to date and no known M & M Liens have been filed against the property. To complete the project CHEO requested an additional six (6) month extension and \$125,000. Both were recommended for approval by the Asset Management Committee at the October 5, 2005 meeting, and were approved by the Executive Director, as this amount of increase was within the Executive Directors limited discretion. The additional funds were disbursed on December 28, 2005. All deficiencies reported on the TDHCA inspection report have either been completed or modifications have been approved by letter to Mr. Harms from Mr. Gerber, dated October 12, 2006.

LURA INFORMATION

Multi Family HOME LURA – Term 30 Years from the effective date November 5, 2003 and was recorded in Karnes County on November 24, 2003.

DISCUSSION

Current Status: Mr. Harms, Executive Director of Center for Housing and Economic Opportunities Corp. is requesting an additional 6 month extension on the start date of the loan payments, September 2006 to February 2007, for the subject property. Since November 4, 2005 the staff at Kenedy Senior Housing have leased and moved in 15 tenants with 1 pending. This brings the occupancy level up to 75%, which is below the level of breakeven. Based on the Underwriter's Income and Expense estimates, breakeven should occur when 3 additional units, plus the one pending unit, are leased and occupied. (19 of the 20 units - 95%) Mr. Harms has indicated that advertising and promotional campaigns will continue until the property is substantially leased. The next three months include open house for local residents continued advertising in Kenedy, Beeville, and San Antonio Express newspapers, a Grand Opening inviting local and state officials as well as Executive Directors of the Chamber of Commerce, Community Action, Housing Authority, and other key business personnel. Mr. Harms requests an extension until February 1, 2007 in order to allow sufficient time for the staff to lease and move prospective tenants in and achieve sufficient revenue to begin making monthly payments.

Income and Expenses: The Developer's income has been reduced which reflects his current leasing activities. The Developer has rented three of the eight - two bedroom units at the same rate as the one bedroom units. (Currently five of the eight – two bedroom units have been leased. Two at the two bedroom unit rent of \$362 and three at the one bedroom rent of \$272.) He indicated that since the two bedroom units were not renting he wanted to move tenants in and provide some cash flow. However, if all remaining two bedroom units are rented at this rate, this will reduced his original annual gross rental income from \$73,296 to \$66,912 for an annual rental income difference of \$6,384. This lowers the Underwriter's Debt Coverage Ratio (DCR) from 1.33 to 1.00 at 100% occupancy. At this time the Developer has one - one bedroom unit vacant (Handicapped Unit) and three – two bedroom units vacant. If these units are leased at the originally anticipated rental rates, \$272 and \$362 respectively this will result in a cash flow of \$4,294 at 100% occupancy. Occupancy, required to meet a 1.00 DCR would be 93.5% or 18.7 units out of a total of 20 units. It should also be noted that the owner is collecting in excess of the \$176 per unit per month rent for the nine 30% units. Eight of the nine 30% and 40% median income units are receiving rental assistance from the HUD Section 8 program. None of the tenants receiving HUD assistance are paying over the required rent limits.

Conclusion: If the fully anticipated rents (based on the original underwriting) were achieved, the Owner would need an occupancy rate of 91.8% to meet a 1.00 DCR and 93.4% to meet the 1.10 standard minimum. The owner must lease at least 19 of the 20 units with the currently vacant units rented at the original underwritten rental rates to meet a 1.00 DCR. The property is currently 75% occupied (15 rented and occupied) with some of the units rented at rents lesser than that which can be obtained in the market place. At

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
ASSET MANAGEMENT REVIEW & RECOMMENDATIONS
SECOND AMENDMENT

the original underwriting rental rates Mr. Harms must rent three units at market rents plus the one unit that is pending to meet 1.00 DCR. Mr. Harms is confident that the property will be leased to service debt as previously approved by the February deadline. Given the lease up performance of about one unit per month it is possible that this 1.00 DCR could be met sooner.

OPTIONS

Option 1:

Allow a 6 month extension of time for the Developer to lease and move tenants into the property, and if necessary approve additional extensions as needed in the future to lease to breakeven.

Option 2:

Allow six (6) – one month extensions for the developer to lease and move tenants into the property with no additional extensions past February 2007, and require regular monthly payments of Principal and Interest in the amount of \$932.98 to begin March 1, 2007. This will allow TDHCA to monitor the progress of the property, be given the ability to cancel the extension at any time during the extension period upon lease-up to breakeven (19 units), and provide additional incentive for the Owner to perform.

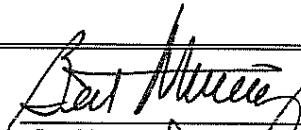
Option 3:

Do not approve any extension and require monthly payments of Principal and Interest to begin as of September 2006. This option could prove costly due to the fact that according to the current rent roll and expense statement the property does not have sufficient cash flow to service the debt. The only alternative for the Owner would be to make the payments “Out of Pocket” which is not likely. Therefore, TDHCA could end up with a property defaulting on its payments and a decline of services, repairs and maintenance of the property.

RECOMMENDATION

1. Recommend for approval six (6) – one month extensions (September up to and including February 2007) to complete the initial lease-up of the subject property. The one month extensions should cease upon lease-up to breakeven or 19 units.
2. It is also recommended that no additional extensions be granted past March 2007.
3. Borrower will supply TDHCA with a monthly rent roll, Profit and Loss statement, and current leasing activities.

Asset Manager:


 Bert Murray

Date: October 31, 2006

Director of Real Estate Analysis:


 Tom Gouris

Date: October 31, 2006

Rent Roll Kenedy Seniors

	Unit Type	Unit/ Building	Occupied	Percent Medium Income	Orig TDHCA Projected Mo Rent	Applicant Projected Mo Rent	Actual Monthly Rent **	TDHCA Adj Monthly Rent ***
1	1 Br	C-1	Y	60%	\$272	\$272	\$272	\$272
2	1 Br *	C-2	N - Handicaped	60%	\$272	\$272	\$272	\$272
3	1 Br	C-3	Y	50%	\$272	\$272	\$272	\$272
4	1 Br	C-4	Y	50%	\$272	\$272	\$272	\$272
5	1 Br	D-1	Y	60%	\$272	\$272	\$272	\$272
6	1 Br	D-2	Y	60%	\$272	\$272	\$272	\$272
7	1 Br	D-3	Y	30%	\$176	\$250	\$250	\$250
8	1 Br	D-4	Y	30%	\$176	\$250	\$250	\$250
9	1 Br	E-1	Y	60%	\$272	\$272	\$272	\$272
10	1 Br	E-2	Y	60%	\$272	\$272	\$272	\$272
11	1 Br	E-3	Y	60%	\$272	\$272	\$272	\$272
12	1 Br	E-4	Y	60%	\$272	\$272	\$272	\$272
13	2 Br	A-1	Y	60%	\$361	\$361	\$362	\$362
14	2 Br	A-2	Y	60%	\$361	\$361	\$362	\$362
15	2 Br *	A-3	N	60%	\$361	\$361	\$272	\$362
16	2 Br *	A-4	N	60%	\$361	\$361	\$272	\$362
17	2 Br *	B-1	N	60%	\$361	\$361	\$272	\$362
18	2 Br	B-2	Y	60%	\$361	\$361	\$272	\$272
19	2 Br	B-3	Y-Pending	80%	\$361	\$361	\$272	\$272
20	2 Br	B-4	Y	80%	\$361	\$361	\$272	\$272
Totals				Monthly Annual	\$5,960 \$71,520	\$6,108 \$73,296	\$5,576 \$66,912	\$5,846 \$70,152

Occupancy (Units)	15 of 20	75% Current
	19 of 20	95% Projected Breakeven

Owners Actual Monthly/Projected Monthly Rent

Income	\$66,912 **	Owners Actual/Projected Monthly Rent
EGI	\$65,574	Based on 98% Occ Rate (Less than 1 unit vacant)
Expenses	\$54,389	Based on TDHCA Data Base
NOI	\$11,185	
Debt Service	\$11,196	\$932.98 Monthly
Cash Flow	(\$11)	

TDHCA Adjusted Monthly Rent

Income	\$70,152 ***	TDHCA Adjusted Monthly Rent
EGI	\$70,152	Assumed 100% Occupancy
Expenses	\$54,389	Based on TDHCA Data Base
NOI	\$15,763	
Debt Service	\$11,196	\$932.98 Monthly
Cash Flow	\$4,567	Annual Cash Flow

Occupied Units 15
Pending 1
* Vacant Units 4

Reserved for the Handicaped 1

** This rent is based on Actual & Projected Owner's Rental Expectations. The rental rates of the unleased 2 BR units should be based on the latest leasing activity and assumed that they will rent at the lesser 1 BR unit rents.

*** TDHCA adjusted rent assuming current rents of \$362 for all remaining 2 BR units.

TDHCA LOAN ADMINISTRATION 10/24/2006

ML702 Loan Master

Loan Number: 531300001 CENTER FOR HOUSING ECONOMIC

Info | Amort | Fees | Billing | ACH | Payoff | Other

DS713A Loan Servicing Information

Current Balance:	335,873.00	Unapplied Balance:	.00
		Negative Balance:	.00
		Interest Paid to Date:	00/00/0000
P&I Constant:	932.98	Loan Amount:	335,873.00
Total Payment:	932.98	Interest Rate:	0.0000
		Term:	360

Amortization Type: 365 Day-Year / Actual Days

Program Type: HOME Multifamily

Servicing Condition Code:

Principal Due:	1,865.96
Interest Due:	.00
Escrow Due:	.00
Charges Due:	186.60
Other Due:	.00
Subsidy Due:	.00
Total Due:	2,052.56

Next Due Date: 09/01/2006

53 Days Delinquent

2 Payments Delinquent

What if

- Loan Info.
- Status
- New Loan Set**
- Allocation
- Accounts
- Post Payments
- Loan History
- Pmt. Sched.
- Balances
- Mortgagors
- Origination
- Property
- Enh. Appraisal
-
- Comments
- Payoffs
- Esc. Analysis
- Escrow Disclsr.

SEPT → FEB 2007 - 6 MONTHS

P&I PAYMENTS TO BEGIN MAR 2007 @ \$932.98



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

Michael Gerber
EXECUTIVE DIRECTOR

October 12, 2006

BOARD MEMBERS
Elizabeth Anderson, *Chair*
Shadrick Bogany
C. Kent Conine
Sonny Flores
Norberto Salinas

Mike S. Harms, Executive Director
Center for Housing and Economic Opportunities Corporation
504 River Oaks Drive
San Leanna, TX 78748

RE: Kenedy Senior Housing (Development)
HOME Contract No: 531300 – CMTS No: 4006

Dear Mr. Harms:


The Texas Department of Housing and Community Affairs (Department) has received your letter requesting approval of an amendment to the application of the Development named above. The letter requests a substitution of features that were not proposed in the application for features that were proposed but never installed. The substitute features would replace dishwashers, an amenity that the Center for Housing and Economic Opportunities Corporation, as sponsor for the Development, inadvertently proposed. The amenity box was checked to identify the dishwasher that was installed in the common use community room available for resident gatherings.

The most significant feature proposed as a substitute is the installation of an emergency call system in the bedrooms and bathrooms of all units. The addition of this feature provides an increased level of safety that senior residents could find appealing. Other substitute features proposed to support the request include upgrading the masonry work from brick to white limestone, providing an increased width of 800 lineal feet of sidewalk and the use of an engineered foundation in lieu of post tension slabs.

The requested modification would not materially alter the Development in a negative manner. In the 2002 HOME application cycle, unit amenities were not a scoring item and therefore would not adversely affected the selection of the application for an award of HOME funds.

Your request is granted. If you have any questions, please contact me or Kelly Crawford at (512) 475-3262 or kelly.crawford@tdhca.state.tx.us.

Sincerely,


Michael Gerber
Executive Director

cc: Contract File

221 EAST 11TH • P. O. BOX 13941 • AUSTIN, TEXAS 78711-3941 • (800) 525-0657 • (512) 475-3800

DIVISION OF POLICY AND PUBLIC AFFAIRS

BOARD ACTION REQUEST November 9, 2006

Action Item

2007 Housing Tax Credit (HTC) and Housing Trust Fund (HTF) Regional Allocation Formula (RAF) Methodology.

Please note that while the methodology for the HOME RAF is the same as for HTC and HTF, the final funding distribution for HOME has not been calculated at this time because there is no HOME application cycle in the immediate future. As a result, the HOME RAF has not been produced at this time.

Required Action

Board approval of the 2007 HTC and HTF RAF Methodology. Please note that the HOME RAF will be presented to the Board in December.

- Ø See Attachment A for Public Comments on the Proposed 2007 RAF and the Department's Reasoned Responses
- Ø See Attachment B for a Summary of Changes to the 2007 RAF from the Version Released for Public Comment.
- Ø See Attachment C for the 2007 RAF Funding Distribution for the HTC and HTF programs.
- Ø See Attachment D for the 2007 HTC and HTF RAF Methodology.

Background

§2306.111(d) of the Texas Government Code requires that the Department use the RAF to allocate its HOME, HTF, and HTC funding. The RAF objectively measures the affordable housing need and available resources in 13 State Service Regions used for planning purposes. The RAF also allocates funding to rural and urban/exurban areas within each region.

As a dynamic measure of need, the RAF is revised annually to reflect updated demographic and resource data; respond to public comment; and better assess regional housing needs and available resources. The RAF provides for the statewide distribution of scarce affordable housing dollars to meet widely varying types and levels of need. With this in mind, the Department relies on statutory direction and reasonably interprets a formula for delivery of these scarce resources.

The HOME and HTF/HTC RAFs use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. §2306.111(c) of the Texas Government Code requires that at least 95 percent of HOME funding be set aside for non-participating jurisdictions (non-PJs). Therefore, the HOME RAF only uses need and available resource data for non-PJs.

The RAF's resulting funding distribution is published in the *State Low Income Housing Plan and Annual Report*. The detailed final methodology is published on the TDHCA website.

Recommendation

It is recommended that the Board approve the 2007 HTC and HTF RAF Methodology.

ATTACHMENT A

PUBLIC COMMENTS ON THE PROPOSED 2007 RAF AND THE DEPARTMENT'S REASONED RESPONSES

[Commenter information is tied to the reference number shown at the end of each comment and in “Table C.1
Commenter Information” at the end of this section.]

1. Inclusion of Measures of the Need for Affordable Housing of Persons with Disabilities

Two people provided comment on the need for the RAF to include a measure of the housing needs of persons with disabilities. The comments urged the Department to examine demographic data from the Center for Medicare and Medicaid Services which surveyed nursing home residents who expressed a desire to move out of such facilities and into other housing. Both commenters recommended that the Department take this information into account when calculating the RAF. (1,2)

Staff Response:

TDHCA has reviewed the Center for Medicare and Medicaid Services (CMS) data. While it appears to be a good source of information as to the specific needs of persons who wish to move from nursing home care to living in the community, the RAF has always served a general measure of housing need rather than focusing on the needs of any specific subgroup within of the Texas population. The Department will consider the use of this data in developing specific program criteria, but no changes are proposed to the RAF.

2. Functional and Legislative Issues with the RAF

One commenter provided comment on functional issues associated with the RAF. Firstly, the commenter stated that including overcrowding and substandard housing as “need” factors in the RAF duplicates the “availability of housing resources” criteria, and gives disproportionate advantage to certain regions. (3)

Staff Response:

The Department does not believe that the use of poverty, cost burden, over crowding, and substandard housing represents a duplication of need factors. While there are certainly households who could be affected by each of these problems, overcrowding and substandard housing are distinct types of need. These two issues which describe specific housing conditions occur at different rates across the state. Both issues affect the health, safety, and family structure of the affected households in ways that may be different than households only affected by rental cost burden. Accordingly, overcrowding and cost burden must be assessed as separate needs. The weight the formula gives to these two issues is proportionally sized to the number of households affected.

Secondly, the commenter asserts that the RAF shortchanges rural areas by applying the “availability of housing resources” criteria to each region as a whole rather than separately to the urban/exurban and rural sub-regions. (3)

Staff Response:

The Department does not believe the RAF “shortchanges” rural areas; indeed the RAF appears to provide an increased benefit to rural areas. If the population of rural and urban places were used to allocate funds, the percentage distribution statewide is 16.8 percent rural and 83.1 percent urban/exurban. The RAF based on need indicates this distribution to be 19.6 percent rural and 80.4 percent urban/exurban. When other available resources, which tend to favor urban areas, are considered this distribution increases to 21.4 percent rural and 78.6 percent urban/exurban.

Lastly, the commenter stated that the RAF fails to comply with statute because no adjustment in the proposed RAF exists to “offset under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state.” (3)

Staff Response:

The Department believes the RAF is compliant with statute. Since the RAF was originally created, the Department has carefully revised the RAF to respond to each legislatively required change to the formula. Each of these changes has been released for public comment. The Department has received a letter from one of the original bill’s sponsors that indicates that the RAF’s consideration of “the availability of housing resources” as required by Sec. 2306.111(d) is consistent with the purpose of the law. The available resource portion of the RAF considers the “under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state” required by Sec. 2306.6723(d) in its inclusion of bond activity as well as a wide variety of other resources available for affordable rental housing in each region.

No changes are proposed to the RAF.

3. Consideration of Texas USDA RHS 538 Funds as Available Resources

Three people commented on the need to include USDA RHS 538 funds in the RAF. Commenters urged TDHCA to reconsider the exclusion of the 538 Program from the five percent set-aside in USDA financed developments. (4,5,6)

Staff Response:

The 538 funds would appear to meet the requirement that the formula consider “under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state.”

The 538 funds have been included in the RAF as another source of funds used to assess available resources in each region.

4. Consideration of Other Available Resources that Affect the RAF’s Distribution of Funding to a Particular Region

Two people provided specific comment on the RAF’s provision of funding to their specific region. Most of this concern seemed to focus on how the formula considers other available resources. Comment focused on the perceived disadvantage incurred by San Antonio due to the RAF considering “other available resources” such as Bond, HOME and CDBG dollars. (7,8)

Staff Response:

A specific reference as to how the RAF should consider “the availability of housing resources” is contained in Section 2306.6723(d), Government Code. This section specifies that “The department and the rural development agency [ORCA] shall jointly adjust the regional allocation of housing tax credits described by 2306.111 to offset the under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state.” According to

this section, private activity bonds specifically must be considered in the HTC RAF. With regard to how the formula considers available housing resources, only resources related to rental housing activities are included in the RAF's data. Therefore, the formula does not include CDBG funding because it is almost entirely used for community development. Each Participating Jurisdiction's use of their HOME funds is evaluated, and only those funds used toward rental development are included in the HTC and HTF RAF.

No changes to the RAF are suggested.

Table C.1 Commenter Information

Reference #	Contact	Organization
1	Ms. Stephanie Thomas	ADAPT
2	Ms. Jean Langendorf	United Cerebral Palsy of Texas
3	Mr. Eric Opiela	Capital Consultants
4	Ms. Ginger Mcguire	Lancaster Pollard
5	Mr. Sox Johnson	Rural Rental Housing Association
6	Mr. Dennis Hoover	Not specified in comment
7	Ms. Debra Guerrero	NRP Group
8	Mr. Jose Menendez	Texas State Representative

ATTACHMENT B
SUMMARY OF CHANGES TO THE 2007 RAF FROM THE VERSION
RELEASED FOR PUBLIC COMMENT

In providing reasoned responses to public comment on the RAF's resulting funding distributions, the following modifications to the formula were identified. The changes do not respond to a particular public comment. It was noted while reviewing all the general comment about transferring funds from one region to another, that an adjustment cap is used to limit the amount transferred from one region to another, but a similar cap that would limit how much money goes to a particular region is not in place. Therefore a corresponding formula is now included in the RAF.

Changes being made are noted below.

1. A resource funding adjustment limit is used to ensure that a particular region or geographical area is not overly penalized by the resource funding adjustments. In making this adjustment, a region's need based funding amount cannot be reduced by more than the percentage of the state's available resources that are not already regionally distributed. It was noted that the description of this "adjustment cap" in the methodology did not make it clear that funding sources which are not distributed to every region are included in calculating the adjustment cap. The resulting revision is shown below in black line.

"Sources whose average of the regional differences exceeds five percent or that are not distributed to all regions are included in the resource funding adjustment limit."

2. It was also noted that while the adjustment cap restricted the level of funding that could be transferred from a region it did not correspondingly limit the amount of funding that could be transferred to another region. To ensure that particular regions do not overly benefit from the available funding redistribution, the adjustment cap was extended to regions that receive available funding distributions. The change related to this issue is shown below in black line.

"A resource funding adjustment limit is used to ensure that a particular region or geographical area is not overly penalized or benefited by the resource funding adjustments. ~~The A~~ A region's need based funding amount cannot be reduced or increased by more than the percentage of the state's available resources that are not already regionally distributed."

Other annual adjustments to the formula from that shown in the draft include.

1. Updating all of the available funding data. USDA 538 Program funds have been included in the RAF as another source of funds used to assess available resources in each region.
2. The weight associated with the multifamily bond financing adjustment factor was updated from \$.52 to \$.62 per bond dollar to reflect the current market.
3. The syndication rate for the HTCs was updated from \$.90 to \$.95 to reflect the current market.

ATTACHMENT C

2007 RAF DISTRIBUTION FOR THE HOME AND HTC PROGRAMS

The resulting funding distributions under the 2007 RAF for the HTC and HTF programs are below provided. The HTF funding amount to be distributed under the RAF has not been determined at this time. Any funds distributed under the HTF RAF will use the same percentages as the HTC RAF.

2007 HTC 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	\$2,096,099	4.9%	\$1,060,188	50.6%	\$1,035,911	49.4%
2	Abilene	\$1,251,525	2.9%	\$546,878	43.7%	\$704,647	56.3%
3	Dallas/Fort Worth	\$8,598,298	20.0%	\$659,991	7.7%	\$7,938,307	92.3%
4	Tyler	\$2,286,522	5.3%	\$1,354,984	59.3%	\$931,538	40.7%
5	Beaumont	\$1,365,191	3.2%	\$712,447	52.2%	\$652,744	47.8%
6	Houston	\$10,182,859	23.7%	\$430,557	4.2%	\$9,752,302	95.8%
7	Austin/Round Rock	\$1,919,458	4.5%	\$125,682	6.5%	\$1,793,776	93.5%
8	Waco	\$2,358,376	5.5%	\$429,432	18.2%	\$1,928,945	81.8%
9	San Antonio	\$2,448,901	5.7%	\$381,410	15.6%	\$2,067,492	84.4%
10	Corpus Christi	\$1,575,474	3.7%	\$817,776	51.9%	\$757,698	48.1%
11	Brownsville/Harlingen	\$5,600,674	13.0%	\$2,039,229	36.4%	\$3,561,445	63.6%
12	San Angelo	\$1,300,187	3.0%	\$381,485	29.3%	\$918,702	70.7%
13	El Paso	\$2,016,435	4.7%	\$267,150	13.2%	\$1,749,284	86.8%
	Total	\$43,000,000	100.0%	\$9,207,210	21.4%	\$33,792,790	78.6%

2007 HTF RAF

Region	Place for Geographical Reference	Regional Funding %	Rural Funding %	Urban/ Exurban Funding %
1	Lubbock	4.9%	50.6%	49.4%
2	Abilene	2.9%	43.7%	56.3%
3	Dallas/Fort Worth	20.0%	7.7%	92.3%
4	Tyler	5.3%	59.3%	40.7%
5	Beaumont	3.2%	52.2%	47.8%
6	Houston	23.7%	4.2%	95.8%
7	Austin/Round Rock	4.5%	6.5%	93.5%
8	Waco	5.5%	18.2%	81.8%
9	San Antonio	5.7%	15.6%	84.4%
10	Corpus Christi	3.7%	51.9%	48.1%
11	Brownsville/Harlingen	13.0%	36.4%	63.6%
12	San Angelo	3.0%	29.3%	70.7%
13	El Paso	4.7%	13.2%	86.8%
	Total	100.0%	21.4%	78.6%

Funding Distribution Changes between the 2007 and 2006 RAF Allocations

Region	Place for Geographical Reference	Change from 06 Allocation	Change from 06 Rural Allocation	Change from 06 Urban/Exurban Allocation
1	Lubbock	\$69,617	\$146,353	(\$76,736)
2	Abilene	\$108,294	\$17,831	\$90,463
3	Dallas/Fort Worth	\$1,533,577	\$122,525	\$1,411,052
4	Tyler	\$146,589	\$272,291	(\$125,702)
5	Beaumont	(\$156,127)	(\$30,129)	(\$125,998)
6	Houston	(\$220,839)	(\$234,982)	\$14,144
7	Austin/Round Rock	(\$1,366,485)	(\$187,175)	(\$1,179,310)
8	Waco	(\$252,530)	(\$54,040)	(\$198,489)
9	San Antonio	(\$53,977)	\$26,496	(\$80,472)
10	Corpus Christi	(\$196,111)	\$114,056	(\$310,167)
11	Brownsville/Harlingen	\$390,812	(\$14,730)	\$405,542
12	San Angelo	\$61,595	\$82,550	(\$20,956)
13	El Paso	(\$64,416)	\$32,845	(\$97,263)
	Total	\$0	\$293,893	(\$293,893)

ATTACHMENT D
2007 RAF HTC AND HTF METHODOLOGY
(RECOMMENDED FOR BOARD APPROVAL)

BACKGROUND

§2306.111(d) of the Texas Government Code requires that TDHCA use a Regional Allocation Formula (RAF) to allocate its HOME, Housing Trust Fund (HTF), and Housing Tax Credit (HTC) funding. This RAF objectively measures the affordable housing need and available resources in 13 State Service Regions used for planning purposes. These regions are shown in “Figure 1. State Service Regions.” The RAF also allocates funding to rural and urban/exurban areas within each region.

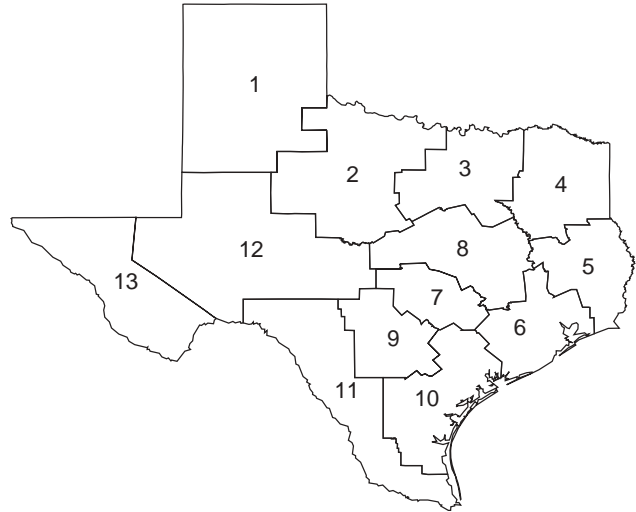


Figure 1. State Service Regions

As a dynamic measure of need, the RAF is revised annually to reflect updated demographic and resource data; respond to public comment; and better assess regional housing needs and available resources. The RAF is submitted annually for public comment.

The HOME and HTF/HTC RAFs use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. §2306.111(c) of the Texas Government Code requires that at least 95 percent of HOME funding be set aside for non-participating jurisdictions (non-PJs). Therefore, the HOME RAF only uses need and available resource data for non-PJs.

METHODOLOGY

Consideration of Affordable Housing Need

The first part of the RAF determines the funding allocation based solely on objective measures of each region’s share of the State’s affordable housing need. The RAF uses the following 2000 US Census data to calculate this regional need distribution.

§ Poverty: Number of persons in the region who live in poverty.

§ Cost Burden: Number of households with a monthly gross rent or mortgage payment to monthly household income ratio that exceeds 30 percent.

§ Overcrowded Units: Number of occupied units with more than one person per room.

§ Units with Incomplete Kitchen or Plumbing: Number of occupied units that do not have all of the following: sink with piped water; range or cook top and oven; refrigerator, hot and cold piped water, flush toilet, and bathtub or shower.

Non-poverty data is for households at or below 80% of the Area Median Family Income (AMFI).

§ Because the HTC/HTF programs support rental development activities, renter household data is used for the HTC/HTF RAF.

§ Because the HOME program supports renter and owner activities, both renter and owner data is used in the HOME RAF.

The following steps are used to measure regional need.

1. Each need measure (poverty, cost burden, overcrowding, and incomplete units) is weighted to reflect its perceived relevance in assessing affordable housing need. Half the measure weight is associated with poverty because of the significant number of persons in poverty and the use of this factor in the HUD Community Planning and Development Program Formula Allocations. The remaining measure weight is proportionately allocated based on the relative size of the other three measure populations. The resulting need measure weights are: poverty = 50 percent, cost burden = 36 percent, overcrowding = 12 percent, and substandard housing = 2 percent.
2. The following steps calculate the funding distribution based on the need measures.
 - a. The total RAF funding amount is multiplied by each need measure weight to determine the amount of funding distributed by that measure.
 - b. Each measure's amount of funding is regionally distributed based on the distribution of persons or households in need.
3. The resulting four regional measure distributions are then combined to calculate each region's need-based funding amount.
4. Each region's need based funding amount is divided by the total RAF funding amount. This quotient is the region's need percentage.

Consideration of Available Housing Resources

In addition to TDHCA, there are many other sources of funding that address affordable housing needs. To mitigate any inherent inequities in the way these resources are regionally allocated, the RAF compares each region's level of need to its level of resources.

Because the resources used in the RAF reflect the three programs' eligible households and activities, the following data is used.

- § The HTC/HTF RAF uses rental funding sources.
- § The HOME RAF uses sources of rental and owner funding in non-PJs.

The following resources are used in both the HOME and HTC/HTF RAFs.

- § Housing Tax Credits (4% and 9%)¹
- § Housing Trust Fund Rental Development Funding
- § HUD HOME Funds (TDHCA and Participating Jurisdiction)
- § HUD Housing for Persons with AIDS Funding
- § HUD Public Housing Authority (PHA) Capital Funding
- § HUD §8 Tenant-Based Rental Assistance (TDHCA & PHA)
- § Multifamily Texas Housing Trust Fund
- § Multifamily Tax-Exempt Bond Financing²
- § United States Department of Agriculture (USDA) Multifamily Development Funding
- § USDA Rental Assistance

The HOME RAF also includes the following sources of owner funding.

- § USDA 502 and 504 Loans and Grants
- § Single Family Bond Financing (TDHCA and Housing Finance Corporations)

¹ Estimated capital raised through the syndication of the HTCs.

² The value of the bonds is 62 percent of the total bond amount. This is an estimate of the capital required to fill an affordability gap that remains after the capital raised through the syndication of the 4% HTCs is deducted from the total development cost. [Note: This bond valuation factor will be updated at the time the final RAF is prepared to reflect the FY 2006 actual transactions.]

These steps calculate the regional distribution of available housing resources.

1. The available resources are summed by region and for the state. The resulting sums are the regional and state resource totals.
2. The regional resource total is divided by the state resource total. This quotient is the region's resource percentage.

Comparison of Regional Need and Available Resource Distributions

In theory, if the measurement of regional need is accurate, then the region's need percentage should reflect its resource percentage. A region with a negative resource and need difference is considered to be "under allocated." This region should have received a larger portion of the available resources to address their need. Similarly, a region with a positive difference is considered "over allocated." Conversely, it should have received a smaller portion of the available resources.

To address differences between the regional need and resource distributions, the RAF uses a resource funding adjustment to shift a portion of the need based funding distribution from over allocated to under allocated regions.

A resource funding adjustment limit is used to ensure that a particular region or geographical area is not overly penalized or benefited by the resource funding adjustments. ~~The~~ A region's need based funding amount cannot be reduced or increased by more than the percentage of the state's available resources that are not already regionally distributed. This percentage is calculated by finding the average difference between each funding source's regional distribution and the regional need percentages. Sources whose average of the regional differences exceeds five percent or that are not distributed to all regions are included in the resource funding adjustment limit.

The following steps calculate the resource funding adjustments.

1. The regional resource percentage and regional need percentage differences are calculated.
2. The resulting over allocated (positive) resource differences are summed to calculate the state resource difference.
3. The state resource difference is multiplied by the total RAF funding. This product is the state over allocated resource amount.
4. Each over allocated resource difference is divided by the state resource difference. This quotient is the over allocation percentage.
5. Each over allocation percentage is multiplied by the state over allocated resource amount to determine the base resource funding adjustment.
6. The region's need based funding amount is multiplied by the resource funding adjustment limit. This product is the maximum resource funding adjustment.
7. The lesser of the base resource funding adjustment and the maximum resource funding adjustment is the over allocated region's resource funding adjustment.
8. The over allocated regions' resource funding adjustments are summed. This total is the state under allocated resource amount.
9. Each under allocated (negative) resource difference is divided by the state resource difference to determine the under allocation percentage.
10. Each under allocation percentage is multiplied by the state under allocated resource amount. This product is the under allocated region's resource funding adjustment.

Consideration of Rural and Exurban/Urban Need³

There are a number of factors that affect the distribution of resources to rural and urban/exurban areas. These include rural area feasible development sizes, allowable rent and income levels, and proximity to developers, contractors, and materials. Access to resources is also an issue because some funding, such as multifamily tax-exempt bond financing, does not work very well in rural areas. As required by §2306.111(d) of the Texas Government Code, to ensure an equitable distribution of funding to both rural and urban/exurban areas, the RAF analyzes the distribution of rural and urban/exurban need and resources at the regional level.

The RAF uses the following definitions to categorize rural and urban/exurban areas.

1. Area - The geographic area contained within the boundaries of:
 - a. an incorporated place, or
 - b. a Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.
2. Rural – An Area that is:
 - a. outside the boundaries of a metropolitan statistical area (MSA); or
 - b. within the boundaries of a MSA, if the Area has a population of 20,000⁴ or less and does not share a boundary with an Area that has a population greater than 20,000.⁵
3. Urban/Exurban
 - a. Any Area that does not satisfy the Rural definition; or
 - b. that portion of a census tract that has a population density greater than 1,200 people per square mile and is not contained within an Area. [This subcategory is not used in the HOME formula.]

Measuring Rural and Urban/exurban Affordable Housing Need

The following steps calculate the level of need in rural and urban/exurban areas.

1. The same need measure weights used to determine the regional need distribution are multiplied by the region's funding amount. This product is the measure funding amount.
2. Area level measure data is identified as being rural or urban/exurban based on the RAF area definitions.
3. Using the coded area data, each measure's affected number of rural and urban/exurban persons or households in the region is calculated.
4. The corresponding measure rural and urban/exurban percentages are calculated.
5. For each measure, the regional funding amount is multiplied by the measure rural and urban/exurban percentages to calculate the rural and urban/exurban measure funding amounts.
6. The rural and urban/exurban measure funding amounts are summed for the four measures. These totals are the region's rural and urban/exurban need based funding amounts.
7. The region's rural and urban/exurban need based funding amounts are divided by the region's total funding amount. These quotients provide the region's rural and urban/exurban need percentages.

³ §2306.111(d) requires the RAF to consider "rural and urban/exurban areas" in its distribution of program funding. Until further guidance is provided by the Legislature, TDHCA's Legal Division has interpreted "Urban/Exurban" to be a single category.

⁴ The definition of "population" in state law (Sec. 311.005(3), Government Code) is "the population shown by the most recent federal decennial census." Because of this requirement, the decennial census place population must be used to make the area type determination.

⁵ Applicants may petition TDHCA to update the "Rural" designation of an incorporated area within a metropolitan statistical area by providing a letter from a local official. Such letter must clearly indicate that the area's incorporated boundary touches the boundary of another incorporated area with a population of over 20,000. To treat all applicants equitably, such letter must be provided to TDHCA prior to the commencement of the: pre-application submission period for HTC applications, or application submission period for HOME applications.

Measuring Rural and Urban/Exurban Available Resources

The following steps calculate the Rural and Urban/Exurban distribution of available housing resources.

1. The geographically coded area data is summed to calculate regional rural and urban/exurban resource totals. Funding allocated at the county level is proportionately distributed based on the percentage split between rural and urban/exurban areas within the county. The resulting totals are the rural and urban/exurban resource totals.
2. The corresponding regional rural and urban/exurban resource percentages are calculated.

Rural and Urban/Exurban Available Resources Funding Adjustment

The following steps calculate the rural and urban/exurban area resource funding adjustments.

1. The differences between the rural and urban/exurban resource percentages and rural and urban/exurban need percentages are calculated. The resulting differences show which of the two areas (rural or urban/exurban) were over or under allocated.
2. Each over allocated (positive) area resource difference is multiplied by the region's funding amount. For example, if the urban/exurban area is over allocated, then the difference is multiplied by the Regional Funding Amount. The resulting product is the area's base resource funding adjustment.
3. The over allocated area's need based funding amount is multiplied by the resource funding adjustment limit. This product is the area's maximum resource funding adjustment.
4. The lesser of the area's base resource funding adjustment or the maximum resource funding adjustment is the area's resource funding adjustment.

Rural and Urban/Exurban Regional Funding Amounts

The area's over allocated resource funding adjustment is subtracted from the over allocated area's need based funding amount and is added to the under allocated area's need based funding amount.

QUESTIONS AND COMMENTS

For questions and comments on the RAF, contact Stephen Schottman at the TDHCA Division of Policy and Public Affairs.

Email: sschottm@tdhca.state.tx.us

Phone: (512) 305-9038

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DIVISION OF POLICY AND PUBLIC AFFAIRS

BOARD ACTION REQUEST

November 9, 2006

Action Item

2007 Housing Tax Credit (HTC) and Housing Trust Fund (HTF) Affordable Housing Need Score (AHNS) Methodology.

Please note that while the HOME AHNS methodology is the same as that used to generate the HTC and HTF scores, the final HOME scores are not included in this action request. Very minimal comment was received on the methodology during the public comment period. The methodology has not changed and the HOME scores are also not expected to change appreciably from those provided for public comment. Since there is no HOME application cycle scheduled in the near term, the final HOME scores will be provided for the Board at the December Board meeting.

Required Action

Approval of the 2007 HTC and HTF AHNS Methodology is requested.

§ See Attachment A for the 2007 HTC and HTF AHNS Methodology.

§ See Attachment B for the 2007 HTC and HTF Scores as Generated by the 2007 AHNS Methodology.

Background

The AHNS scoring criterion is used to evaluate HOME, HTC, and HTF applications. Through the AHNS, applicants are encouraged to request funding to serve communities that have a high level of need. The formula is released annually for public comment. The Board approved the release of the draft AHNS methodology on August 30th, and notification of the 30-day public comment period was published in the Texas Register. TDHCA also held 13 public hearings around the state of Texas to gather comment. The final methodology and resulting scores will be published on the TDHCA website.

While not specifically legislated by the state, the AHNS helps address other need based funding allocation requirements by responding to:

- € an IRS Section 42 requirement that the selection criteria used to award the HTC funding must include “housing needs characteristics,” and
- € State Auditor’s Office (SAO) and Sunset findings that called for the use of objective, need based criteria to award TDHCA’s funding.

The HOME and HTF/HTC programs use slightly modified versions of the AHNS because the programs have different eligible activities, households, and geographical areas.

Public Comment on the Proposed AHNS Methodology

Only one public comment on the AHNS was provided. A representative of the Midland Affordable Housing Alliance voiced a concern over the impact a decrease in Midland's AHNS would have on the city's ability to submit competitive HTC applications.

Staff Response:

The one-point decrease in Midland's score resulted from a change in the proposed AHNS methodology. This revision generated an AHNS that was based purely on local need as opposed to county and local need. The proposed 2007 AHNS Methodology contained a change which addressed an imbalance between the AHNS of communities located within and outside of large MSAs. This scoring difference was related to having half of the score being tied to the amount of need in a county relative to the need in the region. Because need is concentrated in counties with large urban places, the communities within those counties were receiving a scoring boost based on the overall need in the county.

The Department believes this change was appropriate and provides for more appropriate regional allocation of funding. No changes are recommended to the AHNS methodology based on public comment. The scores have been updated to reflect TDHCA 2007 multifamily rental development funding awards.

Recommendation

Approval of the 2007 HTC and HTF AHNS Methodology.

ATTACHMENT A
2007 HTC AND HTF AHNS METHODOLOGY
(RECOMMENDED FOR BOARD APPROVAL)

Background

The AHNS scoring criterion is used to evaluate HOME, Housing Tax Credit (HTC), and Housing Trust Fund (HTF) applications. The formula is submitted annually for public comment. The final version is published in the SLIHP.

While not specifically legislated by the state, the AHNS helps address other need based funding allocation requirements by responding to:

- € an IRS Section 42 requirement that the selection criteria used to award the HTC funding must include “housing needs characteristics.”
- € State Auditor’s Office (SAO) and Sunset findings that called for the use of objective, need based criteria to award TDHCA’s funding.

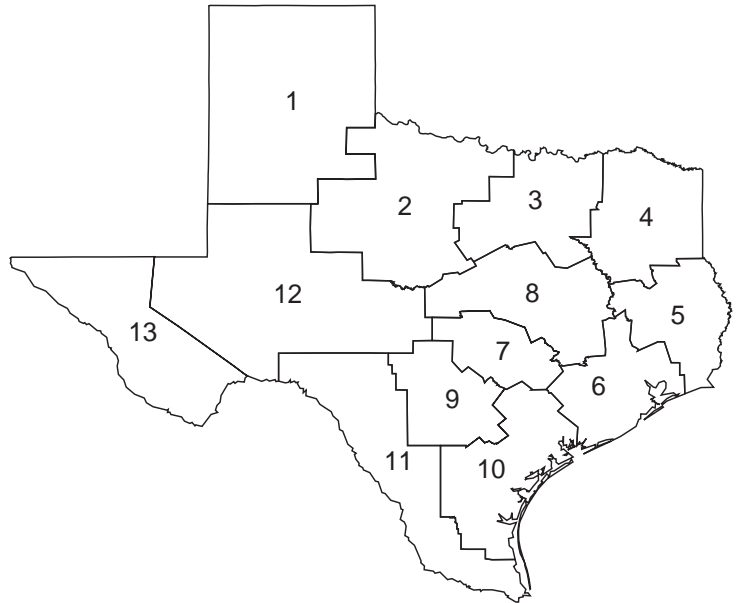


Figure 1. State Service Regions

The AHNS is an extension of the TDHCA

Regional Allocation Formula (RAF) in that it provides a comparative assessment of each area’s level of need relative to the other areas within its State Service Region. Through the AHNS, applicants are encouraged to request funding to serve communities that have a high level of need.

The HOME and HTF/HTC programs use slightly modified versions of the AHNS because the programs have different eligible activities, households, and geographical areas. Under §2306.111(c) of the Texas Government Code, at least 95 percent of HOME funding is set aside for non-participating jurisdictions. Therefore, the HOME AHNS only uses need data for non-participating jurisdictions.

Methodology

The following steps measure each area’s level of affordable housing need.

- 1) The Census number of households at or below 80% AMFI with cost burden establishes baseline for each area’s number of households in need of housing assistance. The type of household considered for this baseline varies by activity.
 - a) Renter data is used for the rental development (RD), tenant based rental assistance (TBRA), and down payment assistance (DPA) scores.
 - b) Owner data is used for the owner occupied rehabilitation (OCC) score.
- 2) For each activity, an adjusted number of households with cost burden is calculated based on the difference between the area’s population in the 2000 Census and the most recent State Data Center population estimate.
- 3) The number of households assisted using TDHCA funding since the Census was taken (April 1, 2000) is subtracted from the adjusted number of households with cost burden. The resulting number shows the area’s estimated remaining need.
 - a) For HTC and HTF scores, RD activity is used;

- b) For HOME TBRA and RD scores, TBRA¹ and RD activity is used;
 - c) For HOME DPA scores, First Time Homebuyer and HOME DPA activity is used; and
 - d) For HOME OCC scores, HOME OCC activity is used.
- 4) The estimated remaining need measure is used to quantify the area's level of need for each scoring activity as measured by the ratio of the area's households in need to the area's total households. This ratio shows the concentration of need within an area.
 - 5) A sliding scale that compares each area's level of need to the region's other areas is used to assign points to each area based on its relative concentration of need (maximum of 7 points).

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 funds. To assist with this distribution, each area is classified using the RAF's geographic area definitions.

The RAF uses the following definitions to categorize rural and urban/exurban areas.

1. Area - The geographic area contained within the boundaries of:
 - a. an incorporated place, or
 - b. a Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.
2. Rural – An Area that is:
 - a. outside the boundaries of a metropolitan statistical area (MSA); or
 - b. within the boundaries of a MSA, if the Area has a population of 20,000² or less and does not share a boundary with an Area that has a population greater than 20,000.³
 - c. For the HTC AHNS, areas that are eligible for new construction or rehabilitation funding by TX-USDA-RHS are also considered rural.
3. Urban/Exurban - Any Area that does not satisfy the Rural definition.
4. Rental development activities that occur outside an Area shall use the rural or urban/exurban designation of the closest Area.

For the HOME program, a county score is used for activities that will serve more than one Area within a county. If multiple counties or Areas in multiple counties will be served by an application, then the county scores will be averaged. Participating Jurisdictions (PJ) receive a score of zero.

¹ Because of the limited duration of TBRA, a conversion factor was used to equate the value of a voucher to an affordable housing unit. This factor equaled the voucher duration divided by the number of years since the Census. For 2007, this is 2 years/7 years or an approximate reduction in the number of households in need by 29 percent for each TBRA voucher.

² The definition of "population" in state law (Sec. 311.005(3), Government Code) is "the population shown by the most recent federal decennial census." Because of this requirement, the decennial census place population must be used to make the area type determination.

³ Applicants may petition TDHCA to update the "Rural" designation of an incorporated area within a metropolitan statistical area by providing a letter from a local official. Such letter must clearly indicate that the area's incorporated boundary touches the boundary of another incorporated area with a population of over 20,000. To treat applicants equitably, such letter must be provided to TDHCA prior to the commencement of the pre-application submission period for HTC applications, or application submission period for HOME applications.



2007 HTC and HTF Affordable Housing Need Scores (AHNS) County Level

(Sorted by Region then County.)

Instructions:

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.

All questions relating to scoring an application under the AHN Scoring Component should be submitted in writing to Jennifer Joyce via facsimile at (512) 475-0764 or by email at jennifer.joyce@tdhca.state.tx.us.

Sorted by Region then Area Name

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
1	Abernathy	Rural	5	5	0
1	Adrian	Rural	5	7	2
1	Amarillo	Urb/Exurb.	7	6	-1
1	Amherst	Rural	5	5	0
1	Anton	Rural	4	4	0
1	Bishop Hills	Rural	5	4	-1
1	Booker	Rural	4	6	2
1	Borger	Rural	5	5	0
1	Bovina	Rural	4	4	0
1	Brownfield	Rural	6	7	1
1	Buffalo Springs	Rural	6	5	-1
1	Cactus	Rural	4	4	0
1	Canadian	Rural	4	6	2
1	Canyon	Rural	6	7	1
1	Channing	Rural	5	7	2
1	Childress	Rural	4	5	1
1	Clarendon	Rural	5	6	1
1	Claude	Rural	5	7	2
1	Crosbyton	Rural	4	6	2
1	Dalhart	Rural	6	7	1
1	Darrouzett	Rural	5	7	2
1	Denver City	Rural	4	5	1
1	Dickens	Rural	5	7	2
1	Dimmitt	Rural	4	5	1
1	Dodson	Rural	5	7	2
1	Dumas	Rural	5	5	0
1	Earth	Rural	5	5	0
1	Edmonson	Rural	4	4	0
1	Estelline	Rural	5	6	1
1	Farwell	Rural	6	7	1
1	Floydada	Rural	5	6	1
1	Follett	Rural	2	4	2
1	Friona	Rural	6	6	0
1	Fritch	Rural	5	6	1
1	Groom	Rural	5	7	2
1	Gruver	Rural	5	6	1
1	Hale Center	Rural	5	6	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
1	Happy	Rural	5	5	0
1	Hart	Rural	4	5	1
1	Hartley	Rural	4	5	1
1	Hedley	Rural	5	7	2
1	Hereford	Rural	4	4	0
1	Higgins	Rural	2	4	2
1	Howardwick	Rural	5	7	2
1	Idalou	Rural	5	4	-1
1	Kress	Rural	5	5	0
1	Lake Tanglewood	Rural	6	7	1
1	Lakeview	Rural	5	7	2
1	Lefors	Rural	4	4	0
1	Levelland	Rural	6	7	1
1	Lipscomb	Rural	2	4	2
1	Littlefield	Rural	6	7	1
1	Lockney	Rural	2	4	2
1	Lorenzo	Rural	4	5	1
1	Lubbock	Urb/Exurb.	7	7	0
1	Matador	Rural	4	5	1
1	McLean	Rural	6	6	0
1	Meadow	Rural	4	4	0
1	Memphis	Rural	4	5	1
1	Miami	Rural	5	7	2
1	Mobeetie	Rural	2	4	2
1	Morse	Rural	4	5	1
1	Morton	Rural	2	4	2
1	Mulshoe	Rural	2	4	2
1	Nazareth	Rural	4	5	1
1	New Deal	Rural	7	6	-1
1	New Home	Rural	4	5	1
1	O'Donnell	Rural	2	4	2
1	Olton	Rural	4	4	0
1	Opdyke West	Rural	5	5	0
1	Palisades	Rural	6	6	0
1	Pampa	Rural	6	6	0
1	Panhandle	Rural	4	5	1
1	Perryton	Rural	2	4	2
1	Petersburg	Rural	4	4	0
1	Plains	Rural	4	5	1
1	Plainview	Rural	5	5	0
1	Post	Rural	5	7	2
1	Quail	Rural	2	4	2
1	Quitaque	Rural	5	7	2
1	Ralls	Rural	4	5	1
1	Ransom Canyon	Rural	6	5	-1
1	Reese Center	Urb/Exurb.	5	4	-1
1	Roaring Springs	Rural	2	4	2
1	Ropesville	Rural	4	4	0
1	Samnorwood	Rural	2	4	2
1	Sanford	Rural	6	6	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
1	Seth Ward	Rural	6	6	0
1	Shallowater	Rural	7	7	0
1	Shamrock	Rural	5	6	1
1	Silverton	Rural	5	7	2
1	Skellytown	Rural	2	4	2
1	Slaton	Rural	6	6	0
1	Smyer	Rural	5	5	0
1	Spade	Rural	6	6	0
1	Spearman	Rural	2	4	2
1	Springlake	Rural	6	7	1
1	Spur	Rural	2	4	2
1	Stinnett	Rural	5	6	1
1	Stratford	Rural	2	4	2
1	Sudan	Rural	5	5	0
1	Sundown	Rural	5	5	0
1	Sunray	Rural	5	5	0
1	Tahoka	Rural	2	4	2
1	Texhoma	Rural	5	7	2
1	Texline	Rural	5	5	0
1	Timbercreek Canyon	Rural	4	4	0
1	Tulia	Rural	5	5	0
1	Turkey	Rural	2	4	2
1	Vega	Rural	5	6	1
1	Wellington	Rural	4	5	1
1	Wellman	Rural	5	5	0
1	Wheeler	Rural	4	5	1
1	White Deer	Rural	5	6	1
1	Whiteface	Rural	2	4	2
1	Wilson	Rural	2	4	2
1	Wolfforth	Rural	7	6	-1
2	Abilene	Urb/Exurb.	7	6	-1
2	Albany	Rural	5	6	1
2	Anson	Rural	4	4	0
2	Archer City	Rural	2	5	3
2	Aspermont	Rural	2	5	3
2	Baird	Rural	4	4	0
2	Ballinger	Rural	6	7	1
2	Bangs	Rural	5	6	1
2	Bellevue	Rural	5	6	1
2	Benjamin	Rural	2	4	2
2	Blackwell	Rural	5	5	0
2	Blanket	Rural	6	7	1
2	Bowie	Rural	6	7	1
2	Breckenridge	Rural	5	5	0
2	Brownwood	Rural	5	6	1
2	Bryson	Rural	6	6	0
2	Buffalo Gap	Rural	6	5	-1
2	Burkburnett	Rural	6	6	0
2	Byers	Rural	6	7	1
2	Carbon	Rural	4	4	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
2	Chillicothe	Rural	6	7	1
2	Cisco	Rural	6	7	1
2	Clyde	Rural	5	6	1
2	Coleman	Rural	6	6	0
2	Colorado City	Rural	6	7	1
2	Comanche	Rural	6	7	1
2	Cross Plains	Rural	6	4	-2
2	Crowell	Rural	4	6	2
2	De Leon	Rural	5	6	1
2	Dean	Rural	6	7	1
2	Early	Rural	5	5	0
2	Eastland	Rural	4	4	0
2	Elbert	Rural	5	7	2
2	Electra	Rural	7	6	-1
2	Girard	Rural	2	4	2
2	Goree	Rural	2	4	2
2	Gorman	Rural	4	4	0
2	Graham	Rural	5	5	0
2	Gustine	Rural	6	7	1
2	Hamlin	Rural	5	5	0
2	Haskell	Rural	5	6	1
2	Hawley	Rural	6	7	1
2	Henrietta	Rural	5	6	1
2	Hermleigh	Rural	6	6	0
2	Holliday	Rural	2	4	2
2	Impact	Urb/Exurb.	5	4	-1
2	Iowa Park	Rural	6	6	0
2	Jacksboro	Rural	5	6	1
2	Jayton	Rural	2	4	2
2	Jolly	Rural	6	7	1
2	Knox City	Rural	4	5	1
2	Lake Brownwood	Rural	6	7	1
2	Lakeside City	Urb/Exurb.	4	5	1
2	Lawn	Rural	5	4	-1
2	Lorraine	Rural	5	6	1
2	Lueders	Rural	5	5	0
2	Megargel	Rural	2	4	2
2	Merkel	Rural	7	6	-1
2	Miles	Rural	5	5	0
2	Moran	Rural	4	5	1
2	Munday	Rural	2	4	2
2	Newcastle	Rural	6	6	0
2	Nocona	Rural	4	5	1
2	Novice	Rural	4	4	0
2	O'Brien	Rural	4	4	0
2	Olney	Rural	5	5	0
2	Paducah	Rural	2	5	3
2	Petrolia	Rural	6	7	1
2	Pleasant Valley	Urb/Exurb.	7	7	0
2	Potosi	Urb/Exurb.	7	7	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
2	Putnam	Rural	6	7	1
2	Quanah	Rural	6	7	1
2	Ranger	Rural	4	5	1
2	Rising Star	Rural	5	5	0
2	Roby	Rural	4	6	2
2	Rochester	Rural	5	5	0
2	Roscoe	Rural	4	5	1
2	Rotan	Rural	4	5	1
2	Rule	Rural	5	6	1
2	Santa Anna	Rural	4	4	0
2	Scotland	Rural	2	4	2
2	Seymour	Rural	5	5	0
2	Snyder	Rural	4	5	1
2	St. Jo	Rural	4	4	0
2	Stamford	Rural	5	5	0
2	Sunset	Rural	4	4	0
2	Sweetwater	Rural	6	6	0
2	Throckmorton	Rural	2	5	3
2	Trent	Rural	7	6	-1
2	Tuscola	Rural	5	4	-1
2	Tye	Urb/Exurb.	7	7	0
2	Vernon	Rural	4	4	0
2	Weinert	Rural	6	7	1
2	Westbrook	Rural	6	6	0
2	Wichita Falls	Urb/Exurb.	6	5	-1
2	Windthorst	Rural	2	4	2
2	Winters	Rural	4	4	0
2	Woodson	Rural	4	5	1
3	Addison	Urb/Exurb.	6	5	-1
3	Aledo	Rural	4	6	2
3	Allen	Urb/Exurb.	5	6	1
3	Alma	Rural	6	7	1
3	Alvarado	Rural	4	5	1
3	Alvord	Rural	5	7	2
3	Angus	Rural	5	5	0
3	Anna	Rural	6	7	1
3	Annetta	Rural	5	7	2
3	Annetta North	Rural	5	7	2
3	Annetta South	Rural	5	7	2
3	Argyle	Urb/Exurb.	5	5	0
3	Arlington	Urb/Exurb.	6	6	0
3	Aubrey	Rural	6	7	1
3	Aurora	Rural	5	7	2
3	Azle	Urb/Exurb.	5	5	0
3	Bailey	Rural	5	7	2
3	Balch Springs	Urb/Exurb.	5	5	0
3	Bardwell	Rural	4	4	0
3	Barry	Rural	6	7	1
3	Bartonville	Rural	4	4	0
3	Bedford	Urb/Exurb.	7	6	-1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
3	Bells	Rural	6	6	0
3	Benbrook	Urb/Exurb.	6	6	0
3	Blooming Grove	Rural	5	5	0
3	Blue Mound	Urb/Exurb.	6	5	-1
3	Blue Ridge	Rural	6	6	0
3	Bonham	Rural	5	7	2
3	Boyd	Rural	4	5	1
3	Briar	Rural	5	4	-1
3	Briaroaks	Rural	4	4	0
3	Bridgeport	Rural	4	6	2
3	Burleson	Urb/Exurb.	5	4	-1
3	Caddo Mills	Rural	6	7	1
3	Callisburg	Rural	4	5	1
3	Campbell	Rural	5	6	1
3	Carrollton	Urb/Exurb.	5	5	0
3	Cedar Hill	Urb/Exurb.	6	6	0
3	Celeste	Rural	4	4	0
3	Celina	Urb/Exurb.	4	5	1
3	Chico	Rural	5	6	1
3	Cleburne	Urb/Exurb.	4	5	1
3	Cockrell Hill	Urb/Exurb.	5	4	-1
3	Colleyville	Urb/Exurb.	5	5	0
3	Collinsville	Rural	4	4	0
3	Combine	Rural	5	5	0
3	Commerce	Rural	6	7	1
3	Cool	Rural	5	7	2
3	Coppell	Urb/Exurb.	5	5	0
3	Copper Canyon	Urb/Exurb.	6	7	1
3	Corinth	Urb/Exurb.	4	4	0
3	Corral City	Rural	4	4	0
3	Corsicana	Rural	5	6	1
3	Cottonwood	Rural	4	4	0
3	Crandall	Rural	5	5	0
3	Cross Roads	Rural	4	4	0
3	Cross Timber	Rural	6	7	1
3	Crowley	Urb/Exurb.	7	6	-1
3	Dallas	Urb/Exurb.	6	5	-1
3	Dalworthington Gardens	Urb/Exurb.	5	4	-1
3	Dawson	Rural	4	4	0
3	Decatur	Rural	4	6	2
3	Denison	Urb/Exurb.	5	5	0
3	Denton	Urb/Exurb.	6	7	1
3	DeSoto	Urb/Exurb.	5	4	-1
3	Dodd City	Rural	5	7	2
3	Dorchester	Urb/Exurb.	4	4	0
3	Double Oak	Urb/Exurb.	6	7	1
3	Dublin	Rural	5	5	0
3	Duncanville	Urb/Exurb.	7	5	-2
3	Eagle Mountain	Urb/Exurb.	6	5	-1
3	Ector	Rural	5	6	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
3	Edgecliff Village	Urb/Exurb.	7	7	0
3	Emhouse	Rural	4	4	0
3	Ennis	Rural	4	4	0
3	Eules	Urb/Exurb.	5	5	0
3	Eureka	Rural	4	4	0
3	Everman	Urb/Exurb.	7	6	-1
3	Fairview	Urb/Exurb.	6	7	1
3	Farmers Branch	Urb/Exurb.	5	4	-1
3	Farmersville	Rural	4	5	1
3	Fate	Rural	5	7	2
3	Ferris	Rural	5	5	0
3	Flower Mound	Urb/Exurb.	5	5	0
3	Forest Hill	Urb/Exurb.	5	4	-1
3	Forney	Rural	5	5	0
3	Fort Worth	Urb/Exurb.	6	5	-1
3	Frisco	Urb/Exurb.	6	6	0
3	Frost	Rural	6	6	0
3	Gainesville	Rural	4	5	1
3	Garland	Urb/Exurb.	6	5	-1
3	Garrett	Rural	6	7	1
3	Glen Rose	Rural	4	5	1
3	Glenn Heights	Urb/Exurb.	7	6	-1
3	Godley	Rural	6	7	1
3	Goodlow	Rural	4	4	0
3	Gordon	Rural	5	7	2
3	Graford	Rural	4	5	1
3	Granbury	Rural	5	7	2
3	Grand Prairie	Urb/Exurb.	6	5	-1
3	Grandview	Rural	5	6	1
3	Grapevine	Urb/Exurb.	6	5	-1
3	Grays Prairie	Rural	6	7	1
3	Greenville	Urb/Exurb.	5	5	0
3	Gunter	Rural	5	6	1
3	Hackberry	Urb/Exurb.	6	7	1
3	Haltom City	Urb/Exurb.	6	6	0
3	Haslet	Urb/Exurb.	6	5	-1
3	Hawk Cove	Rural	4	4	0
3	Heath	Urb/Exurb.	2	4	2
3	Hebron	Urb/Exurb.	4	4	0
3	Hickory Creek	Urb/Exurb.	4	4	0
3	Highland Park	Urb/Exurb.	5	4	-1
3	Highland Village	Urb/Exurb.	6	6	0
3	Honey Grove	Rural	2	4	2
3	Howe	Urb/Exurb.	5	6	1
3	Hudson Oaks	Rural	5	7	2
3	Hurst	Urb/Exurb.	7	7	0
3	Hutchins	Urb/Exurb.	6	6	0
3	Irving	Urb/Exurb.	6	5	-1
3	Italy	Rural	4	5	1
3	Josephine	Rural	6	7	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
3	Joshua	Urb/Exurb.	5	5	0
3	Justin	Rural	5	6	1
3	Kaufman	Rural	4	5	1
3	Keene	Rural	6	6	0
3	Keller	Urb/Exurb.	5	4	-1
3	Kemp	Rural	6	7	1
3	Kennedale	Urb/Exurb.	6	5	-1
3	Kerens	Rural	5	6	1
3	Knollwood	Urb/Exurb.	6	7	1
3	Krugerville	Rural	6	7	1
3	Krum	Rural	4	4	0
3	Ladonia	Rural	2	4	2
3	Lake Bridgeport	Rural	2	4	2
3	Lake Dallas	Rural	5	6	1
3	Lake Kiowa	Rural	2	4	2
3	Lake Worth	Urb/Exurb.	6	6	0
3	Lakeside (Tarrant)	Urb/Exurb.	7	6	-1
3	Lakewood Village	Rural	6	7	1
3	Lancaster	Urb/Exurb.	5	4	-1
3	Lavon	Rural	4	4	0
3	Leonard	Rural	5	6	1
3	Lewisville	Urb/Exurb.	5	6	1
3	Lincoln Park	Rural	4	5	1
3	Lindsay (Cooke)	Rural	4	5	1
3	Lipan	Rural	2	4	2
3	Little Elm	Urb/Exurb.	4	4	0
3	Lone Oak	Rural	4	4	0
3	Lowry Crossing	Urb/Exurb.	6	7	1
3	Lucas	Urb/Exurb.	6	7	1
3	Mabank	Rural	6	5	-1
3	Mansfield	Urb/Exurb.	5	4	-1
3	Marshall Creek	Rural	6	7	1
3	Maypearl	Rural	5	6	1
3	McKinney	Urb/Exurb.	5	5	0
3	McLendon-Chisholm	Rural	5	7	2
3	Melissa	Urb/Exurb.	6	6	0
3	Mesquite	Urb/Exurb.	6	5	-1
3	Midlothian	Urb/Exurb.	5	5	0
3	Mildred	Rural	6	7	1
3	Milford	Rural	4	4	0
3	Millsap	Rural	2	4	2
3	Mineral Wells	Rural	4	6	2
3	Mingus	Rural	5	7	2
3	Mobile City	Rural	2	4	2
3	Muenster	Rural	5	6	1
3	Murphy	Urb/Exurb.	6	7	1
3	Mustang	Rural	4	4	0
3	Navarro	Rural	4	4	0
3	Nevada	Rural	4	5	1
3	New Fairview	Rural	4	5	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
3	New Hope	Rural	4	4	0
3	Newark	Rural	5	7	2
3	Neylandville	Rural	4	4	0
3	North Richland Hills	Urb/Exurb.	6	6	0
3	Northlake	Urb/Exurb.	5	6	1
3	Oak Grove	Rural	6	7	1
3	Oak Leaf	Rural	6	7	1
3	Oak Point	Rural	6	6	0
3	Oak Ridge (Cooke)	Rural	5	6	1
3	Oak Ridge (Kaufman)	Rural	6	7	1
3	Oak Trail Shores	Rural	2	4	2
3	Oak Valley	Rural	5	6	1
3	Ovilla	Urb/Exurb.	6	7	1
3	Palmer	Rural	4	4	0
3	Pantego	Urb/Exurb.	5	4	-1
3	Paradise	Rural	5	7	2
3	Parker	Urb/Exurb.	4	4	0
3	Pecan Acres	Rural	5	7	2
3	Pecan Hill	Rural	5	6	1
3	Pecan Plantation	Rural	4	6	2
3	Pelican Bay	Rural	7	6	-1
3	Pilot Point	Rural	4	5	1
3	Plano	Urb/Exurb.	5	5	0
3	Ponder	Rural	5	5	0
3	Post Oak Bend City	Rural	4	5	1
3	Pottsboro	Rural	5	5	0
3	Powell	Rural	4	4	0
3	Princeton	Urb/Exurb.	5	6	1
3	Prosper	Urb/Exurb.	5	5	0
3	Quinlan	Rural	6	7	1
3	Ravenna	Rural	2	4	2
3	Red Oak	Urb/Exurb.	6	6	0
3	Rendon	Urb/Exurb.	5	4	-1
3	Reno (Parker)	Rural	5	6	1
3	Retreat	Rural	5	5	0
3	Rhome	Rural	5	6	1
3	Rice	Rural	5	6	1
3	Richardson	Urb/Exurb.	6	5	-1
3	Richland	Rural	6	7	1
3	Richland Hills	Urb/Exurb.	6	6	0
3	Rio Vista	Rural	4	5	1
3	River Oaks	Urb/Exurb.	7	6	-1
3	Roanoke	Urb/Exurb.	5	6	1
3	Rockwall	Urb/Exurb.	4	4	0
3	Rosser	Rural	6	7	1
3	Rowlett	Urb/Exurb.	6	6	0
3	Royse City	Rural	4	5	1
3	Runaway Bay	Rural	5	6	1
3	Sachse	Urb/Exurb.	5	4	-1
3	Sadler	Rural	6	7	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
3	Saginaw	Urb/Exurb.	6	6	0
3	Sanctuary	Rural	5	7	2
3	Sanger	Rural	4	4	0
3	Sansom Park	Urb/Exurb.	7	6	-1
3	Savoy	Rural	5	7	2
3	Seagoville	Urb/Exurb.	5	4	-1
3	Shady Shores	Urb/Exurb.	4	4	0
3	Sherman	Urb/Exurb.	6	6	0
3	Southlake	Urb/Exurb.	6	5	-1
3	Southmayd	Rural	5	5	0
3	Springtown	Rural	2	4	2
3	St. Paul (Collin)	Rural	4	4	0
3	Stephenville	Rural	6	7	1
3	Strawn	Rural	4	6	2
3	Sunnyvale	Urb/Exurb.	5	4	-1
3	Talty	Rural	4	4	0
3	Terrell	Rural	6	6	0
3	The Colony	Urb/Exurb.	5	5	0
3	Tioga	Rural	4	4	0
3	Tolar	Rural	2	5	3
3	Tom Bean	Rural	4	4	0
3	Trenton	Rural	2	5	3
3	Trophy Club	Urb/Exurb.	5	5	0
3	University Park	Urb/Exurb.	6	5	-1
3	Valley View	Rural	2	5	3
3	Van Alstyne	Rural	4	4	0
3	Venus	Rural	4	4	0
3	Watauga	Urb/Exurb.	6	5	-1
3	Waxahachie	Urb/Exurb.	4	4	0
3	Weatherford	Rural	4	5	1
3	West Tawakoni	Rural	6	7	1
3	Westlake	Urb/Exurb.	5	4	-1
3	Westminster	Rural	4	4	0
3	Weston	Urb/Exurb.	5	5	0
3	Westover Hills	Urb/Exurb.	5	4	-1
3	Westworth Village	Urb/Exurb.	5	5	0
3	White Settlement	Urb/Exurb.	6	5	-1
3	Whitesboro	Rural	6	6	0
3	Whitewright	Rural	6	7	1
3	Willow Park	Rural	2	4	2
3	Wilmer	Rural	5	5	0
3	Windom	Rural	2	4	2
3	Wolfe City	Rural	6	6	0
3	Wylie	Rural	4	4	0
4	Alba	Rural	6	7	1
4	Alto	Rural	5	5	0
4	Annona	Rural	5	7	2
4	Arp	Rural	5	4	-1
4	Athens	Rural	5	5	0
4	Atlanta	Rural	5	5	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
4	Avery	Rural	4	6	2
4	Avinger	Rural	6	7	1
4	Beckville	Rural	5	7	2
4	Berryville	Rural	5	5	0
4	Big Sandy	Rural	4	4	0
4	Bloomburg	Rural	4	4	0
4	Blossom	Rural	5	5	0
4	Bogata	Rural	2	4	2
4	Brownsboro	Rural	6	7	1
4	Bullard	Rural	7	6	-1
4	Caney City	Rural	6	7	1
4	Canton	Rural	5	5	0
4	Carthage	Rural	4	6	2
4	Chandler	Rural	5	5	0
4	Clarksville	Rural	4	6	2
4	Clarksville City	Rural	6	5	-1
4	Coffee City	Rural	4	4	0
4	Como	Rural	5	5	0
4	Cooper	Rural	5	7	2
4	Cumby	Rural	6	6	0
4	Cuney	Rural	5	5	0
4	Daingerfield	Rural	5	7	2
4	De Kalb	Rural	7	7	0
4	Deport	Rural	5	5	0
4	Detroit	Rural	4	5	1
4	Domino	Rural	4	4	0
4	Douglassville	Rural	4	4	0
4	East Mountain	Rural	5	5	0
4	East Tawakoni	Rural	5	7	2
4	Easton	Rural	5	4	-1
4	Edgewood	Rural	6	6	0
4	Edom	Rural	6	7	1
4	Elkhart	Rural	6	7	1
4	Emory	Rural	5	7	2
4	Enchanted Oaks	Rural	6	7	1
4	Eustace	Rural	4	4	0
4	Frankston	Rural	5	5	0
4	Fruitvale	Rural	4	5	1
4	Gallatin	Rural	5	5	0
4	Gary City	Rural	2	4	2
4	Gilmer	Rural	6	7	1
4	Gladewater	Rural	7	7	0
4	Grand Saline	Rural	4	4	0
4	Gun Barrel City	Rural	5	6	1
4	Hallsville	Rural	4	4	0
4	Hawkins	Rural	6	7	1
4	Henderson	Rural	4	4	0
4	Hooks	Rural	6	5	-1
4	Hughes Springs	Rural	5	5	0
4	Jacksonville	Rural	5	5	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
4	Jefferson	Rural	5	7	2
4	Kilgore	Rural	5	5	0
4	Lakeport	Rural	6	5	-1
4	Leary	Rural	5	4	-1
4	Liberty City	Rural	5	5	0
4	Lindale	Rural	6	6	0
4	Linden	Rural	5	5	0
4	Log Cabin	Rural	6	7	1
4	Lone Star	Rural	4	5	1
4	Longview	Urb/Exurb.	6	6	0
4	Malakoff	Rural	5	6	1
4	Marietta	Rural	4	4	0
4	Marshall	Rural	4	5	1
4	Maud	Rural	7	7	0
4	Miller's Cove	Rural	6	6	0
4	Mineola	Rural	5	6	1
4	Moore Station	Rural	6	7	1
4	Mount Enterprise	Rural	4	5	1
4	Mount Pleasant	Rural	5	5	0
4	Mount Vernon	Rural	2	4	2
4	Murchison	Rural	4	4	0
4	Naples	Rural	5	7	2
4	Nash	Urb/Exurb.	7	6	-1
4	Nesbitt	Rural	4	4	0
4	New Boston	Rural	7	7	0
4	New Chapel Hill	Rural	5	4	-1
4	New London	Rural	5	6	1
4	New Summerfield	Rural	4	5	1
4	Noonday	Rural	6	5	-1
4	Omaha	Rural	5	7	2
4	Ore City	Rural	6	7	1
4	Overton	Rural	6	7	1
4	Palestine	Rural	5	6	1
4	Paris	Rural	6	6	0
4	Payne Springs	Rural	4	4	0
4	Pecan Gap	Rural	5	6	1
4	Pittsburg	Rural	2	4	2
4	Point	Rural	5	7	2
4	Poynor	Rural	6	7	1
4	Queen City	Rural	6	7	1
4	Quitman	Rural	5	5	0
4	Red Lick	Rural	7	7	0
4	Redwater	Rural	6	6	0
4	Reklaw	Rural	4	4	0
4	Reno (Lamar)	Rural	5	4	-1
4	Rocky Mound	Rural	2	4	2
4	Roxton	Rural	6	6	0
4	Rusk	Rural	6	6	0
4	Scottsville	Rural	5	5	0
4	Seven Points	Rural	4	4	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
4	Star Harbor	Rural	4	4	0
4	Sulphur Springs	Rural	6	6	0
4	Sun Valley	Rural	5	4	-1
4	Talco	Rural	6	6	0
4	Tatum	Rural	5	6	1
4	Texarkana	Urb/Exurb.	6	5	-1
4	Tira	Rural	4	4	0
4	Toco	Rural	7	7	0
4	Tool	Rural	4	4	0
4	Trinidad	Rural	6	6	0
4	Troup	Rural	6	6	0
4	Tyler	Urb/Exurb.	6	6	0
4	Uncertain	Rural	6	6	0
4	Union Grove	Rural	4	4	0
4	Van	Rural	6	7	1
4	Wake Village	Urb/Exurb.	6	5	-1
4	Warren City	Rural	7	7	0
4	Waskom	Rural	4	5	1
4	Wells	Rural	6	6	0
4	White Oak	Urb/Exurb.	6	6	0
4	Whitehouse	Rural	5	4	-1
4	Wills Point	Rural	5	5	0
4	Winfield	Rural	5	5	0
4	Winnsboro	Rural	5	6	1
4	Winona	Rural	5	4	-1
4	Yantis	Rural	4	4	0
5	Appleby	Rural	5	6	1
5	Beaumont	Urb/Exurb.	6	6	0
5	Bevil Oaks	Rural	5	4	-1
5	Bridge City	Rural	6	6	0
5	Broadus	Rural	5	7	2
5	Browndell	Rural	2	4	2
5	Buna	Rural	2	4	2
5	Burke	Rural	6	7	1
5	Center	Rural	4	5	1
5	Central Gardens	Rural	5	4	-1
5	Chester	Rural	2	5	3
5	China	Rural	5	5	0
5	Chireno	Rural	5	5	0
5	Coldspring	Rural	4	5	1
5	Colmesneil	Rural	4	6	2
5	Corrigan	Rural	5	7	2
5	Crockett	Rural	4	5	1
5	Cushing	Rural	5	6	1
5	Deweyville	Rural	4	5	1
5	Diboll	Rural	4	5	1
5	Evadale	Rural	2	4	2
5	Garrison	Rural	4	5	1
5	Goodrich	Rural	2	4	2
5	Grapeland	Rural	5	7	2

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
5	Groves	Urb/Exurb.	6	5	-1
5	Groveton	Rural	5	6	1
5	Hemphill	Rural	2	4	2
5	Hudson	Rural	5	5	0
5	Huntington	Rural	5	6	1
5	Huxley	Rural	2	4	2
5	Jasper	Rural	4	5	1
5	Joaquin	Rural	2	4	2
5	Kennard	Rural	5	7	2
5	Kirbyville	Rural	4	6	2
5	Kountze	Rural	5	6	1
5	Latexo	Rural	2	4	2
5	Livingston	Rural	5	6	1
5	Lovelady	Rural	5	7	2
5	Lufkin	Rural	6	6	0
5	Lumberton	Rural	2	4	2
5	Mauriceville	Rural	5	5	0
5	Milam	Rural	2	4	2
5	Nacogdoches	Rural	6	7	1
5	Nederland	Urb/Exurb.	6	5	-1
5	Newton	Rural	5	7	2
5	Nome	Rural	7	6	-1
5	Oakhurst	Rural	4	5	1
5	Onalaska	Rural	5	7	2
5	Orange	Rural	6	6	0
5	Pine Forest	Rural	6	6	0
5	Pinehurst (Orange)	Rural	4	4	0
5	Pineland	Rural	5	7	2
5	Pinewood Estates	Rural	2	4	2
5	Point Blank	Rural	4	5	1
5	Port Arthur	Urb/Exurb.	5	4	-1
5	Port Neches	Urb/Exurb.	5	5	0
5	Rose City	Rural	6	6	0
5	Rose Hill Acres	Urb/Exurb.	5	7	2
5	San Augustine	Rural	4	6	2
5	Seven Oaks	Rural	2	4	2
5	Shepherd	Rural	2	5	3
5	Silsbee	Rural	4	6	2
5	Sour Lake	Rural	2	4	2
5	South Toledo Bend	Rural	2	4	2
5	Tenaha	Rural	4	6	2
5	Timpson	Rural	5	7	2
5	Trinity	Rural	4	6	2
5	Vidor	Rural	4	5	1
5	West Livingston	Rural	4	6	2
5	West Orange	Rural	5	5	0
5	Woodville	Rural	5	7	2
5	Zavalla	Rural	6	7	1
6	Aldine	Urb/Exurb.	5	4	-1
6	Alvin	Urb/Exurb.	5	6	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
6	Ames	Rural	4	5	1
6	Anahuac	Rural	5	6	1
6	Angleton	Rural	6	6	0
6	Arcola	Rural	5	6	1
6	Atascocita	Urb/Exurb.	6	6	0
6	Bacliff	Urb/Exurb.	6	7	1
6	Bailey's Prairie	Rural	4	4	0
6	Barrett	Rural	7	7	0
6	Bay City	Rural	4	6	2
6	Bayou Vista	Rural	5	5	0
6	Baytown	Urb/Exurb.	5	4	-1
6	Beach City	Urb/Exurb.	4	5	1
6	Beasley	Rural	5	5	0
6	Bellaire	Urb/Exurb.	5	5	0
6	Bellville	Rural	2	4	2
6	Blessing	Rural	2	4	2
6	Boling-Iago	Rural	2	4	2
6	Bolivar Peninsula	Rural	6	7	1
6	Bonney	Rural	4	4	0
6	Brazoria	Rural	5	6	1
6	Brookshire	Rural	5	7	2
6	Brookside Village	Urb/Exurb.	5	5	0
6	Bunker Hill Village	Urb/Exurb.	7	7	0
6	Channelview	Urb/Exurb.	7	6	-1
6	Cinco Ranch	Urb/Exurb.	6	6	0
6	Clear Lake Shores	Urb/Exurb.	5	5	0
6	Cleveland	Rural	5	7	2
6	Cloverleaf	Urb/Exurb.	7	7	0
6	Clute	Urb/Exurb.	5	5	0
6	Columbus	Rural	2	5	3
6	Conroe	Urb/Exurb.	5	4	-1
6	Cove	Rural	5	7	2
6	Crosby	Rural	6	5	-1
6	Cumings	Urb/Exurb.	4	4	0
6	Cut and Shoot	Urb/Exurb.	6	7	1
6	Daisetta	Rural	4	6	2
6	Damon	Rural	6	7	1
6	Danbury	Rural	6	7	1
6	Dayton	Rural	5	6	1
6	Dayton Lakes	Rural	2	4	2
6	Deer Park	Urb/Exurb.	6	6	0
6	Devers	Rural	5	7	2
6	Dickinson	Urb/Exurb.	6	7	1
6	Eagle Lake	Rural	4	6	2
6	East Bernard	Rural	4	5	1
6	El Campo	Rural	4	5	1
6	El Lago	Urb/Exurb.	6	5	-1
6	Fairchilds	Rural	4	5	1
6	Fifth Street	Urb/Exurb.	5	5	0
6	Four Corners	Urb/Exurb.	5	6	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
6	Freeport	Urb/Exurb.	6	6	0
6	Fresno	Urb/Exurb.	6	6	0
6	Friendswood	Urb/Exurb.	6	6	0
6	Fulshear	Rural	6	7	1
6	Galena Park	Urb/Exurb.	6	5	-1
6	Galveston	Urb/Exurb.	6	7	1
6	Greatwood	Urb/Exurb.	6	6	0
6	Hardin	Rural	2	4	2
6	Hedwig Village	Urb/Exurb.	6	6	0
6	Hempstead	Rural	4	4	0
6	Highlands	Urb/Exurb.	6	5	-1
6	Hillcrest	Urb/Exurb.	6	7	1
6	Hilshire Village	Urb/Exurb.	7	7	0
6	Hitchcock	Urb/Exurb.	4	4	0
6	Holiday Lakes	Rural	6	7	1
6	Houston	Urb/Exurb.	6	5	-1
6	Humble	Urb/Exurb.	6	4	-2
6	Hungerford	Rural	2	4	2
6	Hunters Creek Village	Urb/Exurb.	5	4	-1
6	Huntsville	Rural	6	7	1
6	Industry	Rural	2	4	2
6	Iowa Colony	Urb/Exurb.	6	6	0
6	Jacinto City	Urb/Exurb.	5	4	-1
6	Jamaica Beach	Urb/Exurb.	6	7	1
6	Jersey Village	Urb/Exurb.	5	4	-1
6	Jones Creek	Rural	5	5	0
6	Katy	Urb/Exurb.	5	4	-1
6	Kemah	Urb/Exurb.	6	7	1
6	Kendleton	Rural	5	5	0
6	Kenefick	Rural	4	5	1
6	La Marque	Urb/Exurb.	6	6	0
6	La Porte	Urb/Exurb.	5	4	-1
6	Lake Jackson	Urb/Exurb.	5	6	1
6	League City	Urb/Exurb.	4	4	0
6	Liberty	Rural	5	7	2
6	Liverpool	Rural	6	7	1
6	Louise	Rural	2	5	3
6	Magnolia	Rural	6	7	1
6	Manvel	Urb/Exurb.	4	4	0
6	Markham	Rural	2	4	2
6	Meadows Place	Urb/Exurb.	4	4	0
6	Mission Bend	Urb/Exurb.	5	6	1
6	Missouri City	Urb/Exurb.	5	6	1
6	Mont Belvieu	Rural	4	5	1
6	Montgomery	Rural	6	7	1
6	Morgan's Point	Urb/Exurb.	6	6	0
6	Nassau Bay	Urb/Exurb.	7	7	0
6	Needville	Rural	4	4	0
6	New Territory	Urb/Exurb.	4	5	1
6	New Waverly	Rural	6	7	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
6	North Cleveland	Rural	2	4	2
6	Oak Ridge North	Urb/Exurb.	5	6	1
6	Old River-Winfree	Rural	5	7	2
6	Orchard	Rural	4	4	0
6	Oyster Creek	Rural	5	5	0
6	Palacios	Rural	2	5	3
6	Panorama Village	Urb/Exurb.	5	6	1
6	Pasadena	Urb/Exurb.	6	6	0
6	Pattison	Rural	4	5	1
6	Patton Village	Rural	6	6	0
6	Pearland	Urb/Exurb.	5	5	0
6	Pecan Grove	Rural	5	5	0
6	Pine Island	Rural	4	5	1
6	Pinehurst (Montgomery)	Rural	5	5	0
6	Piney Point Village	Urb/Exurb.	5	5	0
6	Pleak	Rural	6	7	1
6	Plum Grove	Rural	2	4	2
6	Porter Heights	Rural	4	4	0
6	Prairie View	Rural	2	4	2
6	Quintana	Rural	4	4	0
6	Richmond	Urb/Exurb.	6	6	0
6	Richwood	Urb/Exurb.	5	5	0
6	Riverside	Rural	6	7	1
6	Roman Forest	Rural	4	5	1
6	Rosenberg	Urb/Exurb.	5	5	0
6	San Felipe	Rural	5	7	2
6	San Leon	Urb/Exurb.	6	7	1
6	Santa Fe	Urb/Exurb.	5	5	0
6	Seabrook	Urb/Exurb.	5	5	0
6	Sealy	Rural	2	4	2
6	Sheldon	Rural	5	4	-1
6	Shenandoah	Urb/Exurb.	6	7	1
6	Shoreacres	Urb/Exurb.	7	7	0
6	Sienna Plantation	Urb/Exurb.	5	5	0
6	Simonton	Rural	6	7	1
6	South Houston	Urb/Exurb.	5	5	0
6	Southside Place	Urb/Exurb.	7	7	0
6	Splendora	Rural	6	7	1
6	Spring	Urb/Exurb.	5	5	0
6	Spring Valley	Urb/Exurb.	5	5	0
6	Stafford	Urb/Exurb.	5	6	1
6	Stagecoach	Rural	4	4	0
6	Stowell	Rural	2	5	3
6	Sugar Land	Urb/Exurb.	5	6	1
6	Surfside Beach	Rural	5	5	0
6	Sweeny	Rural	5	5	0
6	Taylor Lake Village	Urb/Exurb.	5	4	-1
6	Texas City	Urb/Exurb.	6	7	1
6	The Woodlands	Urb/Exurb.	4	5	1
6	Thompsons	Urb/Exurb.	4	5	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
6	Tiki Island	Urb/Exurb.	4	4	0
6	Tomball	Rural	7	6	-1
6	Van Vleck	Rural	2	4	2
6	Waller	Rural	4	5	1
6	Wallis	Rural	2	4	2
6	Webster	Urb/Exurb.	5	4	-1
6	Weimar	Rural	4	6	2
6	West Columbia	Rural	6	7	1
6	West University Place	Urb/Exurb.	5	4	-1
6	Wharton	Rural	4	6	2
6	Wild Peach Village	Rural	4	4	0
6	Willis	Rural	4	4	0
6	Winnie	Rural	2	5	3
6	Woodbranch	Rural	4	5	1
6	Woodloch	Rural	6	7	1
7	Anderson Mill	Urb/Exurb.	6	6	0
7	Austin	Urb/Exurb.	7	6	-1
7	Bartlett	Rural	6	7	1
7	Barton Creek	Urb/Exurb.	7	7	0
7	Bastrop	Rural	4	4	0
7	Bear Creek	Rural	4	4	0
7	Bee Cave	Rural	6	5	-1
7	Bertram	Rural	4	5	1
7	Blanco	Rural	5	6	1
7	Briarcliff	Rural	5	5	0
7	Brushy Creek	Urb/Exurb.	5	5	0
7	Buchanan Dam	Rural	4	6	2
7	Buda	Urb/Exurb.	4	5	1
7	Burnet	Rural	4	5	1
7	Camp Swift	Rural	2	4	2
7	Carmine	Rural	5	7	2
7	Cedar Park	Urb/Exurb.	4	4	0
7	Circle D-KC Estates	Rural	2	4	2
7	Cottonwood Shores	Rural	5	7	2
7	Creedmoor	Rural	5	4	-1
7	Dripping Springs	Rural	4	4	0
7	Elgin	Rural	4	5	1
7	Fayetteville	Rural	2	5	3
7	Flatonina	Rural	4	6	2
7	Florence	Rural	6	7	1
7	Garfield	Rural	5	5	0
7	Georgetown	Urb/Exurb.	5	4	-1
7	Giddings	Rural	2	4	2
7	Granger	Rural	6	6	0
7	Granite Shoals	Rural	5	6	1
7	Hays	Rural	4	4	0
7	Highland Haven	Rural	5	7	2
7	Horseshoe Bay	Rural	2	5	3
7	Hudson Bend	Urb/Exurb.	6	6	0
7	Hutto	Rural	5	6	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
7	Johnson City	Rural	2	4	2
7	Jollyville	Urb/Exurb.	5	6	1
7	Jonestown	Rural	7	7	0
7	Kingsland	Rural	2	4	2
7	Kyle	Rural	4	4	0
7	La Grange	Rural	4	6	2
7	Lago Vista	Rural	7	7	0
7	Lakeway	Rural	6	5	-1
7	Leander	Urb/Exurb.	6	7	1
7	Lexington	Rural	4	5	1
7	Liberty Hill	Rural	4	4	0
7	Llano	Rural	4	5	1
7	Lockhart	Rural	4	6	2
7	Lost Creek	Urb/Exurb.	5	5	0
7	Luling	Rural	4	5	1
7	Manor	Urb/Exurb.	5	4	-1
7	Marble Falls	Rural	4	5	1
7	Martindale	Rural	5	6	1
7	Meadowlakes	Rural	5	7	2
7	Mountain City	Rural	6	7	1
7	Mustang Ridge	Rural	2	4	2
7	Niederwald	Rural	5	5	0
7	Onion Creek	Urb/Exurb.	5	5	0
7	Pflugerville	Urb/Exurb.	5	4	-1
7	Rollingwood	Urb/Exurb.	7	7	0
7	Round Mountain	Rural	2	4	2
7	Round Rock	Urb/Exurb.	5	6	1
7	Round Top	Rural	2	4	2
7	San Leanna	Urb/Exurb.	7	7	0
7	San Marcos	Urb/Exurb.	6	7	1
7	Schulenburg	Rural	5	6	1
7	Serenada	Urb/Exurb.	6	7	1
7	Shady Hollow	Urb/Exurb.	6	5	-1
7	Smithville	Rural	5	7	2
7	Sunrise Beach Village	Rural	5	7	2
7	Sunset Valley	Urb/Exurb.	7	6	-1
7	Taylor	Rural	5	6	1
7	The Hills	Rural	5	4	-1
7	Thrall	Rural	5	6	1
7	Uhland	Rural	6	7	1
7	Weir	Rural	5	5	0
7	Wells Branch	Urb/Exurb.	6	6	0
7	West Lake Hills	Urb/Exurb.	5	4	-1
7	Wimberley	Rural	5	6	1
7	Windemere	Urb/Exurb.	6	6	0
7	Woodcreek	Rural	6	6	0
7	Wylidwood	Rural	2	4	2
8	Abbott	Rural	5	5	0
8	Anderson	Rural	4	4	0
8	Aquilla	Rural	6	7	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
8	Bellmead	Urb/Exurb.	6	5	-1
8	Belton	Urb/Exurb.	6	5	-1
8	Beverly Hills	Urb/Exurb.	7	6	-1
8	Blum	Rural	6	7	1
8	Bremond	Rural	4	5	1
8	Brenham	Rural	5	5	0
8	Bruceville-Eddy	Rural	6	6	0
8	Bryan	Urb/Exurb.	7	7	0
8	Buckholts	Rural	6	7	1
8	Buffalo	Rural	5	7	2
8	Burton	Rural	5	5	0
8	Bynum	Rural	6	7	1
8	Caldwell	Rural	4	5	1
8	Calvert	Rural	4	4	0
8	Cameron	Rural	4	4	0
8	Carl's Corner	Rural	6	7	1
8	Centerville	Rural	4	6	2
8	Clifton	Rural	2	4	2
8	College Station	Urb/Exurb.	7	7	0
8	Coolidge	Rural	5	6	1
8	Copperas Cove	Urb/Exurb.	5	5	0
8	Covington	Rural	4	4	0
8	Cranfills Gap	Rural	4	5	1
8	Crawford	Rural	5	5	0
8	Evant	Rural	6	7	1
8	Fairfield	Rural	5	6	1
8	Fort Hood	Urb/Exurb.	5	4	-1
8	Franklin	Rural	5	5	0
8	Gatesville	Rural	6	4	-2
8	Gholson	Rural	5	4	-1
8	Goldthwaite	Rural	4	6	2
8	Golinda	Rural	6	6	0
8	Groesbeck	Rural	5	5	0
8	Hallsburg	Rural	7	6	-1
8	Hamilton	Rural	2	4	2
8	Harker Heights	Urb/Exurb.	6	5	-1
8	Hearne	Rural	6	6	0
8	Hewitt	Urb/Exurb.	5	5	0
8	Hico	Rural	4	5	1
8	Hillsboro	Rural	6	6	0
8	Holland	Rural	6	5	-1
8	Hubbard	Rural	4	4	0
8	Iredell	Rural	4	5	1
8	Itasca	Rural	4	4	0
8	Jewett	Rural	5	7	2
8	Kempner	Rural	6	6	0
8	Killeen	Urb/Exurb.	6	5	-1
8	Kirvin	Rural	4	4	0
8	Kosse	Rural	6	7	1
8	Lacy-Lakeview	Urb/Exurb.	6	6	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
8	Lampasas	Rural	5	5	0
8	Leona	Rural	5	7	2
8	Leroy	Rural	5	4	-1
8	Little River-Academy	Rural	7	7	0
8	Lometa	Rural	5	5	0
8	Lorena	Rural	5	4	-1
8	Lott	Rural	5	6	1
8	Madisonville	Rural	2	5	3
8	Malone	Rural	4	4	0
8	Marlin	Rural	5	6	1
8	Marquez	Rural	4	6	2
8	Mart	Rural	7	7	0
8	McGregor	Urb/Exurb.	7	6	-1
8	Meridian	Rural	2	4	2
8	Mertens	Rural	6	7	1
8	Mexia	Rural	6	7	1
8	Midway	Rural	2	4	2
8	Milano	Rural	4	5	1
8	Millican	Rural	5	4	-1
8	Moody	Rural	7	7	0
8	Morgan	Rural	2	4	2
8	Morgan's Point Resort	Rural	6	5	-1
8	Mount Calm	Rural	5	5	0
8	Mullin	Rural	5	6	1
8	Navasota	Rural	6	6	0
8	Nolanville	Rural	7	6	-1
8	Normangee	Rural	2	4	2
8	Oakwood	Rural	4	5	1
8	Oglesby	Rural	6	7	1
8	Penelope	Rural	6	7	1
8	Richland Springs	Rural	2	4	2
8	Riesel	Rural	7	7	0
8	Robinson	Urb/Exurb.	5	5	0
8	Rockdale	Rural	5	6	1
8	Rogers	Rural	6	5	-1
8	Rosebud	Rural	5	5	0
8	Ross	Rural	5	4	-1
8	Salado	Rural	5	4	-1
8	San Saba	Rural	4	5	1
8	Snook	Rural	5	7	2
8	Somerville	Rural	5	6	1
8	South Mountain	Rural	4	5	1
8	Streetman	Rural	4	4	0
8	Teague	Rural	4	5	1
8	Tehuacana	Rural	4	5	1
8	Temple	Urb/Exurb.	6	5	-1
8	Thorndale	Rural	6	6	0
8	Thornton	Rural	5	5	0
8	Todd Mission	Rural	4	4	0
8	Troy	Rural	7	6	-1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
8	Valley Mills	Rural	2	4	2
8	Waco	Urb/Exurb.	7	7	0
8	Walnut Springs	Rural	2	4	2
8	West	Rural	6	5	-1
8	Whitney	Rural	6	7	1
8	Wixon Valley	Rural	7	7	0
8	Woodway	Urb/Exurb.	5	4	-1
8	Wortham	Rural	6	7	1
9	Alamo Heights	Urb/Exurb.	6	5	-1
9	Balcones Heights	Urb/Exurb.	7	7	0
9	Bandera	Rural	2	4	2
9	Bigfoot	Rural	2	4	2
9	Boerne	Rural	4	6	2
9	Bulverde	Rural	4	4	0
9	Canyon Lake	Rural	5	5	0
9	Castle Hills	Urb/Exurb.	7	7	0
9	Castroville	Rural	5	6	1
9	Charlotte	Rural	4	4	0
9	China Grove	Rural	5	4	-1
9	Christine	Rural	4	4	0
9	Cibolo	Rural	6	7	1
9	Comfort	Rural	2	5	3
9	Converse	Urb/Exurb.	6	6	0
9	Cross Mountain	Urb/Exurb.	5	4	-1
9	Devine	Rural	6	6	0
9	Dilley	Rural	5	7	2
9	Elmendorf	Rural	6	5	-1
9	Fair Oaks Ranch	Urb/Exurb.	6	5	-1
9	Falls City	Rural	2	5	3
9	Floresville	Rural	4	4	0
9	Fredericksburg	Rural	2	4	2
9	Garden Ridge	Rural	6	7	1
9	Geronimo	Urb/Exurb.	4	4	0
9	Grey Forest	Rural	5	5	0
9	Harper	Rural	4	5	1
9	Helotes	Urb/Exurb.	6	5	-1
9	Hill Country Village	Urb/Exurb.	5	4	-1
9	Hilltop	Rural	2	4	2
9	Hollywood Park	Urb/Exurb.	7	7	0
9	Hondo	Rural	4	4	0
9	Ingram	Rural	6	7	1
9	Jourdanton	Rural	6	7	1
9	Karnes City	Rural	4	6	2
9	Kenedy	Rural	4	5	1
9	Kerrville	Rural	6	7	1
9	Kingsbury	Rural	4	4	0
9	Kirby	Urb/Exurb.	7	6	-1
9	La Vernia	Rural	5	7	2
9	Lackland AFB	Urb/Exurb.	5	4	-1
9	LaCoste	Rural	5	6	1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
9	Lakehills	Rural	5	7	2
9	Leon Valley	Urb/Exurb.	6	5	-1
9	Live Oak	Urb/Exurb.	6	5	-1
9	Lytle	Rural	4	4	0
9	Marion	Rural	5	6	1
9	McQueeney	Urb/Exurb.	5	5	0
9	Moore	Rural	2	5	3
9	Natalia	Rural	6	7	1
9	New Berlin	Rural	4	4	0
9	New Braunfels	Urb/Exurb.	6	6	0
9	North Pearsall	Rural	2	5	3
9	Northcliff	Rural	5	5	0
9	Olmos Park	Urb/Exurb.	5	5	0
9	Pearsall	Rural	2	5	3
9	Pleasanton	Rural	6	7	1
9	Poteet	Rural	6	5	-1
9	Poth	Rural	4	5	1
9	Redwood	Rural	5	6	1
9	Runge	Rural	5	7	2
9	San Antonio	Urb/Exurb.	6	6	0
9	Santa Clara	Rural	6	7	1
9	Scenic Oaks	Urb/Exurb.	5	4	-1
9	Schertz	Urb/Exurb.	5	6	1
9	Seguin	Urb/Exurb.	5	6	1
9	Selma	Urb/Exurb.	7	7	0
9	Shavano Park	Urb/Exurb.	5	4	-1
9	Somerset	Rural	7	7	0
9	St. Hedwig	Rural	7	6	-1
9	Stockdale	Rural	5	6	1
9	Stonewall	Rural	4	6	2
9	Terrell Hills	Urb/Exurb.	6	5	-1
9	Timberwood Park	Urb/Exurb.	5	4	-1
9	Universal City	Rural	7	6	-1
9	West Pearsall	Rural	5	7	2
9	Windcrest	Urb/Exurb.	7	7	0
9	Zuehl	Rural	4	4	0
10	Agua Dulce (Nueces)	Rural	7	6	-1
10	Airport Road Addition	Rural	2	4	2
10	Alfred-South La Paloma	Rural	2	4	2
10	Alice	Rural	4	5	1
10	Alice Acres	Rural	2	4	2
10	Aransas Pass	Rural	5	5	0
10	Austwell	Rural	5	7	2
10	Bayside	Rural	5	7	2
10	Beeville	Rural	4	6	2
10	Benavides	Rural	5	6	1
10	Bishop	Rural	7	6	-1
10	Bloomington	Rural	6	7	1
10	Blue Berry Hill	Rural	2	4	2
10	Cantu Addition	Rural	2	4	2

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
10	Concepcion	Rural	2	4	2
10	Corpus Christi	Urb/Exurb.	7	6	-1
10	Coyote Acres	Rural	2	4	2
10	Cuero	Rural	5	7	2
10	Del Sol-Loma Linda	Rural	4	4	0
10	Doyle	Rural (USDA)	4	4	0
10	Driscoll	Rural	7	7	0
10	Edgewater-Paisano	Rural	6	7	1
10	Edna	Rural	4	6	2
10	Edroy	Rural	4	4	0
10	Encino	Rural	2	4	2
10	Falfurrias	Rural	5	7	2
10	Falman-County Acres	Rural	6	7	1
10	Flowella	Rural	2	4	2
10	Freer	Rural	4	5	1
10	Fulton	Rural	4	6	2
10	Ganado	Rural	4	5	1
10	George West	Rural	2	5	3
10	Goliad	Rural	2	5	3
10	Gonzales	Rural	4	6	2
10	Gregory	Rural	5	5	0
10	Hallettsville	Rural	4	6	2
10	Inez	Rural	5	5	0
10	Ingleside	Urb/Exurb.	5	5	0
10	Ingleside on the Bay	Urb/Exurb.	6	7	1
10	K-Bar Ranch	Rural	5	7	2
10	Kingsville	Rural	6	7	1
10	La Paloma-Lost Creek	Rural	7	7	0
10	La Ward	Rural	5	7	2
10	Lake City	Rural	5	5	0
10	Lakeshore Gardens-Hidden Acres	Rural	4	4	0
10	Lakeside (San Patricio)	Rural	4	4	0
10	Lolita	Rural	2	4	2
10	Loma Linda East	Rural	2	4	2
10	Mathis	Rural	6	7	1
10	Morgan Farm Area	Rural	6	7	1
10	Moulton	Rural	4	5	1
10	Nixon	Rural	5	6	1
10	Nordheim	Rural	4	5	1
10	Normanna	Rural	2	4	2
10	North San Pedro	Rural	6	5	-1
10	Odem	Rural	5	6	1
10	Orange Grove	Rural	5	7	2
10	Owl Ranch-Amargosa	Rural	5	7	2
10	Pawnee	Rural	2	4	2
10	Pernitas Point	Rural	5	7	2
10	Petronila	Rural	5	4	-1
10	Pettus	Rural	4	5	1
10	Point Comfort	Rural	4	6	2
10	Port Aransas	Urb/Exurb.	7	7	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
10	Port Lavaca	Rural	4	6	2
10	Portland	Urb/Exurb.	5	6	1
10	Premont	Rural	5	6	1
10	Rancho Alegre	Rural	5	6	1
10	Rancho Banquete	Rural	5	4	-1
10	Rancho Chico	Rural	6	7	1
10	Realitos	Rural	2	4	2
10	Refugio	Rural	2	5	3
10	Robstown	Rural	5	5	0
10	Rockport	Rural	4	5	1
10	San Diego	Rural	4	6	2
10	San Patricio	Rural	6	7	1
10	Sandia	Rural	2	4	2
10	Sandy Hollow-Escondidas	Rural	6	5	-1
10	Seadrift	Rural	5	6	1
10	Shiner	Rural	4	6	2
10	Sinton	Rural	6	6	0
10	Skidmore	Rural	5	7	2
10	Smiley	Rural	5	6	1
10	Spring Garden-Terra Verde	Rural	5	4	-1
10	St. Paul (San Patricio)	Rural	4	4	0
10	Taft	Rural	6	6	0
10	Taft Southwest	Rural	4	5	1
10	Three Rivers	Rural	4	6	2
10	Tierra Grande	Rural	6	5	-1
10	Tradewinds	Rural	4	4	0
10	Tuleta	Rural	2	4	2
10	Tulsita	Rural	2	4	2
10	Tynan	Rural	4	6	2
10	Vanderbilt	Rural	2	4	2
10	Victoria	Urb/Exurb.	5	6	1
10	Waelder	Rural	4	5	1
10	Westdale	Rural	2	4	2
10	Woodsboro	Rural	5	6	1
10	Yoakum	Rural	5	7	2
10	Yorktown	Rural	4	6	2
11	Abram-Perezville	Rural	7	7	0
11	Alamo	Urb/Exurb.	5	4	-1
11	Alto Bonito	Rural	4	4	0
11	Alton	Rural	6	4	-2
11	Alton North	Rural	7	6	-1
11	Arroyo Alto	Rural	5	4	-1
11	Arroyo Colorado Estates	Rural	7	7	0
11	Arroyo Gardens-La Tina Ranch	Rural	5	4	-1
11	Asherton	Rural	6	7	1
11	Batesville	Rural	5	6	1
11	Bausell and Ellis	Rural	2	4	2
11	Bayview	Rural	7	7	0
11	Big Wells	Rural	6	7	1
11	Bixby	Rural	5	4	-1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
11	Bluetown-Iglesia Antigua	Rural	6	6	0
11	Botlines	Rural	7	7	0
11	Box Canyon-Amistad	Rural	4	4	0
11	Bracketville	Rural	5	7	2
11	Brownsville	Urb/Exurb.	6	6	0
11	Brundage	Rural	4	4	0
11	Bruni	Rural	5	4	-1
11	Cameron Park	Urb/Exurb.	6	5	-1
11	Camp Wood	Rural	5	7	2
11	Carrizo Hill	Rural	6	7	1
11	Carrizo Springs	Rural	6	7	1
11	Catarina	Rural	4	4	0
11	Cesar Chavez	Urb/Exurb.	7	6	-1
11	Chula Vista-Orason	Rural	7	7	0
11	Chula Vista-River Spur	Rural	4	4	0
11	Cienegas Terrace	Rural	6	7	1
11	Citrus City	Rural	5	4	-1
11	Combes	Urb/Exurb.	6	6	0
11	Cotulla	Rural	2	4	2
11	Crystal City	Rural	5	6	1
11	Cuevitas	Rural	5	4	-1
11	Del Mar Heights	Rural	5	4	-1
11	Del Rio	Rural	5	6	1
11	Doffing	Rural	7	6	-1
11	Donna	Rural	5	4	-1
11	Doolittle	Urb/Exurb.	6	5	-1
11	Eagle Pass	Rural	6	7	1
11	Edcouch	Rural	6	4	-2
11	Edinburg	Urb/Exurb.	6	6	0
11	Eidson Road	Rural	5	5	0
11	El Camino Angosto	Urb/Exurb.	5	4	-1
11	El Cenizo	Rural	6	5	-1
11	El Indio	Rural	6	7	1
11	El Refugio	Rural	6	7	1
11	Elm Creek	Rural	4	4	0
11	Elsa	Rural	7	7	0
11	Encantada-Ranchito El Calaboz	Rural	5	4	-1
11	Encinal	Rural	5	7	2
11	Escobares	Rural	6	6	0
11	Falcon Heights	Rural	4	4	0
11	Falcon Lake Estates	Rural	5	6	1
11	Falcon Mesa	Rural	4	4	0
11	Falcon Village	Rural	6	7	1
11	Faysville	Urb/Exurb.	7	7	0
11	Fowlerton	Rural	2	4	2
11	Fronton	Rural	4	4	0
11	Garceno	Rural	6	7	1
11	Grand Acres	Rural	5	4	-1
11	Granjeno	Urb/Exurb.	5	4	-1
11	Green Valley Farms	Rural	5	4	-1

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
11	Guerra	Rural	2	4	2
11	Harlingen	Urb/Exurb.	7	6	-1
11	Havana	Rural	6	6	0
11	Hebbronville	Rural	5	6	1
11	Heidelberg	Rural	7	7	0
11	Hidalgo	Rural	6	6	0
11	Indian Hills	Rural	6	5	-1
11	Indian Lake	Rural	7	7	0
11	Knippa	Rural	5	5	0
11	La Blanca	Rural	7	7	0
11	La Casita-Garciasville	Rural	5	5	0
11	La Feria	Rural	7	7	0
11	La Feria North	Rural	7	7	0
11	La Grulla	Rural	5	5	0
11	La Homa	Urb/Exurb.	6	6	0
11	La Joya	Rural	7	7	0
11	La Paloma	Rural	7	7	0
11	La Presa	Rural	5	4	-1
11	La Pryor	Rural	6	6	0
11	La Puerta	Rural	4	4	0
11	La Rosita	Rural	5	6	1
11	La Victoria	Rural	4	4	0
11	La Villa	Rural	5	4	-1
11	Lago	Rural	7	7	0
11	Laguna Heights	Rural	6	5	-1
11	Laguna Seca	Rural	5	4	-1
11	Laguna Vista	Rural	5	4	-1
11	Lake View	Rural	4	4	0
11	Laredo	Urb/Exurb.	7	6	-1
11	Laredo Ranchettes	Rural	5	4	-1
11	Larga Vista	Urb/Exurb.	7	7	0
11	Las Colonias	Rural	6	7	1
11	Las Lomas	Rural	6	7	1
11	Las Lomitas	Rural	2	4	2
11	Las Palmas-Juarez	Rural	6	5	-1
11	Las Quintas Fronterizas	Rural	5	5	0
11	Lasana	Urb/Exurb.	5	4	-1
11	Lasara	Rural	4	5	1
11	Laughlin AFB	Rural	5	5	0
11	Laureles	Rural	6	6	0
11	Leakey	Rural	5	7	2
11	Llano Grande	Urb/Exurb.	7	6	-1
11	Lopeno	Rural	4	4	0
11	Lopezville	Urb/Exurb.	6	5	-1
11	Los Alvarez	Rural	5	5	0
11	Los Angeles Subdivision	Rural	5	7	2
11	Los Ebanos	Rural	6	6	0
11	Los Fresnos	Rural	6	5	-1
11	Los Indios	Rural	5	4	-1
11	Los Villareales	Rural	4	4	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
11	Lozano	Rural	5	4	-1
11	Lyford	Rural	4	6	2
11	Lyford South	Rural	5	7	2
11	McAllen	Urb/Exurb.	7	6	-1
11	Medina	Rural	5	5	0
11	Mercedes	Rural	6	6	0
11	Midway North	Urb/Exurb.	5	4	-1
11	Midway South	Urb/Exurb.	6	6	0
11	Mila Doce	Rural	6	5	-1
11	Mirando City	Rural	7	7	0
11	Mission	Urb/Exurb.	6	5	-1
11	Monte Alto	Rural	6	6	0
11	Morales-Sanchez	Rural	4	4	0
11	Muniz	Rural	7	7	0
11	New Falcon	Rural	4	4	0
11	North Alamo	Urb/Exurb.	6	5	-1
11	North Escobares	Rural	6	7	1
11	Nurillo	Urb/Exurb.	6	6	0
11	Oilton	Rural	5	4	-1
11	Olivarez	Rural	6	6	0
11	Olmito	Urb/Exurb.	7	6	-1
11	Palm Valley	Urb/Exurb.	6	5	-1
11	Palmhurst	Urb/Exurb.	6	6	0
11	Palmview	Urb/Exurb.	6	6	0
11	Palmview South	Urb/Exurb.	6	6	0
11	Penitas	Rural	7	6	-1
11	Pharr	Urb/Exurb.	6	5	-1
11	Port Isabel	Rural	6	6	0
11	Port Mansfield	Rural	4	6	2
11	Primera	Urb/Exurb.	6	6	0
11	Progreso	Rural	7	6	-1
11	Progreso Lakes	Rural	5	4	-1
11	Quemado	Rural	4	4	0
11	Radar Base	Rural	4	4	0
11	Ranchette Estates	Rural	2	4	2
11	Ranchitos Las Lomas	Rural	5	4	-1
11	Rancho Viejo	Urb/Exurb.	6	6	0
11	Ranchos Penitas West	Urb/Exurb.	5	4	-1
11	Rangerville	Rural	5	4	-1
11	Ratamosa	Rural	5	4	-1
11	Raymondville	Rural	4	5	1
11	Reid Hope King	Urb/Exurb.	7	7	0
11	Relampago	Rural	5	4	-1
11	Rio Bravo	Urb/Exurb.	6	5	-1
11	Rio Grande City	Rural	5	5	0
11	Rio Hondo	Rural	6	6	0
11	Rocksprings	Rural	4	6	2
11	Roma	Rural	6	7	1
11	Roma Creek	Rural	4	4	0
11	Rosita North	Rural	5	5	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
11	Rosita South	Rural	5	6	1
11	Sabinal	Rural	6	7	1
11	Salineno	Rural	4	4	0
11	San Benito	Urb/Exurb.	7	6	-1
11	San Carlos	Rural	7	7	0
11	San Ignacio	Rural	4	4	0
11	San Isidro	Rural	5	6	1
11	San Juan	Urb/Exurb.	6	6	0
11	San Manuel-Linn	Rural	5	4	-1
11	San Pedro	Rural	5	4	-1
11	San Perlita	Rural	5	7	2
11	Santa Cruz	Rural	6	7	1
11	Santa Maria	Rural	6	5	-1
11	Santa Monica	Rural	2	4	2
11	Santa Rosa	Rural	5	4	-1
11	Scissors	Rural	5	4	-1
11	Sebastian	Rural	2	4	2
11	Siesta Shores	Rural	4	4	0
11	Solis	Rural	7	7	0
11	South Alamo	Rural	6	6	0
11	South Fork Estates	Rural	2	4	2
11	South Padre Island	Rural	7	7	0
11	South Point	Rural	7	7	0
11	Spofford	Rural	2	4	2
11	Sullivan City	Rural	6	6	0
11	Tierra Bonita	Rural	5	4	-1
11	Utopia	Rural	5	6	1
11	Uvalde	Rural	6	7	1
11	Uvalde Estates	Rural	6	6	0
11	Val Verde Park	Rural	5	6	1
11	Villa del Sol	Rural	5	4	-1
11	Villa Pancho	Urb/Exurb.	7	7	0
11	Villa Verde	Urb/Exurb.	5	4	-1
11	Weslaco	Urb/Exurb.	6	5	-1
11	West Sharyland	Rural	6	5	-1
11	Willamar	Rural	2	4	2
11	Yznaga	Rural	5	4	-1
11	Zapata	Rural	6	5	-1
11	Zapata Ranch	Rural	2	4	2
12	Ackerly	Rural	5	5	0
12	Andrews	Rural	5	6	1
12	Balmorea	Rural	4	4	0
12	Barstow	Rural	6	7	1
12	Big Lake	Rural	4	6	2
12	Big Spring	Rural	6	6	0
12	Brady	Rural	5	5	0
12	Bronte	Rural	6	7	1
12	Christoval	Rural	7	7	0
12	Coahoma	Rural	5	5	0
12	Coyanosa	Rural	2	4	2

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
12	Crane	Rural	5	7	2
12	Eden	Rural	5	7	2
12	Eldorado	Rural	2	4	2
12	Forsan	Rural	5	5	0
12	Fort Stockton	Rural	2	4	2
12	Gardendale	Rural	5	4	-1
12	Goldsmith	Rural	5	5	0
12	Grandfalls	Rural	5	6	1
12	Grape Creek	Rural	6	6	0
12	Imperial	Rural	2	4	2
12	Iraan	Rural	2	4	2
12	Junction	Rural	5	6	1
12	Kermit	Rural	5	5	0
12	Lamesa	Rural	6	6	0
12	Lindsay (Reeves)	Rural	4	4	0
12	Los Ybanez	Rural	4	4	0
12	Mason	Rural	5	6	1
12	McCamey	Rural	4	5	1
12	Melvin	Rural	6	7	1
12	Menard	Rural	4	6	2
12	Mertzson	Rural	2	4	2
12	Midland	Urb/Exurb.	7	6	-1
12	Monahans	Rural	6	7	1
12	Odessa	Urb/Exurb.	6	6	0
12	Ozona	Rural	2	5	3
12	Paint Rock	Rural	5	7	2
12	Pecos	Rural	5	4	-1
12	Pyote	Rural	4	4	0
12	Rankin	Rural	2	4	2
12	Robert Lee	Rural	6	7	1
12	San Angelo	Urb/Exurb.	7	7	0
12	Sanderson	Rural	5	7	2
12	Seagraves	Rural	6	6	0
12	Seminole	Rural	4	5	1
12	Sonora	Rural	2	4	2
12	Stanton	Rural	4	6	2
12	Sterling City	Rural	4	5	1
12	Thorntonville	Rural	4	4	0
12	Toyah	Rural	4	4	0
12	West Odessa	Urb/Exurb.	6	6	0
12	Wickett	Rural	6	7	1
12	Wink	Rural	5	5	0
13	Agua Dulce (El Paso)	Rural	5	4	-1
13	Alpine	Rural	6	7	1
13	Anthony	Urb/Exurb.	5	4	-1
13	Butterfield	Rural	5	4	-1
13	Canutillo	Urb/Exurb.	6	5	-1
13	Clint	Rural	5	4	-1
13	Dell City	Rural	5	6	1
13	El Paso	Urb/Exurb.	7	7	0

Region	Area Name	Area Type	AHNS 06	AHNS 07	Change in AHNS 07 - 06
13	Fabens	Rural	7	7	0
13	Fort Bliss	Urb/Exurb.	5	5	0
13	Fort Davis	Rural	4	5	1
13	Fort Hancock	Rural	5	6	1
13	Homestead Meadows North	Rural	6	6	0
13	Homestead Meadows South	Rural	7	7	0
13	Horizon City	Rural	5	4	-1
13	Marathon	Rural	5	5	0
13	Marfa	Rural	5	5	0
13	Morning Glory	Rural	5	4	-1
13	Prado Verde	Urb/Exurb.	5	4	-1
13	Presidio	Rural	5	6	1
13	Redford	Rural	4	4	0
13	San Elizario	Urb/Exurb.	6	4	-2
13	Sierra Blanca	Rural	4	5	1
13	Socorro	Urb/Exurb.	6	6	0
13	Sparks	Rural	7	6	-1
13	Study Butte-Terlingua	Rural	5	5	0
13	Tornillo	Rural	7	7	0
13	Valentine	Rural	4	6	2
13	Van Horn	Rural	5	7	2
13	Vinton	Rural	7	7	0
13	Westway	Urb/Exurb.	7	7	0

OFFICE OF COLONIA INITIATIVES

BOARD ACTION REQUEST

November 09, 2006

Action Items

Presentation, Discussion and Possible Approval of Hidalgo County Self-Help Center Extension request.

Required Action

Approve or deny Hidalgo County Self-Help Center Extension request.

Background

Colonia Self-Help Centers Program

The Texas Department of Housing and Community Affairs' (the Department) Colonia Self-Help Center (SHC) Program is designed to assist colonias residents by providing concentrated on-site technical assistance to low and very low-income individuals and families in a variety of ways including housing, community development activities, infrastructure improvements, outreach and education.

The SHC program was created in 1995 by the 74th Legislature Senate Bill 1509, Texas Government Code Subchapter Z §2306.581 – §2306.591. Operation of the colonia self-help centers are funded from the Office of Rural Community Affairs (ORCA) nonentitlement Community Development Block Grant (CDBG) fund 2.5% colonia set-aside, which is approximately \$2.2 million per year. These funds are transferred to the Department from ORCA through a Memorandum of Understanding (MOU). CDBG funds can only be provided to eligible units of general local governments. The Tex. Gov. Code Ann §2306.582 requires the Department to establish colonia self-help centers in Cameron/Willacy, Hidalgo, Starr, Webb and El Paso counties. Additionally, the Department, if it determines it necessary and appropriate, may establish a Colonia SHC in any other county if the county is designated as an economically distressed area by the Texas Water Development Board. In 2001, two additional self-help centers were established in Val Verde County and Maverick County. The colonias identified under this program have approximately 10,000 colonia residents who qualify as beneficiaries of these services.

The goal of a SHC is to improve the living conditions of residents in the colonias in ways that go beyond the provision of basic infrastructure. The SHC provide key services and concentrated technical assistance in the areas of housing rehabilitation, new construction, surveying, platting, construction skills training, tool library access for self-help construction, housing finance, credit, debt counseling, grant writing, infrastructure installation and access, contract-for-deed conversions, and capital access for mortgages to improve the quality of life for colonia residents. Participants in the program must not earn more than eighty percent (80%) of the area median family income (AMFI). Additionally, the properties proposed for this initiative must be located in a colonia area as identified by the Texas Water Development Board colonia list or meet the Department's definition of a Colonia.

While the CDBG Expenditure Ratio is impacted by slow performing contracts; contract extensions are allowable so long as they are approved by the Department. The County and its nonprofit have been advised by the OCI that the County cannot apply for any future Colonia SHC program funds until the County and its nonprofit complete the project activities under the open contract.

Hidalgo County Contract No.723013

Summary for Request: Hidalgo County (the County) is requesting a contract extension. The extension would allow the County's local nonprofit Proyecto Azteca to complete the activities remaining such as Outreach (27), Technical Assistance (9), Homeownership Classes (9), Tool Lending Library Classes (9), Residential Rehabilitation (14), Reconstruction (2) and Homeownership Closing Costs (7) as well as prepare the close-out materials. In addition, the contract extension is being requested due to inclement weather which has caused a delay with the construction process. Proyecto Azteca is also currently going through a transition of new staff responsibilities due to a large turnover in personnel who were directly and indirectly responsible for the implementation of the Colonia Self-Help Center contract, including the executive director, assistant executive director, director of finances, director of family support, and director of the construction crews. The chart below notes that the majority of the contract activities have been delivered to the residents and Proyecto Azteca has identified all fourteen (14) families for the rehabilitation activity under the contract.

Contractor: Hidalgo County
Nonprofit SHC Provider: Proyecto Azteca
Contact: The Honorable Ramon Garcia
Address: P.O. Box 1356
Edinburg, Texas 78540

Purpose of Contract: Hidalgo County provides housing and community development to the following colonias: Southside Village, El Charro, Schroeder Subdivision, El Flaco Chiquito, Chula Vista Acres.

Contract Amount: \$1,221,787.00
Amount Drawn: \$782,064.77
Percent Draw: 64%
Type of Request: Extension
Original Contract Period: 07/01/2003 to 07/01/2005
Prior Requested Extended Period: 03/31/2006
08/31/2006
Requested End Date: 04/30/2007

Proyecto Azteca has completed the following activities under the Colonia SHC contract.

Performance Activity	Performance Goal	Total Goal Complete	Percent of Goal Complete
Lot Acquisition	16	16	100%
Grant Proposals	2	2	100%
Outreach	155	128	83%
Technical Assistance	52	43	83%
Homeownership Classes	52	43	83%
Tool Lending Library/Classes	1/52	1/43	83%
Residential Rehabilitation	14	0	0%
Reconstruction	19	17	89%
New Construction	17	17	100%
Surveys	11	11	100%
Homeownership Closing Costs	26	19	73%

Recommendation

Approval to extend the Self-Help Center (SHC) contract for Hidalgo County Contract No.723013 to April 30, 2007.

In addition, by approval of this request, the County shall be required to submit to the Department a monthly progress report, in a form prescribed by the Department. The report must specify all progress made towards meeting contract performance requirements by the end of the contract term. The monthly progress report must be completed and submitted at the end of each calendar month.



URBAN COUNTY PROGRAM

1916 TESORO BLVD. • PHARR, TEXAS 78577 • (956) 787-8127 FAX (956) 787-5291
E-mail ucp@bizrgv.rr.com

October 23, 2006

Homer Cabello, Director Office of Colonia Initiatives
c/o Maria Cazares, TDHCA - OCI Representative
Texas Department of Housing and Community Affairs
P.O. Box 13941 / 221 East 11th Street
Austin, Texas 78711-3941

RE: TCDP Contract No. 723013 - Amendment # 5
Contract Period Extension and Performance
Statement Amendment

Dear Mr. Cabello:

The County of Hidalgo is requesting an extension until April 30, 2007 after the contract deadline so Proyecto Azteca can finish the housing rehabilitation work under the contract. I would like to note the majority of the contract activities have been delivered to the Colonia residents. Proyecto Azteca has identified all fourteen (14) families for the rehabilitation activity under the contract.

After discussing with Ann Williams Cass, the Interim Executive Director for Proyecto Azteca, I understand the following extenuating circumstances occurred this summer:

The rehabilitation housing project did not begin any phase until July, when the person directing the program, Licette Rosillo went on maternity leave and left things with Rose Rodriguez, the real estate specialist. She was not familiar with the contract, nor apparently was the Assistant Executive Director. With just two months to complete the rehab from beginning to end, the major problems they encountered were outreach, underwriting and bidding. They also did not understand that Proyecto Azteca was to leverage funds so that each house would be brought up to colonia housing standards. Many of the homes they chose needed a substantial amount of work. Under this contract Proyecto Azteca will utilize \$7,500 per house and utilize additional leveraged funds from other sources to rehabilitate these houses.

In July the construction supervisor and four of the construction trainers quit. A new Assistant Executive Director was hired as well as a new Finance Director.

In August the Executive Director, David Arizmendi, began his new job teaching at South Texas College and was out of the office. The new Assistant Executive Director quit, followed by the Director of Resource Development. Mr. Arizmendi left the organization the first week in September, after which the board decided to hire an Interim Executive Director, Ms. Cass.

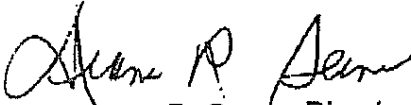
I met with Ms. Cass on September 14th and she told me that they would have the rehab houses within six (6) months.

To add to these extenuating circumstance, the Valley has been experiencing inclement weather with excessive rain, nearly three out of five work days for the last month and a half.

In spite of all these challenges, Ms. Cass assures me that stability is now being brought to Proyecto Azteca, more staff has been added both to administration and to construction, and they hope to have the houses completed within six (6) months.

Should you have any questions or need additional information regarding this extension please contact Pete De La Cruz, Colonia Coordinator of my staff at (956) 787-8127.

Sincerely,



Ms. Diana R. Serna, Director
Hidalgo County, Urban County Program

DRS:pdic:no

cc: Maria Cazares, OCI Representative
Yesenia Ayala, border Field Representative
Ann William Cass, Proyecto Azteca, Interim Executive Director
Pete De La Cruz, Colonia Coordinator

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
November 9, 2006

Action Item

Presentation, Discussion and Determination on the applicant's appeal of rescission of tax credits for a 2006 Housing Tax Credit (HTC) Application.

Requested Action

Approve, Deny or Approve with Amendments a determination on the appeal.

Background and Recommendations

Spanish Creek Townhomes- 060080

On October 23, 2006, the Texas Department of Housing and Community Affairs (the "Department") rescinded the 2006 Housing Tax Credit Commitment Notice in the amount of \$1,203,646 for Spanish Creek Townhomes, ID Number 060080. The Application was an Urban/Exurban award in Region 13. The Housing Tax Credits were rescinded pursuant to §50.14(a)(4) of the 2006 QAP, which says "the Department will not execute a Carryover Allocation Agreement with any Owner in Material Noncompliance on October 1, 2006". This Applicant was in Material Noncompliance on October 1, 2006 on their property Santa Lucia Housing. The Material Noncompliance is based on the following:

1. Owner failed to maintain or provide tenant income certification or documentation.
2. Owner failed to submit annual certification.
3. Owner failed to submit annual Housing Quality Standards Inspection for HOME units.
4. Not meeting the prescribed special needs set aside restrictions.

The Applicant is appealing the rescission of Housing Tax Credits (HTC) based on the attached information.

In summary, Investment Builders, Inc. is an Affiliate Owner of the Santa Lucia Housing development with a minority share of ownership (49%). The issues addressed in the owner's appeal are as follows:

1. The nature of the event of noncompliance.
2. The distinction between HOME and HTC Compliance.
3. The timing of noncompliance.
4. The impact of minority position.
5. The Investment Builder's history.
6. The potential harm to the City of El Paso.
7. Statutes and rules permit discretion.

The owner requests to be reinstated so that this development may move forward. If the Board does not grant the appeal, the owner requests that the Applicant be allowed to replace Investment Builders, Inc. so that the Housing Tax Credits are not lost for the City of El Paso.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Spanish Creek Townhomes, Ltd.
Developer:	Investment Builders, Inc.
Site Location:	610 Lee Trevino Dr.
City/County:	El Paso, El Paso
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Family
Region:	13
Type of Development:	New Construction
Units:	136
Credits Rescinded:	\$1,203,646

Staff Recommendation: Staff is recommending that the Board deny the appeal to ensure conformity to the rules and policy. Staff agrees in the importance of keeping the credits in Region 13 however there are no other Applicants at this time in Region 13.



2006 HOUSING TAX CREDIT APPEAL ELECTION FORM

This form, submitted with my appeal to the Executive Director, is to notify the Department that I am filing a formal appeal to the Executive Director for processing.

If my appeal is denied by the Executive Director, I: (check one)

Do wish to appeal to the Board of Directors and request that my application be added to the November 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 10:00 a.m. Thursday, November 2, 2006 to be placed on the November 9, 2006 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Development Name:	Spanish Creek Townhomes, Ltd.
Development Address:	610 Lee Trevino Dr., El Paso, TX 79907
Title:	President, Investment Builders, Inc., Sole Member, IBI Spanish Creek Townhomes, LLC, its General Partner
Date:	October 27, 2006

Signed:

A handwritten signature in black ink, appearing to be "A. Y.", written over a horizontal line.

LOCKE LIDDELL & SAPP LLP

ATTORNEYS & COUNSELORS

100 CONGRESS AVENUE
Suite 300
Austin, Texas 78701-4042

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October 31, 2006

Mr. Michael Gerber
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: **Appeal**
Spanish Creek Townhomes in El Paso (the "**Spanish Creek**")
TDHCA No. 060080

Dear Mr. Gerber:

We represent Spanish Creek Townhomes, Ltd. ("**Owner**"), which received a commitment of low-income housing tax credits ("**Tax Credits**") for Spanish Creek. Owner has received notice that its Tax Credit commitment had been rescinded for Material Non-Compliance¹ and hereby appeals that decision.

Background

A brief description of the facts leading to this situation merit consideration:

Investment Builders, Inc. ("**Investment Builders**") is an Affiliate of Owner, within the meaning of such term given in the 2006 Qualified Allocation Plan (the "**QAP**") for Tax Credits. In the past 11 years, Investment Builders has participated in the development of more than 25 properties in the El Paso area, using the Tax Credit program. In 1998, Investment Builders agreed to partner with Santa Lucia Community Development Organization, a local non-profit organization ("**Santa Lucia**"), to help that organization access TDHCA's HOME funds in the CHDO set-aside. Investment Builders and Santa Lucia agreed to form a partnership to develop 36 units of elderly housing for El Paso (the "**Santa Lucia Complex**"), using TDHCA HOME funds. They formed a general partnership called Santa Lucia Housing, General Partnership (the "**Partnership**") to finance, develop, and own the Santa Lucia Complex. For purposes of this Partnership, Investment Builders was to provide its development experience and Santa Lucia intended to ultimately control the property. Thus, Santa Lucia is the 51% owner of the Partnership and Investment Builders is the 49% owner of the Partnership. Santa Lucia is

¹ See Exhibit A for a copy of the rescission notice.

the managing general partner and is responsible for all day-to-day operations of the Santa Lucia Complex, including specifically regulatory compliance matters.

The Santa Lucia Complex has served, and continues to serve, low-income senior citizens in El Paso. However, in the past several years, the property has experienced management challenges. As managing general partner, Santa Lucia engaged another non-profit organization to provide property management services. This non-profit organization had prior experience with affordable housing compliance matters. From 2001 through 2003, the property operated without any Material Non-Compliance. Unfortunately, in November 2004, Investment Builders learned that one of the on-site employees at the Santa Lucia Complex was embezzling funds from the property. When the crime was discovered, her employment was terminated, but not before she shredded and otherwise destroyed numerous documents and property records.

In November 2004 after learning of the problem, Investment Builders offered to take over the management of the Santa Lucia Complex. However, its proposed services were refused by the board of directors of Santa Lucia. They continued the relationship with the non-profit management organization. Investment Builders could not unilaterally effect a change in management because it did not own a majority interest in the Partnership.

In the ensuing year after the crime and destruction of records, the parties strove to recover from the damage wrought by the former employee. At the same time, leadership of the management company changed, as well. That year, TDHCA's annual on-site visit discovered that the tenants on the property had not been timely recertified. It is this violation that created an event of Material Non-Compliance, which is now poised to have a very serious impact on Investment Builders and the City of El Paso.

Considerations

We request that the Tax Credits for Spanish Creek be reinstated and that TDHCA consider the items set forth below.

The nature of the event of non-compliance. The Santa Lucia Complex contains 36 units in 9 buildings. The property has not failed to serve low-income tenants; nor has it failed to charge the right rents. Moreover, all of the non-compliance matters have been corrected.² The Material Non-Compliance score for the Santa Lucia Complex is based, primarily, on a failure to timely complete paperwork to certify the tenants. The recertifications are required to occur annually, and the on-site manager completed all of the recertifications at one time, in December 2005, instead of throughout the year, as it should have been done.

Interestingly, TDHCA's compliance rules do not distinguish between a violation for renting to over-income tenants versus failing to recertify tenants in a timely manner. The corrected noncompliance

² See Exhibit B for a copy of the correction notice.

score for a violation of renting to an over-income tenant is one point³. The corrected noncompliance score for a violation of failing to timely recertify a tenant is one point⁴. While we all recognize the importance of maintaining quality records in a highly regulated program, it seems that failure to rent to proper tenants should result in more severe consequences than failure to timely recertify the tenants.

Distinction between HOME and Tax Credit Compliance. As noted above, the Santa Lucia Complex participates in the HOME program, while Spanish Creek participates in the Tax Credit program. Different compliance standards apply in these two programs, yet a non-compliance event under one program equally impacts participation under the other program. Because the Santa Lucia Complex participates in the HOME program, events of noncompliance are calculated on a unit-by-unit basis. By contrast, if the Santa Lucia Complex were in the Tax Credit program, the event of noncompliance would be calculated on a building-by-building basis.⁵ With 36 units and 9 buildings on property and one point for each failure to timely recertify, the Santa Lucia Complex has a Material Non-Compliance score under the HOME calculations, but it would not have a Material Non-Compliance score if the Tax Credit calculations were applied.

In addition, Tax Credit properties undergo a site visit for compliance once every three years and are assigned a compliance score that lasts throughout the three-year period. Meanwhile, HOME properties are visited annually and receive annual adjustments to the compliance scores. Yet, the compliance scores for HOME projects stay with the property for three years, as well. This can create a cumulative effect on the scoring for HOME properties that is not otherwise present for Tax Credit properties.

The timing of the non-compliance. In reviewing TDHCA's compliance file, it appears that Investment Builders was not notified of the Material Non-Compliance score until October 13, 2006⁶. Over the past five years, there have been a variety of correspondence from TDHCA to the Partnership with regard to compliance matters. None of that correspondence actually tells the Partnership of its compliance score for the Santa Lucia Complex. The correspondence either indicates that there were findings, or that the findings had been corrected, but it does not tell the property owner the score that results from those findings or corrections.

The first time Investment Builders was alerted to its compliance score for the Santa Lucia Complex was in October 2005, when Investment Builders proactively contacted TDHCA and asked for its score with regard to the Santa Lucia Complex. At that time, Investment Builders was planning for its 2006 Tax Credit applications and wanted to make sure that a Material Non-Compliance score would not be a problem. In response to its inquiry, Investment Builders was advised that the compliance score for the Santa Lucia Complex was 9. Thus, Investment Builders proceeded with the Spanish Creek Tax Credit application in late 2005 and early 2006. TDHCA performed a site visit at the Santa Lucia

³ 10 TAC § 60.18(4)(B)(i).

⁴ 10 TAC § 60.18(4)(B)(vi).

⁵ 10 TAC § 60.18(3).

⁶ See Exhibit C for notice of Material Non-Compliance score.

October 31, 2006

Page 4

Complex for compliance review in November 2005. In February 2006⁷, the Partnership was notified of events of non-compliance⁸. The Partnership responded to those items with corrections in March 2006⁹.

As you know, TDHCA rules require a compliance review for all Tax Credit applicants as of May 1 of each year¹⁰. Investment Builders and the Spanish Creek Tax Credit application passed this review, despite the fact that the issues of non-compliance had been identified in November 2005, notified in February 2006, and corrections had been submitted in March 2006. In fact, Investment Builders did not receive notice that the Santa Lucia Complex non-compliance had been corrected until June 2006. Even at that time, Investment Builders was not alerted to the score associated with the corrected non-compliance. (See Exhibit B).

The events of non-compliance as to the Santa Lucia Complex were corrected as of December 2005. Compliance rules state that a score is assigned when an event of non-compliance is identified and then changed when an event of non-compliance is corrected¹¹. But the compliance system has an inherent lag. In the case of the Santa Lucia Complex, most events of non-compliance were corrected as of December 2005, but the score was not assigned until June 2006¹². This lag time, and the fact that compliance scores are not readily communicated in TDHCA correspondence, did not alert Investment Builders to any problem until October 2006, well after Investment Builders has invested substantial resources (including more than \$600,000 cash) in pursuing the Spanish Creek Tax Credit application.

Moreover, Section 50.13(a)(5) of the QAP states that a commitment notice will not be issued if an applicant is in Material Non-Compliance. Why, then, was the commitment notice issued for Spanish Creek in August 2006 when these compliance issues from December 2005 were outstanding?

The impact of the minority position. We believe it is important to remember that Investment Builders is a minority partner in the Partnership for the Santa Lucia Complex. As such, they do not have the direct ability to control the operations of the property. They were in contact with Santa Lucia and even tried to participate in the management when the property was placed at risk because of the crimes committed. Yet, Santa Lucia ultimately controlled the situation and was able to prevent Investment Builders from actively participating to address any on-site issues.

The Investment Builders history. As noted above, Investment Builders has participated in the development of over 25 properties in the El Paso area using the Tax Credit program. It has also received several HOME loans from TDHCA, either on its own or through partnerships, like the Partnership with Santa Lucia. All of these properties have provided quality affordable housing, and none of the others have any Material Non-Compliance scores. Obviously, Investment Builders takes its responsibility for program compliance very seriously. The unfortunate events associated with the Santa Lucia Partnership

⁷ Note 10 TAC § 60.14, which requires TDHCA to provide prompt notice of a non-compliance finding.

⁸ See Exhibit D for letter from TDHCA.

⁹ See Exhibit E for response to non-compliance findings.

¹⁰ 10 TAC § 60.18(2)(B).

¹¹ 10 TAC § 60.18(1) and (2).

¹² See the most current compliance report for the property attached as Exhibit F.

should not mar an otherwise excellent reputation or prohibit the Spanish Creek project from moving forward.

The potential harm to the City of El Paso. No other Tax Credit application is available on the waiting list to serve Region 13 if Spanish Creek does not move forward. Rescission of the Tax Credits for Spanish Creek would result in a serious loss of affordable housing for the City of El Paso. Attached as Exhibit G you will find letters of support from various elected officials in the City of El Paso who want to see the Spanish Creek project move forward.

Statutes and rules permit discretion. TDHCA's governing statute does not require that the Spanish Creek Tax Credit project be terminated because of the Material Non-Compliance score for the Santa Lucia Complex¹³. Section 50.14(a)(4) of the QAP states that the Department may not execute a Carryover Agreement with an Owner in Material Non-Compliance on October 1, 2006. However, this rule can be waived for good cause shown¹⁴.

Request

We respectfully request that the Tax Credits for Spanish Creek be reinstated so that this project can move forward and serve the City of El Paso. If the Executive Director denies the appeal, we request that it be heard by the Board at the November 9 meeting.

If TDHCA cannot find a way to overcome the Material Non-Compliance score, Investment Builders is willing to step away from its interest in Spanish Creek and assign the interest to a third party developer that would be able to take the project to fruition. Investment Builders has identified two different companies that have expressed a willingness to participate in this fashion so that the Tax Credits are not lost for El Paso.

Other Matters

The Material Non-Compliance score with regard to the Santa Lucia Complex creates other issues that need to be addressed, as well. Specifically, Cedar Oak Townhomes (TDHCA No. 04070 and North Mountain Village (TDHCA No. 05060 are Tax Credit developments sponsored by Investment Builders that are entitled to additional Tax Credits, pursuant to the policy approved at the October TDHCA Board meeting. The policy states that the additional credits will not be awarded to any owner that has a Material Non-Compliance score with regard to any other property. Again, Investment Builders asks that this provision of the policy be waived, for all of the reasons cited above. These properties need the additional Tax Credits and should not be penalized because of the unfortunate situation with the Santa Lucia Complex. If this matter can be properly addressed in this appeal, we will be happy to do so. Certainly, hearing these two matters together is the most efficient use of everyone's time.

¹³ See Texas Government Code § 2306.057(c).

¹⁴ QAP § 50.22(a).

October 31, 2006
Page 6

In conclusion, the Spanish Creek project is an important development for the City of El Paso and should be allowed to move forward in the Tax Credit program. All the surrounding circumstances indicate that the events associated with the HOME loan to the Santa Lucia Partnership should not prevent Spanish Creek from proceeding. The Department should exercise its discretion and reinstate the Tax Credits for Spanish Creek. We sincerely appreciate your consideration of this request and are happy to address any further questions you may have.

Sincerely,



Cynthia L. Bast

- Exhibit A – Rescission of Tax Credit Commitment
- Exhibit B – Copy of Correction Notice
- Exhibit C – Notice of Material Non-Compliance Score
- Exhibit D - Letter regarding non-compliance findings
- Exhibit E – Response to non-compliance findings
- Exhibit F – Current Compliance Report
- Exhibit G – Letters of Support

cc: Investment Builders, Inc.

Exhibit A

Rescission of Tax Credit Commitment



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

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EXECUTIVE DIRECTOR

BOARD MEMBERS
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Shedrick Bogans
C. Kent Corine
Sonny Flores
Gloria Ray
Noberro Salinas

Mr. Ike Monty
Spanish Creek Townhomes, Ltd.
8800 Yermoland Dr., Suite A
El Paso, TX 79907

October 23, 2006

Re: Spanish Creek Townhomes, TDHCA #060080

Dear Mr. Monty:

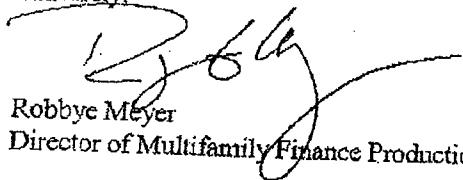
On July 28, 2006, the Texas Department of Housing and Community Affairs' (the "Department") Board approved an allocation of Housing Tax Credits to the Spanish Creek Townhomes development.

Pursuant to §50.14(a)(4) of the 2006 Qualified Allocation Plan and Rules (QAP), "the Department will not execute a Carryover Allocation Agreement with any Owner in Material Noncompliance on October 1, 2006". On Friday, October 13, 2006, you were notified by the Department's Portfolio Management and Compliance division that you are a participant in the ownership of a development with an uncorrectable Material Noncompliance score. Consequently, the Department must rescind the Housing Tax Credit Commitment issued on September 7, 2006, in the amount of \$1,203,646.

Please be aware that an Appeals Policy exists for the Housing Tax Credit Program. The restrictions and requirements relating to the filing of an appeal can be found in §50.17(b) of the 2006 QAP. If you choose to appeal this determination, you must first submit an appeal to the Executive Director by October 31, 2006 at 5:00 pm; however, in an effort to timely obtain resolution for your situation, staff has listed an agenda item for the November Board meeting for an appeal in the event the Executive Director denies the appeal. To facilitate your inclusion on the November agenda, a form is attached that must be submitted along with your appeal to the Executive Director. Subsequently, the Board appeal documentation must be submitted by 12:00 p.m. on Wednesday, November 1, 2006.

If you have any questions, please do not hesitate to contact Jennifer Joyce at (512) 475-3995. You may also e-mail her at jennifer.joyce@tdhca.state.tx.us with your appeal and attachments.

Sincerely,



Robbye Meyer
Director of Multifamily Finance Production

Exhibit B

Copy of Correction Notice



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY

Governor

BOARD MEMBERS

Elizabeth Anderson, *Chair*

Shadrick Bogany

C. Kent Conine

Dionicio Vidal (Sonny) Flores

Vidal Gonzalez

Norberto Salinas

June 23, 2006

Mr. Ike Monty
Santa Lucia Housing, G. P.
8800 Yermoland, Suite A
El Paso, Texas 79907

MICHAEL GERBER

Executive Director

RE: Santa Lucia Housing

ID: 3326

Dear Mr. Monty:

The Texas Department of Housing & Community Affairs (the Department) received corrective action documents on March 21, 2006. A review of the documentation has been completed and the Department has determined that the noncompliance issues identified during our visit to the property on December 19, 2005 are corrected.

Please direct questions regarding this letter to Doris Ballard at (512) 475-3936, or via email at doris.ballard@tdhca.state.tx.us or toll-free in Texas only at (800) 643-8204.

Sincerely,

Doris R. Ballard
Team Leader, Compliance Monitor

DRB

WWW.TDHCA.STATE.TX.US

221 EAST 11th ▪ P.O. BOX 13941 ▪ AUSTIN, TEXAS 78711-3941 ▪ (800) 525-0657 ▪ (512) 475-3800

Exhibit C

Notice of Material Non-Compliance Score



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Division of
Housing

Michael A. ...
Executive Director

October 13, 2006

Ike Monty
8800 Yermoland, Suite A
El Paso, Texas 79907-1804

RE: Material Noncompliance

Dear Mr. Monty:

This letter is to inform you that Santa Lucia Housing (HOME file # 538263) is in Material Noncompliance. The property's compliance score is 42. Non Housing Tax Credit properties with less than 50 low income units are considered to be in Material Noncompliance if their score is 30 or greater.

The noncompliance stems from failure to recertify household eligibility in a timely manner. Section 2.4 of the property's Land Use Restriction Agreement requires household eligibility to be recertified at least annually. The property's last monitoring visit was conducted on December 19, 2005. Notice of the review was sent on November 4, 2005. Our onsite review revealed that most households were not recertified until December 1, 2005, after notice of our upcoming review was received.

The Department acknowledges that all identified issues of noncompliance have been corrected. No further action is necessary. However, there is no further action that can be taken to reduce the property's score. All scores reduce to zero three years after the issue has been corrected. Under the current methodology, the property's score will not drop under the threshold until December of 2008.

If you have any questions regarding compliance or the scoring methodology used to determine Material Noncompliance, please contact Patricia Murphy at (512) 475-3140 or via email at patricia.murphy@tdhca.state.tx.us.

Sincerely,

Kelly Crawford
Director, Portfolio Management and Compliance

cc: Robbye Meyer, Director of Multifamily Finance Production

Copy faxed
to FRANK
AINSA
Per
MR. MONTY
10-13-06

Bob ...
John ...
Sharon ...
Curtis ...
Gloria ...
Nancy ...

Exhibit D

Letter regarding non-compliance findings



WWW.TDHCA.STATE.TX.US

February 24, 2006

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

Mr. Ike Monty
Santa Lucia Housing, G.P.
8800 Yermoland, Suite A
El Paso, TX. 79907

RE: Santa Lucia Housing
El Paso, Texas

ID: 3326

Dear Mr. Monty:

The Texas Department of Housing & Community Affairs allocates and monitors the HOME program for the State of Texas. Representatives from the Portfolio Management and Compliance Division visited Santa Lucia for an annual monitoring and an annual desk review to determine if the requirements of the program have been met.

The attached Monitoring Report explains the scope of the audit and describes the Department's evaluation of the property's performance under the program's rules and regulations. The Compliance Review details the finding of noncompliance and required corrective action. Please supply all requested documentation no later than *May 25, 2006* (the corrective action deadline). The Department will then determine whether the submitted materials sufficiently correct the noncompliance.

Owners found to be in non-compliance with the HOME Investment Partnership Program rules and regulations may be subject to financial repercussions and barred from further participation in the HOME program or any other housing programs administered by the Department. The performance of this property will be taken into consideration when the Department reviews future applications for funding.

If it is not possible to provide the requested documentation by the corrective action deadline, please submit a corrective action plan detailing how and when the issues identified will be resolved. It will be the sole responsibility of the owner to inform the Department when and if the finding is corrected and submit the appropriate documentation. No further requests will be made by TDHCA for corrective action documentation.

Santa Lucia is in long term occupancy and is required to report compliance annually. Your next desk review report is due with the Annual Owner's Compliance Report that is due on March 1, 2006. The report should reflect occupancy as of December 31, 2005.

We wish to express our appreciation for the cooperation of your management team who facilitated our review. If you have any questions, please contact Doris Ballard at (512) 475-3936; toll free in Texas at (800) 643-8204 or via e-mail at doris.ballard@tdhca.state.tx.us any time.

Sincerely,

A handwritten signature in cursive script that reads "Doris R. Ballard". The signature is written in black ink and is positioned above the printed name.

Doris R. Ballard
Team Leader, Compliance Monitor

cc: Erin Schwarzbauer, TDHCA Compliance Monitor
Santa Lucia, Property Management Staff
enc.

Monitoring Report
Santa Lucia Apartments
ID: 3326

The Texas Department of Housing and Community Affairs completed an on-site monitoring review of Santa Lucia on December 19, 2005. Doris Ballard, Erin Schwarzbauer, Kimberly Coldren represented the Department. Sussette Leal represented the property.

During the exit interview, the following issues were discussed:

The review resulted in two finding of noncompliance the following units were affected:

1. **Owner failed to correctly complete or document tenant's annual income recertification: (Unit 101, 102, 103, 104, 105, 106, 107, 108, 109, 111, 112, 113, 114, 115, 116, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, and 136).**
2. **Project failed to meet property set aside requirement (all units).**

All issues of noncompliance and required corrective action are explained on the attached Compliance Report. Please carefully review the report and submit the requested documentation.

Technical Assistance Provided:

- Review applications for incomplete information. Ensure that the applicant/tenant completes all blanks.
- We noted that some assets were not verified, the Development must verify income and assets using source documentation, such as wage or benefit statements, interest statements, unemployment compensation statements, or the verification forms provided by TDHCA. Verification forms are available on the TDHCA website at www.tdhca.state.tx.us.
- The Department did not receive the online compliance report that was requested for this review; the report was due November 28, 2005. Additional request were made for the report on December 16, and December 19, 2005. In the future, it is imperative that you submit reports for onsite visits by the date stated in the onsite notification letter. If you need assistance with online reporting, please contact James Roper at (512) 475-3907.
- HOME assisted developments must meet the accessibility requirements of Fair Housing and Section 504 of the Rehabilitation Act of 1973. The Department could not confirm that 2 percent (1 unit) met 504 requirements for visual and hearing-impaired.

Annual Desk Review:

Based on the limited scope of the review the following issues were identified:

- The Development has not submitted the 2004 Annual Owner's Compliance Reports; these reports were due on March 1, 2005. The 2005 Annual Owner's Compliance Reports are due on March 1, 2006.
- The report for the annual desk review is due on March 1, 2006; the report should reflect occupancy as of December 31, 2005.

To determine if the property is in compliance the following steps were completed:

- A review of the Land Use Restriction Agreement,
- A review of the entrance interview and other documents submitted,
- An exit interview,

- A limited screening of compliance with accessibility requirements,
- An inspection of the exterior of the property and an inspection of the interior of units listed below and
- An in depth review of the 8 resident files listed below:

Files reviewed:

102	111	114	117	120
129	131	132		

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
 COMPLIANCE REVIEW
 DETAIL FINDINGS AND CORRECTIVE ACTION
 By program

Printed Date 02/24/06
 Page 1 of 9

Occupancy as of

PROGRAM: HOME FILE# 538263

PROPERTY FINDINGS

Finding	Project failed to meet property set-aside requirement		
Noncompliance Date	12/19/2005	Current Status Uncorrected	Correction Date
Reason	Only seven units were leased at the 50% income and rent level, eight are required.		
Corrective Action	As units become available, occupy them with eligible households and provide copies of the: application, necessary verifications, Income Certification and first page and signatory page of the lease.		
Supplemental Corrective Action			

UNIT FINDINGS

Unit # 101	Bldg. # A		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	08/10/2004	Current Status Corrected	Correction Date 12/01/2005
Reason	Late recertification		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, on 12/01/2005.		

Unit # 102	Bldg. # A		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	04/01/2005	Current Status Corrected	Correction Date 12/01/2005
Reason	Late recertification		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005.		

Unit # 103	Bldg. # A		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	03/01/2005	Current Status Corrected	Correction Date 12/06/2005
Reason	Late recertification.		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/06/2005		

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
 COMPLIANCE REVIEW
 DETAIL FINDINGS AND CORRECTIVE ACTION
 By program

Printed Date 02/24/06
 Page 2 of 9

PROGRAM: HOME FILE# 538263

Continued

UNIT FINDINGS

Unit # 104	Bldg. # A		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	03/01/2005	Current Status Corrected	
Reason	Late recertification		Correction Date 12/01/2005
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005		
Unit # 105	Bldg. # B		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	07/01/2005	Current Status Corrected	
Reason	Late recertification		Correction Date 12/01/2005
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005		
Unit # 106	Bldg. # B		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	03/01/2005	Current Status Corrected	
Reason	Late Recertification		Correction Date 12/01/2005
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005		
Unit # 107	Bldg. # B		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	04/01/2005	Current Status Corrected	
Reason	Late recertification.		Correction Date 12/15/2005
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005		

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
 COMPLIANCE REVIEW
 DETAIL FINDINGS AND CORRECTIVE ACTION
 By program

Printed Date 02/24/06
 Page 3 of 9

PROGRAM: HOME FILE# 538263

Continued

UNIT FINDINGS

Unit # 108	Bldg. # B		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	04/27/2005	Current Status Corrected	Correction Date 12/06/2005
Reason	Late recertification		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005.		
Unit # 109	Bldg. # B		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	05/21/2005	Current Status Corrected	Correction Date 12/01/2005
Reason	Late recertification.		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005		
Unit # 111	Bldg. # C		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	03/01/2005	Current Status Corrected	Correction Date 10/11/2005
Reason	Late recertification.		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 10/11/2005.		
Unit # 112	Bldg. # C		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	06/29/2005	Current Status Corrected	Correction Date 12/01/2005
Reason	Late recertification.		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005.		

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
 COMPLIANCE REVIEW
 DETAIL FINDINGS AND CORRECTIVE ACTION
 By program

Printed Date 02/24/06
 Page 4 of 9

PROGRAM: HOME FILE# 538263

Continued

UNIT FINDINGS

Unit # 113	Bldg. # C		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	01/18/2005	Current Status Corrected	
Reason	Late recertification.		Correction Date 12/01/2005
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005.		
Unit # 114	Bldg. # C		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	06/08/2005	Current Status Corrected	
Reason	Late recertification.		Correction Date 12/09/2005
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/09/2005		
Unit # 115	Bldg. # C		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	11/01/2004	Current Status Corrected	
Reason	Late recertification.		Correction Date 12/01/2005
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/01/2005		
Unit # 116	Bldg. # C		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	03/01/2005	Current Status Corrected	
Reason			Correction Date 12/06/2005
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Late recertification.		

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
 COMPLIANCE REVIEW
 DETAIL FINDINGS AND CORRECTIVE ACTION
By program

Printed Date 02/24/06
 Page 5 of 9

PROGRAM: HOME FILE# 538263

Continued

UNIT FINDINGS

<p>Unit # 118 Finding Noncompliance Date Reason Corrective Action Supplemental Corrective Action</p>	<p>Bldg. # D Owner failed to maintain or provide Income Certification and documentation 06/01/2005 Late recertification. Respond as directed by the department or department representative. Corrected, 12/01/2005.</p>	<p>Current Status Corrected Correction Date 12/01/2005</p>
<p>Unit # 119 Finding Noncompliance Date Reason Corrective Action Supplemental Corrective Action</p>	<p>Bldg. # D Owner failed to maintain or provide Income Certification and documentation 12/01/2005 Late recertification. Respond as directed by the department or department representative. Corrected, 12/09/2005.</p>	<p>Current Status Corrected Correction Date 12/09/2005</p>
<p>Unit # 120 Finding Noncompliance Date Reason Corrective Action Supplemental Corrective Action</p>	<p>Bldg. # D Owner failed to maintain or provide Income Certification and documentation 04/01/2005 Late recertification. Respond as directed by the department or department representative. Corrected, 12/01/2005</p>	<p>Current Status Corrected Correction Date 12/01/2005</p>
<p>Unit # 121 Finding Noncompliance Date Reason Corrective Action Supplemental Corrective Action</p>	<p>Bldg. # E Owner failed to maintain or provide Income Certification and documentation 11/01/2004 Late recertification. Respond as directed by the department or department representative. Corrected, 12/01/2005</p>	<p>Current Status Corrected Correction Date 12/01/2005</p>

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
 COMPLIANCE REVIEW
 DETAIL FINDINGS AND CORRECTIVE ACTION
 By program

Printed Date 02/24/06
 Page 6 of 9

PROGRAM: HOME FILE# 538263

Continued

UNIT FINDINGS

Unit # 122	Bldg. # E			
Finding	Owner failed to maintain or provide Income Certification and documentation			
Noncompliance Date	07/01/2005	Current Status Corrected	Correction Date	12/01/2005
Reason	Late recertification.			
Corrective Action	Respond as directed by the department or department representative.			
Supplemental Corrective Action	Corrected, 12/01/2005.			
Unit # 123	Bldg. # E			
Finding	Owner failed to maintain or provide Income Certification and documentation			
Noncompliance Date	01/01/2004	Current Status Corrected	Correction Date	12/01/2005
Reason	Late recertification.			
Corrective Action	Respond as directed by the department or department representative.			
Supplemental Corrective Action	Corrected, 12/01/2005.			
Unit # 124	Bldg. # E			
Finding	Owner failed to maintain or provide Income Certification and documentation			
Noncompliance Date	05/01/2005	Current Status Corrected	Correction Date	12/01/2005
Reason	Late recertification.			
Corrective Action	Respond as directed by the department or department representative.			
Supplemental Corrective Action	Corrected, 12/01/2005.			
Unit # 125	Bldg. # F			
Finding	Owner failed to maintain or provide Income Certification and documentation			
Noncompliance Date	11/08/2004	Current Status Corrected	Correction Date	12/12/2005
Reason	Late recertification.			
Corrective Action	Respond as directed by the department or department representative.			
Supplemental Corrective Action	Corrected, 12/12/2005			

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
 COMPLIANCE REVIEW
 DETAIL FINDINGS AND CORRECTIVE ACTION
 By program

Printed Date 02/24/06
 Page 7 of 9

PROGRAM: HOME FILE# 538263

Continued

UNIT FINDINGS

Unit # 126	Bldg. # F		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	11/01/2004	Current Status Corrected	Correction Date 12/06/2005
Reason	Late recertification.		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/06/2005.		
Unit # 127	Bldg. # F		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	10/12/2004	Current Status Corrected	Correction Date 10/01/2005
Reason	Late recertification.		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 10/01/2005.		
Unit # 128	Bldg. # F		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	08/01/2004	Current Status Corrected	Correction Date 12/05/2005
Reason	Late recertification.		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/05/2005		
Unit # 129	Bldg. # G		
Finding	Owner failed to maintain or provide Income Certification and documentation		
Noncompliance Date	04/09/2003	Current Status Corrected	Correction Date 12/09/2005
Reason	Late recertification.		
Corrective Action	Respond as directed by the department or department representative.		
Supplemental Corrective Action	Corrected, 12/09/2005.		

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
 COMPLIANCE REVIEW
 DETAIL FINDINGS AND CORRECTIVE ACTION
 By program

Printed Date 02/24/06
 Page 8 of 9

PROGRAM: HOME FILE# 538263

Continued

UNIT FINDINGS

<p>Unit # 130 Finding Noncompliance Date Reason Corrective Action Supplemental Corrective Action</p>	<p>Bldg. # G Owner failed to maintain or provide Income Certification and documentation 09/03/2003 Late recertification. Respond as directed by the department or department representative. Corrected, 09/01/2005.</p>	<p>Current Status Corrected Correction Date 09/01/2005</p>
<p>Unit # 132 Finding Noncompliance Date Reason Corrective Action Supplemental Corrective Action</p>	<p>Bldg. # G Owner failed to maintain or provide Income Certification and documentation 04/01/2005 Late recertification. Respond as directed by the department or department representative. Corrected, 12/09/2005.</p>	<p>Current Status Corrected Correction Date 12/09/2005</p>
<p>Unit # 133 Finding Noncompliance Date Reason Corrective Action Supplemental Corrective Action</p>	<p>Bldg. # H Owner failed to maintain or provide Income Certification and documentation 05/01/2004 Late recertification. Respond as directed by the department or department representative. Corrected</p>	<p>Current Status Corrected Correction Date 12/01/2005</p>
<p>Unit # 134 Finding Noncompliance Date Reason Corrective Action Supplemental Corrective Action</p>	<p>Bldg. # H Owner failed to maintain or provide Income Certification and documentation 03/01/2004 Late recertification. Respond as directed by the department or department representative. Corrected, 12/01/2005.</p>	<p>Current Status Corrected Correction Date 12/01/2005</p>

TEXAS DEPARTMENT OF AND COMMUNITY AFFAIRS
COMPLIANCE REVIEW
DETAIL FINDINGS AND CORRECTIVE ACTION
By program

Printed Date 02/24/06
Page 9 of 9

PROGRAM: HOME FILE# 538263

Continued

UNIT FINDINGS

Unit # 135

Bldg. # 1

Finding

Owner failed to maintain or provide Income Certification and documentation
06/01/2005

Noncompliance Date

Current Status Corrected

Reason

Late recertification.

Correction Date

12/01/2005

Corrective Action

Respond as directed by the department or department representative.
Corrected, 12/01/2005.

Supplemental

Corrective Action

Unit # 136

Bldg. # 1

Finding

Owner failed to maintain or provide Income Certification and documentation
07/01/2005

Noncompliance Date

Current Status Corrected

Reason

Late recertification.

Correction Date

12/12/2005

Corrective Action

Respond as directed by the department or department representative.
Corrected, 12/12/2005.

Supplemental

Corrective Action

Exhibit E

Response to non-compliance findings



Non-Profit Corporation
Affordable Housing to Affordable Earning,
We're With You Every Step of the Way.

March 21, 2006

Texas Department of Housing and Community Affairs
Attn: Doris R. Ballard, Team Leader, Compliance Monitor
507 Sabine, Ste. 400
P.O. Box 13941
Austin, TX 78711-3941

Board of Directors:

Walter Deines
President

Gerardo Camacho
Vice President

Beth Parsons
Secretary

Raymond Tullius, Jr.
Treasurer

Margie Murphy
Board Member

Daniel Salazar
Board Member

William Truax
Executive Director

Re: Santa Lucia Apartments / HOME- 538263 CMTS- 3326

Dear Ms. Ballard:

We are in receipt of your letter dated February 24, 2006. Your letter is in response to the on-site monitoring review of Santa Lucia Apartments conducted at the above referenced property on December 19, 2005. We appreciate your assistance and recommendations as a result of your evaluation. Accordingly, we have followed your suggestion in performing another certification with regard to the following tenants identified in the monitoring report, addressed in the order presented in the State Compliance Review:

Finding of Noncompliance PROPERTY FINDING (set-aside): Project failed to meet property set-aside requirement.

- * Recommendation: "As units become available, occupy them with eligible households and provide copies of the: application, necessary verifications, Income Certification and first page and signatory page of the lease."
 - o Corrective Action Taken: In the Rent Roll provided to TDHCA staff on-site, eight units were shown to be occupied by 50% income eligible tenants. After further analysis, the set-aside requirement is met by the following units: 102, 105, 109, 110, 112, 116, 129, 134.

We believe that measures taken above appropriately address your findings and look forward to your confirmation. We appreciate the assistance and support of the Texas Department of Housing and Community Affairs Portfolio Management and Compliance Division. As a result of your discoveries, we have reengineered our internal processes and updated our training so that we may dutifully act upon program compliance. Specifically, we have utilized the recommendations in the Technical Assistance section to update our Tenant Selection Criteria. In order to strengthen our understanding of income verification best practices we have sent our Leasing Manager to the 1st Thursday meeting in Austin and held on-site training conducted by The Siegel Group. As a procedural system, we have also decided to

RECEIVED

MAR 22 2006

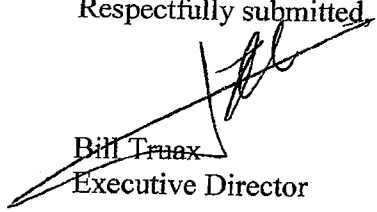
COMPLIANCE

151 S. Prado Road
El Paso, TX 79907
Phone 915.858.0607
Fax 915.858.5719
tvp.corp@elpbizclass.com



implement leasing software that is designed to comply with HTC and HOME regulations. If you have questions or need clarification, please do not hesitate to contact us. Digital copies of the associated Rent Rolls for 12/19/2005 and 12/31/2005 are included for your review.

Respectfully submitted,



~~Bill Truax~~
Executive Director

cc: Ike Monty, Investment Builders

Property Name **SANTA LUCIA - I.D. # 538263**

DATE: **December-05**

Lease Information							LIHTC Information				Rent Subsidy Information			Current Income			
Bldg # - Unit #	No. Bdrm	Tenant Name	Lease Inception Date	Expiration Date	Lease Rental Rate	Amt. Of Security Deposit	Setaside (% of AMI)	Current LIHTC Rent	Utility Allow.	Adjusted LIHTC Rent	Type of Subsidy e. Sec.	Amt. of Subsidy	Tenant Portion of Rent	Unit Rent Due	Paid Rent	Tenant Rent Due	Late Fees Paid
G-131	1	CARRILLO	10/18/2005	9/30/2006	375	0	60%	375	67	442				375			
G-132	1	RAMIEREZ	4/1/2004	11/30/2006	320	150	60%	320	67	387				320			
H-133	1	FLORES	5/1/2002	11/30/2006	375	150	60%	375	67	442	HUD			375			
H-134	1	BARROSO	3/1/2001	11/30/2006	330	150	50%	330	67	397				330			
I-135	2	CHAVEZ	6/1/2001	11/30/2006	425	150	60%	425	78	503	HUD	339	86	425			
I-136	2	GRADO	7/1/2004	11/30/2006	450	150	60%	450	78	528				450			
					13210	5150		13210		15780		4237	2183	13210	0.00	0	0

HUD - Housing Authorities Section 8
 LMC - Life Management Center
 PRORATE - Pro-rated Rent Based on Move-in Date
 HUD - Waitin on Rent amount from Section 8

<u>Current Status</u>	<u>Proposed</u>
1 bdrm @ 50% - 8	8
1 bdrm @ 60% - 14	14
2 bdrm @ 80% - 14	14

Property Name **SANTA LUCIA - I.D. # 538263**

DATE: **December-05**

Lease Information							LIHTC Information				Rent Subsidy Information			Current Income			
Bldg # - Unit #	No. Bdrm	Tenant Name	Lease Inception Date	Expiration Date	Lease Rental Rate	Amt. Of Security Deposit	Setaside (% of AMI)	Current LIHTC Rent	Utility Allow.	Adjusted LIHTC Rent	Type Subsidy e. Sec.	Amt. of Subsidy	Tenant Portion of Rent	Unit Rent Due	Paid Rent	Tenant Rent Due	Late Fees Paid
A-101	1	VARGAS	8/10/2001	11/31/06	350	150	60%	350	67	417	HUD	247	103	350			
A-102	1	WONG	4/1/2004	11/30/2006	320	150	50%	320	67	387				320			
A-103	1	SAUSAMEDA	3/1/2001	11/30/2006	375	150	60%	375	67	442	HUD	189	186	375			
A-104	1	REYNOSO	3/1/2001	11/30/2006	375	150	60%	375	67	442	HUD	245	130	375			
B-105	1	MAYNEZ	7/1/2001	11/30/2006	290	150	50%	290	67	357				290			
B-106	1	RODRIGUEZ	3/1/2001	11/30/2005	320	150	60%	320	67	387	HUD			320			
B-107	1	ATAYDE	4/2/2001	11/30/2006	350	150	60%	350	67	417	HUD	249	101	350			
B-108	1	MARTINEZ G.	4/27/2001	4/26/2005	350	150	60%	350	67	417				350			
B-109	1	CHAVIRA	5/21/2001	11/30/2006	295	150	50%	295	67	362	HUD	182	113	295			
B-110	1	RAMIREZ	11/1/2005	10/31/2006	330	0	50%	330	67	397	S.Luc	200	130	330			
C-111	1	GONZALEZ	3/1/2001	11/30/2006	375	150	60%	375	67	442	HUD	221	154	375			
C-112	1	SERNA	6/29/2001	11/30/2006	330	150	50%	330	67	397	HUD			330			
C-113	1	SILVESTRE	1/18/2002	11/30/2006	375	150	60%	375	67	442	HUD	272	103	375			
C-114	1	GARCIA	6/12/2001	11/30/2006	350	150	60%	350	67	428				350			
C-115	1	GUTIERREZ	11/1/2002	11/30/2006	375	150	60%	375	78	453	HUD	267	108	375			
C-116	1	CABRAL	3/1/2001	11/30/2006	295	150	50%	295	67	362	HUD	129	166	295			
D-117	2	ALFARO	8/17/2005	7/31/2006	350	150	60%	350	78	428				350			
D-118	2	ORTEGA	6/1/2002	11/30/2006	400	150	60%	400	78	460	HUD	217	183	400			
D-119	2	SOSA	12/15/2001	11/30/2006	375	150	60%	375	78	453				375			
D-120	2	MARIN	4/1/2003	11/30/2006	400	150	60%	400	78	478	HUD	314	86	400			
E-121	2	BOUCHE	11/1/2001	11/30/2006	400	200	60%	400	78	478	HUD	308	92	425			
E-122	2	WILSON	7/1/2002	11/30/2006	425	150	60%	425	78	503	HUD	155	270	425			
E-123	2	GOMEZ	1/1/2002	12/31/2004	425	150	60%	425	78	503	HUD	246	179	425			
E-124	2	MUNIZ	5/1/2002	11/30/2006	400	150	60%	400	78	478	HUD	222	178	400			
F-125	2	FIERRO	11/8/2001	11/30/2006	375	150	60%	375	78	453	HUD			375			
F-126	2	LUNA	11/1/2001	11/30/2006	425	150	60%	425	78	503	HUD	450	25	425			
F-127	2	BATTAGLIA	10/12/2001	9/30/2006	425	150	60%	425	78	503	HUD	326	99	425			
F-128	2	PRIETO	8/1/2001	11/30/2006	425	150	60%	425	78	503				425			
G-129HC	1	VILLAREAL	4/9/2003	11/30/2006	330	150	50%	330	67	397				330			
G-130	1	ANDRADE	9/3/2001	8/31/2006	350	150	60%	350	67	417	HUD	239	111	350			

Property Name **SANTA LUCIA - I.D. # 538263**

DATE: **December-05**

Lease Information							LIHTC Information				Rent Subsidy Information			Current Income			
Bldg # - Unit #	No. Bdrm	Tenant Name	Lease Inception Date	Expiration Date	Lease Rental Rate	Amt. Of Security Deposit	Setaside (% of AMI)	Current LIHTC Rent	Utility Allow.	Adjusted LIHTC Rent	Type of Subsidy	Amt. of Subsidy	Tenant Portion of Rent	Unit Rent Due	Paid Rent	Tenant Rent Due	Late Fees Paid
G-131	1	CARRILLO	10/18/2005	9/30/2006	375	0	60%	375	67	442				375			
G-132	1	RAMIEREZ	4/1/2004	11/30/2006	320	150	60%	320	67	387				320			
H-133	1	FLORES	5/1/2002	11/30/2006	375	150	60%	375	67	442	HUD	139	236	375			
H-134	1	BARROSO	3/1/2001	11/30/2006	330	150	50%	330	67	397				330			
I-135	2	CHAVEZ	8/1/2001	11/30/2006	425	150	60%	425	78	503	HUD	339	86	425			
I-136	2	GRADO	7/1/2004	11/30/2006	450	150	60%	450	78	528				450			
					13235	5150		13235		15805		5156	2839	13260	0.00	0	0

HUD - Housing Authorities Section 8
 LMC - Life Management Center
 PRORATE - Pro-rated Rent Based on Move-In Date
 HUD - Waitin on Rent amount from Section

<u>Current Status</u>	<u>Proposed</u>
1 bdrm @ 50% - 8	8
1 bdrm @ 60% - 14	14
2 bdrm @60% - 14	14

Property Name **SANTA LUCIA - I.D. # 538263**

DATE: **December-05**

Lease Information							LIHTC Information				Rent Subsidy Information			Current Income			
Bldg # - Unit #	No. Bdrm	Tenant Name	Lease Inception Date	Expiration Date	Lease Rental Rate	Amt. Of Security Deposit	Setaside (% of AMI)	Current LIHTC Rent	Utility Allow.	Adjusted LIHTC Rent	Type of Subsidy	Amt. of Subsidy	Tenant Portion of Rent	Unit Rent Due	Paid Rent	Tenant Rent Due	Late Fees Paid
A-101	1	VARGAS	8/10/2001	11/31/06	350	150	60%	350	67	417	HUD	247	103	350			
A-102	1	WONG	4/1/2004	11/30/2006	320	150	50%	320	67	387				320			
A-103	1	SAUSAMEDA	3/1/2001	11/30/2006	375	150	60%	375	67	442	HUD			375			
A-104	1	REYNOSO	3/1/2001	11/30/2006	375	150	60%	375	67	442	HUD			375			
B-105	1	MAYNEZ	7/1/2001	11/30/2006	290	150	50%	290	67	357		250	125	375			
B-106	1	RODRIGUEZ	3/1/2001	11/30/2005	320	150	60%	320	67	387				290			
B-107	1	ATAYDE	4/2/2001	11/30/2006	350	150	60%	350	67	417	HUD	249	101	350			
B-108	1	MARTINEZ G.	4/27/2001	4/26/2005	350	150	60%	350	67	417				350			
B-109	1	CHAVIRA	5/21/2001	11/30/2006	295	150	50%	295	67	362	HUD	182	113	295			
B-110	1	RAMIREZ	11/1/2005	10/31/2006	330	0	50%	330	67	397	S.Luc	200	130	330			
C-111	1	GONZALEZ	3/1/2001	11/30/2006	375	150	60%	375	67	442	HUD			375			
C-112	1	SERNA	6/29/2001	11/30/2006	330	150	50%	330	67	397				330			
C-113	1	SILVESTRE	1/18/2002	11/30/2006	350	150	60%	350	67	417	HUD	214	136	350			
C-114	1	GARCIA	6/12/2001	11/30/2006	350	150	60%	350	67	428				350			
C-115	1	GUTIERREZ	11/1/2002	11/30/2006	375	150	60%	375	78	453	HUD			375			
C-116	1	CABRAL	3/1/2001	11/30/2006	295	150	50%	295	67	362	HUD	129	166	295			
D-117	2	ALFARO	8/17/2005	7/31/2006	350	150	60%	350	78	428				350			
D-118	2	ORTEGA	6/1/2002	11/30/2006	400	150	60%	400	78	460	HUD	217	183	400			
D-119	2	SOSA	12/15/2001	11/30/2006	375	150	60%	375	78	453				375			
D-120	2	MARIN	4/1/2003	11/30/2006	400	150	60%	400	78	478	HUD	314	86	400			
E-121	2	BOUCHE	11/1/2001	11/30/2006	400	200	60%	400	78	478	HUD	308	92	400			
E-122	2	WILSON	7/1/2002	11/30/2006	425	150	60%	425	78	503	HUD	155	270	425			
E-123	2	GOMEZ	1/1/2002	12/31/2004	425	150	60%	425	78	503	HUD	246	179	425			
E-124	2	MUNIZ	5/1/2002	11/30/2006	400	150	60%	400	78	478	HUD	222	178	400			
F-125	2	FIERRO	11/8/2001	11/30/2006	375	150	60%	375	78	453				375			
F-126	2	LUNA	11/1/2001	11/30/2006	425	150	60%	425	78	503	HUD	400	25	425			
F-127	2	BATTAGLIA	10/12/2001	9/30/2006	425	150	60%	425	78	503	HUD	326	99	425			
F-128	2	PRIETO	8/1/2001	11/30/2006	425	150	60%	425	78	503				425			
G-129HC	1	VILLAREAL	4/9/2003	11/30/2006	330	150	50%	330	67	397				330			
G-130	1	ANDRADE	9/3/2001	8/31/2006	350	150	60%	350	67	417	HUD	239	111	350			

Exhibit F
Current Compliance Report



[Main Menu](#)

[Non-Com Types](#)

[Project Search](#)

[My TDHCA](#)

OTHER PROGRAM COMPLIANCE STATUS SYSTEM

Issues of Noncompliance

for selected projects

10/27/2006

Santa Lucia Apartments **Score 42**
El Paso
ID 538263 **Total Units 36** **Last Audit Date 12/19/2005**

Owner failed to submit annual certification.

<i>BIN #</i>	<i>NC Date</i>	<i>Corrected Date</i>	<i>Corrected?</i>	<i>8823 Date</i>
All Bins-538263	03/01/2005	04/28/2005	Yes	02/24/2006

Owner failed to maintain or provide tenant income certification and documentation.

101	08/10/2004	12/01/2005	Yes	06/21/2006
102	04/01/2005	12/01/2005	Yes	06/21/2004
103	03/01/2005	12/06/2005	Yes	06/21/2006
104	03/01/2005	12/01/2005	Yes	06/21/2004
105	07/01/2005	12/01/2005	Yes	06/21/2006
106	03/01/2005	03/01/2005	Yes	06/21/2006
107	04/01/2005	12/15/2005	Yes	06/21/2006
108	04/27/2005	12/06/2005	Yes	06/21/2006
109	05/21/2005	12/01/2005	Yes	06/21/2006
111	03/01/2005	10/11/2005	Yes	06/21/2006
112	06/29/2005	12/01/2005	Yes	06/21/2006
113	01/18/2005	12/01/2005	Yes	06/21/2006
114	02/18/2005	12/09/2005	Yes	06/21/2006
115	11/01/2004	12/01/2005	Yes	06/21/2006
116	03/01/2005	12/06/2005	Yes	06/21/2006

118	06/01/2005	12/01/2005	Yes	06/21/2006
119	12/01/2005	12/09/2005	Yes	06/21/2006
120	04/01/2005	12/01/2005	Yes	06/21/2006
121	11/01/2004	12/01/2005	Yes	06/21/2006
122	07/01/2005	12/01/2005	Yes	06/21/2006
123	01/01/2004	12/01/2005	Yes	06/21/2006
124	05/01/2005	12/01/2005	Yes	06/21/2006
125	11/08/2004	12/12/2005	Yes	06/21/2006
126	11/01/2004	12/06/2005	Yes	06/21/2006
127	10/12/2004	10/01/2005	Yes	06/21/2006
128	08/01/2004	12/05/2005	Yes	06/21/2006
129	04/09/2003	12/09/2005	Yes	06/21/2006
130	09/03/2003	09/01/2005	Yes	06/21/2006
132	04/01/2005	12/09/2005	Yes	06/21/2006
133	05/01/2004	12/01/2005	Yes	12/01/2005
134	03/01/2004	12/01/2005	Yes	06/21/2006
135	06/01/2005	12/01/2005	Yes	06/21/2006
136	07/01/2005	12/12/2005	Yes	06/21/2006

Failure to provide annual HQS inspection for HOME units.

Not meeting the prescribed special needs set-aside restriction.

All Bins-538263	11/02/2004	02/18/2005	Yes	02/25/2005
All Bins-538263	11/02/2004	02/22/2005	Yes	02/25/2005

Exhibit G
Letters of Support



El Paso, Texas
The International City

STEVE ORTEGA
CITY REPRESENTATIVE
DISTRICT NO. 7

October 30, 2006

Ms. Elizabeth "Beth" Anderson
Chair
TDHCA Governing Board
221 East 11th Street
Austin, TX 78701

Re: Spanish Creek Townhomes
TDHCA #060080

Dear Ms. Anderson:

Spanish Creek Townhomes, 610 Lee Trevino Drive, El Paso, Texas, a new affordable housing community being developed by Investment Builders, Inc. ("IBI"), has my unqualified support. This is a 136-unit project that is sorely needed in El Paso. As you know, El Paso must make provision for a substantial increase in residential units due to the expected increase of forces at Fort Bliss. Thus, a project like Spanish Creek Townhomes takes on a great urgency.

I am writing this letter to ensure that the Texas Department of Housing and Community Affairs reassess the details and award this project. Not only will Spanish Creek Townhomes help alleviate the need for affordable housing, but also bring great benefits to the City of El Paso. I understand that Region 13 is currently under funded and that the approval of this development will enable this Region to receive its fair share of tax credits. I urge you to strongly support this project in every way.

I also want to thank you and the Board for your attention to the housing needs of El Paso.

Very truly yours,

A handwritten signature in black ink that reads "Steve Ortega".

Steve Ortega
City Representative – District No. 7

SO:aq



The Senate of the State of Texas

COMMITTEES:

Veterans Affairs & Military Installations
Subcommittee on Base Realignment
and Closure - Chair
International Relations and Trade - Vice Chair
Infrastructure Development & Security
Sunset Advisory Commission
Nominations

Senator Eliot Shapleigh
District 29

MAIN DISTRICT OFFICE:
800 Wyoming Ave., Suite A
El Paso, Texas 79902
915/544-1990
Fax: 915/544-1998

EASTSIDE DISTRICT OFFICE:
1801 N. Zaragoza, Suite C
El Paso, Texas 79936
915/857-4800
Fax: 915/857-4854

CAPITOL OFFICE:
P.O. Box 12068
Austin, Texas 78711
512/463-0129
Fax: 512/463-0218
Dial 711 For Relay Calls
e-mail: eliot.shapleigh@senate.state.tx.us

October 30, 2006

Ms. Elizabeth "Beth" Anderson
Chair - TDHCA Governing Board
221 East 11th Street
Austin, TX 78701

Re: Spanish Creek Townhomes
TDHCA #060080

Dear Ms. Anderson:

I am writing this letter to ask that the Texas Department of Housing and Community Affairs (TDHCA) move forward with the allocation of Housing Tax Credits it has ensured for the Spanish Creek Townhomes.

This new affordable housing community, a development by Investment Builders, Inc. ("IBI"), brings to El Paso a 136-unit development that is sorely needed as our city is experiencing rapid growth. As you know, El Paso must make provisions for a substantial increase in residential units due to the expected growth of Fort Bliss. Thus, a project like Spanish Creek Townhomes, and others like it are essential in providing quality, affordable housing for our citizens.

Not only will Spanish Creek Townhomes help alleviate the need for affordable housing, but also bring great benefits to the City of El Paso. I understand that Region 13 is currently under funded and that approval of this development will enable this Region to receive its fair share of tax credits. I urge you to strongly support this project in every way.

I thank you and the Board for your work and attention to the housing needs of El Paso.

Very truly yours

Eliot Shapleigh

ES/rjv

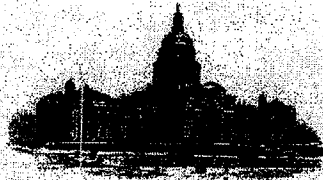
X: Correspondence/SmtzAgencies/HousingandCommunityAffairs,TexasDepartment/EAndersonSpanishCreekTownhomes

1-800-544-1990



TEXAS HOUSE OF REPRESENTATIVES

CAPITOL OFFICE
 P.O. Box 2916
 Austin, Texas 78768-2916
 (512) 463-0622
 (888) 209-7618 TOLL FREE
 (512) 478-6733 FAX



DISTRICT OFFICE
 6071 Gateway East
 Suite 300
 El Paso, Texas 79905
 (915) 778-9400
 FAX (915) 778-4003

★
 Norma Chávez

October 30, 2006

Ms. Elizabeth "Beth" Anderson
 Chair
 TDHCA Governing Board
 221 East 11th Street
 Austin, TX 78701

RE: Spanish Creek Townhomes
 TDHCA #060080

Dear Ms. Anderson:

Spanish Creek Townhomes, 610 Lee Trevino Drive, El Paso, Texas, a new affordable housing community being developed by Investment Builders, Inc. ("IBC"), has my support. This is a 136-unit project that is sorely needed in El Paso. As you know, El Paso must make provision for a substantial increase in residential units due to the expected increase of forces at Fort Bliss. Thus, a project like Spanish Creek Townhomes takes on a great urgency.

I am writing this letter to ensure that the Texas Department of Housing and Community Affairs reassess the details and award this project. Not only will Spanish Creek Townhomes help alleviate the need for affordable housing, but also greatly benefit El Paso. I understand that Region 13 is currently under funded and that the approval of this development will enable this region to receive its fair share of tax credit. I urge you to strongly support this project.

Thank you for your attention to this matter and to the housing needs of El Paso. If I may be of any further assistance with this or any other matter, please contact me.

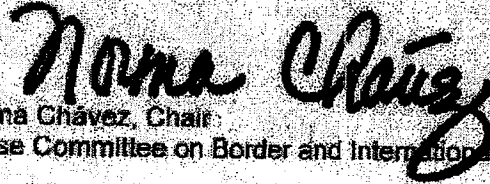


DISTRICT 16

COMMITTEES ★ Border & International Affairs, Chair ★ Financial Institutions
 International Committee of the Council of State Governments



Kindest regards,

A handwritten signature in black ink that reads "Norma Chavez". The signature is written in a cursive style with a large, stylized "N" and "C".

Norma Chavez, Chair
House Committee on Border and International Affairs

NC/da: sct



El Paso, Texas
The International City

JOHN F. COOK
MAYOR

October 30, 2006

Ms. Elizabeth "Beth" Anderson
Chair
TDHCA Governing Board
221 East 11th Street
Austin, TX 78701

Re: Spanish Creek Townhomes
TDHCA #060080

Dear Ms. Anderson:

Spanish Creek Townhomes, 610 Lee Trevino Drive, El Paso, Texas, a new affordable housing community being developed by Investment Builders, Inc. ("IBI"), has my unqualified support. This is a 136-unit project that is sorely needed in El Paso. As you know, El Paso must make provision for a substantial increase in residential units due to the expected increase of forces at Fort Bliss. Thus, a project like Spanish Creek Townhomes takes on a great urgency.

I am writing this letter to ensure that the Texas Department of Housing and Community Affairs reassess the details and award this project. Not only will Spanish Creek Townhomes help alleviate the need for affordable housing, but also bring great benefits to the City of El Paso. I understand that Region 13 is currently under funded and that the approval of this development will enable this Region to receive its fair share of tax credits. I urge you to strongly support this project in every way.

I also want to thank you and the Board for your attention to the housing needs of El Paso.

Respectfully yours,

A handwritten signature in black ink, appearing to read "John F. Cook".

John F. Cook
Mayor of El Paso

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
November 9, 2006

Action Item

Waiver of the Material Noncompliance Provision of the Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments.

Requested Action

Approve or deny each request for a waiver of the prohibition of a property being in Material Noncompliance as not being eligible for the Policy for Addressing Cost Increases found in Section III. 9. of the policy.

Background and Recommendations

Under the terms of the policy approved at the October 12, 2006, Board meeting regarding increases in costs for 2004 and 2005 awarded properties, an awarded property who has related properties that are in Material Noncompliance are not eligible to receive the additional credits. After correction of an incidence of Material Noncompliance, a corrected score is carried for three years by the Department. To the extent that multiple incidences occurred such that the cumulative score of the corrected items exceeds the compliance threshold, this limits the ability of the owner to receive new awards from the Department during this period.

Tejas Housing Development Inc.

Tejas Housing and Development, Inc. has requested that the Board provide a waiver to this rule for the properties they are developing from the relevant award periods. The three properties affected by this ineligibility are:

- | | | | |
|----------|------------------------|------------|-----------|
| 1. 04228 | Stone Hearst | Beaumont | 104 Units |
| 2. 04241 | Anson Park II | Abilene | 80 Units |
| 3. 05179 | Villages at Huntsville | Huntsville | 76 Units |

The Department notified Mr. R.J. Collins, the owner of Tejas Housing and Development, Inc. of a violation in the method by which the company had computed utility allowances and had therefore overcharged rents to persons living in their properties. The Department requested that the overcharged rents be refunded to the tenants and that the utility allowances be adjusted and the rents be corrected. Mr. Collins has indicated that these events have occurred. However, the Department's Portfolio Management and Compliance division has not been able to confirm, as of October 30, 2006, that the Noncompliance issues have been resolved. It should be noted that, even if the issues are resolved, the corrected score would still exceed the compliance threshold.

The attached request by Tejas indicates that the properties are in need of the additional credits and the Board's intention in passing the policy was to protect the financial feasibility of the

previously awarded projects. For clarification, the ineligibility does not affect the amount of or ability to utilize the original 2004 or 2005 awards previously granted. The impact of the ineligibility is only to the additional allocations allowed under the policy.

Staff Recommendation:

Staff does not recommend the waiver of the policy regarding Material Noncompliance.

Investment Builders, Inc.

Investment Builders, Inc. has requested that the Board provide a waiver to this rule for the properties they are currently developing from the relevant award periods.

This Applicant was in Material Noncompliance on October 1, 2006 on their property Santa Lucia Housing. The Material Noncompliance is based on the 1) the owner's failure to maintain or provide tenant income certification or documentation; 2) the owner's failure to submit annual certification; 3) the owner's failure to submit annual Housing Quality Standards Inspection for HOME units; and 4) the owner not meeting the prescribed special needs set aside restrictions.

Investment Builders, Inc. is an Affiliate Owner of the Santa Lucia Housing development with a minority share of ownership (49%). The issues addressed in the owner's appeal are 1) the nature of the event of noncompliance; 2) the distinction between HOME and HTC Compliance; 3) the timing of noncompliance; 4) the impact of minority position; 5) the Investment Builder's history; 6) the potential harm to the City of El Paso; and 7) statutes and rules permit discretion. The owner states that all issues have been corrected although the Material Noncompliance score still exceeds the compliance threshold.

The properties affected by this ineligibility are:

- | | | | |
|----------|------------------------|---------|-----------|
| 1) 04070 | Cedar Oak Townhomes | El Paso | 160 Units |
| 2) 05060 | North Mountain Village | El Paso | 200 Units |

Staff Recommendation:

Staff does not recommend the waiver of the policy regarding Material Noncompliance.



P.O. Box 27130
HOUSTON, TEXAS 77227
JOHN@JOHNRPITTS.COM

713.552.1854 - DIRECT
512.426.9135 - CELL
713.739.8341 - FAX

October 26, 2006

Mr. Michael Gerber
Executive Director
Texas Department of Housing & Community Affairs
PO Box 13941
Austin, TX 78711-3941

Re: Tejas Housing and Development Inc.
Request for Waiver

Dear Mr. Gerber:

I am writing to you on behalf of my client, Tejas Housing and Development Inc. ("Tejas"), to request a waiver of the Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments ("Policy"). Your Board approved the Policy at its October 12, 2006 meeting. Previously, I forwarded to you comments on the draft Policy during the comment period.

I have been working with you and your staff regarding the notice of material non-compliance Tejas has received for its project located in Stephenville, Texas. My client has two projects located in the effected zone of *Rita* and *Katrina*. The failure of receiving funds for these projects will threaten the financial viability of each of these projects and will cause another project that has been awarded tax credit to not be built.

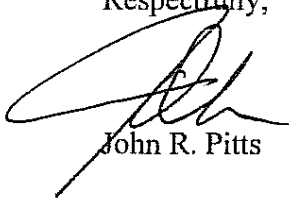
As we mentioned in our meetings, my client's project in Stephenville was deemed to be in material non-compliance because of the utility allowance he used for this project. Tejas has agreed to make full refunds to the tenants of the Stephenville project and is in the process of doing so. These refunds should be fully made by the end of this month. Tejas has been working with your staff to ensure that it is in full compliance in making the refunds.

In that these refunds should make Tejas in compliance, or at least very very close to a score indicating that it is in compliance, Tejas is asking that you and/or your Board consider waving the material non-compliance rule contained in the Policy for Tejas. Tejas complies with all other provisions of the Policy.

We believe it was the intent of the Board to ensure financial feasibility for all projects experiencing cost overruns because of *Rita* and *Katrina*. Without this requested waiver, as mentioned earlier, two projects will be threatened and one project will not be built which already has been awarded tax credits.

We respectfully request that this waiver be considered and granted by you or, if necessary, your Board. If this request requires Board approval, we ask that it be reviewed at the Board's November 9 meeting late in the agenda.

Respectfully,



John R. Pitts

cc: Kevin Hamby ✓
Patricia Murphy
R. J. Collins

LOCKE LIDDELL & SAPP LLP

ATTORNEYS & COUNSELORS

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November 2, 2006

Mr. Kevin Hamby
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: **Appeal**
Cedar Oak Townhomes in El Paso, *TDHCA No. 04070*
North Mountain Village in El Paso, *TDHCA No. 05060*

Dear Kevin:

Pursuant to our telephone conversation yesterday, thank you for the opportunity to present this letter. We represent the owners of Cedar Oak Townhomes ("**Cedar Oak**") and North Mountain Village ("**North Mountain**"), both of which are affordable multifamily properties in El Paso. Cedar Oak received an allocation of low-income housing tax credits ("**Tax Credits**") in 2004 and North Mountain received an allocation of Tax Credits in 2005.

On October 12, 2006, the TDHCA Board approved a policy to allocate additional Tax Credits for 2004 and 2005 awardees (the "**Policy**"). As such, Cedar Oak and North Mountain should be eligible for additional Tax Credits. However, the Policy states:

The binding agreement will be reviewed before execution by the Executive Director of the Department to ensure that principals of the Development receiving an allocation of additional credits are not in material non-compliance on other developments in which they are a party. The Portfolio Management and Compliance division of the Department will perform this review as of November 17, 2006.

Investment Builders, Inc. ("**Investment Builders**") is a principal of the owners of Cedar Oak and North Mountain. Investment Builders has recently learned that a property in which it is a minority owner, called Santa Lucia, has a material non-compliance score in excess of 30. Santa Lucia is a 36-unit seniors property in El Paso, financed with HOME funds from TDHCA. The events leading to the non-compliance of Santa Lucia, and the participation of Investment Builders as a minority owner of that project, are outlined in a letter I wrote to Mr. Gerber dated October 31, 2006, a copy of which you received. In summary, Santa Lucia experienced an unfortunate series of events with an on-site employee embezzling funds from the property and, upon termination of her employment, destroying records on the

property. Subsequently, the on-site property management team of Santa Lucia (which was selected by the managing general partner, not Investment Builders) failed to timely recertify the tenants residing on the property. The way this occurrence was scored under the compliance rules (with HOME projects being scored differently than Tax Credit projects) resulted in a material non-compliance score being attributed to Investment Builders.

For a variety of reasons outlined in my October 31, 2006 letter to Mr. Gerber, we believe equity dictates that the material non-compliance score for Santa Lucia should not have a material adverse effect on Investment Builders and its properties in El Paso.

Request

We respectfully request that TDHCA permit both Cedar Oak and North Mountain Village to receive additional Tax Credits under the Policy. Both properties need these additional Tax Credits. Cedar Oak is completed, and its construction costs were approximately \$675,000 greater than originally anticipated in its Tax Credit application. North Mountain Village remains under construction, and it is estimated that its final construction costs will exceed its original construction budget by approximately \$1,000,000. The additional Tax Credits are necessary to offset these cost overruns. Without them, each property will be in a precarious financial position as it leases up and heads toward stabilization.

We appreciate the ability to present this request and look forward to discussing it with the Board at the November 9 meeting. Thank you.

Sincerely,

Cynthia L. Bast

Cynthia L. Bast

cc: Investment Builders, Inc.

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October 31, 2006

Mr. Michael Gerber
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: **Appeal**
Spanish Creek Townhomes in El Paso (the "**Spanish Creek**")
TDHCA No. 060080

Dear Mr. Gerber:

We represent Spanish Creek Townhomes, Ltd. ("**Owner**"), which received a commitment of low-income housing tax credits ("**Tax Credits**") for Spanish Creek. Owner has received notice that its Tax Credit commitment had been rescinded for Material Non-Compliance¹ and hereby appeals that decision.

Background

A brief description of the facts leading to this situation merit consideration:

Investment Builders, Inc. ("**Investment Builders**") is an Affiliate of Owner, within the meaning of such term given in the 2006 Qualified Allocation Plan (the "**QAP**") for Tax Credits. In the past 11 years, Investment Builders has participated in the development of more than 25 properties in the El Paso area, using the Tax Credit program. In 1998, Investment Builders agreed to partner with Santa Lucia Community Development Organization, a local non-profit organization ("**Santa Lucia**"), to help that organization access TDHCA's HOME funds in the CHDO set-aside. Investment Builders and Santa Lucia agreed to form a partnership to develop 36 units of elderly housing for El Paso (the "**Santa Lucia Complex**"), using TDHCA HOME funds. They formed a general partnership called Santa Lucia Housing, General Partnership (the "**Partnership**") to finance, develop, and own the Santa Lucia Complex. For purposes of this Partnership, Investment Builders was to provide its development experience and Santa Lucia intended to ultimately control the property. Thus, Santa Lucia is the 51% owner of the Partnership and Investment Builders is the 49% owner of the Partnership. Santa Lucia is

¹ See Exhibit A for a copy of the rescission notice.

the managing general partner and is responsible for all day-to-day operations of the Santa Lucia Complex, including specifically regulatory compliance matters.

The Santa Lucia Complex has served, and continues to serve, low-income senior citizens in El Paso. However, in the past several years, the property has experienced management challenges. As managing general partner, Santa Lucia engaged another non-profit organization to provide property management services. This non-profit organization had prior experience with affordable housing compliance matters. From 2001 through 2003, the property operated without any Material Non-Compliance. Unfortunately, in November 2004, Investment Builders learned that one of the on-site employees at the Santa Lucia Complex was embezzling funds from the property. When the crime was discovered, her employment was terminated, but not before she shredded and otherwise destroyed numerous documents and property records.

In November 2004 after learning of the problem, Investment Builders offered to take over the management of the Santa Lucia Complex. However, its proposed services were refused by the board of directors of Santa Lucia. They continued the relationship with the non-profit management organization. Investment Builders could not unilaterally effect a change in management because it did not own a majority interest in the Partnership.

In the ensuing year after the crime and destruction of records, the parties strove to recover from the damage wrought by the former employee. At the same time, leadership of the management company changed, as well. That year, TDHCA's annual on-site visit discovered that the tenants on the property had not been timely recertified. It is this violation that created an event of Material Non-Compliance, which is now poised to have a very serious impact on Investment Builders and the City of El Paso.

Considerations

We request that the Tax Credits for Spanish Creek be reinstated and that TDHCA consider the items set forth below.

The nature of the event of non-compliance. The Santa Lucia Complex contains 36 units in 9 buildings. The property has not failed to serve low-income tenants; nor has it failed to charge the right rents. Moreover, all of the non-compliance matters have been corrected.² The Material Non-Compliance score for the Santa Lucia Complex is based, primarily, on a failure to timely complete paperwork to certify the tenants. The recertifications are required to occur annually, and the on-site manager completed all of the recertifications at one time, in December 2005, instead of throughout the year, as it should have been done.

Interestingly, TDHCA's compliance rules do not distinguish between a violation for renting to over-income tenants versus failing to recertify tenants in a timely manner. The corrected noncompliance

² See Exhibit B for a copy of the correction notice.

score for a violation of renting to an over-income tenant is one point³. The corrected noncompliance score for a violation of failing to timely recertify a tenant is one point⁴. While we all recognize the importance of maintaining quality records in a highly regulated program, it seems that failure to rent to proper tenants should result in more severe consequences than failure to timely recertify the tenants.

Distinction between HOME and Tax Credit Compliance. As noted above, the Santa Lucia Complex participates in the HOME program, while Spanish Creek participates in the Tax Credit program. Different compliance standards apply in these two programs, yet a non-compliance event under one program equally impacts participation under the other program. Because the Santa Lucia Complex participates in the HOME program, events of noncompliance are calculated on a unit-by-unit basis. By contrast, if the Santa Lucia Complex were in the Tax Credit program, the event of noncompliance would be calculated on a building-by-building basis.⁵ With 36 units and 9 buildings on property and one point for each failure to timely recertify, the Santa Lucia Complex has a Material Non-Compliance score under the HOME calculations, but it would not have a Material Non-Compliance score if the Tax Credit calculations were applied.

In addition, Tax Credit properties undergo a site visit for compliance once every three years and are assigned a compliance score that lasts throughout the three-year period. Meanwhile, HOME properties are visited annually and receive annual adjustments to the compliance scores. Yet, the compliance scores for HOME projects stay with the property for three years, as well. This can create a cumulative effect on the scoring for HOME properties that is not otherwise present for Tax Credit properties.

The timing of the non-compliance. In reviewing TDHCA's compliance file, it appears that Investment Builders was not notified of the Material Non-Compliance score until October 13, 2006⁶. Over the past five years, there have been a variety of correspondence from TDHCA to the Partnership with regard to compliance matters. None of that correspondence actually tells the Partnership of its compliance score for the Santa Lucia Complex. The correspondence either indicates that there were findings, or that the findings had been corrected, but it does not tell the property owner the score that results from those findings or corrections.

The first time Investment Builders was alerted to its compliance score for the Santa Lucia Complex was in October 2005, when Investment Builders proactively contacted TDHCA and asked for its score with regard to the Santa Lucia Complex. At that time, Investment Builders was planning for its 2006 Tax Credit applications and wanted to make sure that a Material Non-Compliance score would not be a problem. In response to its inquiry, Investment Builders was advised that the compliance score for the Santa Lucia Complex was 9. Thus, Investment Builders proceeded with the Spanish Creek Tax Credit application in late 2005 and early 2006. TDHCA performed a site visit at the Santa Lucia

³ 10 TAC § 60.18(4)(B)(i).

⁴ 10 TAC § 60.18(4)(B)(vi).

⁵ 10 TAC § 60.18(3).

⁶ See Exhibit C for notice of Material Non-Compliance score.

October 31, 2006

Page 4

Complex for compliance review in November 2005. In February 2006⁷, the Partnership was notified of events of non-compliance⁸. The Partnership responded to those items with corrections in March 2006⁹.

As you know, TDHCA rules require a compliance review for all Tax Credit applicants as of May 1 of each year¹⁰. Investment Builders and the Spanish Creek Tax Credit application passed this review, despite the fact that the issues of non-compliance had been identified in November 2005, notified in February 2006, and corrections had been submitted in March 2006. In fact, Investment Builders did not receive notice that the Santa Lucia Complex non-compliance had been corrected until June 2006. Even at that time, Investment Builders was not alerted to the score associated with the corrected non-compliance. (See Exhibit B).

The events of non-compliance as to the Santa Lucia Complex were corrected as of December 2005. Compliance rules state that a score is assigned when an event of non-compliance is identified and then changed when an event of non-compliance is corrected¹¹. But the compliance system has an inherent lag. In the case of the Santa Lucia Complex, most events of non-compliance were corrected as of December 2005, but the score was not assigned until June 2006¹². This lag time, and the fact that compliance scores are not readily communicated in TDHCA correspondence, did not alert Investment Builders to any problem until October 2006, well after Investment Builders has invested substantial resources (including more than \$600,000 cash) in pursuing the Spanish Creek Tax Credit application.

Moreover, Section 50.13(a)(5) of the QAP states that a commitment notice will not be issued if an applicant is in Material Non-Compliance. Why, then, was the commitment notice issued for Spanish Creek in August 2006 when these compliance issues from December 2005 were outstanding?

The impact of the minority position. We believe it is important to remember that Investment Builders is a minority partner in the Partnership for the Santa Lucia Complex. As such, they do not have the direct ability to control the operations of the property. They were in contact with Santa Lucia and even tried to participate in the management when the property was placed at risk because of the crimes committed. Yet, Santa Lucia ultimately controlled the situation and was able to prevent Investment Builders from actively participating to address any on-site issues.

The Investment Builders history. As noted above, Investment Builders has participated in the development of over 25 properties in the El Paso area using the Tax Credit program. It has also received several HOME loans from TDHCA, either on its own or through partnerships, like the Partnership with Santa Lucia. All of these properties have provided quality affordable housing, and none of the others have any Material Non-Compliance scores. Obviously, Investment Builders takes its responsibility for program compliance very seriously. The unfortunate events associated with the Santa Lucia Partnership

⁷ Note 10 TAC § 60.14, which requires TDHCA to provide prompt notice of a non-compliance finding.

⁸ See Exhibit D for letter from TDHCA.

⁹ See Exhibit E for response to non-compliance findings.

¹⁰ 10 TAC § 60.18(2)(B).

¹¹ 10 TAC § 60.18(1) and (2).

¹² See the most current compliance report for the property attached as Exhibit F.

should not mar an otherwise excellent reputation or prohibit the Spanish Creek project from moving forward.

The potential harm to the City of El Paso. No other Tax Credit application is available on the waiting list to serve Region 13 if Spanish Creek does not move forward. Rescission of the Tax Credits for Spanish Creek would result in a serious loss of affordable housing for the City of El Paso. Attached as Exhibit G you will find letters of support from various elected officials in the City of El Paso who want to see the Spanish Creek project move forward.

Statutes and rules permit discretion. TDHCA's governing statute does not require that the Spanish Creek Tax Credit project be terminated because of the Material Non-Compliance score for the Santa Lucia Complex¹³. Section 50.14(a)(4) of the QAP states that the Department may not execute a Carryover Agreement with an Owner in Material Non-Compliance on October 1, 2006. However, this rule can be waived for good cause shown¹⁴.

Request

We respectfully request that the Tax Credits for Spanish Creek be reinstated so that this project can move forward and serve the City of El Paso. If the Executive Director denies the appeal, we request that it be heard by the Board at the November 9 meeting.

If TDHCA cannot find a way to overcome the Material Non-Compliance score, Investment Builders is willing to step away from its interest in Spanish Creek and assign the interest to a third party developer that would be able to take the project to fruition. Investment Builders has identified two different companies that have expressed a willingness to participate in this fashion so that the Tax Credits are not lost for El Paso.

Other Matters

The Material Non-Compliance score with regard to the Santa Lucia Complex creates other issues that need to be addressed, as well. Specifically, Cedar Oak Townhomes (TDHCA No. 04070 and North Mountain Village (TDHCA No. 05060 are Tax Credit developments sponsored by Investment Builders that are entitled to additional Tax Credits, pursuant to the policy approved at the October TDHCA Board meeting. The policy states that the additional credits will not be awarded to any owner that has a Material Non-Compliance score with regard to any other property. Again, Investment Builders asks that this provision of the policy be waived, for all of the reasons cited above. These properties need the additional Tax Credits and should not be penalized because of the unfortunate situation with the Santa Lucia Complex. If this matter can be properly addressed in this appeal, we will be happy to do so. Certainly, hearing these two matters together is the most efficient use of everyone's time.

¹³ See Texas Government Code § 2306.057(c).

¹⁴ QAP § 50.22(a).

October 31, 2006
Page 6

In conclusion, the Spanish Creek project is an important development for the City of El Paso and should be allowed to move forward in the Tax Credit program. All the surrounding circumstances indicate that the events associated with the HOME loan to the Santa Lucia Partnership should not prevent Spanish Creek from proceeding. The Department should exercise its discretion and reinstate the Tax Credits for Spanish Creek. We sincerely appreciate your consideration of this request and are happy to address any further questions you may have.

Sincerely,



Cynthia L. Bast

- Exhibit A – Rescission of Tax Credit Commitment
- Exhibit B – Copy of Correction Notice
- Exhibit C – Notice of Material Non-Compliance Score
- Exhibit D - Letter regarding non-compliance findings
- Exhibit E – Response to non-compliance findings
- Exhibit F – Current Compliance Report
- Exhibit G – Letters of Support

cc: Investment Builders, Inc.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Items

Presentation, Discussion and Possible Approval of Award from the 2006 Waiting List.

Required Action

Approve, Amend or Deny the staff recommendation to commit an allocation to Bluff's Landing, #060151.

Background

At the July 28, 2006 Board meeting staff recommended and the Board approved awards for 2006 Competitive Housing Tax Credit Applications, and consistent with §50.10(b) of the Qualified Allocation Plan and Rules (QAP), a waiting list of additional Applications ranked by score in descending order of priority based on Set-Aside categories and regional allocation goals. The purpose of the waiting list was to establish an approved list of applications which would be eligible should any credits be returned in 2006.

Effective October 1, 2006 one application was identified as ineligible. Therefore, an amount of \$1,203,646 is returned to the Urban/Exurban sub-region in Region 13. If the Board upholds the staff recommendation for the appeal of Spanish Creek Townhomes (earlier on this agenda), the remaining credits in the 2006 credit ceiling would be \$1,640,957.

The waiting list approved at the July 28, 2006 Board meeting stipulated that if credits were returned from a development not associated with any set-aside, the next highest scoring development from that region's Waiting List, regardless of inclusion in a set-aside or not, will be recommended for a Commitment to the Board. However, there are no eligible applications in Region 13 on the Waiting List.

In an effort to be consistent with the methodology applied in making staff recommendations to the Board for the July 28, 2006 Board Meeting, staff has identified Bluff's Landing, Application #060151 in the Urban/Exurban sub-region of Region 7 as the application that would have been recommended had these credits been available. The credit request was an amount of \$1,200,000, however staff is recommending a maximum award not to exceed \$1,242,595. Staff's recommendation is determined utilizing the applicable percentage adjustments approved at the July 28, 2006 Board meeting, which may result in an award higher than the credit requested by the applicant. The methodology is applied to the application in the sub-region whose shortfall of credits had the most significant portion of their targeted sub-regional allocation under allocated. A table reflecting each of the sub-regions and the percentage they would be under (shown in descending order by percentage under) follows and identifies the regional shortfalls as of the July

28, 2006 Board meeting. As noted, awards to address the first 14 regions were made in the July 28, 2006 Board meeting, including Spanish Creek Townhomes, in Urban/Exurban Region 13, the Application that was awarded, but the credits were rescinded. The Urban/Exurban sub-region of Region 7 would have been the next award, Bluff's Landing, Application #060151.

Region		<u>Target U/E</u>	<u>Target Rural</u>	<u>Credit Recs All Under</u>	<u>Difference</u>	<u>Percent Diff</u>	<u>App. Amount Added</u>	<u>App. # Added</u>
7	R 7		\$316,391	\$0	-\$316,391	-100.00%	\$524,877	060181
12	R 12		\$302,311	\$0	-\$302,311	-100.00%	\$413,008	060125
13	R 13		\$236,952	\$0	-\$236,952	-100.00%	\$622,490	060023
12	U/E 12	\$950,272		\$0	-\$950,272	-100.00%	\$1,073,440	060189
9	R 9		\$358,923	\$139,958	-\$218,965	-61.01%	\$355,409	060133
1	U/E 1	\$1,125,215		\$444,768	-\$680,447	-60.47%	\$957,500	060058
2	R 2		\$535,023	\$214,749	-\$320,274	-59.86%	\$413,008	060129
10	R 10		\$711,669	\$294,157	-\$417,512	-58.67%	\$427,000	060072
3	R 3		\$543,537	\$250,152	-\$293,385	-53.98%	\$302,324	060206
5	R 5		\$750,964	\$349,789	-\$401,175	-53.42%	\$793,915	060132
6	R 6		\$673,057	\$368,436	-\$304,621	-45.26%	\$517,668	060035
5	U/E 5	\$787,539		\$467,128	-\$320,411	-40.69%	\$961,150	060199
8	R 8		\$488,933	\$294,040	-\$194,893	-39.86%	\$622,416	060160
13	U/E 13	\$1,867,405		\$1,177,655	-\$689,750	-36.94%	\$1,199,800	060080
7	U/E 7	\$3,006,670		\$1,976,696	-\$1,029,974	-34.26%	\$0	
1	R 1		\$924,158	\$615,000	-\$309,158	-33.45%	\$0	
11	R 11		\$2,077,161	\$1,446,058	-\$631,103	-30.38%	\$0	
4	U/E 4	\$1,069,183		\$907,822	-\$161,361	-15.09%	\$0	
9	U/E 9	\$2,172,228		\$1,850,454	-\$321,774	-14.81%	\$0	
6	U/E 6	\$9,848,162		\$9,051,237	-\$796,925	-8.09%	\$0	
8	U/E 8	\$2,151,466		\$2,004,458	-\$147,008	-6.83%	\$0	
10	U/E 10	\$1,079,928		\$1,012,337	-\$67,591	-6.26%	\$0	
2	U/E 2	\$621,122		\$591,841	-\$29,281	-4.71%	\$0	
11	U/E 11	\$3,618,377		\$3,464,017	-\$154,360	-4.27%	\$0	
4	R 4		\$1,094,923	\$1,050,792	-\$44,131	-4.03%	\$0	
3	U/E 3	\$6,600,988		\$6,566,762	-\$34,226	-0.52%	\$0	

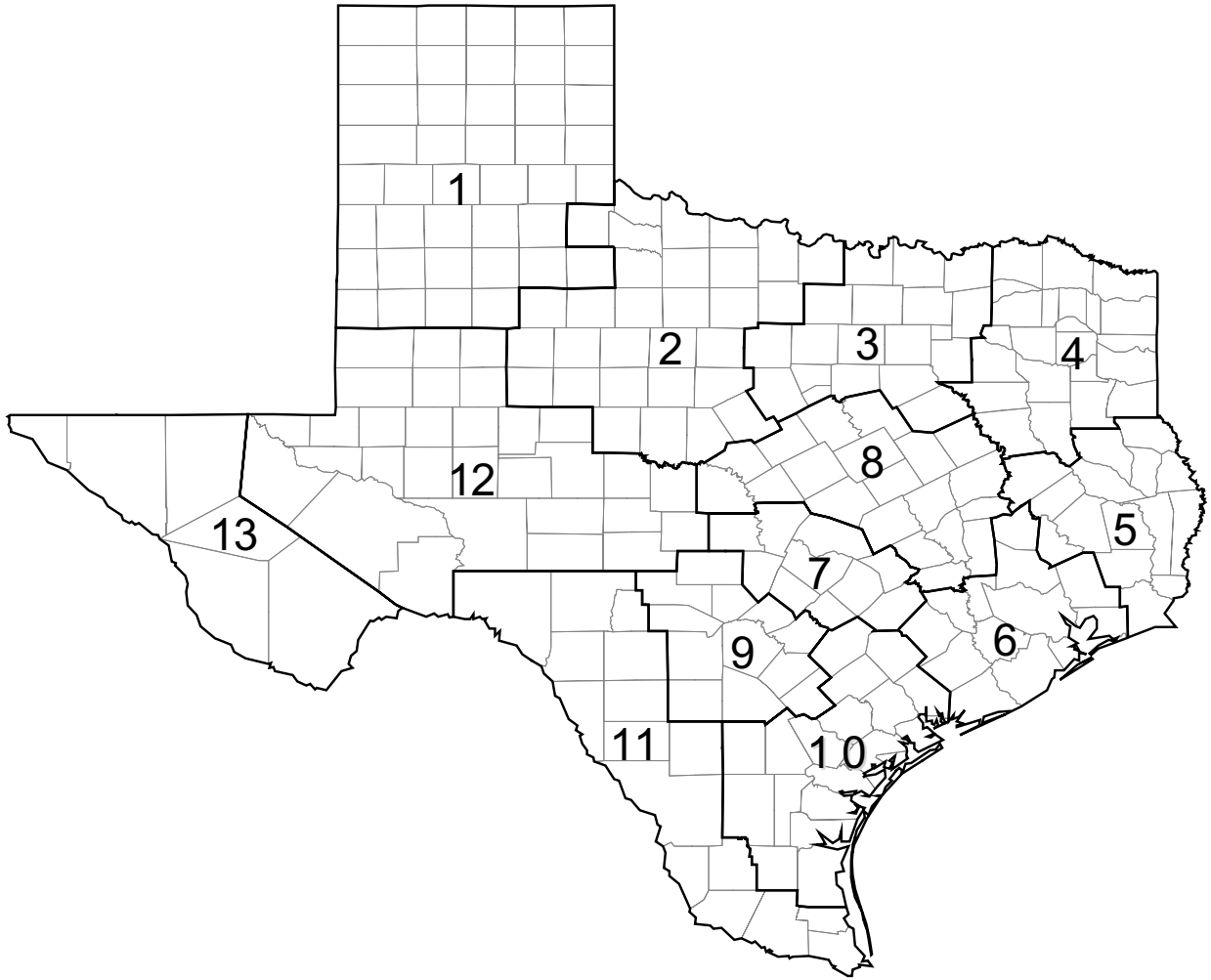
It should be noted that all Applications on the Waiting List are eligible for an award of tax credits, as determined by the Board. A complete list of those applications are outlined in the attached report. Developments on the Waiting List not yet underwritten must still be found to be Acceptable, or Acceptable with Conditions, by Real Estate Analysis. Credit amounts and conditions are subject to change based on underwriting and underwriting appeals. Allocations from the Waiting List remain subject to review by the Portfolio Management and Compliance Division to ensure no issues of Material Non-Compliance exist. In the event that the credit amount returned is insufficient to fund the full credit recommendation, the Applicant will be offered an opportunity to adjust the size of their development, and if they decline, staff will contact the application that is next on the Waiting List. Staff will also review to ensure that no

awards from the Waiting List would cause a violation of any sections of the QAP (for example, the \$2 million credit cap, the one mile rule, etc.).

Recommendation

Staff recommends the award of Housing Tax Credits from the 2006 Credit Ceiling from the 2006 Waiting List in an amount not to exceed \$1,242,595 to the Bluff's Landing development, TDHCA #060151. After this action, the balance of the 2006 credit ceiling is \$398,362.

Uniform State Service Regions



**2006 9% Housing Tax Credit Awards and Waiting List as of November 9, 2006 Board Meeting
Sorted by Region, Allocation, Award Status and Final Score**

Credits Remaining in State Ceiling to be Allocated: \$1,640,957

File #	Reg. A ¹	Development Name	Address	City	Alloc. ²	Set-Asides ³ USDA NP AR	Layering ⁴ HOME RITA	Activity ⁵	LI Units	Total Units	Pop ⁶	Credit Request *	Owner Contact	Owner Phone	Final Score
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Region: 1

Allocation Information for Region 1:	Total Credits Available for Region: \$2,049,373	Rural Allocation: \$924,158	Urban/Exurban Allocation: \$1,125,215
		5% Required for USDA: \$102,469	15% Required for At-Risk: \$307,406

Applications Submitted in Region 1: Urban/Exurban

060098	1 N	The Canyons Retirement Community	2200 W. 7th Ave.	Amarillo	U/E	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	ACQ/R		101	111	E	\$306,343	John B. Irons, Jr.	(325) 691-5519	192
060222	1 N	Jason Avenue Residential	Near Intersection of River Rd. & Jason Ave.	Amarillo	U/E	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	NC		168	176	F	\$1,200,000	Stuart Shaw	(512) 220-8000	179
Subtotal:									269	287		\$2,006,343			

Total: 269 287 \$2,006,343

Applications Submitted in Region 1: Rural

060130	1 N	Deer Creek Apts	S.E. Corner of MLK St. and E. Ellis St.	Levelland	R	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	NC		60	60	Intg	\$534,756	Justin Zimmerman	(417) 883-1632	174
060131	1 N	Canyon View Apts	W. 10th St. at Whittenburg St.	Borger	R	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	NC		44	44	Intg	\$408,585	Justin Zimmerman	(417) 883-1632	171
Subtotal:									104	104		\$943,341			

Total: 104 104 \$943,341

Region Total: 373 391 \$2,949,684

4 Applications in Region

Please refer to report footer on the last page of this report for appropriate disclaimers.

File #	Reg. A ¹	Development Name	Address	City	Alloc. ²	Set-Asides ³	Layering ⁴	Activity ⁵	LI	Total	Credit	Request *	Owner Contact	Owner Phone	Final Score
					USDA	NP	AR	HOME RITA		Units	Units	Pop ⁶			

Region: 2

Allocation Information for Region 2:	Total Credits Available for Region: \$1,156,145	Rural Allocation: \$535,023	Urban/Exurban Allocation: \$621,122
		5% Required for USDA: \$57,807	15% Required for At-Risk: \$173,422

Applications Submitted in Region 2: Rural

060104	2 N	The Grove at Brushy Creek	N.E. Corner of El dorado and Patterson	Bowie	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	52	54	F	\$490,347	Eric Hartzell	(512) 420-0303	176
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Subtotal: 52 54 \$490,347

Total: 52 54 \$490,347

Region Total: 52 54 \$490,347

1 Applications in Region

Please refer to report footer on the last page of this report for appropriate disclaimers.

File #	Reg. A ¹	Development Name	Address	City	Alloc. ²	Set-Asides ³	Layering ⁴	Activity ⁵	LI	Total	Credit	Request *	Owner Contact	Owner Phone	Final Score
					USDA	NP	AR	HOME RITA	Units	Units	Pop ⁶				

Region: 3

Allocation Information for Region 3:	Total Credits Available for Region: \$7,144,524	Rural Allocation: \$543,537	Urban/Exurban Allocation: \$6,600,988
		5% Required for USDA: \$357,226	15% Required for At-Risk: \$1,071,679

Applications Submitted in Region 3: Urban/Exurban

060021	3 N Villas at Henderson Place	1648 W. Henderson	Cleburne	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	172	180	Intg	\$1,141,342	Leslie Clark	(830) 257-5323	182
060138	3 N Residences at Eastland	5500 Eastland St.	Fort Worth	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC/R	140	146	F	\$1,200,000	Dan Allgeier	(972) 745-0756	182
060077	3 N Sphinx at Boston Living	3510 Boston Ave.	Benbrook	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	142	149	E	\$916,116	Jay Oji	(214) 342-1400	178
060110	3 N Evergreen at Farmers Branch	11600 Block of Future Lago Vista W.	Farmers Branch	U/E	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NC	126	126	E	\$1,188,516	Brad Forslund	(972) 550-7800	175
060220	3 N Western Trail	1/2 mile North of Westpoint Blvd.	White Settlement	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	172	172	F	\$1,000,000	Manish Verma	(210) 240-8376	170
060200	3 N BERT'S Senior Housing of Waxahachie	US Hwy. 287 and I-H35	Waxahachie	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	124	130	E	\$839,207	Joseph Kemp	(972) 224-1096	166
060025	3 N Providence at East Meadow Apts	4500 US Hwy. 80	Mesquite	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	183	192	E	\$1,200,000	Chris Richardson	(713) 265-4328	155
Subtotal:											1,059	1,095		\$7,485,181			

Total: 1,059 1,095 \$7,485,181

Applications Submitted in Region 3: Rural

060100	3 N Estates of Boyd	425 S. Allen St.	Boyd	R	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NC	40	40	F	\$329,336	A. G. Swan	(817) 220-5585	174
Subtotal:											40	40		\$329,336			

Total: 40 40 \$329,336

8 Applications in Region

Region Total: 1,099 1,135 \$7,814,517

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File #	Reg. A ¹	Development Name	Address	City	Alloc. ²	Set-Asides ³	Layering ⁴	LI	Total	Credit	Request *	Owner Contact	Owner Phone	Final Score
					USDA	NP	AR	HOME	RITA	Activity ⁵	Units	Units	Pop ⁶	

Region: 4

Allocation Information for Region 4:	Total Credits Available for Region: \$2,164,106	Rural Allocation: \$1,094,923	Urban/Exurban Allocation: \$1,069,183
	5% Required for USDA: \$108,205	15% Required for At-Risk: \$324,616	

Applications Submitted in Region 4: Urban/Exurban

060127	4 N Mill Creek South Apts	S.E. of Green St. and Millie St.	Longview	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	60	60	Intg	\$537,872	Justin Zimmerman	(417) 883-1632	185
060112	4 N Evergreen at Tyler	3200 Block of W. Front St.	Tyler	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NC	100	100	E	\$967,409	Brad Forslund	(972) 550-7800	181
Subtotal:											160	160		\$1,505,281			
Total:											160	160		\$1,505,281			
Region Total:											160	160		\$1,505,281			

2 Applications in Region

Region: 5

Allocation Information for Region 5:	Total Credits Available for Region: \$1,538,503	Rural Allocation: \$750,964	Urban/Exurban Allocation: \$787,539
	5% Required for USDA: \$76,925	15% Required for At-Risk: \$230,775	

Applications Submitted in Region 5: Urban/Exurban

060241	5 N Sienna Trails Townhomes	Center Lot at Sienna Trails and North Concord	Beaumont	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	NC	36	36	F	\$413,807	Mark Musemeche	(713) 522-4141	174
Subtotal:											36	36		\$413,807			
Total:											36	36		\$413,807			
Region Total:											36	36		\$413,807			

1 Applications in Region

Please refer to report footer on the last page of this report for appropriate disclaimers.

File #	Reg. A ¹	Development Name	Address	City	Alloc. ²	Set-Asides ³	Layering ⁴	Activity ⁵	LI	Total	Credit	Request *	Owner Contact	Owner Phone	Final Score
					USDA	NP	AR	HOME	RITA	Units	Units	Pop ⁶			

Region: 6

Allocation Information for Region 6:	Total Credits Available for Region: 10,521,219	Rural Allocation: \$673,057	Urban/Exurban Allocation: \$9,848,162
		5% Required for USDA: \$526,061	15% Required for At-Risk: \$1,578,183

Applications Submitted in Region 6: Urban/Exurban

060224	6 N Notting Hill Gate	200 ft. S.E. of the Intersection of S. Gessner and Beltway 8	Missouri City	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	146	146	E	\$1,045,000	Sarah Andre	(512) 495-6516	175	
060219	6 N Providence Estates	S.E. Corner of Louise & Airport	Rosenberg	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	168	168	F	\$1,000,000	Manish Verma	(210) 240-8376	161	
060176	6 N The Residences on Anderson Ltd	3600 Block of Anderson	Houston	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	88	92	F	\$1,157,744	H. Elizabeth Young	(713) 626-1400	149	
Subtotal:											402	406		\$3,202,744				
Total:											402	406		\$3,202,744				
3 Applications in Region											402	406		\$3,202,744				

Region: 7

Allocation Information for Region 7:	Total Credits Available for Region: \$3,323,061	Rural Allocation: \$316,391	Urban/Exurban Allocation: \$3,006,670
		5% Required for USDA: \$166,153	15% Required for At-Risk: \$498,459

Applications Submitted in Region 7: Urban/Exurban

060151	7 N Bluffs Landing	N.E. Corner of CR 151 and North Austin Ave.	Georgetown	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	152	152	F	\$1,200,000	Colby W. Denison	(512) 732-1226	187	
060197	7 N Rivermont Place Apartment Homes	S.W. Corner E. Riverside Dr. & Montopolis Dr.	Austin	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	120	126	F	\$1,086,987	David G. Rae	(425) 455-3879	175	
060048	7 N Villas of Vista Ridge	S.W. Corner of Bagdad Rd. and Vista Ridge	Leander	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	200	208	F	\$1,170,000	Scott McGuire	(512) 637-1007	162	
Subtotal:											472	486		\$3,456,987				
Total:											472	486		\$3,456,987				
3 Applications in Region											472	486		\$3,456,987				

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File #	Reg. A	Development Name	Address	City	Alloc.	Set-Asides	Layering	LI	Total	Credit	Final
					2	3	4	5	Units	Request *	Score
					USDA	NP	AR	HOME	RITA	Pop	Owner Contact
									Activity	6	Owner Phone

Region: 8

Allocation Information for Region 8:	Total Credits Available for Region: \$2,640,399	Rural Allocation: \$488,933	Urban/Exurban Allocation: \$2,151,466
		5% Required for USDA: \$132,020	15% Required for At-Risk: \$396,060

Applications Submitted in Region 8: Urban/Exurban

060063	8 N Resaca Springs Apts	1550-1600 New Dallas Highway 77	Bellmead	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	130	136	F	\$1,163,149	Bert Magill	(713) 785-6006	169
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Subtotal: 130 136 \$1,163,149

Total: 130 136 \$1,163,149

Region Total: 130 136 \$1,163,149

1 Applications in Region

Region: 9

Allocation Information for Region 9:	Total Credits Available for Region: \$2,531,151	Rural Allocation: \$358,923	Urban/Exurban Allocation: \$2,172,228
		5% Required for USDA: \$126,558	15% Required for At-Risk: \$379,673

Applications Submitted in Region 9: Urban/Exurban

060067	9 N San Juan Square II	S. Calaveras and Brady Blvd.	San Antonio	U/E	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	139	144	F	\$1,000,000	Henry A. Alvarez, III	(210) 477-6042	203
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Subtotal: 139 144 \$1,000,000

Total: 139 144 \$1,000,000

Applications Submitted in Region 9: Rural

060163	9 N Villas of Karnes City	N.W. Corner of State Hwy 123 and Helena Hwy.	Karnes City	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NC	76	76	F	\$500,892	Les Kilday	(713) 914-9400	187
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060013	9 N Paseo de Paz Apts	400 Block of Clearwater Paseo	Kerrville	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	73	76	F	\$672,314	G. Granger MacDonald	(830) 257-5323	176
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Subtotal: 149 152 \$1,173,206

Total: 149 152 \$1,173,206

Region Total: 288 296 \$2,173,206

3 Applications in Region

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File #	Reg. A	Development Name	Address	City	Alloc. 2	Set-Asides 3	Layering 4	Activity 5	LI	Total	Credit	Request *	Owner Contact	Owner Phone	Final Score
						USDA	NP	AR	HOME	RITA	Units	Units	Pop 6		

Region: 10

Allocation Information for Region 10:	Total Credits Available for Region: \$1,791,597	Rural Allocation: \$711,669	Urban/Exurban Allocation: \$1,079,928
		5% Required for USDA: \$89,580	15% Required for At-Risk: \$268,740

Applications Submitted in Region 10: Urban/Exurban

060141	10 N Buena Vida Senior Village	4650 Old Brownsville Rd.	Corpus Christi	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	120	120	E	\$1,006,938	Randy Stevenson	(817) 261-5088	188	
Subtotal:											120	120		\$1,006,938				
Total:											120	120		\$1,006,938				

Applications Submitted in Region 10: Rural

060010	10 N King's Crossing Phase II	1505 E. Corral	Kingsville	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	72	72	F	\$636,285	Mark Musemeche	(713) 522-4141	178		
060103	10 N Wild Horse Commons	3500-3700 Block of South Brahma Boulevard	Kingsville	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NC	73	76	E	\$675,519	Diana McIver	(512) 328-3232	176		
060009	10 N Mathis Apts II	500 W. Freeman	Mathis	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	48	48	F	\$375,821	Murray A. Calhoun	(504) 561-1172	175		
060124	10 N Fenner Square	555 S. Burke	Goliad	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	32	32	F	\$41,080	Gary Driggers	(210) 684-0679	148		
Subtotal:											225	228		\$1,728,705					
Total:											225	228		\$1,728,705					
5 Applications in Region											Region Total:	345	348		\$2,735,643				

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File # Reg. A¹ Development Name Address City Alloc.² USDA NP AR Set-Asides³ Layering⁴ HOME RITA Activity⁵ LI Total Units Units Pop⁶ Credit Request * Owner Contact Owner Phone Final Score

Region: 11

Allocation Information for Region 11:	Total Credits Available for Region: \$5,268,713	Rural Allocation: \$2,077,161	Urban/Exurban Allocation: \$3,618,377
		5% Required for USDA: \$263,436	15% Required for At-Risk: \$790,307

Applications Submitted in Region 11: Urban/Exurban

060046	11 N San Juan Apts	400 Block of E. Nolana	San Juan	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	127	128	F	\$830,000	Robert Joy	(213) 392-5899	184
060091	11 N North Manor Estates Apts	E. Side of Mile 4 1/2 Rd., 1,600 ft. N. of Sugar Cane Rd.	Weslaco	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	128	132	F	\$1,093,221	Mike Lopez	(956) 969-5865	182
060049	11 N Los Milagros Apartments	3600 Block of E. Mile 8 N. Rd.	Weslaco	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	128	128	F	\$950,000	Ketinna Williams	(281) 550-7111	177
060096	11 N Pleasant View Apts	811 S. Pleasant View Dr.	Weslaco	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	104	104	F	\$738,120	Leticia Hinojosa	(956) 638-8881	170
060190	11 N Rockwell Manor Apts	2735 Rockwell Dr.	Brownsville	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	ACQ/R	125	125	F	\$731,884	Daniel F. O'Dea	(512) 494-8200	132
Subtotal:											612	617		\$4,343,225			

Total: 612 617 \$4,343,225

Applications Submitted in Region 11: Rural

060047	11 N Alton Apts	N.W. Corner of Trosper Rd. and Campeche Ave.	Alton	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	75	76	F	\$656,000	Robert Joy	(213) 392-5899	177
060089	11 N Estrella del Sol Estates	Canyon St.	Rio Grande City	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	76	76	F	\$890,779	Elmo Moreno	(956) 487-3216	174
060143	11 N Sun Valley Homes	Mile 2 West and Mile 8.5 North	Mercedes	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC/AC	36	36	F	\$521,691	Saleem Jafar	(972) 701-5550	173
060147	11 N Orchard Valley Homes	Mile 2 W. at Mile 8 1/2 N.	Mercedes	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC/AC	36	36	F	\$521,691	Saleem Jafar	(972) 701-5550	173
060171	11 N Ebony Estates	1005 S. Washington	Mercedes	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC/AC	60	60	F	\$456,076	Kelly Elizondo	(512) 394-1200	169
060185	11 N Treemont Meadows	W. Side of Hwy. 83 at Alex St.	La Joya	R	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	76	76	F	\$521,375	Rick Deyoe	(512) 306-9206	158
Subtotal:											359	360		\$3,567,612			

Total: 359 360 \$3,567,612

Region Total: 971 977 \$7,910,837

11 Applications in Region

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File #	Reg. A ¹	Development Name	Address	City	Alloc. ²	Set-Asides ³	Layering ⁴	Activity ⁵	LI	Total	Credit	Request *	Owner Contact	Owner Phone	Final	
						USDA	NP	AR	HOME	RITA	Units	Units	Pop ⁶			Score

Region: 12

Allocation Information for Region 12:	Total Credits Available for Region: \$1,252,583	Rural Allocation:	\$302,311	Urban/Exurban Allocation:	\$950,272
		5% Required for USDA:	\$62,629	15% Required for At-Risk:	\$187,887

Applications Submitted in Region 12: Urban/Exurban

060140	12 N	Key West Village Phase	1600 W. Clements	Odessa	U/E	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NC	32	36	E	\$215,376	Bernadine Spears	(432) 333-1088	190
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Subtotal: 32 36 \$215,376

Total: 32 36 \$215,376

Region Total: 32 36 \$215,376

1 Applications in Region

43 Total Applications

Total: 4,360 4,461 \$34,031,578

1. Award Status: N = Waiting List as of November 9, 2006

2. Allocation: R = Rural Regional Allocation, U/E = Urban/ Exurban Regional Allocation

3. Set-Aside Abbreviations: USDA= TX-USDA-RHS, NP=Nonprofit, AR=At-Risk

4. "Layering" is additional TDHCA Programs Applied for by the Applicant.

5. Activity Coding is NC/R=Multifamily New Construction and Rehabilitation, NC/ACQ= New Construction and Acquisition, R=Rehabilitation, ACQ/R= Acquisition and Rehabilitation, NC=New Construction, NC/ACQ/R= New Construction/Aquisition/Rehabilitation and ACQ= Acquisition

6. Target Population: E = Elderly, F = Family, Intg = Intergenerational

* = Application has not been underwritten and credit amount reflected is the credit request. Should the Board award any of the Applications from the waiting list, the actual awarded amount may exceed the credit request (after application of the Applicable Percentage approved by the Board on July 28, 2006).

Please refer to report footer on the last page of this report for appropriate disclaimers.

**Housing Tax Credit Program
Board Action Request
November 9, 2006**

Action Item

Request review and board determination of three (3) four percent (4%) tax credit applications with other issuers for tax exempt bond transaction.

Recommendation

Staff is recommending that the board review and approve the issuance two (2) 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
060417	Artisan at Salado Heights	San Antonio	San Antonio HFC	252	252	\$27,273,794	\$15,000,000	\$1,106,360	\$1,106,360
060418	Southpark Apartments	Austin	Strategic HFC of Travis County	192	192	\$21,078,699	\$15,000,000	\$649,506	\$638,559
060429	Lakes of Goldshire	Rosenberg	Fort Bend County HFC	160	160	\$18,451,806	\$13,500,000	\$660,812	\$0

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Item

Presentation, Discussion and Possible Issuance of Determination Notices for Housing Tax Credits associated with Mortgage Revenue Bond Transactions with other Issuers.

Requested Action

Approve, Amend or Deny the staff recommendation for Artisan at Salado Heights.

Summary of the Transaction

Background and General Information: The application was received on June 9, 2006. The Issuer for this transaction is San Antonio HFC. The development is new construction and will consist of 252 total units targeting the general population, with all units affordable. The site is currently zoned for such a development. The Compliance Status Summary completed on September 18, 2006 reveals that all properties of the principals of the general partners which have been constructed are in compliance. The bond priority for this transaction is:

- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI (MUST receive 4% Housing Tax Credits)

Census Demographics: The development is to be located at 3714 Binz Engleman in San Antonio. Demographics for the census tract (1308) include AMFI of \$32,725; the total population is 3,707; the percent of population that is minority is 96.30%; the percent of population that is below the poverty line is 27.53%; the number of owner occupied units is 890; the number of renter units is 438 and the number of vacant units is 132. The percent of population that is minority for the entire City of San Antonio is 68% (Census information from FFIEC Geocoding for 2006).

Public Comment: The Department has received one letter of support from City of San Antonio Councilwoman, Shiela D. McNeil, and no letters of opposition.

Recommendation

Staff recommends the Board approve the issuance of a Determination Notice of Housing Tax Credits for Artisan at Salado Heights.



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

**Development Information, Public Input and Board Summary
Artisan at Salado Heights, TDHCA Number 060417**

BASIC DEVELOPMENT INFORMATION

Site Address: 3714 Binz Engleman Development #: 060417
 City: San Antonio Region: 9 Population Served: Family
 County: Bexar Zip Code: 78219 Allocation: Urban/Exurban
 HOME Set Asides: CHDO Preservation General Purpose/Activity: NC
 Bond Issuer: San Antonio HFC

HTC Purpose/Activity: NC=New Construction, ACQ=Acquisition, R=Rehabilitation, NC/ACQ=New Construction and Acquisition, NC/R=New Construction and Rehabilitation, ACQ/R=Acquisition and Rehabilitation

OWNER AND DEVELOPMENT TEAM

Owner: ARDC Salado, Ltd.
 Owner Contact and Phone: Ryan Wilson (210) 694-2223
 Developer: Franklin Development Company
 Housing General Contractor: Franklin Construction Company
 Architect: RPGA Design Group, Inc.
 Market Analyst: Butler Burgher, Inc.
 Syndicator: MMA Financial
 Supportive Services: TBD
 Consultant: Not Utilized

UNIT/BUILDING INFORMATION

30%	40%	50%	60%	Eff	1 BR	2 BR	3 BR	4 BR	5 BR	Total Restricted Units:	252	
0	0	0	246	0	52	120	80	0	0	Market Rate Units:	0	
Type of Building: <input checked="" type="checkbox"/> 5 units or more per building											Owner/Employee Units:	0
<input type="checkbox"/> Duplex	<input type="checkbox"/> Detached Residence									Total Development Units:	252	
<input type="checkbox"/> Triplex	<input type="checkbox"/> Single Room Occupancy									Total Development Cost:	\$27,273,794	
<input type="checkbox"/> Fourplex	<input type="checkbox"/> Transitional									Number of Residential Buildings:	9	
<input type="checkbox"/> Townhome											HOME High Total Units:	0
											HOME Low Total Units:	0

Note: If Development Cost = \$0, an Underwriting Report has not been completed.

FUNDING INFORMATION

	Applicant Request	Department Analysis	Amort	Term	Rate
4% Housing Tax Credits with Bonds:	\$1,106,360	\$1,106,360	0	0	0.00%
TDHCA Bond Allocation Amount:	\$0	\$0	0	0	0.00%
HOME Activity Fund Amount:	\$0	\$0	0	0	0.00%
HOME CHDO Operating Grant Amount:	\$0	\$0			



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary
Artisan at Salado Heights, TDHCA Number 060417

PUBLIC COMMENT SUMMARY

Guide: "O" = Oppose, "S" = Support, "N" = Neutral, "NC" or Blank = No comment

State/Federal Officials with Jurisdiction:

TX Senator: Madla, District 19 NC US Representative: González, District 20, NC
TX Representative: McClendon, District 120 NC US Senator: NC

Local Officials and Other Public Officials:

Mayor/Judge: Phil Hardberger, Mayor, City of San Antonio - NC Resolution of Support from Local Government [checked]

Sheila D. McNeil, City Councilwoman, City of San Antonio - S

The City of San Antonio Consolidated Plan states that expanding the supply and improving the quality of affordable housing for low and moderate-income households are high priority goals for the City over the next five years.

Individuals/Businesses: In Support: 0 In Opposition 0

Neighborhood Input:

General Summary of Comment:

The Department has received 1 letter of support from City Councilwoman McNeil and no letters of opposition.

CONDITIONS OF COMMITMENT

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")."

Receipt, review and acceptance by closing of an executed land lease or other evidence that the development will receive a 100% property tax exemption.

Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit and or allocation amount may be warranted.



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary

Artisan at Salado Heights, TDHCA Number 060417

RECOMMENDATION BY THE EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

4% Housing Tax Credits:	Credit Amount:	\$1,106,360
Recommendation: Recommend approval of a Housing Tax Credit allocation not to exceed \$1,106,360 annually for ten years, subject to conditions.		
TDHCA Bond Issuance:	Bond Amount:	\$0
Recommendation:		
HOME Activity Funds:	Loan Amount:	\$0
HOME CHDO Operating Expense Grant:	Grant Amount:	\$0
Recommendation:		

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: October 2, 2006

PROGRAM: 4% HTC

FILE NUMBER: 060417

DEVELOPMENT NAME

Artisan at Salado Heights

APPLICANT

Name: ARDC Salado, Ltd. **Contact:** Ryan Wilson
Address: 21260 Gathering Oaks Suite 101
City: San Antonio **State:** TX **Zip:** 78258
Phone: (210) 694-2223 **Fax:** (210) 694-2225 **Email:** ryan@franklindevelopment.net

KEY PARTICIPANTS

Name: 252 ARDC Binz. LLC **Title:** 0.01% Managing General Partner of Applicant
Name: Las Varas Public Facility Corp **Title:** Nonprofit sole member of MGP
Name: San Antonio Housing Authority **Title:** Parent of Las Varas Public Facility Corp
Name: Franklin Development Company **Title:** Developer
Name: Aubra Franklin **Title:** 0.01% Special Limited Partner of Applicant/100% Owner of Developer

PROPERTY LOCATION

Location: 3714 Binz Engleman
City: San Antonio **Zip:** 78219
County: Bexar **Region:** 9 QCT DDA

REQUEST

<u>Program</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
HTC	\$1,106,360 ¹	N/A	N/A	N/A
Proposed Use of Funds:	New construction	Type:	Multifamily	
Target Population:	Family	Other:	Urban/Exurban	

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$1,106,360 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

- Receipt, review and acceptance by closing of an executed land lease or other evidence that the development will received a 100% property tax exemption.
- 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.

¹ Reduced from \$1,119,379 on 9/7/2006.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units: 252 **# Res Bldgs** 2 **# Non-Res Bldgs** 1 **Age:** N/A yrs **Vacant:** N/A at / /
Net Rentable SF: 250,000 **Av Un SF:** 992 **Common Area SF:** 5,677 **Gross Bldg SF:** 255,677

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 attractive buildings.

STRUCTURAL MATERIALS

The structures will be constructed on a wood subfloor. According to the plans provided in the application the exterior will be 13.7% masonry veneer, 73.2% cement fiber, and 13.1% stucco. The interior wall surfaces will be drywall and the roofs will be finished with composite shingles.

UNIT FEATURES

The interior flooring will be 40% carpet and 60% resilient covering. Threshold criteria for the 2006 QAP requires all development units to include: mini blinds or window coverings for all windows, a dishwasher, a disposal, a refrigerator, an oven/range, an exhaust/vent fan in bathrooms, and a ceiling fan in each living area and bedroom. New construction units must also include three networks: one for phone service, one for data service, and one for TV service. In addition, each unit will include: a phone jack in each room, laundry connections, a ceiling fixture in each room, an individual water heater, and nine-foot ceilings.

ONSITE AMENITIES

In order to meet threshold criteria for total units of 200 or more, the Applicant has elected to provide an accessible walking path, a community laundry room, controlled access gates, an enclosed sun porch or covered community porch, an equipped business center or computer learning center, full perimeter fencing, a furnished community room, a furnished fitness center, a swimming pool, and a furnished and staffed children's activity center.

Uncovered Parking: 279 spaces **Carports:** 100 spaces **Garages:** 50 spaces

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: The subject is a 13-unit per acre new construction development located in San Antonio. The development is comprised of 9 evenly distributed garden style residential buildings as follows:

<u>No. of Buildings</u>	<u>No. of Floors</u>	<u>1BR</u>	<u>2BR</u>	<u>3BR</u>
2	2/3	8	12	0
3	3	12	24	0
2	2/3	0	0	20
2	2/3	0	12	20

The development includes a 5,677-square foot combined clubhouse, office, laundry, adult and children's social service, fitness, and mail building.

SITE ISSUES

SITE DESCRIPTION

Total Size: 13.22 acres **Scattered sites?** Yes No
Flood Zone: Zone X **Within 100-year floodplain?** Yes No
Current Zoning: MF-33 **Needs to be re-zoned?** Yes No N/A

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The site is located at 3714 Binz Engleman, San Antonio, Bexar County. San Antonio is located 190 miles west of Houston and 78 miles southwest of Austin in Bexar County.

Adjacent Land Uses:

North: Binz Engleman Road immediately adjacent and Fort Sam Houston beyond;

South/Southeast: City of San Antonio Parks and Recreation Department and Old Seguin Road

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

immediately adjacent, and EconoLodge Motel beyond;

East: Averitt Express Inc. and vacant land immediately adjacent; and

West: Artisan at Salado Creek Apartments (fka Binz Ranch of San Miguel Apartments) immediately adjacent.

Site Access: According to the Market Analyst, "Access to the property is very good, it has good visibility from a major highway and it is located just south of the Fort Sam Houston Army base. The subject site has excellent access via Binz Engleman Road. From Binz Engleman, one can easily connect to the Interstate 35/Loop 410 junction, both of which are major thoroughfares into and around San Antonio proper" (p.23).

Public Transportation: Public transportation to the area is provided by Metropolitan Transit and the nearest linkage is within walking distance from the subject site.

Shopping & Services: The site is within a short driving distance of major grocery/pharmacies, shopping centers, a variety of other retail establishments, restaurants, recreation, schools, and hospitals.

TDHCA SITE INSPECTION

Inspector: Manufactured Housing Staff

Date: 3/7/2006

Overall Assessment: Excellent Acceptable Questionable Poor Unacceptable

Comments: _____

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated April 24, 2006 was prepared by Integrated Testing and Engineering Company of San Antonio, LP (InTEC) and contained the following findings and recommendations:

Findings:

Noise: Per a letter dated September 6, 2006 from InTEC, LP, "The target property is located in a residential, commercial office/warehouse, and Military Base setting (Fort Sam Houston). Fort Sam Houston Military facility, located several hundred feet to the north, has historically (and still is) been used as a military personnel training and Medical Hospital facility (BAMC). No airfields are located on the Military base. The nearest airfield is located several miles from the target property. The commercial and warehouse properties are located from 250 feet to the south, adjacent (Averitt Express, a trucking firm) to the east and 1,400 feet southwest of the target property. A major railroad, running from northeast to the southwest, is located approximately 300 feet to the north. A major Highway, Interstate 35, is located approximately 600 feet south of the site with Commercial Buildings and vacant land in-between the target property and Interstate Highway 35. **Discussion:** According to Mike Shearer, a Noise Mitigation Specialist with the Texas Department of Transportation, existing structures located between IH 35 and the target property would act as sound barriers or buffers and reduce traffic noise levels. Jerry Rankin, City of San Antonio Noise Mitigation Officer at the San Antonio International Airport (SAIA), doubts that noise levels from the air traffic from the SAIA (located several miles from the target property) would be a concern from a FAA regulatory requirement (excessive noise). HUD Form HUD-4228, dated March 1, 2003 indicates in Part A, item 19 Noise Abatement, the previous project (Artisan at Salado I) is in compliance. **Conclusion:** Based on the discussions with the above individuals supplied to InTEC, it appears that the target property would not be impacted by excessive noise levels from Air Traffic, IH 35 or local vehicular traffic. It may be inferred that based on the previous HUD document that Artisan at Salado II is in compliance with regard to Part A, item 19, HUD Form 4128. A noise study is not recommended."

Floodplain: "This site is located outside of the 100 and 500 year floodplain, according to the Flood Insurance Rate Map Community-Panel Number 48029C0458 E, revised February 16, 1996" (p.5).

Asbestos-Containing Materials (ACM): Per a letter dated September 6, 2006 from InTEC, LP, "There are no building improvements located on the target property; therefore, local, state and federal laws pursuant to ACM do not apply to the vacant tract of land."

Lead-Based Paint (LBP): Per a letter dated September 6, 2006 from InTEC, LP, "There are no building improvements therefore; local, state and federal laws pursuant to LBP do not apply to the vacant tract of

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

land.”

Lead in Drinking Water: Per a letter dated September 6, 2006 from InTEC, LP, “The City of San Antonio Water System (SAWS) supplies water to the target property, therefore, it is not anticipated that the water would be required to be tested for Lead.”

Radon: Per a letter dated September 6, 2006 from InTEC, LP, “According to The Final Report of the Texas Indoor Radon Survey 1994, prepared by TDH, Bureau of Radiation Control, the mean residual radon measurement from the survey for Bexar County is 1.1 Pica Curies of radon per liter of air (pCi/l). The EPA recommends a guideline “action level” of 4.0 pCi/l for annual average indoor radon concentration. Based on this information, the site is considered to have a low potential for elevated levels of radon gas.”

Recommendations and Conclusion: “The Phase I ESA has been conducted in general conformance with scope and limitations of ASTM Practice E 1527. Based on the results of the Phase I ESA Update, the following conditions were identified;

It is our understanding that the abandoned water well located on the property has been properly plugged...InTEC recommends no further environmental investigations be performed at this time” (p.15).

INCOME SET-ASIDE

The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside. To qualify as a Priority 2 Private Activity Bond allocation for a Qualified Residential Rental Project, the Applicant has elected to set-aside 100% of the units with rent and income restrictions at 60% of area median family income (§ 1372.0321).

Two hundred and fifty-two of the units (100% of the total) will be reserved for low-income tenants. Six units (2%) will be reserved for households earning 50% or less of AMI, and the remaining 246 units (98%) will be reserved for households earning 60% or less of AMI.

MAXIMUM ELIGIBLE INCOMES						
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$22,320	\$25,500	\$28,680	\$31,860	\$34,380	\$36,960

MARKET HIGHLIGHTS

A market feasibility study dated June 2, 2006 was prepared by Apartment Market Data, Inc. (“Market Analyst”) and included the following findings:

Secondary Market Information: The Market Analyst did not define a secondary market area.

Definition of Primary Market Area (PMA): “For this analysis, we utilized a “primary market area” encompassing 43.02 square miles. The boundaries of the Primary Market Area are as follows: North-Rittiman Road extending west to U.S. Hwy 281; East- North Foster Road; South- Rigsby Avenue and Interstate Highway 10; and West- U.S. Highway 281” (p. 31). This area encompasses approximately 42.5 square miles and is equivalent to a circle with a radius of 3.7 miles.

Population: The estimated 2005 population of the PMA was 99,980 and is expected to increase by 5% to approximately 104,949 by 2010. Within the primary market area there were estimated to be 34,101 households in 2005.

Total Market Demand: The Market Analyst utilized a target household adjustment rate of 100% and a household size-appropriate adjustment rate of 96% (p. 50). The Analyst’s income band of \$17,074 to \$34,380 (p. 44) results in an income eligible adjustment rate of 26.2% (p. 44). The tenure appropriate adjustment rate of 44.1% is specific to the target population (p. 38). The Market Analyst indicates a turnover rate of 74.9% applies based on IREM (p. 79).

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

MARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	40	1.2%	36	1%
Resident Turnover	3,197	98.8%	2,833	99%
TOTAL DEMAND	3,237	100%	2,869	100%

p. 51

Inclusive Capture Rate: The Market Analyst calculated an inclusive capture rate of 20.4% based upon 3,237 units of demand and 700 unstabilized affordable housing in the PMA (including the subject, Artisan at Willow Creek, and Artisan at Salado Creek) (p. 51). The Underwriter calculated an inclusive capture rate of 23% based upon a revised demand estimate for 2,869 affordable units and only 660 unstabilized units.

Unit Mix Conclusion: “The design and layout of the subject would be of equal or better quality compared to other affordable projects in the area. The project is well suited for new apartment construction. The unit mix and amenities provide an excellent selection for prospective residents” (p. 28).

Market Rent Comparables: The Market Analyst surveyed six comparable apartment projects totaling 762 units in the market area.

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (50%)	\$423	\$433	\$10	\$675	-\$252
1-Bedroom (60%)	\$532	\$532	\$0	\$675	-\$143
2-Bedroom (60%)	\$638	\$639	\$1	\$980	-\$342
3-Bedroom (60%)	\$729	\$730	\$1	\$1,165	-\$436

(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: “Apartment MarketData conducted an analysis of some 762 conventional (Market Rate) units. These projects were built between 1994 and 2005. The occupancy rate for the market rate one bedrooms is 95.9%, for market rate two bedrooms it is 94.4%, the occupancy for the market rate three bedroom units is 94.1%... The current occupancy of the market area is 93.1% as a result of solid demand. Demand for newer rental apartment units is considered to be growing” (p. 14 & 87).

Absorption Projections: “We estimate that the project would achieve a lease rate of approximately 7% to 10% of its units per month as they come on line for occupancy from construction” (p. 85).

Unstabilized, Under Construction, and Planned Development: “Artisan at Salado Creek (Binz Ranch) is 97.5% occupied and reached a stabilized occupancy of 90% in September 2005. Artisan at Willow Springs is 90.3% occupied and reached a stabilized occupancy of 90% January 2006. It should be noted that one project, Clarke Pointe, lies just outside the southeast corner of the PMA. This project is under construction, and will deliver 252 units serving residents earning up to 60% AMI. This project is mentioned, but not included in the capture rate calculation as it lies outside the PMA” (p. 51).

Market Impact: “The proposed project is not likely to have a dramatically detrimental effect on the balance of supply and demand in this market. Existing “affordable” housing projects have an overall occupancy of 93.9%, and affordable family projects have an overall occupancy of 93.2%. This typifies the demand for affordable rental housing, as there is a shortage of affordable housing in this market” (p. 85).

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 projected rents collected per unit were calculated by subtracting tenant-paid utility allowances as of June 1, 2006, maintained by the San Antonio Housing Authority from the 2006 program gross rent limits. Tenants will be required to pay electric and gas utility costs. Furthermore, the Applicant’s vacancy and collection loss assumption is in line with current TDHCA underwriting guidelines. However, secondary income is more than \$15 per unit, due to the inclusion of income from covered parking. The Applicant appropriately removed the cost for construction of the carports and garages from eligible basis.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

However, additional support for secondary income from covered parking was not provided and, therefore, the underwriting analysis continues to assume a maximum secondary income of \$15 per unit per month. Despite the difference in secondary income, the Applicant's effective gross rent is within 5% of the Underwriter's estimate.

Expenses: The Applicant's total annual operating expense projection at \$3,077 per unit is within 5% of the Underwriter's estimate of \$3,149, derived from actual operating history provided by the Applicant of other similar developments, the TDHCA database, and third-party data sources. The Applicant's line-item expense for general and administrative cost, however, is \$34K lower than the Underwriter's estimate. It should be noted the Underwriter's estimate is based on the actual per unit expense reported for Artisan at Willow Springs. In addition, the Underwriter has assumed an initial reserve for replacement of \$200 per unit annually based on current underwriting guidelines, whereas the Applicant has assumed an initial reserve for replacement of \$258 per unit annually. However, none of the commitment documents reflect this higher than normal reserve requirement. Also, the Applicant anticipates a 100% property tax exemption based on the ownership structure including a subsidiary of the San Antonio Housing Authority as sole member of the General Partner. It is anticipated that the partnership will lease the property from the San Antonio Housing Authority to obtain a property tax exemption. Receipt, review and acceptance by closing of an executed land lease or other evidence that the development will received a 100% property tax exemption is a condition of this report. Failure to receive a 100% exemption appears to render the development infeasible as the reduction in serviceable debt will require a deferred developer that is greater than can be repaid. Furthermore, the debt amount itself will most likely be less than 50% of the eligible costs rendering the development infeasible for 4% tax credits. Finally, the Applicant appears to have overstated TDHCA compliance fees.

Conclusion: Because the Applicant's effective gross income, total annual operating expenses, and net operating income are each within 5% of the Underwriter's estimates, the Applicant's proforma is used to determine the development's debt capacity. The proposed permanent financing structure results in an initial year's debt coverage ratio (DCR) within the Department's DCR guideline of 1.10 to 1.30.

Long-Term Feasibility: The underwriting 30-year proforma utilizes a 3% annual growth factor for income and a 4% annual growth factor for expenses in accordance with current TDHCA guidelines. As noted above, the Applicant's base year effective gross income, expense and net operating income were utilized resulting in a debt coverage ratio that remains above 1.10 and continued positive cashflow. Therefore, the development can be characterized as feasible for the long-term.

ACQUISITION VALUATION INFORMATION			
ASSESSED VALUE			
Land: 13.22 acres	\$1,361,000	Assessment for the Year of:	2006
Buildings:	N/A	Valuation by:	Bexar County Appraisal District
Total:	\$1,361,000	Tax Rate:	3.053074
EVIDENCE of SITE or PROPERTY CONTROL			
Type of Site Control:	Special warranty deed (13.22 acres)		
Original Acquisition Cost:	\$1,361,000	Other:	Applicant is current owner

CONSTRUCTION COST ESTIMATE EVALUATION
<p>Acquisition Value: The Applicant provided a settlement statement dated November 29, 2005 between ARDC Binz, Ltd, (Applicant submitted certification from the Office of the Secretary of State dated January 24, 2006, officially changing the partnership name to ARDC Salado, Ltd.) and Jack B. White and Karen M. White for the subject 13.22 acre tract. According to the contract, the total purchase price for the 13.22 acres was \$1,361,000.</p> <p>In response to clarification regarding the acquisition cost of the subject, the Applicant indicates an additional \$50,000 is included in their proposed costs for interest carry on the land, and is a budget number. The actual interest owed on the initial land loan will not be finalized until closing of the construction loan. The underwriting analysis reflects an acquisition value of \$1,361,000 as indicated in the submitted settlement</p>

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

statement.

It should be noted, transfer of the land directly to the partnership will adversely impact the proposed 100% property tax exemption. The Applicant has not indicated how the land will be transferred to the Housing Authority nor has there been any indication that the Housing Authority is making any contribution to the development either directly or indirectly through the acquisition of the land. As previously discussed, receipt, review and acceptance of documentation of the Housing Authority's acquisition and lease back to the partnership is a condition of this report.

Sitework Cost: The Applicant's claimed sitework costs of \$6,910 per unit are within current Department guidelines. Therefore, further third party substantiation is not required.

Direct Construction Cost: The Applicant's direct construction cost estimate is \$110K lower than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate.

Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by \$467,813 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.

Contingency: The Applicant's eligible contingency costs were adjusted down by \$132,309 to meet the Department guideline of 5% of eligible sitework and direct construction costs for new construction developments.

Fees: The Applicant's contractor's and developer's fees for general requirements, general and administrative expenses, and profit are all within the maximums allowed by TDHCA guidelines.

Conclusion: The Applicant's total development cost is within 5% of the Underwriter's estimate; therefore, the Applicant's cost schedule will be used to determine the development's need for permanent funds and to calculate eligible basis. An eligible basis of \$23,577,338 supports annual tax credits of \$1,109,550. This figure will be compared to the Applicant's request and the tax credits calculated based on the gap in need for permanent funds to determine the recommended allocation.

INTERIM TO PERMANENT BOND FINANCING

Source: MMA Financial **Contact:** Rick Monfred
Tax-Exempt: \$15,000,000 **Interest Rate:** 5.8%*, fixed, lender's estimate **Amort:** 480 months
Documentation: Signed Term Sheet LOI Firm Commitment Conditional Commitment Application
Comments: * does not include issuer, servicing and trustee fees

TAX CREDIT SYNDICATION

Source: MMA Financial **Contact:** Marie Keutmann
Proceeds: \$10,330,000 **Net Syndication Rate:** 93.4% **Anticipated HTC:** \$1,106,360/year
Documentation: Signed Term Sheet LOI Firm Commitment Conditional Commitment Application
Comments: _____

OTHER

Amount: \$1,943,792 **Source:** Deferred Developer Fee

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by the San Antonio Housing Trust Finance Corporation and purchased by MMA Financial. The permanent financing commitment is consistent with the terms reflected in the sources and uses of funds listed in the application.

The development qualifies as a Priority 2 Private Activity Bond transaction because it is at least 51 percent financed by tax-exempt private activity bonds (§ 1372.0321, Texas Government Code).

HTC Syndication: The revised 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 \$1,943,792 amount to 66% of the total fees.

Financing Conclusions:

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

The Applicant's total development cost estimate less the permanent loan of \$15,000,000 indicates the need for \$12,273,794 in gap funds. Based on the submitted syndication terms, a tax credit allocation of \$1,314,544 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, Applicant's revised request (\$1,106,360), the gap-driven amount (\$1,314,544), and eligible basis-derived estimate (\$1,109,550), the Applicant's request of \$1,106,360 is recommended resulting in proceeds of \$10,330,000 based on a syndication rate of 93%.

The Underwriter's recommended financing structure indicates the need for \$1,943,794 in additional permanent funds. Deferred developer and contractor fees in this amount appear to be repayable from development cashflow within 10 years of stabilized operation.

**DEVELOPMENT TEAM
IDENTITIES of INTEREST**

The Applicant, General Contractor and Developer are related entities. These are common relationships for HTC-funded developments. The seller of the property is also related to the Developer, but the sale is proposed to be completed at the same cost as the original acquisition; therefore, further mitigation is not required.

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.

Las Varas Public Facility Corporation, nonprofit sole member of the General Partner, is also a newly-formed entity with no significant financial history.

The San Antonio Housing Authority, parent of Las Varas Public Facility Corporation, submitted an unaudited financial statement dated March 31, 2006 indicating total combined assets of \$161M comprised of \$12.2M in unrestricted current assets, \$377K in restricted current assets, \$147M in capital assets net of depreciation, and \$1.7M in other non-current assets. Liabilities totaled \$6.5M for net assets of \$155M. Receipt, review and acceptance of the San Antonio Housing Authority's most recent audited financial statements is a condition of this report.

The Developer, Franklin Development Properties, Ltd. submitted an unaudited financial statement as of January 1, 2006 reporting total assets of \$7.9M and consisting of \$1.6M in cash, \$5.8M in receivables, \$410K in other current assets, and \$100K in fixed assets. Liabilities totaled \$0, resulting in a net worth of \$7.9.

The principal of the Developer, Aubra Franklin, submitted an unaudited financial statement as of January 1, 2006 and is anticipated to be a guarantor of the development.

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 seller of the property has an identity of interest with the Applicant.

The anticipated ad valorem property tax exemption may not be received or may be reduced, which could affect the financial feasibility of the development.

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:

Diamond Thompson

Date: October 2, 2006

Reviewing Underwriter:

Lisa Vecchiatti

Date: October 2, 2006

Director of Real Estate Analysis:

Tom Gouris

Date: October 2, 2006

MULTIFAMILY COMPARATIVE ANALYSIS

Artisan at Salado Heights, San Antonio, 4% HTC #060417

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trsh
TC 50%	6	1	1	750	\$498	\$433	\$2,597	\$0.58	\$65.18	\$35.82
TC 60%	46	1	1	750	597	\$532	24,464	0.71	65.18	35.82
TC 60%	120	2	2	985	717	\$639	76,624	0.65	78.47	42.62
TC 60%	80	3	2	1,160	828	\$730	58,368	0.63	98.40	54.11
TOTAL:	252		AVERAGE:	992	\$725	\$643	\$162,052	\$0.65	\$82.05	\$44.86

INCOME

Total Net Rentable Sq Ft: 250,000

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$15.00
Other Support Income: telephone, CATV, covered parking

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	5.20%	\$380	0.38
Management	4.00%	292	0.29
Payroll & Payroll Tax	13.09%	956	0.96
Repairs & Maintenance	5.23%	382	0.39
Utilities	2.15%	157	0.16
Water, Sewer, & Trash	4.67%	341	0.34
Property Insurance	3.35%	244	0.25
Property Tax 3.053074	0.00%	0	0.00
Reserve for Replacements	2.74%	200	0.20
Supp serv, compl fees, sec, cable	2.67%	195	0.20
TOTAL EXPENSES	43.11%	\$3,149	\$3.17
NET OPERATING INC	56.89%	\$4,156	\$4.19

TDHCA	APPLICANT
\$1,944,627	\$1,942,680
45,360	22,680
0	57,144
\$1,989,987	\$2,022,504
(149,249)	(151,692)
0	0
\$1,840,738	\$1,870,812

Comptroller's Region 9

IREM Region San Antonio

\$7.50 Per Unit Per Month
\$18.90 Per Unit Per Month

-7.50% of Potential Gross Income

PER SQ FT	PER UNIT	% OF EGI
\$0.25	\$244	3.28%
0.30	297	4.00%
1.02	1,012	13.63%
0.36	359	4.84%
0.17	169	2.28%
0.29	284	3.83%
0.26	258	3.47%
0.00	0	0.00%
0.26	258	3.47%
0.20	196	2.64%
\$3.10	\$3,077	41.45%
\$4.38	\$4,347	58.55%

DEBT SERVICE

MMA Financial	52.45%	\$3,831	\$3.86
Servicing Fee	0.33%	\$24	\$0.02
Additional Financing	0.00%	\$0	\$0.00
NET CASH FLOW	4.12%	\$301	\$0.30

\$965,406	\$975,552
6,000	0
0	0
\$75,819	\$119,900

\$3.90	\$3,871	52.15%
\$0.00	\$0	0.00%
\$0.00	\$0	0.00%
\$0.48	\$476	6.41%

AGGREGATE DEBT COVERAGE RATIO

1.08 1.12

RECOMMENDED DEBT COVERAGE RATIO

1.13

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		5.02%	\$5,401	\$5.44
Off-Sites		0.00%	0	0.00
Sitework		6.42%	6,910	6.97
Direct Construction		47.83%	51,477	51.89
Contingency	5.00%	2.71%	2,919	2.94
General Req'ts	5.46%	2.96%	3,190	3.22
Contractor's G & A	1.82%	0.99%	1,063	1.07
Contractor's Profit	5.46%	2.96%	3,190	3.22
Indirect Construction		6.02%	6,481	6.53
Ineligible Costs		4.70%	5,057	5.10
Developer's G & A	2.86%	2.18%	2,351	2.37
Developer's Profit	11.43%	8.74%	9,405	9.48
Interim Financing		6.53%	7,030	7.09
Reserves		2.93%	3,158	3.18
TOTAL COST		100.00%	\$107,633	\$108.49

TDHCA	APPLICANT
\$1,361,000	\$1,411,000
0	0
1,741,314	1,741,314
12,972,089	12,862,497
735,670	862,500
803,906	803,906
267,969	267,969
803,906	803,906
1,633,334	1,633,334
1,274,311	1,274,311
592,509	592,509
2,370,034	2,370,034
1,771,678	1,771,678
795,826	878,836
\$27,123,546	\$27,273,794

PER SQ FT	PER UNIT	% of TOTAL
\$5.64	\$5,599	5.17%
0.00	0	0.00%
6.97	6,910	6.38%
51.45	51,042	47.16%
3.45	3,423	3.16%
3.22	3,190	2.95%
1.07	1,063	0.98%
3.22	3,190	2.95%
6.53	6,481	5.99%
5.10	5,057	4.67%
2.37	2,351	2.17%
9.48	9,405	8.69%
7.09	7,030	6.50%
3.52	3,487	3.22%
\$109.10	\$108,229	100.00%

Construction Cost Recap

63.87% **\$68,749** **\$69.30** **\$17,324,855** **\$17,342,092** **\$69.37** **\$68,818** 63.59%

SOURCES OF FUNDS

RECOMMENDED

MMA Financial	55.30%	\$59,524	\$60.00
Additional Financing	0.00%	\$0	\$0.00
HTC Syndication Proceeds	38.08%	\$40,992	\$41.32
Deferred Developer Fees	7.17%	\$7,713	\$7.78
Additional (Excess) Funds Req'd	-0.55%	(\$596)	(\$0.60)
TOTAL SOURCES			

\$15,000,000	\$15,000,000	\$15,000,000
0	0	0
10,330,000	10,330,000	10,330,000
1,943,792	1,943,792	1,943,794
(150,246)	2	0
\$27,123,546	\$27,273,794	\$27,273,794

Developer Fee Available
\$2,962,543
% of Dev. Fee Deferred
66%
15-Yr Cumulative Cash Flow
\$4,664,609

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Artisan at Salado Heights, San Antonio, 4% HTC #060417

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$48.76	\$12,189,232
Adjustments				
Exterior Wall Finish	1.10%		\$0.53	\$133,594
9-Ft. Ceilings	3.14%		1.53	382,376
Roofing			0.00	0
Subfloor			(0.81)	(203,636)
Floor Cover			2.22	555,000
Prchs/Balc/Breeze	\$21.82	81,241	7.09	1,772,826
Plumbing	\$680	600	1.63	408,000
Built-In Appliances	\$1,675	252	1.69	422,100
Stairs/Fireplaces	\$1,650	92	0.61	151,800
Enclosed Corridors			0.00	0
Heating/Cooling			1.73	432,500
Rough Ins	\$340	252	0.34	85,680
Community Buildings	\$62.65	5,677	1.42	355,676
Other: Fire Sprinkler	\$1.95	250,000	1.95	487,500
SUBTOTAL			68.69	17,172,648
Current Cost Multiplier	1.07		4.81	1,202,085
Local Multiplier	0.86		(9.62)	(2,404,171)
TOTAL DIRECT CONSTRUCTION COSTS			\$63.88	\$15,970,563
Plans, specs, survy, bld prm	3.90%		(\$2.49)	(\$622,852)
Interim Construction Interest	3.38%		(2.16)	(539,006)
Contractor's OH & Profit	11.50%		(7.35)	(1,836,615)
NET DIRECT CONSTRUCTION COSTS			\$51.89	\$12,972,089

PAYMENT COMPUTATION

Primary	\$15,000,000	Amort	480
Int Rate	5.80%	DCR	1.08
Secondary	\$0	Amort	
Int Rate	0.00%	Subtotal DCR	1.08
Additional	\$10,330,000	Amort	
Int Rate		Aggregate DCR	1.08

RECOMMENDED FINANCING STRUCTURE APPLICANT'S N

Primary Debt Service	\$965,406
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$130,047

Primary	\$15,000,000	Amort	480
Int Rate	5.80%	DCR	1.13
Secondary	\$0	Amort	0
Int Rate	0.00%	Subtotal DCR	1.13
Additional	\$10,330,000	Amort	0
Int Rate	0.00%	Aggregate DCR	1.13

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

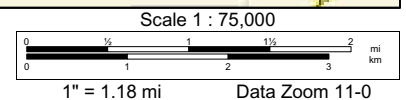
INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,942,680	\$2,000,960	\$2,060,989	\$2,122,819	\$2,186,503	\$2,534,757	\$2,938,478	\$3,406,501	\$4,578,053
Secondary Income	22,680	23,360	24,061	24,783	25,527	29,592	34,306	39,770	53,447
Other Support Income: telephor	57,144	58,858	60,624	62,443	64,316	74,560	86,435	100,202	134,664
POTENTIAL GROSS INCOME	2,022,504	2,083,179	2,145,674	2,210,045	2,276,346	2,638,909	3,059,219	3,546,473	4,766,163
Vacancy & Collection Loss	(151,692)	(156,238)	(160,926)	(165,753)	(170,726)	(197,918)	(229,441)	(265,985)	(357,462)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,870,812	\$1,926,941	\$1,984,749	\$2,044,291	\$2,105,620	\$2,440,991	\$2,829,777	\$3,280,488	\$4,408,701
EXPENSES at 4.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
General & Administrative	\$61,431	\$63,888	\$66,444	\$69,102	\$71,866	\$87,435	\$106,379	\$129,426	\$191,582
Management	74,833	77,077	79,390	81,771	84,224	97,639	113,191	131,219	176,348
Payroll & Payroll Tax	255,000	265,200	275,808	286,840	298,314	362,945	441,577	537,247	795,256
Repairs & Maintenance	90,558	94,180	97,948	101,865	105,940	128,892	156,817	190,792	282,419
Utilities	42,575	44,278	46,049	47,891	49,807	60,598	73,726	89,699	132,777
Water, Sewer & Trash	71,560	74,422	77,399	80,495	83,715	101,852	123,919	150,766	223,171
Insurance	65,000	67,600	70,304	73,116	76,041	92,515	112,559	136,945	202,712
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	65,000	67,600	70,304	73,116	76,041	92,515	112,559	136,945	202,712
Other	49,403	51,379	53,434	55,572	57,795	70,316	85,550	104,085	154,071
TOTAL EXPENSES	\$775,360	\$805,626	\$837,080	\$869,769	\$903,743	\$1,094,708	\$1,326,277	\$1,607,125	\$2,361,048
NET OPERATING INCOME	\$1,095,452	\$1,121,315	\$1,147,669	\$1,174,522	\$1,201,878	\$1,346,283	\$1,503,500	\$1,673,363	\$2,047,653
DEBT SERVICE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
First Lien Financing	\$965,406	\$965,406	\$965,406	\$965,406	\$965,406	\$965,406	\$965,406	\$965,406	\$965,406
Second Lien	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	\$124,047	\$149,909	\$176,263	\$203,116	\$230,472	\$374,877	\$532,094	\$701,957	\$1,076,247
DEBT COVERAGE RATIO	1.13	1.15	1.18	1.21	1.24	1.39	1.55	1.72	2.11

HTC ALLOCATION ANALYSIS -Artisan at Salado Heights, San Antonio, 4% HTC #060417

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	\$1,411,000	\$1,361,000		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,741,314	\$1,741,314	\$1,741,314	\$1,741,314
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$12,862,497	\$12,972,089	\$12,862,497	\$12,972,089
(4) Contractor Fees & General Requirements				
Contractor overhead	\$267,969	\$267,969	\$267,969	\$267,969
Contractor profit	\$803,906	\$803,906	\$803,906	\$803,906
General requirements	\$803,906	\$803,906	\$803,906	\$803,906
(5) Contingencies				
	\$862,500	\$735,670	\$730,191	\$735,670
(6) Eligible Indirect Fees				
	\$1,633,334	\$1,633,334	\$1,633,334	\$1,633,334
(7) Eligible Financing Fees				
	\$1,771,678	\$1,771,678	\$1,771,678	\$1,771,678
(8) All Ineligible Costs				
	\$1,274,311	\$1,274,311		
(9) Developer Fees				
Developer overhead	\$592,509	\$592,509	\$592,509	\$592,509
Developer fee	\$2,370,034	\$2,370,034	\$2,370,034	\$2,370,034
(10) Development Reserves				
	\$878,836	\$795,826		
TOTAL DEVELOPMENT COSTS	\$27,273,794	\$27,123,546	\$23,577,338	\$23,692,410

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		\$23,577,338	\$23,692,410
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		\$30,650,539	\$30,800,133
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$30,650,539	\$30,800,133
Applicable Percentage		3.62%	3.62%
TOTAL AMOUNT OF TAX CREDITS		\$1,109,550	\$1,114,965

Syndication Proceeds	0.9337	\$10,359,780	\$10,410,342
Total Tax Credits (Eligible Basis Method)		\$1,109,550	\$1,114,965
Syndication Proceeds		\$10,359,780	\$10,410,342
Requested Tax Credits		\$1,106,360	
Syndication Proceeds		\$10,330,000	
Gap of Syndication Proceeds Needed		\$12,273,794	
Total Tax Credits (Gap Method)		\$1,314,544	



**MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
November 9, 2006**

Action Item

Presentation, Discussion and Possible Issuance of Determination Notices for Housing Tax Credits associated with Mortgage Revenue Bond Transactions with other Issuers.

Requested Action

Approve, Amend or Deny the staff recommendation for Southpark Apartments.

Summary of the Transaction

Background and General Information: The application was received on July 5, 2006. The Issuer for this transaction is Strategic HFC of Travis County. The development is new construction and will consist of 192 total units targeting the general population, with all units affordable - for a Priority 3 bond transaction this means that at least 75% of all units must have rents at 30% of 80% AMFI and that they meet one of the minimum housing tax credit elections. The site is currently zoned for such a development. The Compliance Status Summary completed on October 30, 2006 reveals that all properties of the principals of the general partners which have been constructed are in compliance. The bond priority for this transaction is:

Priority 3: Any qualified residential rental development.

Census Demographics: The development is to be located at 9401 South First Street in Austin. Demographics for the census tract (24.21) include AMFI of \$70,560; the total population is 3,755; the percent of population that is minority is 46.36%; the percent of population that is below the poverty line is 2.70%; the number of owner occupied units is 1,123; the number of renter units is 196 and the number of vacant units is 22. The percent of population that is minority for the entire City of Austin is 46% (Census information from FFIEC Geocoding for 2006).

Public Comment: The Department has received no letters of support and no letters of opposition.

Recommendation

Staff recommends that the Board approve the issuance of a Determination Notice of Housing Tax Credits for Southpark Apartments.



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary

Southpark Apartments, TDHCA Number 060418

BASIC DEVELOPMENT INFORMATION

Site Address: 9401 S. First Street Development #: 060418
 City: Austin Region: 7 Population Served: Family
 County: Travis Zip Code: 78748 Allocation: Urban/Exurban
 HOME Set Asides: CHDO Preservation General Purpose/Activity: NC
 Bond Issuer: Strategic Housing Finance Corporation

HTC Purpose/Activity: NC=New Construction, ACQ=Acquisition, R=Rehabilitation, NC/ACQ=New Construction and Acquisition, NC/R=New Construction and Rehabilitation, ACQ/R=Acquisition and Rehabilitation

OWNER AND DEVELOPMENT TEAM

Owner: A. T. South First-Slaughter, LP
 Owner Contact and Phone: Manish Verma (210) 240-8376
 Developer: GMAT Development-Southpark, Ltd
 Housing General Contractor: Galaxy Builders, Ltd.
 Architect: Chiles Architects, Inc
 Market Analyst: Apartment Market Data
 Syndicator: PNC Multifamily Capital
 Supportive Services: To Be Determined
 Consultant: Not Utilized

UNIT/BUILDING INFORMATION

<u>30%</u>	<u>40%</u>	<u>50%</u>	<u>60%</u>	<u>Eff</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>	<u>5 BR</u>	Total Restricted Units:	192	
0	0	0	192	0	54	102	36	0	0	Market Rate Units:	0	
Type of Building: <input checked="" type="checkbox"/> 5 units or more per building											Owner/Employee Units:	0
<input type="checkbox"/> Duplex <input type="checkbox"/> Detached Residence											Total Development Units:	192
<input type="checkbox"/> Triplex <input type="checkbox"/> Single Room Occupancy											Total Development Cost:	\$21,078,699
<input type="checkbox"/> Fourplex <input type="checkbox"/> Transitional											Number of Residential Buildings:	9
<input type="checkbox"/> Townhome											HOME High Total Units:	0
											HOME Low Total Units:	0

Note: If Development Cost = \$0, an Underwriting Report has not been completed.

FUNDING INFORMATION

	<u>Applicant Request</u>	<u>Department Analysis</u>	<u>Amort</u>	<u>Term</u>	<u>Rate</u>
4% Housing Tax Credits with Bonds:	\$649,506	\$638,559	0	0	0.00%
TDHCA Bond Allocation Amount:	\$0	\$0	0	0	0.00%
HOME Activity Fund Amount:	\$0	\$0	0	0	0.00%
HOME CHDO Operating Grant Amount:	\$0	\$0			



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary
Southpark Apartments, TDHCA Number 060418

PUBLIC COMMENT SUMMARY

Guide: "O" = Oppose, "S" = Support, "N" = Neutral, "NC" or Blank = No comment

State/Federal Officials with Jurisdiction:

TX Senator: Wentworth, District 25 NC US Representative: Smith, District 21, NC
TX Representative: Keel, District 47 NC US Senator: NC

Local Officials and Other Public Officials:

Mayor/Judge: Will Wynn, Mayor, City of Austin - NC Resolution of Support from Local Government
Paul Hilgers, Community Development Officer, City of Austin - Southpark Apartments is consistent with the needs and strategies outlined in the City of Austin Consolidated Plan.

Individuals/Businesses: In Support: 0 In Opposition 0

Neighborhood Input:

General Summary of Comment:

The Department has received no letters of support and no letters of opposition.

CONDITIONS OF COMMITMENT

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")."

Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit and or allocation amount may be warranted.



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary

Southpark Apartments, TDHCA Number 060418

RECOMMENDATION BY THE EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

4% Housing Tax Credits:	Credit Amount:	\$638,559
Recommendation: Recommend approval of a Housing Tax Credit allocation not to exceed \$638,559 annually for ten years, subject to conditions.		
TDHCA Bond Issuance:	Bond Amount:	\$0
Recommendation:		
HOME Activity Funds:	Loan Amount:	\$0
HOME CHDO Operating Expense Grant:	Grant Amount:	\$0
Recommendation:		

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: October 31, 2006

PROGRAM: 4% HTC

FILE NUMBER: 060418

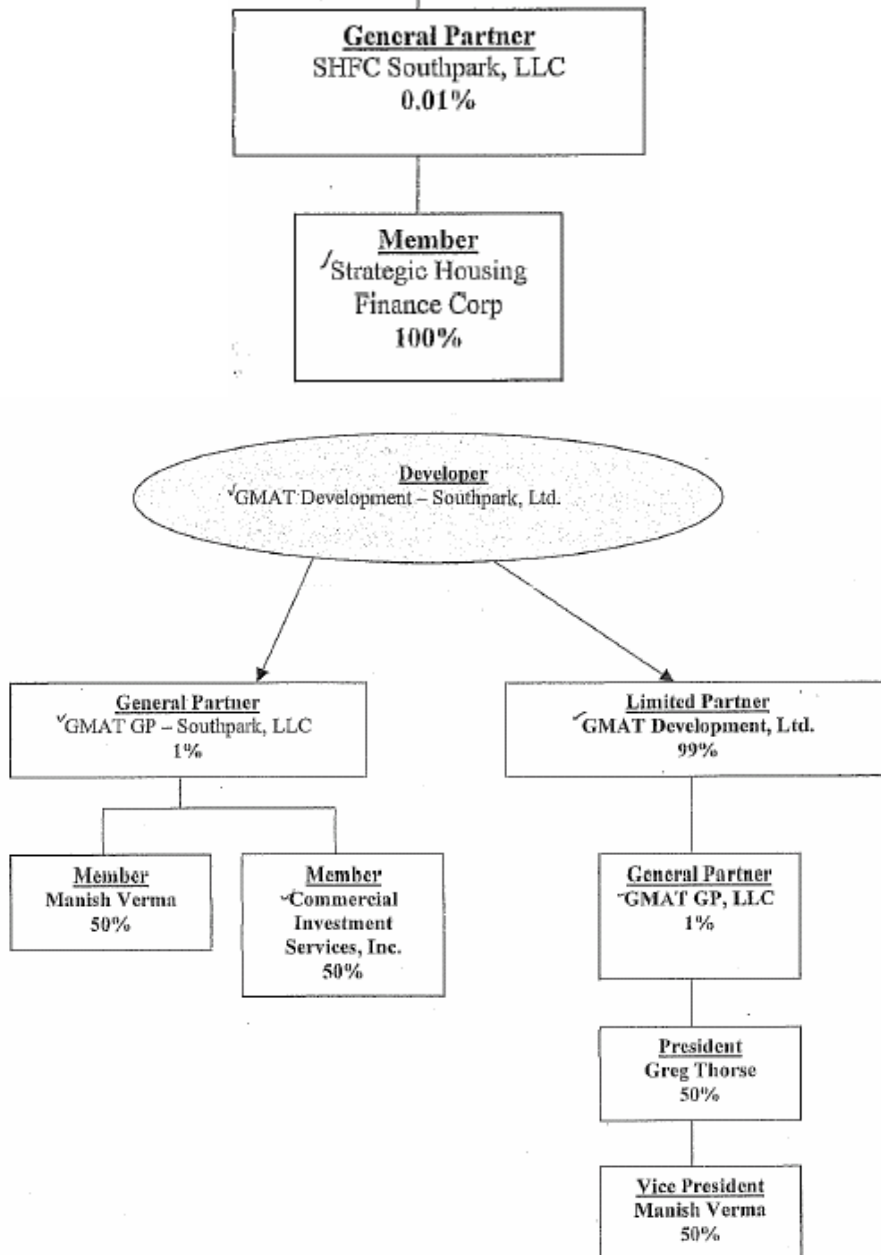
DEVELOPMENT NAME

Southpark Apartments

APPLICANT

Name:	A.T. South First – Slaughter, LP	Contact:	Manish Verma
Address:	45 NE Loop 410, Suite 290		
City:	San Antonio	State:	TX
		Zip:	78216
Phone:	(210) 240-8376	Fax:	(210) 493-7573
		Email:	manishv@about-cis.com

KEY PARTICIPANTS



**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

PROPERTY LOCATION

Location: 9401 South First Street
City: Austin **Zip:** 78748
County: Travis **Region:** 7 QCT DDA

REQUEST

<u>Program</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
HTC	\$649,506	N/A	N/A	N/A
Proposed Use of Funds:	New construction	Type:	Multifamily	
Target Population:	Family	Other:	Urban/Exurban	

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$638,559 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.

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units: 192 **# Res Bldgs** 9 **# Non-Res Bldgs** 1 **Age:** N/A yrs
Net Rentable SF: 186,738 **Av Un SF:** 973 **Common Area SF:** 4,880 **Gross Bldg SF:** 191,618

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 attractive buildings.

STRUCTURAL MATERIALS

The structures will be constructed on a concrete slab. According to the plans provided in the application the exterior will be 40% siding/shingle, 20% masonry veneer, and 40% stucco. The interior wall surfaces will be drywall and the roofs will be finished with composite shingles.

UNIT FEATURES

The interior flooring will be carpet and ceramic tile. Threshold criteria for the 2006 QAP requires all development units to include: mini blinds or window coverings for all windows, a dishwasher, a disposal, a refrigerator, an oven/range, an exhaust/vent fan in bathrooms, and a ceiling fan in each living area and bedroom. New construction units must also include three networks: one for phone service, one for data service, and one for TV service. In addition, each unit will include: microwave, laundry connections, ceiling fixture in each room, an individual heating and air conditioning unit, individual water heater, and nine-foot ceilings.

ONSITE AMENITIES

In order to meet threshold criteria for total units of 150 or more, the Applicant has elected to provide a community laundry room, controlled access gates, an enclosed sun porch or covered community porch, an equipped business center or computer learning center, full perimeter fencing, a furnished community room, a furnished fitness center, a service coordinators office in addition to the leasing offices, a swimming pool.

Uncovered Parking: 344 spaces **Carports:** 0 spaces **Garages:** 36 spaces

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Southpark Apartments is a 19.7-unit per acre new construction development located in south Austin. The development is comprised of evenly distributed walk-up residential buildings as follows:

<u>No. of Buildings</u>	<u>No. of Floors</u>	<u>1BR</u>	<u>2BR</u>	<u>3BR</u>
1	3	6	6	8
4	3	12	12	0
2	3	0	12	6
2	3	0	12	8

The development includes a 4,880-square foot community building.

SITE ISSUES

SITE DESCRIPTION

Total Size:	<u>9.77 acres</u>	Scattered sites?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Flood Zone:	<u>Zone X</u>	Within 100-year floodplain?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Current Zoning:	<u>MF-3-CO</u>	Needs to be re-zoned?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The subject site is an undeveloped tract of land located southeast of the intersection of West Slaughter Lane and South First Street in south Austin.

Adjacent Land Uses:

North: vacant land immediately adjacent and West Slaughter Lane beyond;

South: vacant land immediately adjacent and Onion Creek beyond;

East: vacant land immediately adjacent and Cullen Lane beyond; and

West: South First Street immediately adjacent and vacant land beyond.

Site Access: "From Slaughter Lane, one can easily connect to I-35, U.S. 290, and State Highway 71 (Ben White)." (Market Study, p. 3)

Public Transportation: Public transportation to the area is provided by Capitol Metro and the nearest linkage is 0.2 miles from the subject site.

Shopping & Services: "Residents have access to employment centers, financial centers, shopping, schools, recreational facilities, literary and cultural centers, and medical facilities offered throughout Austin." (Market Study, p. 3)

TDHCA SITE INSPECTION

Inspector: Manufactured Housing Staff **Date:** 9/19/2006

Overall Assessment: Excellent Acceptable Questionable Poor Unacceptable

Comments: _____

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated July 18, 2006 was prepared by Frost GeoSciences Geologic and Environmental Consulting and contained the following findings and recommendations:

Findings:

Noise: "South First Street is a four lane road located along the western property line. West Slaughter Lane is a four lane road located approximately 400 feet north of the project site. There are no railroads or airports within a sufficient proximity to present a concern for noise. The traffic patterns noted at the time of the on-site inspection did not appear to present a concern for noise. Frost GeoSciences, Inc. does not feel that a noise survey is required for this project site." (p. 34)

Floodplain: "A review of the above mentioned panel number indicates that no portion of the project site is located within the 100 year floodplain. The project site is located within "Zone X". According to the Panel Legend, "Zone X" represents areas determined to be outside the 500 year flood plain. A copy of the Travis County, Texas, FIRM map indicating the location of the project site is included in this report on

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

Plate 1f in Appendix A.” (p. 10)

Asbestos-Containing Materials (ACM): “The project site was visually inspected for areas that might contain asbestos-containing materials. No obvious visual indications of asbestos-containing materials were noted on the project site at the time of the on site inspection. No materials were tested for asbestos containing materials.” (p. 16)

Lead-Based Paint (LBP): “The project site was visually inspected for areas that might contain lead-based paint. No obvious visual indications of lead-based paint were noted on the project site at the time of the on site inspection. No materials were tested for lead-based paint.” (p. 16)

Lead in Drinking Water: “Water is supplied to the project area by the local water purveyor.” (p. 18)

Radon: “According to the Final Report of the Texas Indoor Radon Survey by the Texas Department of Health and Human Services, Radiation Control, Travis County has an average radon level of 1.3 picocuries per liter. This value is below the Environmental Protection Agency (EPA) action level of 4 picocuries per liter. According to the EPA Map of Radon Zones (<http://www.epa.gov/iaq/radon/zonemap/texas.htm>), the project site is located within Zone 3. According to the EPA, Zone 3 is characterized by areas having a low potential (less than 2.0 pCi/L) for Radon.” (p. 16)

Recommendations: “This assessment has revealed no evidence of recognized environmental conditions in connection with the project site. There is no reason to suspect that the project site or adjoining properties are of sufficient environmental concern to warrant additional investigations at this time.” (p. 34)

INCOME SET-ASIDE

The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside. Any Qualified Residential Rental Project qualifies as a Priority 3 Private Activity Bond allocation (§ 1372.0321). One hundred and ninety-two of the units (100% of the total) will be reserved for households earning 60% or less of AMI.

MAXIMUM ELIGIBLE INCOMES						
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	\$29,880	\$34,140	\$38,400	\$42,660	\$46,080	\$49,500

MARKET HIGHLIGHTS

A market feasibility study dated July 10, 2006 was prepared by Apartment MarketData, LLC (“Market Analyst”) and included the following findings:

Secondary Market Information: A secondary market was not identified in the Market Study.

Definition of Primary Market Area (PMA): “The boundaries of the Primary Market Area are as follows: North - Ben White Boulevard/Highway 71, East - Salt Springs Drive, extend north to Highway 71 & south to FM 1327, South - FM 1327 and Travis/Hays County Line, West - Manchaca Road.” (p. 3) This area encompasses approximately 37 square miles and is equivalent to a circle with a radius of 3.5 miles.

Population: The estimated 2006 population of the PMA was 87,452 and is expected to increase by 8% to approximately 91,736 by 2010. Within the primary market area there were estimated to be 30,260 households in 2006.

Total Market Demand: The Market Analyst utilized a target household adjustment rate of 100% and a household size-appropriate adjustment rate of 95.34% (p. 52). The Analyst’s income band of \$26,160 to \$46,080 (p. 46) results in a renter-income eligible adjustment rate of 15.67% (p. 50). The Market Analyst indicates a turnover rate of 66.8% applies based on IREM reports for the typical garden style projects in Austin. (p. 51)

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

MARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	51	1.7%	53	3%
Resident Turnover	3,019	98.3%	3,053	97%
TOTAL DEMAND	3,070	100%	3,106	100%

p. 53

Inclusive Capture Rate: The Market Analyst calculated an inclusive capture rate of 18.3% based upon 3,070 units of demand and 562 unstabilized affordable housing in the PMA (including the subject) (p. 53). The Underwriter calculated an inclusive capture rate of 18% based upon a revised demand estimate for 3,106 affordable units.

Unit Mix Conclusion: "...we conclude that the unit mix of the subject will vary from the demographic make-up of the Primary Market Area...Because of the physical, economic, and functional characteristics of the PAB and LIHTC programs, it is logical that some variation will exist from market demographic characteristics to the actual physical project. It is our opinion, given current occupancies and the forecasted household growth, that the subject unit mix, for all purposes, will meet the needs of lower and median income families within the submarket." (pp. 94-95)

Market Rent Comparables: The Market Analyst surveyed five comparable apartment projects totaling 1,387 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 sq ft	\$690	\$727	-\$37	\$730	-\$40
1-Bedroom (60%) 749 sq ft	\$727	\$727	\$0	\$775	-\$48
2-Bedroom (60%) 920 sq ft	\$775	\$869	-\$94	\$875	-\$100
2-Bedroom (60%) 973 sq ft	\$805	\$869	-\$64	\$920	-\$115
2-Bedroom (60%) 1,025 sq ft	\$825	\$869	-\$44	\$945	-\$120
3-Bedroom (60%) 1,317 sq ft	\$925	\$997	-\$72	\$1,220	-\$295

(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)

The Market Analyst's *Rental Rate Comparison Chart - Market Rent* (p. 99) is inconsistent with rent conclusions indicated in the *Market Rate Rent Adjustment Worksheets*. The table above reflects market rents from the *Market Rate Rent Adjustment Worksheets*. The Market Analyst also performed a rental rate comparison to other affordable units. The conclusions generally support the Applicant's proposed rents.

Primary Market Occupancy Rates: "The current occupancy of the market area is 94.3% as a result of growing demand. Demand for newer rental apartment units is especially high." (p. 11)

Absorption Projections: "Absorption over the previous sixteen years for all unit types is estimated to be 191 units per year. More recent numbers suggest that as many as 1,500+ units per year are being absorbed within the PMA." (p. 12) "We estimate that the project would achieve a lease rate of approximately 7% to 10% of its units per month as they come on line for occupancy from construction." (p.87)

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 significantly lower than the maximum rents allowed under HTC guidelines. The Underwriter's projected rents collected per unit were calculated by subtracting tenant-paid utility allowances as of December 2004, maintained by Housing Authority of Travis County, from the 2006 program gross rent limits. Tenants will be required to pay for electric and natural gas costs. The resulting rents collected, although higher than the Applicant's projections, are supported by the Market

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

Analyst's Market Rent conclusions.

The Applicant's secondary income and vacancy and collection loss assumptions are consistent with Department guidelines. Due to the difference in rents collected, the Applicant's effective gross income is not within 5% of the Underwriter's estimate.

Expenses: The Applicant's total annual operating expense projection at \$3,243 per unit is within 5% of the Underwriter's estimate of \$3,392, derived from the TDHCA database. In addition, each of the Applicant's specific expense line items compare well to the Underwriter's estimates. It should be noted, however, the Applicant included bond administration and asset management fees of \$14,200 as an operating expense. The Underwriter has treated this cost similarly to debt service for purposes of calculating the debt coverage ratio.

The Applicant submitted a letter signed by Christine R Richardson of Locke Liddell & Sapp stating, "We are submitting this letter to request confirmation by the Travis Central Appraisal District of an ad valorem tax exemption for...Southpark Apartments in Austin...The Partnership intends to transfer ownership of the Land to the Strategic Housing Finance Corporation of Travis County, which is a housing finance corporation created under Chapter 394 of the Texas Local Government Code (SHFC). SHFC will enter into a ground lease...in order for the Partnership to build, own, and operate the Project thereon...Because SHFC owns and controls the General Partner, it also has complete control over the Partnership and the Partnership's ownership and operation of the Project. We believe that SHFC's equitable ownership and control of the Project qualify for exemption under Section 394.905 of the Texas Local Government Code, and we are requesting confirmation from TCAD to this effect." The underwriting analysis assumes the tax exemption will be granted. Failure to achieve at least a 50% exemption would result in a likely debt resizing and/or a reduced ability to pay deferred developer fee, but a 50% exemption is anticipated to be available to the development based on the ownership structure even without the lease back structure.

Conclusion: Although the Applicant's estimated total operating expense is within 5% of the database-derived estimate, the Applicant's effective gross income and net operating income (NOI) estimate overreach vary by more than 5% when compared to the Underwriter's estimate. Therefore, the Underwriter's Year 1 proforma should be used to evaluate debt service capacity. Both the Underwriter's and the Applicant's Year 1 proformas support the proposed debt with a debt coverage ratio within the Departments guideline of 1.10 and 1.30.

Long-Term Feasibility: The underwriting 30-year proforma utilizes a 3% annual growth factor for income and a 4% annual growth factor for expenses in accordance with current TDHCA guidelines. The Underwriter's base year effective gross income, expense and net operating income were utilized resulting in a debt coverage ratio that remains above 1.10 and continued positive cash flow. Therefore, the development can be characterized as feasible for the long-term.

ACQUISITION VALUATION INFORMATION			
ASSESSED VALUE			
Land: (9.77) acres	\$1,170,230	Assessment for the Year of:	2006
Tax Rate:	2.7423	Valuation by:	Travis County Appraisal District
EVIDENCE of SITE or PROPERTY CONTROL			
Type of Site Control:	General warranty deed (9.77 acres)		
Warranty Deed date:	4/5/2006	Valid through Board Date?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Acquisition Cost:	\$2,000,000	Other:	_____
Seller:	1200 North Mansfield a California Limited Partnership		Related to Development Team? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

CONSTRUCTION COST ESTIMATE EVALUATION	
Acquisition Value:	The site cost of \$204,708 per acre or \$10,417 per unit is assumed to be reasonable since the acquisition is an arm's-length transaction.
Sitework Cost:	The Applicant's claimed sitework costs of \$7,305 per unit are within current Department

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

guidelines. Therefore, further third party substantiation is not required.

Direct Construction Cost: The Applicant’s direct construction cost estimate is \$322K or 3% lower than the Underwriter’s Marshall & Swift *Residential Cost Handbook*-derived estimate.

Contingency: The Applicant included \$287,956 in unidentified costs in their development cost schedule. This cost was not attributed to direct or indirect construction costs; therefore, the underwriting analysis reflects the costs as an addition to contingency. As a result, the Applicant’s eligible basis is reduced by a total of \$263,724 in accordance with the Department’s limit on eligible contingency cost to 5% of eligible site work and eligible direct construction costs for new construction developments.

Fees: The Applicant’s contractor’s fees for general requirements, general and administrative expenses, and profit are all within the maximums allowed by TDHCA guidelines. However the Applicant’s estimate of contingencies exceed the Department’s 5% guideline by \$264K and therefore this amount has been effectively moved to ineligible costs. The Applicant’s developer fee also exceeds 15% of the Applicant’s adjusted eligible basis by \$39,557 and therefore the eligible portion of the Applicant’s developer fee must be reduced by the same amount.

Conclusion: The Applicant’s total development cost is within 5% of the Underwriter’s estimate; therefore, the Applicant’s cost schedule will be used to determine the development’s need for permanent funds and to calculate eligible basis. An eligible basis of \$17,688,601 supports annual tax credits of \$638,559. This figure will be compared to the Applicant’s request and the tax credits calculated based on the gap in need for permanent funds to determine the recommended allocation.

FINANCING STRUCTURE

INTERIM TO PERMANENT BOND FINANCING

Source: Dougherty & Company, LLC **Contact:** James Berman
Tax-Exempt: \$14,200,000 **Interest Rate:** 6.4%, fixed **Amort:** 480 months
Documentation: Signed Term Sheet LOI Firm Commitment Conditional Commitment Application
Comments: 36-month interim period

TAX CREDIT SYNDICATION

Source: PNC Multifamily Capital **Contact:** Nicole Flores
Proceeds: \$6,169,000 **Net Syndication Rate:** 95% **Anticipated HTC:** \$649,506/year
Documentation: Signed Term Sheet LOI Firm Commitment Conditional Commitment Application
Comments: _____

OTHER

Amount: \$709,699 **Source:** Deferred Developer Fee

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by Strategic HFC of Travis County and privately placed by PNC Multifamily Capital. The permanent financing commitment is consistent with the terms reflected in the original 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 \$709,699 amount to 30% of the total fees.

Financing Conclusions: The Applicant’s total development cost estimate less the bond-financed permanent loan of \$14,200,000 indicates the need for \$6,878,699 in gap funds. Based on the submitted syndication terms, a tax credit allocation of \$724,227 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, Applicant’s request (\$649,506), the gap-driven amount (\$724,227), and eligible basis-derived estimate (\$638,559), the eligible basis-derived estimate of \$638,559 is recommended

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

resulting in proceeds of \$6,065,021 based on a syndication rate of 95%. The Underwriter's recommended financing structure indicates the need for \$813,678 in additional permanent funds. Deferred developer fees in this amount appear to be repayable from development cash flow within four years of stabilized operation.

DEVELOPMENT TEAM

IDENTITIES of INTEREST

The Developer and General Contractor are related entities. These are common relationships for HTC-funded developments. The Applicant is controlled by the proposed bond issuer.

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 Limited Partner of the Developer, GMAT Development, Ltd., submitted an unaudited financial statement as of June 30, 2006 reporting total assets of \$2.6M and consisting of \$1.0M in cash, and \$1.6M in other current assets. Liabilities totaled \$651K, resulting in a net worth of \$1.9M.

The member of the General Partner of the Developer, Commercial Investment Services, Inc., submitted an unaudited financial statement as of July 11, 2006 reporting total assets of \$68.4K and consisting of \$58.4K in cash, and 10K in other assets. Liabilities totaled \$24K, resulting in a net worth of \$44.4K.

The principals of the General Partner, Manish Verma and Greg Thorse, submitted unaudited financial statements as of June 30, 2006 and are anticipated to be guarantors of the development.

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 and operating proforma are more than 5% outside of the Underwriter's verifiable ranges.

The anticipated ad valorem property tax exemption may not be received or may be reduced, which could affect the financial feasibility of the development.

Underwriter:	<i>Carl Hoover</i>	Date:	October 31, 2006
Reviewing Underwriter:	<i>Lisa Vecchiatti</i>	Date:	October 31, 2006
Director of Real Estate Analysis:	<i>Tom Gouris</i>	Date:	October 31, 2006

MULTIFAMILY COMPARATIVE ANALYSIS

Southpark Apartments, Austin, 4% HTC #060418

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trsh
TC 60%	6	1	1	650	\$800	\$727	\$4,362	\$1.12	\$73.00	\$43.00
TC 60%	48	1	1	749	800	727	34,896	0.97	73.00	43.00
TC 60%	24	2	1	916	960	869	20,856	0.95	91.00	50.00
TC 60%	48	2	2	973	960	869	41,712	0.89	91.00	50.00
TC 60%	30	2	2	1,025	960	869	26,070	0.85	91.00	50.00
TC 60%	36	3	2	1,318	1,109	997	35,892	0.76	112.00	63.00
TOTAL:	192		AVERAGE:	973	\$943	\$853	\$163,788	\$0.88	\$89.88	\$50.47

INCOME

Total Net Rentable Sq Ft: **186,738**

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

	% OF EGI	PER UNIT	PER SQ FT
General & Administrative	4.53%	\$436	0.45
Management	3.44%	332	0.34
Payroll & Payroll Tax	10.45%	1,007	1.04
Repairs & Maintenance	4.51%	434	0.45
Utilities	2.03%	195	0.20
Water, Sewer, & Trash	4.42%	426	0.44
Property Insurance	2.85%	275	0.28
Property Tax 2.7423	0.00%	0	0.00
Reserve for Replacements	2.08%	200	0.21
Supp serv, compl fees	0.91%	88	0.09
TOTAL EXPENSES	35.21%	\$3,392	\$3.49
NET OPERATING INC	64.79%	\$6,243	\$6.42

DEBT SERVICE

PNC	53.27%	\$5,133	\$5.28
Additional Financing	0.00%	\$0	\$0.00
Bond Admin, Asset Mgt	0.00%	\$0	\$0.00
NET CASH FLOW	11.52%	\$1,110	\$1.14

AGGREGATE DEBT COVERAGE RATIO

RECOMMENDED DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		9.55%	\$10,521	\$10.82	\$2,020,000	\$2,020,000	\$10.82	\$10,521	9.58%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		6.63%	7,305	7.51	1,402,534	1,402,534	7.51	7,305	6.65%
Direct Construction		45.28%	49,884	51.29	9,577,781	9,256,053	49.57	48,209	43.91%
Contingency	5.00%	2.60%	2,859	2.94	549,016	796,653	4.27	4,149	3.78%
General Req'ts	5.80%	3.01%	3,315	3.41	636,536	636,536	3.41	3,315	3.02%
Contractor's G & A	1.74%	0.90%	997	1.03	191,426	191,426	1.03	997	0.91%
Contractor's Profit	5.77%	3.00%	3,303	3.40	634,099	634,099	3.40	3,303	3.01%
Indirect Construction		5.74%	6,324	6.50	1,214,184	1,214,184	6.50	6,324	5.76%
Ineligible Costs		3.60%	3,962	4.07	760,617	760,617	4.07	3,962	3.61%
Developer's G & A	3.98%	2.96%	3,259	3.35	625,804	625,804	3.35	3,259	2.97%
Developer's Profit	10.95%	8.14%	8,963	9.22	1,720,962	1,720,962	9.22	8,963	8.16%
Interim Financing		7.16%	7,883	8.11	1,513,631	1,513,631	8.11	7,883	7.18%
Reserves		1.45%	1,595	1.64	306,200	306,200	1.64	1,595	1.45%
TOTAL COST		100.00%	\$110,171	\$113.28	\$21,152,790	\$21,078,699	\$112.88	\$109,785	100.00%
Construction Cost Recap		61.42%	\$67,663	\$69.57	\$12,991,392	\$12,917,301	\$69.17	\$67,278	61.28%

SOURCES OF FUNDS

				TDHCA	APPLICANT	RECOMMENDED	
PNC	67.13%	\$73,958	\$76.04	\$14,200,000	\$14,200,000	\$14,200,000	Developer Fee Available
Additional Financing	0.00%	\$0	\$0.00	0	0	0	\$2,307,209
HTC Syndication Proceeds	29.16%	\$32,130	\$33.04	6,169,000	6,169,000	6,065,021	% of Dev. Fee Deferred
Deferred Developer Fees	3.36%	\$3,696	\$3.80	709,699	709,699	813,678	35%
Additional (Excess) Funds Req'd	0.35%	\$386	\$0.40	74,091	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				\$21,152,790	\$21,078,699	\$21,078,699	\$6,295,537

MULTIFAMILY COMPARATIVE ANALYSIS (continued)
Southpark Apartments, Austin, 4% HTC #060418

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$49.12	\$9,172,495
Adjustments				
Exterior Wall Finish	2.00%		\$0.98	\$183,450
9-Ft. Ceilings	3.20%		1.57	293,520
Roofing			0.00	0
Subfloor			(0.90)	(167,317)
Floor Cover			2.22	414,558
Porches/Balconies	\$23.61	47,638	6.02	1,124,828
Plumbing	\$680	342	1.25	232,560
Built-In Appliances	\$1,675	192	1.72	321,600
Stairs	\$1,650	72	0.64	118,800
Attached Garages	\$23.63	2,400	0.30	56,712
Heating/Cooling			1.73	323,057
Detached Garages	\$33.06	4,800	0.85	158,688
Comm &/or Aux Bldgs	\$63.81	4,880	1.67	311,375
Other:			0.00	0
SUBTOTAL			67.18	12,544,326
Current Cost Multiplier	1.07		4.70	878,103
Local Multiplier	0.87		(8.73)	(1,630,762)
TOTAL DIRECT CONSTRUCTION COSTS			\$63.15	\$11,791,666
Plans, specs, survy, bld prm	3.90%		(2.46)	(459,875)
Interim Construction Interest	3.38%		(2.13)	(397,969)
Contractor's OH & Profit	11.50%		(7.26)	(1,356,042)
NET DIRECT CONSTRUCTION COSTS			\$51.29	\$9,577,781

PAYMENT COMPUTATION

Primary	\$14,200,000	Amort	480
Int Rate	6.40%	DCR	1.22
Secondary	\$0	Amort	
Int Rate	0.00%	Subtotal DCR	1.22
Additional	\$6,169,000	Amort	
Int Rate		Aggregate DCR	1.22

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	\$985,504
Secondary Debt Service	0
Bond Admin, Asset Mgt	14,200
NET CASH FLOW	\$198,970

Primary	\$14,200,000	Amort	480
Int Rate	6.40%	DCR	1.22
Secondary	\$0	Amort	0
Int Rate	0.00%	Subtotal DCR	1.22
Additional	\$6,169,000	Amort	0
Int Rate	0.00%	Aggregate DCR	1.20

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

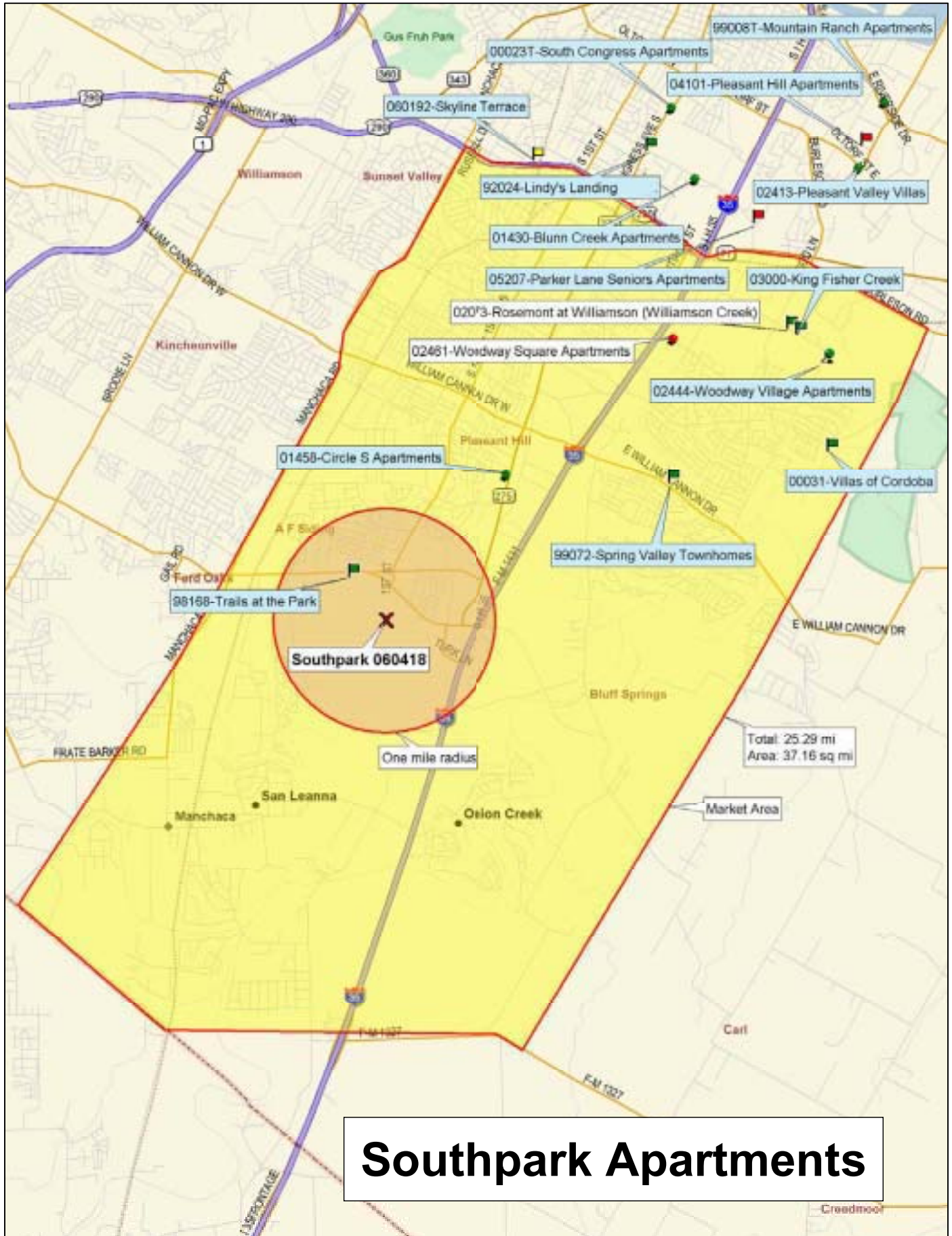
INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,965,456	\$2,024,420	\$2,085,152	\$2,147,707	\$2,212,138	\$2,564,474	\$2,972,929	\$3,446,439	\$4,631,726
Secondary Income	34,560	35,597	36,665	37,765	38,898	45,093	52,275	60,601	81,443
Other Support Income: (describ)	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	2,000,016	2,060,016	2,121,817	2,185,471	2,251,036	2,609,567	3,025,204	3,507,040	4,713,169
Vacancy & Collection Loss	(150,001)	(154,501)	(159,136)	(163,910)	(168,828)	(195,718)	(226,890)	(263,028)	(353,488)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,850,015	\$1,905,515	\$1,962,681	\$2,021,561	\$2,082,208	\$2,413,850	\$2,798,313	\$3,244,012	\$4,359,681
EXPENSES at 4.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
General & Administrative	\$83,728	\$87,077	\$90,560	\$94,183	\$97,950	\$119,171	\$144,990	\$176,403	\$261,119
Management	63,649	65,559	67,525	69,551	71,638	83,048	96,275	111,609	149,993
Payroll & Payroll Tax	193,280	201,011	209,052	217,414	226,110	275,098	334,698	407,212	602,773
Repairs & Maintenance	83,362	86,697	90,165	93,771	97,522	118,650	144,356	175,632	259,978
Utilities	37,533	39,035	40,596	42,220	43,909	53,421	64,995	79,077	117,053
Water, Sewer & Trash	81,751	85,021	88,422	91,959	95,637	116,357	141,566	172,237	254,952
Insurance	52,741	54,851	57,045	59,327	61,700	75,067	91,331	111,118	164,482
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	38,400	39,936	41,533	43,195	44,923	54,655	66,496	80,903	119,756
Other	16,896	17,572	18,275	19,006	19,766	24,048	29,258	35,597	52,693
TOTAL EXPENSES	\$651,341	\$676,758	\$703,173	\$730,624	\$759,154	\$919,516	\$1,113,967	\$1,349,787	\$1,982,799
NET OPERATING INCOME	\$1,198,674	\$1,228,757	\$1,259,508	\$1,290,937	\$1,323,054	\$1,494,334	\$1,684,347	\$1,894,225	\$2,376,882
DEBT SERVICE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
First Lien Financing	\$985,504	\$985,504	\$985,504	\$985,504	\$985,504	\$985,504	\$985,504	\$985,504	\$985,504
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	14,200	14,200	14,200	14,200	14,200	14,200	14,200	14,200	14,200
NET CASH FLOW	\$198,970	\$229,053	\$259,804	\$291,233	\$323,350	\$494,629	\$684,642	\$894,521	\$1,377,178
DEBT COVERAGE RATIO	1.20	1.23	1.26	1.29	1.32	1.49	1.68	1.89	2.38

HTC ALLOCATION ANALYSIS -Southpark Apartments, Austin,4% HTC #060418

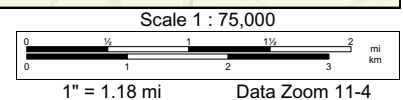
CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$2,020,000	\$2,020,000		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,402,534	\$1,402,534	\$1,402,534	\$1,402,534
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$9,256,053	\$9,577,781	\$9,256,053	\$9,577,781
(4) Contractor Fees & General Requirements				
Contractor overhead	\$191,426	\$191,426	\$191,426	\$191,426
Contractor profit	\$634,099	\$634,099	\$634,099	\$634,099
General requirements	\$636,536	\$636,536	\$636,536	\$636,536
(5) Contingencies				
	\$796,653	\$549,016	\$532,929	\$549,016
(6) Eligible Indirect Fees				
	\$1,214,184	\$1,214,184	\$1,214,184	\$1,214,184
(7) Eligible Financing Fees				
	\$1,513,631	\$1,513,631	\$1,513,631	\$1,513,631
(8) All Ineligible Costs				
	\$760,617	\$760,617		
(9) Developer Fees				
			\$2,307,209	
Developer overhead	\$625,804	\$625,804		\$625,804
Developer fee	\$1,720,962	\$1,720,962		\$1,720,962
(10) Development Reserves				
	\$306,200	\$306,200		
TOTAL DEVELOPMENT COSTS	\$21,078,699	\$21,152,790	\$17,688,601	\$18,065,973

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		\$17,688,601	\$18,065,973
High Cost Area Adjustment		100%	100%
TOTAL ADJUSTED BASIS		\$17,688,601	\$18,065,973
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$17,688,601	\$18,065,973
Applicable Percentage		3.61%	3.61%
TOTAL AMOUNT OF TAX CREDITS		\$638,559	\$652,182

Syndication Proceeds	0.9498	\$6,065,021	\$6,194,413
Total Tax Credits (Eligible Basis Method)		\$638,559	\$652,182
Syndication Proceeds		\$6,065,021	\$6,194,413
Requested Tax Credits		\$649,506	
Syndication Proceeds		\$6,169,000	
Gap of Syndication Proceeds Needed		\$6,878,699	
Total Tax Credits (Gap Method)		\$724,227	



Southpark Apartments



**MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
November 9, 2006**

Action Item

Presentation, Discussion and Possible Issuance of Determination Notices for Housing Tax Credits associated with Mortgage Revenue Bond Transactions with other Issuers.

Requested Action

Approve, Amend or Deny the staff recommendation for Lakes of Goldshire.

Summary of the Transaction

Background and General Information: The application was received on August 17, 2006. The Issuer for this transaction is Fort Bend County HFC. The development is new construction and will consist of 160 total units targeting the general population, with all units affordable. There is no zoning required for the Rosenberg area. The Compliance Status Summary completed on October 30, 2006 reveals that all properties of the principals of the general partners which have been constructed are in compliance. Per the 2006 QAP Section 50.12(b), the Applicant is required to submit evidence from the local municipality of consistency with the local consolidated plan. As of Board posting the Applicant was unable to obtain this evidence. It should be noted that the City of Rosenberg has a consolidated plan dated from 1995 that is technically in effect; however per conversations with city staff it is not a plan that they currently use or refer to because it is outdated. The bond priority for this transaction is:

- Priority 2:** Set aside **100%** of units that cap rents at 30% of **60%** AMFI
(MUST receive 4% Housing Tax Credits)

Census Demographics: The development is to be located on the South side of FM 1640 between Reading Road and Lamar Drive in Rosenberg. Demographics for the census tract (6751) include AMFI of \$56,819; the total population is 6,176; the percent of population that is minority is 52.20%; the percent of population that is below the poverty line is 7.82%; the number of owner occupied units is 1,491; the number of renter units is 538 and the number of vacant units is 73. The percent of population that is minority for the entire City of Rosenberg is 65% (Census information from FFIEC Geocoding for 2006).

Public Comment: The Department has received one letter of support from State Senator Ken Armbrister, one letter of opposition from Lamar CISD and a city resolution of opposition.

Recommendation

Staff recommends that the Board deny the issuance of a Determination Notice of Housing Tax Credits for Lakes of Goldshire due to the inability of the Applicant to submit required threshold documentation from the municipality regarding the consistency with the local consolidated plan. It should be noted, however, that per staff's conversations with city staff the consolidated plan is dated from 1995 and while it is technically in effect they do not use or refer to the plan because it is outdated.

Staff notes that if the Board should overturn staff's recommendation; they will need to waive the requirement of submission of the Consistency with the Consolidated Plan letter from the local municipality per Section 50.12(b) of the 2006 QAP.



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary

Lakes of Goldshire Apartments, TDHCA Number 060429

BASIC DEVELOPMENT INFORMATION

Site Address: South Side of FM 1640 Between Reading Road & Lamar Dr. Development #: 060429
 City: Rosenberg Region: 6 Population Served: Family
 County: Fort Bend Zip Code: 77471 Allocation: Urban/Exurban
 HOME Set Asides: CHDO Preservation General Purpose/Activity: NC
 Bond Issuer: Fort Bend Housing Finance Corp

HTC Purpose/Activity: NC=New Construction, ACQ=Acquisition, R=Rehabilitation, NC/ACQ=New Construction and Acquisition, NC/R=New Construction and Rehabilitation, ACQ/R=Acquisition and Rehabilitation

OWNER AND DEVELOPMENT TEAM

Owner: NS Lakes of Goldshire, LP
 Owner Contact and Phone: Navdip Singh Sobti (281) 216-3656
 Developer: Goldshire Developments, LLC
 Housing General Contractor: New York Real Estate, Inc.
 Architect: TN Associates
 Market Analyst: O'Connor & Associates
 Syndicator: Alliant Capital
 Supportive Services: To Be Determined
 Consultant: CBRE/Melody

UNIT/BUILDING INFORMATION

<u>30%</u>	<u>40%</u>	<u>50%</u>	<u>60%</u>	<u>Eff</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>	<u>5 BR</u>	Total Restricted Units:	160
0	0	0	160	0	18	80	62	0	0	Market Rate Units:	0
Type of Building: <input checked="" type="checkbox"/> 5 units or more per building Owner/Employee Units: 0											
<input type="checkbox"/> Duplex <input type="checkbox"/> Detached Residence Total Development Units: 160											
<input type="checkbox"/> Triplex <input type="checkbox"/> Single Room Occupancy Total Development Cost: \$18,451,806											
<input checked="" type="checkbox"/> Fourplex <input type="checkbox"/> Transitional Number of Residential Buildings: 20											
<input checked="" type="checkbox"/> Townhome HOME High Total Units: 0											
HOME Low Total Units: 0											

Note: If Development Cost = \$0, an Underwriting Report has not been completed.

FUNDING INFORMATION

	<u>Applicant Request</u>	<u>Department Analysis</u>	<u>Amort</u>	<u>Term</u>	<u>Rate</u>
4% Housing Tax Credits with Bonds:	\$660,812	\$660,812	0	0	0.00%
TDHCA Bond Allocation Amount:	\$0	\$0	0	0	0.00%
HOME Activity Fund Amount:	\$0	\$0	0	0	0.00%
HOME CHDO Operating Grant Amount:	\$0	\$0			



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary

Lakes of Goldshire Apartments, TDHCA Number 060429

PUBLIC COMMENT SUMMARY

Guide: "O" = Oppose, "S" = Support, "N" = Neutral, "NC" or Blank = No comment

State/Federal Officials with Jurisdiction:

TX Senator: Armbrister, District 18 NC US Representative: DeLay, District 22, NC
TX Representative: Olivo, District 27 NC US Senator: NC

Local Officials and Other Public Officials:

Mayor/Judge: Joe M. Gurecky, Mayor, City of Rosenberg - NC Resolution of Support from Local Government []

City Council Resolution, City of Rosenberg - O
Thomas Randal, Superintendent, Lamar CISD - O

Individuals/Businesses: In Support: 0 In Opposition: 0

Neighborhood Input:

General Summary of Comment:

The Department has received no letters of support and no letters of opposition from the general public.

CONDITIONS OF COMMITMENT

Not Recommended due to the following: Per the 2006 QAP Section 50.12(b) the Applicant is required to submit evidence from the local municipality of consistency with the local consolidated plan. The applicant has thus far been unable to obtain such evidence from the City of Rosenberg.

Should the Board Approve this award, the Board must waive its rules for the issue listed above and such an award should be conditioned upon the following:

Receipt, review, and acceptance, before commencement of construction, of revised site plans indicating secure safety fencing surrounding the detention pond to prevent unauthorized access by children.

Receipt, review, and acceptance, before commencement of construction, of clarification of the need for noise barrier fencing, or revised plans to include noise barrier fencing.

Receipt, review, and acceptance before commencement of construction, of commitments by the general contractor and co-developers to defer up to 100% of their fees as necessary.

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.

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")."



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary

Lakes of Goldshire Apartments, TDHCA Number 060429

RECOMMENDATION BY THE EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

4% Housing Tax Credits:	Credit Amount:	\$660,812
Recommendation:		
TDHCA Bond Issuance:	Bond Amount:	\$0
Recommendation:		
HOME Activity Funds:	Loan Amount:	\$0
HOME CHDO Operating Expense Grant:	Grant Amount:	\$0
Recommendation:		

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: October 31, 2006

PROGRAM: 4% HTC

FILE NUMBER: 060429

DEVELOPMENT NAME

Lakes of Goldshire Apartments

APPLICANT

Name: NS Lakes of Goldshire, LP **Contact:** Navdip Singh Sobti
Address: 17403 Marigold Drive
City: Sugar Land **State:** TX **Zip:** 77479
Phone: (281) 216-3656 **Fax:** (281) 265-0863 **Email:** Nss64@alltel.net

KEY PARTICIPANTS

Name: Lakes of Goldshire, GP, LLC **Title:** 1% Managing General Partner of Applicant
Name: Goldshire Developers, LLC **Title:** Managing Member of MGP/Co-Developer
Name: SGI Ventures, Inc **Title:** Co-Developer (fee only)
Name: Navdip Singh Sobti **Title:** 50% owner of Goldshire Developers, LLC/signatory for Seller of property
Name: Ira S Sobti **Title:** 50% owner of Goldshire Developers, LLC
Name: Sally Gaskin **Title:** Principal of SGI Ventures
Name: Jeff Crozier, CBRE/Melody **Title:** Consultant

PROPERTY LOCATION

Location: South side of FM 1640 Between Reading Road and Lamar Drive
City: Rosenberg **Zip:** 77471
County: Ft. Bend **Region:** 6 QCT DDA

REQUEST

<u>Program</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
HTC	\$660,812	N/A	N/A	N/A
Proposed Use of Funds:	New construction	Type:	Multifamily	
Target Population:	Family	Other:	Urban/Exurban	

RECOMMENDATION

RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$660,812 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Receipt, review, and acceptance, before commencement of construction, of revised site plans indicating secure safety fencing surrounding the detention pond to prevent unauthorized access by children.
2. Receipt, review, and acceptance, before commencement of construction, of clarification of the need for noise barrier fencing, or revised plans to include noise barrier fencing.
3. Receipt, review and acceptance, before commencement of construction, of commitments by the general contractor and co-developers to defer up to 100% of their fees as necessary.
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: 160 **# Res Bldgs** 20 **# Non-Res Bldgs** 1 **Age:** N/A yrs **Vacant:** N/A at / /
Net Rentable SF: 167,588 **Av Un SF:** 1,047 **Common Area SF:** 2,453 **Gross Bldg SF:** 170,041

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 attractive townhome buildings.

STRUCTURAL MATERIALS

The structures will be constructed on a concrete slab. According to the plans provided in the application the exterior will be 25% masonry veneer and 75% cement fiber. The interior wall surfaces will be drywall and the roofs will be finished with composite shingles.

UNIT FEATURES

The interior flooring will be carpet and ceramic tile. Threshold criteria for the 2006 QAP requires all development units to include: mini blinds or window coverings for all windows, a dishwasher, a disposal, a refrigerator, an oven/range, an exhaust/vent fan in each bathroom, and a ceiling fan in each living area and bedroom. New construction units must also include three networks: one for phone service, one for data service, and one for TV service. In addition, each unit will include: laundry connections, a ceiling fixture in each room, an individual heating and air conditioning unit, individual water heater, and eight-foot ceilings.

ONSITE AMENITIES

In order to meet threshold criteria for between 150 and 199 units, the Applicant has elected to provide an accessible walking path, community laundry room, controlled access gates, an equipped business center or computer learning center, full perimeter fencing, a furnished community room, public telephone(s) available to tenants 24 hours a day, a swimming pool, and three children's playgrounds.

Uncovered Parking: 200 spaces **Carports:** 0 spaces **Garages:** 160 spaces

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: The Lakes of Goldshire is a 7-unit per acre new construction development located in Rosenberg. The development is comprised of 20 evenly distributed residential townhome buildings as follows:

<u>No. of Buildings</u>	<u>No. of Floors</u>	<u>1BR</u>	<u>2BR</u>	<u>3BR</u>
4	2	4	4	
14	2		4	4
1	2		6	2
1	2	2	4	2

It should be noted the unit square footages indicated in the submitted rent schedule are inconsistent with the architectural drawings. The underwriting analysis assumes the architectural drawings are correct with square footages at 813 for the one-bedroom units, 977 for the two-bedroom units, and 1,214 for the three-bedroom units. The Applicant subsequently submitted a revised rent schedule reflecting these figures.

The development includes a 2,453-square foot community building. Seventeen of the twenty residential buildings will be evenly spaced along the perimeter of a triangular-shaped detention pond. The project includes three children's playgrounds in close proximity to the detention pond, and the site plan has no specific indication of any fencing around the pond. Receipt, review, and acceptance, before commencement of construction, of revised site plans indicating secure safety fencing surrounding the detention pond to prevent unauthorized access by children, is a condition of this report.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

SITE ISSUES			
SITE DESCRIPTION			
Total Size:	21.83 acres	Scattered sites?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Flood Zone:	Zone X	Within 100-year floodplain?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Current Zoning:	N / A	Needs to be re-zoned?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
SITE and NEIGHBORHOOD CHARACTERISTICS			
Location: The property is located on FM 1640 (Avenue I) at FM 2218, in Rosenberg, Fort Bend County, 28 miles southwest of the Houston Central Business District.			
Adjacent Land Uses:			
North: FM 1640 immediately adjacent and mini storage and retail beyond;			
South: a recently developed single-family residential subdivision;			
East: vacant land immediately adjacent and bank and commercial development beyond; and			
West: vacant land immediately adjacent and Reading Road beyond.			
Site Access: The site will be accessed on the north side from FM 1640 (Avenue I).			
Public Transportation: The availability of public transportation was not identified in the application.			
Shopping & Services: Shopping convenient to the subject includes numerous neighborhood shopping centers along the major thoroughfares ... the neighborhood is served by the Lamar Consolidated Independent School District, with schools of all levels located throughout the area ...recreational centers, libraries, police and fire service, and medical services are all located within the neighborhood.			
TDHCA SITE INSPECTION			
Inspector:	Manufactured Housing Staff	Date:	08/28/2006
Overall Assessment:	<input type="checkbox"/> Excellent <input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Questionable <input type="checkbox"/> Poor <input type="checkbox"/> Unacceptable		
Comments:	_____		
HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)			
A Phase I Environmental Site Assessment report dated August 21, 2006 was prepared by Associated Testing Laboratories, Inc. and supplemented by letters dated October 13 and October 17, 2006. The Analyst reported the following findings and recommendations:			
Findings:			
Noise: “Noise level from the vehicular traffic at the perimeter property line was between 55 and 72 dBA level, but it is dependent on the number of vehicular traffic pattern and load on the road. Increase in traffic will increase the background traffic noise level. Normally, all residential communities have noise barrier walls installed surrounding the houses to control the noise level in the residential communities.” (letter 10/17)			
Floodplain: “According to the Federal Insurance Rate Map (FIRM), the subject site is located in unshaded Zone X, indicating that the subject site is located outside the 500-year flood plain.” (p. 10)			
Asbestos-Containing Materials (ACM): “Since the site is an undeveloped site, as per my opinion there is no need for asbestos-containing material testing at this site.” (letter 10/13)			
Lead-Based Paint (LBP): “Since the site is an undeveloped site, as per my opinion there is no need for lead-based paint testing at this site.” (letter 10/13)			
Lead in Drinking Water: “Since this site is not going to have any wells and the drinking water is going to be supplied by the city of Rosenberg, as per my opinion there is no need for lead in drinking water testing at this time.” (letter 10/13)			
Radon: “Historically, the Greater Houston area does not have a Radon problem in commercial or residential facilities. Direct reading instrument indicates absence of Radon hazard at the NE corner of			

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

FM 1640 and Reading Road, Rosenberg, Texas. Additional measurement using test kits is not recommended.” (letter 10/17)

Recognized Environmental Concerns (RECs): “Based on the subject site reconnaissance, aerial photos interpretation, regulatory data search, and information gathered during this Phase I ESA, the subject site does not appear to have Recognized Environmental Conditions (REC) resulting from previous uses of the subject site and the adjacent sites.” (p. 2)

Recommendations: “Based on the Phase I ESA study ... Associated Testing Laboratories, Inc. recommends that there are no Recognized Environmental Conditions foreseen at this time.” (p. 2)

Receipt, review, and acceptance, before commencement of construction, of clarification of the need for noise barrier fencing, or revised plans to include noise barrier fencing, is a condition of this report.

INCOME SET-ASIDE

The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside. To qualify as a Priority 2 Private Activity Bond allocation for a Qualified Residential Rental Project, the Applicant has elected to set-aside 100% of the units with rent and income restrictions at 60% of area median family income (§ 1372.0321).

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 14, was prepared by O’Connor & Associates, LP (“Market Analyst”) and included the following findings:

Secondary Market Information: A Secondary Market Area was not specified in the market study.

Definition of Primary Market Area (PMA): “The subject’s primary market is defined as that area contained within zip codes 77469 and 77471. This area consists of the cities of Richmond and Rosenberg, as well as surrounding areas.” (p. 10) This area encompasses approximately 282 square miles and is equivalent to a circle with a radius of 9.5 miles.

Population: The estimated 2006 population of the PMA was 93,631 and is expected to increase by 15% to approximately 107,832 by 2011. Within the primary market area there were estimated to be 29,360 households in 2006.

Total Market Demand: The Market Analyst utilized a target household adjustment rate of 100% because the subject property targets the general population, and a household size-appropriate adjustment rate of 93%. (p. 77) The Analyst used an income range of \$23,520 to \$39,540. The minimum income is based on the maximum program rent of \$686 for a one-bedroom unit and a 35% rent burden on household income. The maximum income is based on the income for a five-person household at 60% of AMGI, assuming 1.5 person-per-bedroom occupancy of a three-bedroom unit. (p. 73) This income band results in an income-eligible adjustment rate of 16%. (p. 74) The tenure appropriate adjustment rate of 47% is specific to the income-eligible population. (p. 74) The Market Analyst indicates a turnover rate of 65% applies based on IREM data for Region 6 and the Houston MSA. (p. 74) The Analyst also indicated that there are 340 Section 8 Housing Choice vouchers in the Richmond/Rosenberg area, and calculated that this program provides theoretical demand for 158 additional units.

The Underwriter used the same household size-appropriate adjustment rate of (93%), income range (\$23,520 to \$39,540), income-eligible adjustment rate (16%), and tenure-appropriate adjustment rate (47%) as the Analyst.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

MARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	68	4%	64	4%
Resident Turnover	1,345	86%	1,402	86%
Other Sources: Section 8 Vouchers	158	10%	161	10%
TOTAL DEMAND	1,571	100%	1,627	100%

p. 77

Inclusive Capture Rate: The Market Analyst calculated an inclusive capture rate of 21% based on a supply of 328 unstabilized comparable affordable housing units in the PMA and total demand for 1,571 units. (The Analyst included Providence Estates, “a proposed 168-unit HTC project ... on a wait list with priority over the subject”). (p. 78) The Underwriter calculated an inclusive capture rate of 10% based on a revised supply of 160 unstabilized units (including only the subject) divided by a revised demand estimate for 1,627 affordable units. Providence Estates was on a wait list at the time the market study was conducted, but it ultimately did not receive funding, so the Underwriter did not include these units in the supply. Current TDHCA guidelines allow for inclusive capture rates as high as 25% for developments targeting families in urban areas.

Unit Mix Conclusion: “The subject property has 11% one-bedroom units, 50% two-bedroom units, and 39% three-bedroom units. Based on discussions with leasing agents and our own analysis of the rental rates at the selected comparables in the primary market, the unit mix is appropriate and will complement the local affordable housing market.” (p. 11)

Market Rent Comparables: The Market Analyst surveyed five comparable apartment projects totaling 1,492 units. “All projects utilized as comparables are market-rate projects, and four are located within the primary market area. Due to the limited number of Class A projects in the subject PMA, (one comparable) from outside the PMA was included. These complexes exhibited the most similar physical characteristics to the subject in terms of location, effective age/condition, and floor plans. The comparables utilized consisted of one, two, and three-bedroom floor plans. No comparables could be found with townhomes which would have similar floor plans to the subject; therefore, flats were utilized as a comparison. Based on our research and experience, the market indicates little difference between townhomes and flats.” (p. 49)

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-Bedroom (60%)	\$616	\$616	\$0	\$825	-\$209
2-Bedroom (60%)	\$731	\$731	\$0	\$1,030	-\$299
3-Bedroom (60%)	\$837	\$836	\$1	\$1,275	-\$438

(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 92.17%. Occupancy rates and rental rates in this market area have remained strong over the past few years ... The selected comparable apartments surveyed in the primary market area of the subject complex exhibited strong occupancy rates, with a median occupancy level of 93.2%.” (p. 10)

Absorption Projections: “Considering the absorption history of similar properties and the available quality affordable units in this market, we project that the subject property will lease an average of 15-25 units per month until achieving stabilized occupancy. We anticipate that the subject property will achieve stabilized occupancy within 6-11 months following completion.” (p. 86)

Unstabilized, Under Construction, and Planned Development: “There has been a moderate level of new construction taking place in the subject’s primary market area over the past several years, with only four project’s constructed in the 2000’s, one of which is an HTC project, with the remainder being market-rate projects. There are two market-rate projects currently under construction, and none proposed. There are no HTC projects under construction, and one proposed.” (p. 10) The one proposed HTC project indicated by the

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

Analyst is Providence Estates. This application did not receive funding.

Market Impact: “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.” (p. 13)

Other Information: The Department commissioned a market study for the Houston-Baytown-Sugar Land Metropolitan Statistical Area (MSA). The study, performed by Vogt, Williams & Bowen, LLC, only considers demand from household growth. It does not incorporate demand from turnover as normally allowed in development specific market studies because in an overall study the demand from turnover returns to all of the units in the market area. A development specific market study identifies the demand from turnover as potential demand that can be attracted away from existing units and to the proposed development (and any other new developments that have not yet become fully occupied).

The proposed development is located in the Fort Bend submarket within the Houston MSA. The Vogt Williams market study indicates demand in the Fort Bend submarket at the 51%-60% of AMGI income level in 2009 (the expected placed-in-service date for the subject property) as follows: 19 studio/one-bedroom units, 28 two-bedroom units, and 14 three-bedroom units, for a total of 61 units.

This information is consistent with the demand conclusions of the market study submitted with the Application (68 units from household growth) and calculated by the Underwriter (64 units).

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 projected rents collected per unit were calculated by subtracting tenant-paid utility allowances as of May 2, 2005, maintained by the City of Rosenberg, from the 2006 program gross rent limits. Tenants will be required to pay electricity costs only.

The Applicant included secondary income of \$20 per unit per month from laundry, vending, and late fees. Because the Applicant did not provide substantiation for their secondary income estimate, the Underwriter included the TDHCA guideline maximum of \$15 per unit per month. The Applicant’s estimate for losses due to vacancy and collection is consistent with the TDHCA guidelines. The Applicant’s estimated Effective Gross Income is within 5% of the Underwriter’s estimate.

Expenses: The Applicant’s total annual operating expense projection at \$4,309 per unit is within 1% of the Underwriter’s estimate of \$4,320, derived from the TDHCA database and third-party data sources. While the Applicant has assumed the TDHCA minimum replacement reserve requirement of \$200 per unit per year for new construction developments, the underwriting analysis includes \$250 per unit per year as required by the submitted Letter of Interest (LOI) for syndication. The Applicant has also understated TDHCA compliance fees.

Conclusion: The Applicant’s estimates for Effective Gross Income, Total Annual Operating Expenses, and Net Operating Income (NOI) are each within 5% of the Underwriter’s estimates; therefore, the Applicant’s Year 1 proforma will be used to determine debt capacity. The Applicant’s NOI results in a first year debt coverage ratio of 1.15, within the TDHCA guidelines.

Long-Term Feasibility: The underwriting 30-year proforma applies a 3% annual growth factor to income and a 4% annual growth factor to expenses in accordance with current TDHCA guidelines. As noted above, the Applicant’s base year effective gross income, expense and net operating income were utilized resulting in continued positive cashflow and a debt coverage ratio that remains above 1.10. Therefore, the development can be characterized as feasible for the long-term.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

ACQUISITION VALUATION INFORMATION			
ASSESSED VALUE			
Land: 30.9735 acres	\$1,214,290	Assessment for the Year of:	2006
1 acre:	\$39,204	Valuation by:	Fort Bend County Appraisal District
Total: 21.83 acre (prorated)	\$855,827	Tax Rate:	3.48634
EVIDENCE of SITE or PROPERTY CONTROL			
Type of Site Control:	Unimproved commercial property contract (approximately 22 acres)		
Contract Expiration:	11/16/2006	Valid through Board Date?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Acquisition Cost:	\$2,000,000	Other:	
Seller:	Jolly Properties, Inc	Related to Development Team?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

CONSTRUCTION COST ESTIMATE EVALUATION	
<p>Acquisition Value: Jolly Properties, Inc, a related party to the Applicant due to a common principal (Navdip S Sobti), will purchase five separate tracts, totaling 49.4608 acres, from Calsaro Town Center, Ltd, for \$5,250,000. The site cost of \$106,145 per acre is assumed to be reasonable since the acquisition by Jolly Properties from Calsaro Town Center, Ltd is an arm's-length transaction. The largest of the five tracts consists of 30.9735 acres. Jolly Properties will sell 21.83 acres of the largest tract to the General Partner for \$2,000,000, or \$91,617 per acre. This cost is less than the non-identity of interest acquisition cost of the larger tract.</p>	
<p>Sitework Cost: The Applicant's claimed sitework costs of \$7,000 per unit are within current Department guidelines. Therefore, further third party substantiation is not required.</p>	
<p>Direct Construction Cost: The Applicant's direct construction cost estimate is \$1.2M (13%) lower than the Underwriter's estimate derived from the Marshall & Swift <i>Residential Cost Handbook</i>. The Underwriter confirmed with the Applicant that fire sprinklers will be provided in all of the townhome units.</p>	
<p>Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by \$66K to bring the eligible expense down to one year of fully drawn interest. This results in an equivalent reduction to the Applicant's eligible basis estimate.</p>	
<p>Fees: The Applicant's contractor's and developer's fees for general requirements, general and administrative expenses, and profit are all within the maximums allowed by TDHCA guidelines.</p>	
<p>Conclusion: The Applicant's total development costs are not within 5% of the Underwriter's estimate, but rather are much lower; therefore, the Underwriter's cost schedule will be used to determine the development's need for permanent funds and to calculate eligible basis. The calculated eligible basis of \$15,512,525 is increased by 30% because the region has been designated a Difficult Development Area. The adjusted eligible basis of \$20,166,282 supports annual tax credits of \$732,036. This figure will be compared to the Applicant's request and the tax credits calculated based on the gap in need for permanent funds to determine the recommended allocation.</p>	
<p>The Applicant used an applicable percentage of 3.53% to calculate the requested tax credits. The Underwriter used 3.63%, the underwriting applicable percentage in effect for August 2006 when the application was received.</p>	

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

FINANCING STRUCTURE

PERMANENT FINANCING

Source: Davis Penn Mortgage Company **Contact:** Ray Landry
Principal: \$9,654,600 **Interest Rate:** 5.55%, fixed, lender's estimate **Amort:** 480 months
Documentation: Signed Term Sheet LOI Firm Commitment Conditional Commitment Application
Comments: 2-year interim period with interest only at 5.55%

TAX CREDIT SYNDICATION

Source: Alliant Capital, Ltd **Contact:** Mike Sugrue
Proceeds: \$6,078,862 **Net Syndication Rate:** 92% **Anticipated HTC:** \$660,812/year
Documentation: Signed Term Sheet LOI Firm Commitment Conditional Commitment Application
Comments: _____

OTHER

Amount: \$1,708,989 **Source:** Deferred Developer Fees

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Financing: Fort Bend County HFC will issue up to \$13,500,000 in tax-exempt private activity mortgage bonds. The development qualifies for tax credits as a Priority 2 Private Activity Bond transaction because it is at least 51 percent financed by tax-exempt private activity bonds (§ 1372.0321, Texas Government Code). Davis-Penn Mortgage Company will purchase the bonds and provide financing in the amount of \$9,654,600, at prime plus 2.0% for an interim construction period of up to 24 months, converting to a permanent loan fixed at 5.55% and fully amortizing over 40 years.

HTC Syndication: The updated tax credit syndication LOI is consistent with the Applicant's current sources and uses statement. The syndication rate proposed in the commitment is at the low end of current credit prices. If the final syndication rate were to increase an excess of funds would exist; the transaction should then be re-evaluated and an adjustment to the financing structure may be warranted.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of \$1,540,131 amount to 84% of the developer fees.

Financing Conclusions: The Underwriter's total development cost estimate less the permanent loan of \$9,654,600 indicates the need for \$8,797,206 in gap funds. Based on the submitted syndication terms, a tax credit allocation of \$956,314 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, the Applicant's request (\$660,812), the gap-driven amount (\$956,314), and eligible basis-derived estimate (\$732,036), the Applicant's request of \$660,812 is recommended, resulting in proceeds of \$6,078,862 based on a syndication rate of 92%.

The Underwriter's recommended financing structure indicates the need for \$2,718,344 in addition to the permanent loan. This would represent 100% of the developer fee and 88% of the combined contractor and developer fees. Deferred fees in this amount do not appear to be repayable from development cashflow within 10 years of stabilized operations, but appear to be repayable within 15 years. Receipt, review and acceptance by commitment of commitments by the general contractor and co-developers to defer up to 100% of their fees as necessary is a condition of this report.

DEVELOPMENT TEAM

IDENTITIES of INTEREST

The Applicant, Developer, and General Contractor are related entities. These are common relationships for HTC-funded developments.

The seller of the property is related to the Applicant; this was addressed in the acquisition cost section

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

above.

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 principals of the General Partner, Navdip S. And Ira S. Sobti, submitted an unaudited joint personal financial statement as of September, 2006.

SGI Ventures, Inc, the fee-only co-Developer (see Background & Experience below) provided unaudited financial statements as of May 10, 2006.

Sally Gaskin, principal of SGI Ventures, Inc, provided an unaudited personal financial statement as of May 10, 2006.

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. Navdip Singh Sobti, the principal of the General Partner and of the Developer, has no direct experience in affordable multifamily housing. For this reason, the original application indicated that Jolly Properties, Inc would participate as co-Developer. Jolly Properties has since withdrawn from the project, and the applicant has submitted new documents indicating that SGI Ventures, Inc will participate as co-Developer. SGI Ventures has provided a TDHCA Certificate of Experience. SGI Ventures will have no ownership interest in the partnership, and will not receive more than 10% of the Developer fees.

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 estimate by more than 5%.

Environmental/location risk exists regarding potential traffic noise.

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 principals of the Applicant do not appear to have the development experience to support the project if needed.

The significant financing structure changes being proposed have not been reviewed by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist

Underwriter:

Thomas Cavanagh

Date: 10/31/06

Reviewing Underwriter:

Lisa Vecchietti

Date: 10/31/06

Director of Real Estate Analysis:

Tom Gouris

Date: 10/31/06

MULTIFAMILY COMPARATIVE ANALYSIS

Lakes of Goldshire, Rosenberg, 4% HTC, 060429

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	Wtr, Swr, Trsh
TC 60%	18	1	1.5	813	\$686	\$616	\$11,088	\$0.76	70.00	\$23.00
TC 60%	82	2	2.5	977	823	\$731	59,942	0.75	92.00	27.00
TC 60%	60	3	2.5	1,214	951	\$836	50,160	0.69	115.00	31.00
TOTAL:	160		AVERAGE:	1,047	\$856	\$757	\$121,190	\$0.72	\$98.15	\$28.05

INCOME

Total Net Rentable Sq Ft: **167,588**

POTENTIAL GROSS RENT

Secondary Income Per Unit Per Month: \$15.00
 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	4.72%	\$405	0.39
Management	3.60%	309	0.29
Payroll & Payroll Tax	12.36%	1,060	1.01
Repairs & Maintenance	5.49%	471	0.45
Utilities	3.43%	294	0.28
Water, Sewer, & Trash	3.93%	337	0.32
Property Insurance	3.71%	318	0.30
Property Tax 3.48634	8.67%	743	0.71
Reserve for Replacements	2.92%	250	0.24
Other: compl fees, security	1.56%	134	0.13
TOTAL EXPENSES	50.39%	\$4,320	\$4.12
NET OPERATING INC	49.61%	\$4,254	\$4.06

DEBT SERVICE

Davis-Penn Mortgage Co	43.85%	\$3,759	\$3.59
Additional Financing	0.00%	\$0	\$0.00
Additional Financing	0.00%	\$0	\$0.00
NET CASH FLOW	5.77%	\$494	\$0.47

AGGREGATE DEBT COVERAGE RATIO

RECOMMENDED DEBT COVERAGE RATIO

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT
Acquisition Cost (site or bldg)		10.84%	\$12,500	\$11.93
Off-Sites		0.00%	0	0.00
Sitework		6.07%	7,000	6.68
Direct Construction		51.07%	58,901	56.23
Contingency 4.25%	2.43%	2,802	2.68	
General Req'ts 5.10%	2.92%	3,362	3.21	
Contractor's G & A 1.70%	0.97%	1,121	1.07	
Contractor's Profit 5.10%	2.92%	3,362	3.21	
Indirect Construction		2.93%	3,375	3.22
Ineligible Costs		3.34%	3,854	3.68
Developer's G & A 0.34%	0.25%	294	0.28	
Developer's Profit 13.00%	9.64%	11,120	10.62	
Interim Financing		4.87%	5,616	5.36
Reserves 1.75%	2,017	1.93		
TOTAL COST	100.00%	\$115,324	\$110.10	

Construction Cost Recap

Davis-Penn Mortgage Co	52.32%	\$60,341	\$57.61
Additional Financing	0.00%	\$0	\$0.00
HTC Syndicator: Alliant	32.94%	\$37,993	\$36.27
Deferred Developer Fees	8.35%	\$9,626	\$9.19
Additional (Excess) Funds Req'd	6.39%	\$7,364	\$7.03
TOTAL SOURCES			

	TDHCA	APPLICANT
	\$1,454,280	\$1,455,000
	28,800	38,400
	0	0
	\$1,483,080	\$1,493,400
	(111,231)	(112,008)
	0	0
	\$1,371,849	\$1,381,392
	\$64,727	\$60,360
	49,404	69,187
	169,592	153,600
	75,343	70,400
	47,112	51,680
	53,856	60,960
	50,878	59,295
	118,947	112,918
	40,000	32,000
	21,400	19,000
	\$691,260	\$689,400
	\$680,589	\$691,992
	\$601,493	\$601,427
	0	0
	0	0
	\$79,096	\$90,565
	1.13	1.15
		1.15

Comptroller's Region **6**

IREM Region **Houston**

\$20.00 Per Unit Per Month

\$0.00 Per Unit Per Month

-7.50% of Potential Gross Income

PER SQ FT PER UNIT % OF EGI

\$0.36	\$377	4.37%
0.41	432	5.01%
0.92	960	11.12%
0.42	440	5.10%
0.31	323	3.74%
0.36	381	4.41%
0.35	371	4.29%
0.67	706	8.17%
0.19	200	2.32%
0.11	119	1.38%
\$4.11	\$4,309	49.91%
\$4.13	\$4,325	50.09%

	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
	\$2,000,000	\$2,000,000	\$11.93	\$12,500	11.58%
	0	0	0.00	0	0.00%
	1,120,000	1,120,000	6.68	7,000	6.48%
	9,424,213	8,246,000	49.20	51,538	47.74%
	448,300	448,300	2.68	2,802	2.60%
	537,960	537,960	3.21	3,362	3.11%
	179,320	179,320	1.07	1,121	1.04%
	537,960	537,960	3.21	3,362	3.11%
	540,000	540,000	3.22	3,375	3.13%
	616,575	616,575	3.68	3,854	3.57%
	46,989	0	0.00	0	0.00%
	1,779,221	1,826,210	10.90	11,414	10.57%
	898,561	898,561	5.36	5,616	5.20%
	322,707	322,707	1.93	2,017	1.87%
	\$18,451,806	\$17,273,593	\$103.07	\$107,960	100.00%
	\$12,247,753	\$11,069,540	\$66.05	\$69,185	64.08%

RECOMMENDED

	\$9,654,600	\$9,654,600	\$9,654,600	Contr & Dev Fee Available
	0	0	0	\$3,081,450
	6,078,862	6,078,862	6,078,862	% of Dev. Fee Deferred
	1,540,131	1,540,131	2,718,344	88%
	1,178,213	0	0	15-Yr Cumulative Cash Flow
	\$18,451,806	\$17,273,593	\$18,451,806	\$2,887,311

MULTIFAMILY COMPARATIVE ANALYSIS (continued)
Lakes of Goldshire, Rosenberg, 4% HTC, 060429

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook
 Average Quality Townhome Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$54.56	\$9,143,004
Adjustments				
Exterior Wall Finish	1.75%		\$0.95	\$160,003
8-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			(0.83)	(138,260)
Floor Cover			2.81	470,922
Porches/Balconies			0.00	0
Plumbing per unit avg	\$2,170	160	2.07	347,190
Built-In Appliances	\$2,200	160	2.10	352,000
Stairs/Fireplaces			0.00	0
Enclosed Corridors			0.00	0
Heating/Cooling			2.20	368,694
Garages/Carports	\$23.80	32,000	4.54	761,600
Comm &/or Aux Bldgs	\$69.10	2,453	1.01	169,496
Other: Fire Sprinklers	\$1.95	167,588	1.95	326,797
SUBTOTAL			71.37	11,961,445
Current Cost Multiplier	1.07		5.00	837,301
Local Multiplier	0.90		(7.14)	(1,196,145)
TOTAL DIRECT CONSTRUCTION COSTS			\$69.23	\$11,602,602
Plans, specs, survy, bld prm	3.90%		(\$2.70)	(\$452,501)
Interim Construction Interest	3.38%		(2.34)	(391,588)
Contractor's OH & Profit	11.50%		(7.96)	(1,334,299)
NET DIRECT CONSTRUCTION COSTS			\$56.23	\$9,424,213

PAYMENT COMPUTATION

Primary	\$9,654,600	Amort	480
Int Rate	5.55%	DCR	1.13

Secondary	\$0	Amort	
Int Rate	0.00%	Subtotal DCR	1.13

Additional	\$6,078,862	Amort	
Int Rate		Aggregate DCR	1.13

RECOMMENDED FINANCING STRUCTURE APPLICANT'S N

Primary Debt Service	\$601,493
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$90,499

Primary	\$9,654,600	Amort	480
Int Rate	5.55%	DCR	1.15

Secondary		Amort	0
Int Rate	0.00%	Subtotal DCR	1.15

Additional	\$6,078,862	Amort	0
Int Rate	0.00%	Aggregate DCR	1.15

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NO)

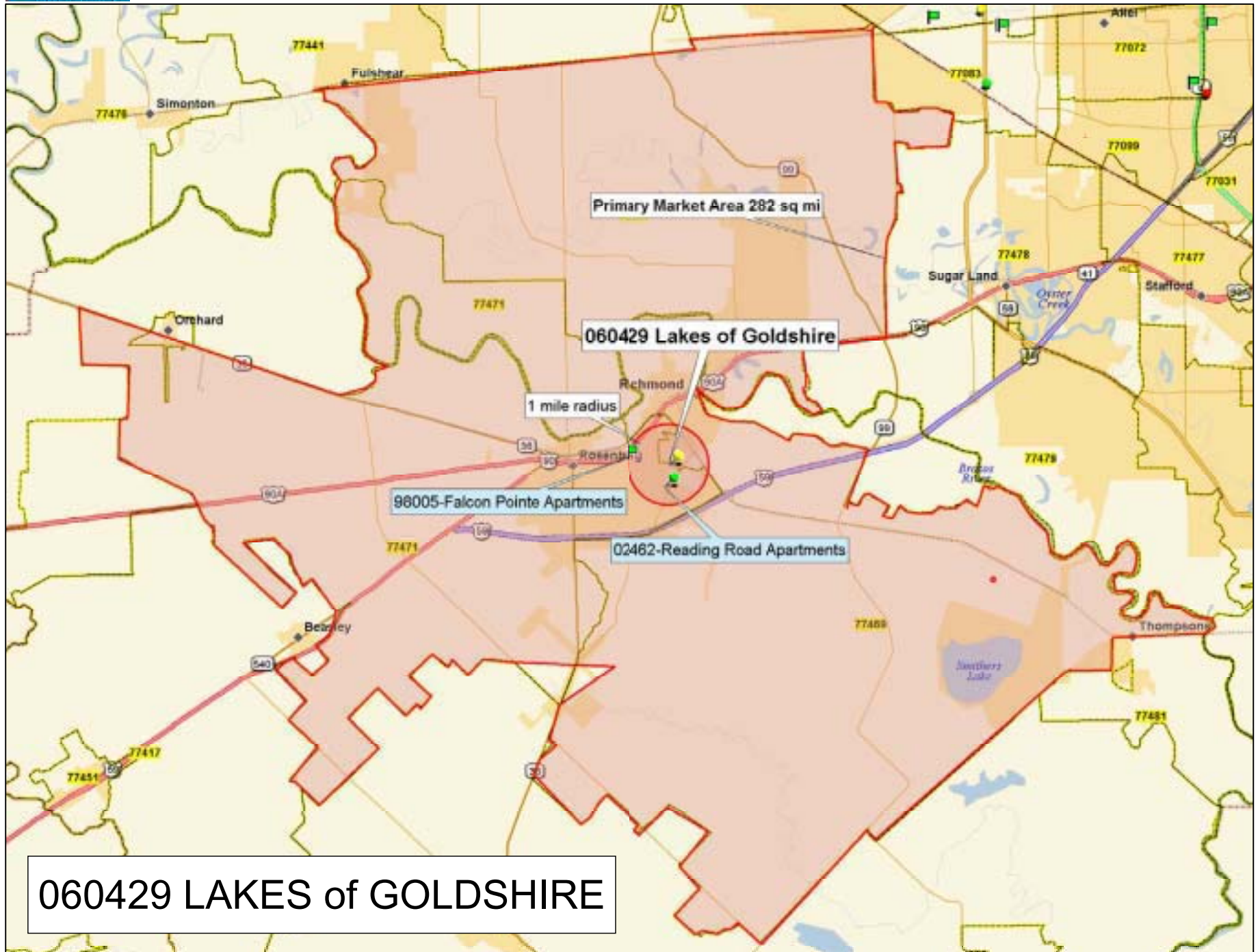
INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$1,455,000	\$1,498,650	\$1,543,610	\$1,589,918	\$1,637,615	\$1,898,445	\$2,200,818	\$2,551,351	\$3,428,803
Secondary Income	38,400	39,552	40,739	41,961	43,220	50,103	58,083	67,335	90,492
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,493,400	1,538,202	1,584,348	1,631,879	1,680,835	1,948,548	2,258,901	2,618,686	3,519,295
Vacancy & Collection Loss	(112,008)	(115,365)	(118,826)	(122,391)	(126,063)	(146,141)	(169,418)	(196,401)	(263,947)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$1,381,392	\$1,422,837	\$1,465,522	\$1,509,488	\$1,554,772	\$1,802,407	\$2,089,484	\$2,422,284	\$3,255,348
EXPENSES at 4.00%									
General & Administrative	\$60,360	\$62,774	\$65,285	\$67,897	\$70,613	\$85,911	\$104,524	\$127,169	\$188,242
Management	69,187	71262.76476	73400.64771	75602.66714	77870.74715	90273.53832	104651.7726	121320.0868	163044.0517
Payroll & Payroll Tax	153,600	159,744	166,134	172,779	179,690	218,621	265,986	323,612	479,025
Repairs & Maintenance	70,400	73,216	76,145	79,190	82,358	100,201	121,910	148,322	219,553
Utilities	51,680	53,747	55,897	58,133	60,458	73,557	89,493	108,882	161,172
Water, Sewer & Trash	60,960	63,398	65,934	68,572	71,315	86,765	105,563	128,434	190,113
Insurance	59,295	61,667	64,133	66,699	69,367	84,395	102,680	124,926	184,920
Property Tax	112,918	117,435	122,132	127,017	132,098	160,718	195,537	237,901	352,152
Reserve for Replacements	32,000	33,280	34,611	35,996	37,435	45,546	55,414	67,419	99,797
Other	19,000	19,760	20,550	21,372	22,227	27,043	32,902	40,030	59,254
TOTAL EXPENSES	\$689,400	\$716,284	\$744,223	\$773,258	\$803,432	\$973,030	\$1,178,660	\$1,428,015	\$2,097,272
NET OPERATING INCOME	\$691,992	\$706,553	\$721,299	\$736,230	\$751,340	\$829,377	\$910,824	\$994,269	\$1,158,076
DEBT SERVICE									
First Lien Financing	\$601,493	\$601,493	\$601,493	\$601,493	\$601,493	\$601,493	\$601,493	\$601,493	\$601,493
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	\$90,499	\$105,059	\$119,806	\$134,737	\$149,847	\$227,884	\$309,331	\$392,776	\$556,582
DEBT COVERAGE RATIO	1.15	1.17	1.20	1.22	1.25	1.38	1.51	1.65	1.93

HTC ALLOCATION ANALYSIS -Lakes of Goldshire, Rosenberg, 4% HTC, 060429

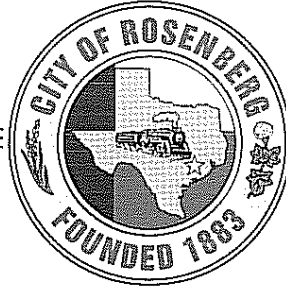
CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$2,000,000	\$2,000,000		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$1,120,000	\$1,120,000	\$1,120,000	\$1,120,000
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$8,246,000	\$9,424,213	\$8,246,000	\$9,424,213
(4) Contractor Fees & General Requirements				
Contractor overhead	\$179,320	\$179,320	\$179,320	\$179,320
Contractor profit	\$537,960	\$537,960	\$537,960	\$537,960
General requirements	\$537,960	\$537,960	\$537,960	\$537,960
(5) Contingencies				
	\$448,300	\$448,300	\$448,300	\$448,300
(6) Eligible Indirect Fees				
	\$540,000	\$540,000	\$540,000	\$540,000
(7) Eligible Financing Fees				
	\$898,561	\$898,561	\$898,561	\$898,561
(8) All Ineligible Costs				
	\$616,575	\$616,575		
(9) Developer Fees				
Developer overhead		\$46,989		\$46,989
Developer fee	\$1,826,210	\$1,779,221	\$1,826,210	\$1,779,221
(10) Development Reserves				
	\$322,707	\$322,707		
TOTAL DEVELOPMENT COSTS	\$17,273,593	\$18,451,806	\$14,334,311	\$15,512,525

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		\$14,334,311	\$15,512,525
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		\$18,634,605	\$20,166,282
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$18,634,605	\$20,166,282
Applicable Percentage		3.63%	3.63%
TOTAL AMOUNT OF TAX CREDITS		\$676,436	\$732,036

Syndication Proceeds	0.9199	\$6,222,590	\$6,734,058
Total Tax Credits (Eligible Basis Method)		\$676,436	\$732,036
Syndication Proceeds		\$6,222,590	\$6,734,058
Requested Tax Credits		\$660,812	
Syndication Proceeds		\$6,078,862	
Gap of Syndication Proceeds Needed			\$8,797,206
Total Tax Credits (Gap Method)			\$956,314



060429 LAKES of GOLDSHIRE



RECEIVED

060429

OCT 30 2006

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MAYOR JOE M. GURECKY

October 20, 2006

Mr. Michael Gerber
Executive Director
c/o Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

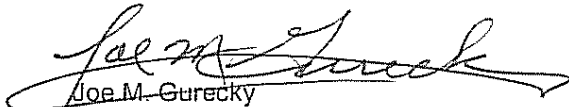
Re: Proposed Lakes of Goldshire

Dear Mr. Gerber,

The City of Rosenberg appreciates the opportunity to submit comments regarding the application to the Texas Department of Housing and Community Affairs by the proposed Lakes of Goldshire development which is to be located in Rosenberg. Enclosed is a copy of a Resolution approved unanimously by the Rosenberg City Council at its meeting on October 17, 2006. The City Council hereby requests the Resolution be submitted as part of the official comments with the Lakes of Goldshire application to be submitted for the Board meeting on November 9, 2006.

Thank you for your assistance on this application. If the City needs to provide any additional information, please contact Jack Hamlett, City Manager, at 832.595.3310.

Sincerely,


Joe M. Gurecky
Mayor

JMG/jsh/tay

xc: Honorable City Council
Jack Hamlett, City Manager
William A. Olson, City Attorney
File/Apartments – Lakes of Goldshire
File/Correspondence

attach: Resolution R-724

RESOLUTION R-724

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, OPPOSING THE APPLICATION OF NS LAKES OF GOLDSHIRE, LP, TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR HOUSING TAX CREDITS FOR THE LAKES OF GOLDSHIRE TOWNHOMES, ROSENBERG, FORT BEND COUNTY, TEXAS.

WHEREAS, the City of Rosenberg is located in Fort Bend County, Texas, one the fastest growing counties in the United States; and

WHEREAS, the new growth and residential developments within the City provide a variety of housing opportunities for Rosenberg citizens which have satisfied the need for affordable rental housing; and

WHEREAS, the granting of a credit, a reduction, or an exemption from taxation for a multifamily residential development is not necessary to attract new residential developments to the City; and

WHEREAS, the City of Rosenberg wishes to take a public position on the application of NS Lakes of Goldshire, LP (the "Developer), to the Texas Department of Housing and Community Affairs for Housing Tax Credits regarding a proposed multifamily residential development generally located at the south side of FM 1640 between Reading Road and Lamar Drive in Rosenberg, Texas (the "Proposed Project"); now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROSENBERG:

Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The City Council of the City of Rosenberg finds and determines that there is an adequate number of affordable housing units within the City of the type proposed in the application of NS Lakes of Goldshire, LP, to the Texas Department of Housing and Community Affairs, and that no additional units are necessary.

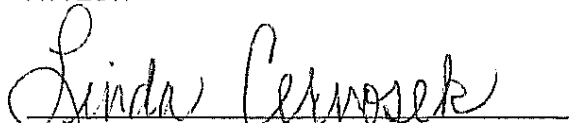
Section 3. The City Council of the City of Rosenberg finds that there is no need to provide tax credits or other financial incentives to encourage additional affordable housing units within the City.

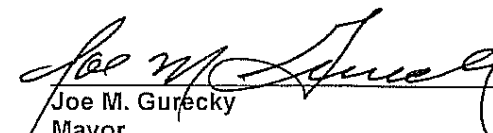
Section 4. The City of Rosenberg does hereby decree its opposition to the Proposed Project. The City Secretary is directed to cause copies of this Resolution to be sent to the Developer and to the Texas Department of Housing and Community Affairs.

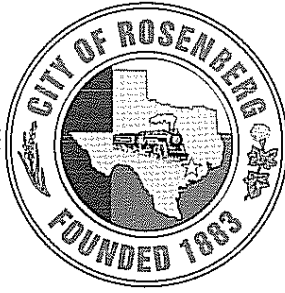
READ, PASSED, AND APPROVED at a regular meeting of the City Council of the City of Rosenberg the 14 day of October 2006.

ATTEST:

APPROVED:


Linda Cernosek, CPS, TRMC
City Secretary

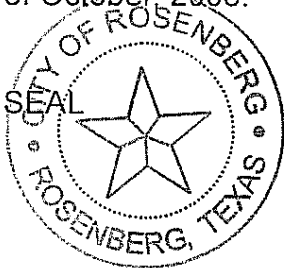

Joe M. Gurecky
Mayor




CERTIFICATION

I, Linda Cernosek, City Secretary of the City of Rosenberg, Texas, do hereby certify that I am the custodian of the records of the City of Rosenberg, Texas, and that the attached is a true and correct copy of Resolution R-724, which was approved by the City Council of the City of Rosenberg on the 17th day of October, 2006.

WITNESS MY HAND and official Seal of the City of Rosenberg, Texas this 20th day of October, 2006.




Linda Cernosek, CPS, TRMC
City Secretary
City of Rosenberg, Texas

**THE STATE OF TEXAS
COUNTY OF FORT BEND**

Before me, the undersigned authority, on this day personally appeared Linda Cernosek, City Secretary of the City of Rosenberg, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 20th day of October, 2006, A.D.




NOTARY PUBLIC
IN AND FOR THE STATE OF TEXAS

THIS ITEM HAS BEEN PULLED
FROM THE AGENDA

**Housing Tax Credit Program
Board Action Request
November 9, 2006**

Action Item

Request, review, and board determination of one (1) four percent (4%) tax credit application with TDHCA as the Issuer.

Recommendation

Staff is recommending that the board review and approve the issuance of one (1) four percent (4%) Tax Credit Determination Notice with **TDHCA** as the Issuer for the tax exempt bond transaction 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
060617	Idlewilde Apartments	Houston	TDHCA	250	250	\$29,653,569	\$15,000,000	\$1,184,604	\$1,184,604



WWW.TDHCA.STATE.TX.US

MULTIFAMILY FINANCE PRODUCTION DIVISION

2006 Private Activity Multifamily Housing Revenue Bonds

**Idlewilde Apartments
11600 block of Bobcat Road and the 9905 block of FM 1960 West Road
Houston, Texas**

**Idlewilde Apartments, L.P.
250 Units
Priority 2
\$15,000,000 Tax Exempt – Series 2006**

TABLE OF EXHIBITS

TAB 1	TDHCA Board Presentation
TAB 2	Bond Resolution
TAB 3	HTC Profile and Board Summary
TAB 4	Sources & Uses of Funds Estimated Cost of Issuance
TAB 5	Department's Real Estate Analysis
TAB 6	Public Hearing Transcript (October 17, 2006)

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
November 9, 2006

Action Item

Presentation, Discussion and Possible Issuance of Multifamily Mortgage Revenue Bonds, Series 2006 and a Determination Notice of Housing Tax Credits with TDHCA as the Issuer for Idlewilde Apartments.

Requested Action

Approve, Amend or Deny the staff recommendation for the determination of housing tax credits and the issuance of multifamily housing mortgage revenue bonds (the "Bonds") by the Texas Department of Housing and Community Affairs (the "Department"). The Bonds will be issued under Chapter 1371, Texas Government Code, as amended, and under Chapter 2306, Texas Government Code, the Department's Enabling Statute (the "Statute"), which authorizes the Department to issue its revenue bonds for its public purposes as defined therein. *(The Statute provides that the Department's revenue bonds are solely obligations of the Department, and do not create an obligation, debt, or liability of the State of Texas or a pledge or loan of the faith, credit or taxing power of the State of Texas.)*

Summary of the Idlewilde Apartments Transaction

Background and General Information: The pre-application for the 2006 Waiting List was received on April 3, 2006. The application was scored and ranked by staff. The application was induced at the May 4, 2006 Board meeting and submitted to the Texas Bond Review Board. The application received a reservation of allocation on June 29, 2006. The final date for bond delivery is on or before November 26, 2006, but the anticipated closing date is November 17, 2006. This application was submitted under the Priority 2 category with the applicant proposing 100% of the units serving 60% of AMFI.

Organizational Structure and Compliance: The Borrower is Idlewilde Apartments, L.P. and is comprised of William D. Henson and family with 45% ownership interest, J. Steve and Cynthia Ford with 45% ownership interest and James R. Mitchell with 10% ownership interest. The Compliance Status Summary completed on October 30, 2006 reveals that all properties of the principals of the general partners which have been constructed are in compliance.

Public Hearing: There were forty-six people in attendance at the public hearing conducted by the Department for the proposed development on October 17, 2006 and fifteen people spoke for the record. The Department has received a petition of opposition with 505 signatures. All fifteen people who spoke at hearing were in opposition. The reasons for opposition are as follows: flooding, no public transportation, the area will see a crime rate increase, concentration of apartments in the area, the negative impact this development will have on the school district and the surrounding property values. A copy of the transcript is included in this presentation.

Census Demographics: The proposed site is located at 9915 FM 1960 West Road, Harris County. Demographics for the census tract (5515.00) include AMFI of \$58,549; the total population is 3,230; the percent of the population that is minority is 67.37%; the percent of the population that is below the poverty line is 11.39%; the number of owner occupied units is 717; the number renter occupied units is 196 and the number of vacant units is 34. (FFIEC Geocoding for 2006)

Summary of the Financial Structure

The applicant is requesting the Department's approval and issuance of variable rate tax exempt bonds in an amount not to exceed \$15,000,000. Credit enhancement will be provided by Fannie Mae through a standby irrevocable transferable credit enhancement instrument. Throughout the construction phase, Fannie Mae will be protected by a Letter of Credit issued by Bank of America. The bonds will carry a AAA/Aaa rating. Capmark Securities will underwrite the transaction using a debt coverage ratio of 1.15 amortized over 35 years. The term of the bonds will be for 30 years. The construction and lease up period will be for 30 months with the option of two 6 month extensions. The initial interest rate on the bonds will not exceed 6.0%.

Recommendation

Staff recommends the Board approve the issuance of Multifamily Housing Mortgage Revenue Bonds, Series 2006 and Housing Tax Credits for the Idlewilde Apartments.

The Executive Awards Review Advisory Committee (EARAC) expressed concerns about the appropriateness of the Primary Market Area in relation to the location of the proposed development.

RESOLUTION NO. 06-045

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS (IDLEWILDE APARTMENTS) SERIES 2006; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, 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 individuals and families of low, very low and extremely low income (as defined in the Act) and families of moderate income (as defined 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 individuals 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 development 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, the Board has determined to authorize the issuance of the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Idlewilde Apartments) Series 2006 (the "Bonds"), pursuant to and in accordance with the terms of a Trust Indenture (the "Indenture") by and between the Department and Wells Fargo Bank, National Association (the "Trustee"), for the purpose of obtaining funds to finance the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Bonds to fund a mortgage loan to Idlewilde Apartments, L.P., a Texas limited partnership (the "Borrower"), in order to finance the cost of acquisition, construction and equipping of a qualified residential rental development described on Exhibit A attached hereto (the "Development") located within the State and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on May 4, 2006, declared its intent to issue its revenue bonds to provide financing for the Development; and

WHEREAS, it is anticipated that the Department, the Borrower and the Trustee will execute and deliver a Financing Agreement (the "Financing Agreement") pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Bonds (the "Mortgage Loan") to the Borrower to enable the Borrower to finance the costs of acquiring, constructing and equipping the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a

multifamily note (the “Note”) in an original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount equal to the interest on the Bonds and to pay other costs described in the Financing Agreement; and

WHEREAS, it is anticipated that credit enhancement for the Mortgage Loan will be provided for by a Credit Enhancement Instrument (Standby) issued by Fannie Mae (“Fannie Mae”); and

WHEREAS, it is anticipated that the Note will be secured by a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Texas) (the “Mortgage”) from the Borrower for the benefit of the Department and Fannie Mae; and

WHEREAS, the Department’s interest in the Mortgage Loan (except for certain reserved rights), including the Note and the Mortgage, will be assigned to the Trustee, as its interests may appear, and Fannie Mae, as its interests may appear, pursuant to an Assignment and Intercreditor Agreement (the “Assignment”) among the Department, the Trustee and Fannie Mae and acknowledged, accepted and agreed to by the Borrower; and

WHEREAS, the Board has determined that the Department, the Trustee and the Borrower will execute a Regulatory and Land Use Restriction Agreement (the “Regulatory Agreement”), with respect to the Development which will be filed of record in the real property records of Harris County, Texas; and

WHEREAS, the Board has been presented with a draft of, has considered and desires to ratify, approve, confirm and authorize the use and distribution in the public offering of the Bonds of an Official Statement (the “Official Statement”) and to authorize the authorized representatives of the Department to deem the Official Statement “final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission and to approve the making of such changes in the Official Statement as may be required to provide a final Official Statement for use in the public offering and sale of the Bonds; and

WHEREAS, the Board has further determined that the Department will enter into a Bond Purchase Agreement (the “Bond Purchase Agreement”) with the Borrower, Capmark Securities Inc. (the “Underwriter”), and any other parties to such Bond Purchase Agreement as authorized by the execution thereof by the Department, setting forth certain terms and conditions upon which the Underwriter or another party will purchase all or their respective portion of the Bonds from the Department and the Department will sell the Bonds to the Underwriter or another party to such Bond Purchase Agreement; and

WHEREAS, the Board has determined that the Department and the Borrower will execute an Asset Oversight Agreement (the “Asset Oversight Agreement”), with respect to the Development for the purpose of monitoring the operation and maintenance of the Development; and

WHEREAS, the Board has examined proposed forms of the Indenture, the Financing Agreement, the Assignment, the Regulatory Agreement, the Asset Oversight Agreement, the Official Statement and the Bond Purchase Agreement (collectively, the “Issuer Documents”), all of which are attached to and comprise a part of this Resolution; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Section 1.15, to authorize the issuance of the Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Mortgage and the Note, and the taking of such other actions as may be necessary or convenient in connection therewith;

NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF THE DEPARTMENT:

ARTICLE I

ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1--Issuance, Execution and Delivery of the Bonds. That the issuance of the Bonds is hereby authorized, under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of the State for approval, the Comptroller of Public Accounts of the State for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Bonds to the order of the initial purchaser thereof.

Section 1.2--Interest Rate, Principal Amount, Maturity and Price. That the Chair or Vice Chairman of the Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of, the redemption provisions related to, and the price at which the Department will sell to the Underwriter or another party to the Bond Purchase Agreement, the Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by the Chair or Vice Chairman of the Board or the Executive Director of the Department of the Indenture and the Bond Purchase Agreement; provided, however, that (i) the Bonds shall bear interest at the rates determined from time to time by the Remarketing Agent (as such term is defined in the Indenture) in accordance with the provisions of the Indenture; provided that in no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law; and provided further that the initial interest rate on the Bonds shall not exceed 6.00%; (ii) the aggregate principal amount of the Bonds shall not exceed \$15,000,000; (iii) the final maturity of the Bonds shall occur not later than August 15, 2040; and (iv) the price at which the Bonds are sold to the initial purchasers thereof under the Bond Purchase Agreement shall not exceed 103% of the principal amount thereof.

Section 1.3--Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute the Indenture and to deliver the Indenture to the Trustee.

Section 1.4--Approval, Execution and Delivery of the Financing Agreement. That the form and substance of the Financing Agreement are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute the Financing Agreement and deliver the Financing Agreement to the Borrower and the Trustee.

Section 1.5--Approval, Execution and Delivery of the Regulatory Agreement. That the form and substance of the Regulatory Agreement are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute, attest and affix the Department's seal to the Regulatory Agreement and deliver the Regulatory Agreement to the Borrower and the Trustee and to cause the Regulatory Agreement to be filed of record in the real property records of Harris County, Texas.

Section 1.6--Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriter and any other party to the Bond Purchase Agreement is hereby approved, that the form and substance of the Bond Purchase Agreement are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to

execute the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Borrower, the Underwriter and any other party to the Bond Purchase Agreement as appropriate.

Section 1.7--Acceptance of the Mortgage and Note. That the forms of the Mortgage and the Note are hereby accepted by the Department and that the authorized representatives of the Department named in this Resolution each are authorized to endorse and deliver the Note to the order of the Trustee and Fannie Mae, as their interests may appear, without recourse.

Section 1.8--Approval, Execution and Delivery of the Assignment. That the form and substance of the Assignment are hereby approved; and that the authorized representatives of the Department named in this Resolution are each hereby authorized to execute the Assignment and to deliver the Assignment to the Borrower, the Trustee and Fannie Mae.

Section 1.9--Approval, Execution, Use and Distribution of the Official Statement. That the form and substance of the Official Statement and its use and distribution by the Underwriter in accordance with the terms, conditions and limitations contained therein are hereby approved, ratified, confirmed and authorized; that the Chair and Vice Chairman of the Governing Board and the Executive Director of the Department are hereby severally authorized to deem the Official Statement “final” for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934; that the authorized representatives of the Department named in this Resolution each are authorized hereby to make or approve such changes in the Official Statement as may be required to provide a final Official Statement for the Bonds; that the authorized representatives of the Department named in this Resolution each are authorized hereby to accept the Official Statement, as required; and that the distribution and circulation of the Official Statement by the Underwriter hereby is authorized and approved, subject to the terms, conditions and limitations contained therein, and further subject to such amendments or additions thereto as may be required by the Bond Purchase Agreement and as may be approved by the Executive Director and the Department’s counsel.

Section 1.10--Approval, Execution and Delivery of the Asset Oversight Agreement. That the form and substance of the Asset Oversight Agreement are hereby approved, and that the authorized representatives of the Department named in this Resolution each are authorized hereby to execute and deliver the Asset Oversight Agreement to the Borrower.

Section 1.11--Taking of Any Action; Execution and Delivery of Other Documents. That the authorized representatives of the Department named in this Resolution each are authorized hereby to take any actions and to execute, attest and affix the Department’s seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.12--Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Indenture
- Exhibit C - Financing Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Bond Purchase Agreement
- Exhibit F - Mortgage
- Exhibit G - Note
- Exhibit H - Assignment

- Exhibit I - Official Statement
- Exhibit J - Asset Oversight Agreement

Section 1.13--Power to Revise Form of Documents. That notwithstanding any other provision of this Resolution, the authorized representatives of the Department named in this Resolution each are authorized hereby to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such authorized representative or authorized representatives, and in the opinion of Vinson & Elkins L.L.P., Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the authorized representatives of the Department named in this Resolution.

Section 1.14--Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article I: Chair and Vice Chairman of the Board, Executive Director of the Department, Deputy Executive Director of Housing Operations of the Department, Deputy Executive Director of Programs of the Department, Chief of Agency Administration of the Department, Director of Financial Administration of the Department, Director of Bond Finance of the Department, Director of Multifamily Finance Production of the Department and the Secretary to the Board.

Section 1.15--Conditions Precedent. That the issuance of the Bonds shall be further subject to, among other things: (a) the Development's meeting all underwriting criteria of the Department, to the satisfaction of the Executive Director of the Department; and (b) the execution by the Borrower and the Department of contractual arrangements satisfactory to the Department staff requiring that community service programs will be provided at the Development.

ARTICLE II

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1--Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Bonds in accordance with Chapter 1231, Texas Government Code.

Section 2.2--Approval of Submission to the Attorney General of the State. That the Board hereby authorizes, and approves the submission by the Department's Bond Counsel to the Attorney General of the State, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.3--Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of Bond Counsel to the Department, provided such engagement is done in accordance with applicable law of the State.

Section 2.4--Certification of the Minutes and Records. That the Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

Section 2.5--Approval of Requests for Rating from Rating Agency. That the action of the Executive Director of the Department or any successor and the Department's consultants in seeking a rating from Moody's Investors Service, Inc. and/or Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc., is approved, ratified and confirmed hereby.

Section 2.6--Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Bonds and the fees and revenues to be received in connection with the financing of the Development in accordance with the Indenture and to enter into any agreements relating thereto only to the extent permitted by the Indenture.

Section 2.7--Underwriter. That the underwriter with respect to the issuance of the Bonds shall be Capmark Securities Inc.

Section 2.8--Approving Initial Rents. That the initial maximum rent charged by the Borrower for the units of the Development shall not exceed the amounts attached as an exhibit to the Regulatory Agreement and shall be annually redetermined by the Borrower and reviewed by the Department as set forth in the Financing Agreement.

Section 2.9--Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Bonds and the financing of the Development are hereby ratified and confirmed.

ARTICLE III

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1--Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Development and the information with respect to the proposed financing of the Development by the Department, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

(i) that the Development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) that the financing of the Development is a public purpose and will provide a public benefit, and

(iii) that the Development will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Development in accordance with the requirements of the Financing Agreement and the Regulatory Agreement, will comply with applicable local building requirements and will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrower is financially responsible and has entered into a binding commitment to repay the Mortgage Loan in accordance with its terms, and

(iii) that the Borrower is not, and will not enter into a contract for the Development with, a housing 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) breached a contract with a public agency; 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 Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Development in accordance with the Financing Agreement and the Regulatory Agreement, which require, among other things, that the Development be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Bonds to finance the Development is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing the costs of the Development, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2--Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Development shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Financing Agreement and the Regulatory Agreement.

Section 3.3--Sufficiency of Mortgage Loan Interest Rate. That the Board hereby finds and determines that the interest rate on the Mortgage Loan established pursuant to the Financing Agreement will produce the amounts required, together with other available funds, to pay for the Department's costs of operation with respect to the Bonds and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

Section 3.4--No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase any Bond in the secondary open market for municipal securities.

Section 3.5--Waiver of Rules. That the Board hereby waives the rules contained in Chapters 33 and 35, Title 10 of the Texas Administrative Code to the extent such rules are inconsistent with the terms of this Resolution and the bond documents authorized hereunder.

ARTICLE IV

GENERAL PROVISIONS

Section 4.1--Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Bonds, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2--Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State. Each Bond shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3--Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4--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.

[EXECUTION PAGE FOLLOWS]

PASSED AND APPROVED this 9th day of November, 2006.

[SEAL]

By: /s/ Elizabeth Anderson
Elizabeth Anderson, Chair

Attest: /s/ Kevin Hamby
Kevin Hamby, Secretary

EXHIBIT A

DESCRIPTION OF DEVELOPMENT

Owner: Idlewilde Apartments, L.P., a Texas limited partnership

Development: The Development is a 250-unit multifamily facility to be known as Idlewilde Apartments and to be located at 9915 FM 1960 West Road, Houston, Harris County, Texas. The Development will consist of 22 2-story and 2 3-story residential apartment buildings with approximately 258,024 net rentable square feet and an approximate average unit size of 997 square feet. The unit mix will consist of:

52	one-bedroom/one-bath units
112	two-bedroom/two-bath units
<u>86</u>	three-bedroom/two-bath units
250	Total Units

Unit sizes will range from approximately 718 square feet to approximately 1,325 square feet.

The Development will include an administration office, a business center, a fitness room, an activity room, a game room/TV lounge, kitchen facilities, and public restrooms. On-site amenities will include a swimming pool, playground, and a picnic area. All individual units will have washer/dryer connections and attached or detached garage.



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary

Idlewilde Apartments, TDHCA Number 060617

BASIC DEVELOPMENT INFORMATION

Site Address: 11600 block of Bobcat Rd. & 9900 block of FM 1960 West Development #: 060617
 City: Houston Region: 6 Population Served: Family
 County: Harris Zip Code: 77064 Allocation: Urban/Exurban
 HOME Set Asides: CHDO Preservation General Purpose/Activity: NC
 Bond Issuer: TDHCA

HTC Purpose/Activity: NC=New Construction, ACQ=Acquisition, R=Rehabilitation, NC/ACQ=New Construction and Acquisition, NC/R=New Construction and Rehabilitation, ACQ/R=Acquisition and Rehabilitation

OWNER AND DEVELOPMENT TEAM

Owner: Idlewilde Apartments, L.P.
 Owner Contact and Phone: William D. Henson (713) 334-5808
 Developer: Idlewilde Developers, L.L.C.
 Housing General Contractor: Idlewilde Contractors, L.L.C.
 Architect: Mucasey & Associates
 Market Analyst: O'Connor & Associates
 Syndicator: Boston Capital Corp.
 Supportive Services: Texas Inter-Faith Housing Corp.
 Consultant: LBK, Ltd.

UNIT/BUILDING INFORMATION

<u>30%</u>	<u>40%</u>	<u>50%</u>	<u>60%</u>	<u>Eff</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>	<u>5 BR</u>	Total Restricted Units:	250
0	0	0	250	0	52	112	86	0	0	Market Rate Units:	0
Type of Building: <input checked="" type="checkbox"/> 5 units or more per building Owner/Employee Units: 0											
<input type="checkbox"/> Duplex <input type="checkbox"/> Detached Residence Total Development Units: 250											
<input type="checkbox"/> Triplex <input type="checkbox"/> Single Room Occupancy Total Development Cost: \$28,960,791											
<input type="checkbox"/> Fourplex <input type="checkbox"/> Transitional Number of Residential Buildings: 24											
<input type="checkbox"/> Townhome HOME High Total Units: 0											
HOME Low Total Units: 0											

Note: If Development Cost = \$0, an Underwriting Report has not been completed.

FUNDING INFORMATION

	<u>Applicant Request</u>	<u>Department Analysis</u>	<u>Amort</u>	<u>Term</u>	<u>Rate</u>
4% Housing Tax Credits with Bonds:	\$1,184,604	\$1,184,604	0	0	0.00%
TDHCA Bond Allocation Amount:	\$15,000,000	\$14,800,000	35	30	6.46%
HOME Activity Fund Amount:	\$0	\$0	0	0	0.00%
HOME CHDO Operating Grant Amount:	\$0	\$0			



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary
Idlewilde Apartments, TDHCA Number 060617

PUBLIC COMMENT SUMMARY

Guide: "O" = Oppose, "S" = Support, "N" = Neutral, "NC" or Blank = No comment

State/Federal Officials with Jurisdiction:

TX Senator: Whitmire, District 15 NC US Representative: Culberson, District 7, NC
TX Representative: Elkins, District 135 NC US Senator: NC

Local Officials and Other Public Officials:

Mayor/Judge: Robert Eckels, Judge, Harris County - NC Resolution of Support from Local Government []

David Turkel, Director, Harris County Community & Economic Development Department - [] The proposed 250 unit complex is consistent with the HUD approved 2003-2007 Consolidated Plan for Harris County which establishes the need for affordable rental housing in the county.

Individuals/Businesses: In Support: 0 In Opposition 0

Neighborhood Input:

Turtle Hill Village O
Turtle Lake O
Harvest Bend O

General Summary of Comment:

Public Hearing: Concerns regarding flooding, no public transportation, the area will see a crime rate increase, the negative impact this development will have on the school district and the surrounding property values.

Number that attended: 46
Number that spoke: 15
Number in support: 0
Number in opposition: 44
Number Neutral: 2

CONDITIONS OF COMMITMENT

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")."

Acceptance by the Board of the potential redemption of up to \$440K in bonds at the conversion to permanent.

Receipt, review, and acceptance by commitment of documentation from the title company indicating Schedule C, 5 & 6 have been cleared.

Receipt, review, and acceptance of an opinion from the Murillo Company on lead in drinking water.

Receipt, review, and acceptance of a noise study as recommended in the Phase I assessment.

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.



MULTIFAMILY FINANCE PRODUCTION DIVISION

November 9, 2006

Development Information, Public Input and Board Summary

Idlewilde Apartments, TDHCA Number 060617

RECOMMENDATION BY THE EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE IS BASED ON:

4% Housing Tax Credits:	Credit Amount:	\$1,184,604
Recommendation: Recommend approval of a Housing Tax Credit Allocation not to exceed the requested amount of \$1,184,604 annually for ten years, subject to conditions.		
TDHCA Bond Issuance:	Bond Amount:	\$14,800,000
Recommendation: Recommend Approval of issuance of \$14,800,000 in Tax Exempt Mortgage Revenue Bonds with a fixed interest rate underwritten at 6.455% and repayment term of 30 years with a 35 year amortization period, subject to conditions.		
HOME Activity Funds:	Loan Amount:	\$0
HOME CHDO Operating Expense Grant:	Grant Amount:	\$0
Recommendation:		

Idlewilde Apartments

Estimated Sources & Uses of Funds

Sources of Funds

Series 2006 Tax-Exempt Bond Proceeds	\$ 14,800,000
Tax Credit Proceeds	11,371,071
Deferred Developer's Fee	2,375,366
GIC Income	410,083
Total Sources	<u>\$ 28,956,520</u>

Uses of Funds

Acquisition and Site Work Costs	\$ 4,657,220
Direct Hard Construction Costs	13,510,000
Other Construction Costs (General Require, Overhead, Profit)	2,242,450
Developer Fees and Overhead	3,295,822
Direct Bond Related	292,350
Bond Purchase Costs	591,138
Other Transaction Costs	4,263,445
Real Estate Closing Costs	104,095
Total Uses	<u>\$ 28,956,520</u>

Estimated Costs of Issuance of the Bonds

Direct Bond Related

TDHCA Issuance Fee (.50% of Issuance)	\$ 74,000
TDHCA Application Fee	11,000
TDHCA Bond Administration Fee (2 years)	29,600
TDHCA Bond Compliance Fee (\$40 per unit)	10,000
TDHCA Bond Counsel and Direct Expenses (Note 1)	75,000
TDHCA Financial Advisor and Direct Expenses	25,000
Disclosure Counsel (\$5k Pub. Offered, \$2.5k Priv. Placed. See Note 1)	5,000
Trustee Fee	9,000
Trustee's Counsel (Note 1)	5,500
Attorney General Transcript Fee	9,500
Texas Bond Review Board Application Fee	5,000
Texas Bond Review Board Issuance Fee (.025% of Reservation)	3,750
Bond Amortization Analysis	30,000
Total Direct Bond Related	<u>\$ 292,350</u>

Idlewilde Apartments

Bond Purchase Costs	
LOC Origination Fee & Expenses	182,095
LOC Ongoing Fees	252,543
Underwriter's Discount	111,000
Underwriter's Counsel	30,000
Rating Agency	13,500
OS Printing/Mailing	2,000
Total Bond Purchase Costs	\$ 591,138
Other Transaction Costs	
Tax Credit Related Costs	80,000
Construction Contingency	500,000
Soft Construction Costs	1,967,895
Construction Period Interest	1,110,000
Lease-Up Reserves	200,000
10-Yr Interest Rate Cap	387,800
Miscellaneous	17,750
Total Other Transaction Costs	\$ 4,263,445
Real Estate Closing Costs	
Title and Recording	104,095
Total Real Estate Costs	\$ 104,095
Estimated Total Costs of Issuance	\$ 5,251,028

Costs of issuance of up to two percent (2%) of the principal amount of the Bonds may be paid from Bond proceeds. Costs of issuance in excess of such two percent must be paid by an equity contribution of the Borrower.

Note 1: These estimates do not include direct, out-of-pocket expenses (i.e. travel). Actual Bond Counsel and Disclosure Counsel are based on an hourly rate and the above estimate does not include on-going administrative fees.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

DATE: November 1, 2006 **PROGRAM:** 4% HTC/MRB **FILE NUMBER:** 060617

DEVELOPMENT NAME

Idlewilde Apartments

APPLICANT

Name: Idlewilde Apartments, LP **Contact:** William D. Henson
Address: 2121 Kirby Drive, Unit #68
City: Houston **State:** TX **Zip:** 77019
Phone: (713) 334-5808 **Fax:** (713) 334-5614 **Email:** Wd_henson@hotmail.com

KEY PARTICIPANTS

Name:	Idlewilde Development, LLC	Title:	0.01% Managing General Partner of Applicant
Name:	Dwayne Henson Investments, Inc.	Title:	45% Owner of GP (Member 1)
Name:	Resolution Real Estate Services, LLC	Title:	45% Owner of GP (Member 2)
Name:	JR Mitchell, LLC	Title:	10% Owner of GP (Member 3)
Name:	Pamela G. Henson	Title:	15% Owner of Member 1
Name:	William D. Henson	Title:	35% Owner of Member 1
Name:	Laura Henson	Title:	35% Owner of Member 1
Name:	Cheryl L. Henson	Title:	15% Owner of Member 1
Name:	J. Steve & Cynthia Ford	Title:	100% Co-Owners of Member 2
Name:	James R. Mitchell	Title:	100% Owner of Member 3
Name:	Idlewilde Developers, LLC	Title:	Developer
Name:	LBK, Ltd. (Lily Kavthekar)	Title:	Consultant

PROPERTY LOCATION

Location: Apprx. 11600 block of Bobcat road and 9900 block of FM 1960 West
City: Houston **Zip:** 77064
County: Harris **Region:** 6 QCT DDA

REQUEST

<u>Program</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Amortization</u>	<u>Term</u>
HTC	\$1,184,604	N/A	N/A	N/A
MRB (Tax-Exempt)	\$14,800,000 ¹	Variable	35 yrs	30 yrs
Proposed Use of Funds:	New construction	Type:	Multifamily	
Target Population:	Family	Other:	Urban/Exurban	

¹ Updated as of 10/16; reduced from \$15M.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

RECOMMENDATION

- RECOMMEND APPROVAL OF ISSUANCE OF \$14,800,000 IN TAX-EXEMPT MORTGAGE REVENUE BONDS WITH A VARIABLE INTEREST RATE UNDERWRITTEN RATE OF 6.455% AND REPAYMENT TERM OF 30 YEARS WITH A 35-YEAR AMORTIZATION PERIOD, SUBJECT TO CONDITIONS.
- RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED \$1,184,604 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Acceptance by the Board of the potential redemption of up to \$440K in bonds at the conversion to permanent.
2. Receipt, review and acceptance by commitment of documentation from the title company indicating Schedule C, 5 & 6 have been cleared.
3. Receipt, review, and acceptance of an opinion from The Murillo Company on lead in drinking water.
4. Receipt, review and acceptance of a noise study as recommended in the Phase I assessment.
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/allocation amount may be warranted.

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units: 250 **# Res Bldgs** 24 **# Non-Res Bldgs** 1 **Age:** N/A yrs **Vacant:** N/A at / /
Net Rentable SF: 258,024 **Av Un SF:** 1,032 **Common Area SF:** 5,108 **Gross Bldg SF:** 263,132

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 attractive buildings.

STRUCTURAL MATERIALS

The structures are constructed on gypcrete over plywood. According to the plans provided in the application the exterior are 70% cement fiber, and 30% brick. The interior wall surfaces will be drywall and the roofs are finished with composite shingles.

UNIT FEATURES

The interior flooring will be 60% carpet, and 40% resilient covering. Threshold criteria for the 2006 QAP requires all development units to include: mini blinds or window coverings for all windows, a dishwasher, a disposal, a refrigerator, an oven/range, an exhaust/vent fan in bathrooms, and a ceiling fan in each living area and bedroom. New construction units must also include three networks: one for phone service, one for data service, and one for TV service. In addition, each unit will include: a microwave, laundry connections, a ceiling fixture in each room, warm and cooled air, an individual water heater, and nine-foot ceilings.

ONSITE AMENITIES

In order to meet threshold criteria for total units of 200 or more, the Applicant has elected to provide a barbecue or picnic table for every 50 units, a community laundry room, controlled access gates, an enclosed sun porch or covered community porch, an equipped business center or computer learning center, full perimeter fencing, a furnished community room, a furnished fitness center, public telephone(s) available to tenants 24 hours a day, a swimming pool, and two children's playgrounds equipped for 5 to 12 year olds, two tot lots, or one of each.

Uncovered Parking: 237 spaces **Carports:** 0 spaces **Garages:** 226 spaces

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: The subject is a 16-unit per acre new construction development located in Houston. The development is comprised of a combination of 22 evenly distributed garden style and 2 townhome residential buildings as follows:

<u>No. of Buildings</u>	<u>No. of Floors</u>	<u>1BR</u>	<u>2BR</u>	<u>3BR</u>
2	3	12	10	0
4	2	0	10	0
5	2	0	10	0
8	2	2	0	8
1	2	8	2	0
2	2	2	0	8
2	2	0	0	3

The development includes a 5,108 square foot amenity center complete with a leasing office, business center, activity room, computer classroom, fitness, center, laundry facility, and maintenance and mail box areas.

SITE ISSUES

SITE DESCRIPTION

Total Size:	15.9146 acres	Scattered sites?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Flood Zone:	Zone X	Within 100-year floodplain?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Current Zoning:	N/A	Needs to be re-zoned?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: The subject site is located at approximately 11600 block of Bobcat road and 9900 block of FM 1960 West, in Harris County, Texas.

Adjacent Land Uses:

- ∉ **North:** FM 1960 and commercial uses immediately adjacent and beyond;
- ∉ **South:** Cougar Road immediately adjacent and vacant land and a church beyond;
- ∉ **East:** Falcon road, commercial and residential uses immediately adjacent and beyond; and
- ∉ **West:** Bobcat Road immediately adjacent and vacant land and commercial uses beyond.

Site Access: The site will have a main entry/exit along FM 1960 and a second exit along Bobcat Road. The site is accessible via Beltway 8, FM 1960 and Fallbrook Drive running east and west, and Veterans Memorial Drive, SH 249, Jones Road running north and south.

Public Transportation: According to the Market Analyst, "The neighborhood is well-located within the Metropolitan Area's transportation infrastructure" (p.25).

Shopping & Services: The site is within close proximity to major grocery/pharmacies, shopping centers, and a variety of other retail establishments and restaurants. Schools, churches, and hospitals and health care facilities are also located within a short driving distance from the site.

Adverse Site Characteristics:

Title: Schedule B of the submitted title commitment includes "a. Pipeline right-of-way easement 20 feet wide along the northerly property line granted to Houston Pipe Line Company..." Schedule C includes "5. A 'cloud' on the title to this property is created by Assignment of 3.5% Interest dated November 28, 1990...[and] 6. State Tax Lien...for Seven Thousand Seven Hundred Ninety One and 85/100..." Receipt, review and acceptance by commitment of documentation from the title company indicating Schedule C, 5 & 6 have been cleared is a condition of this report.

TDHCA SITE INSPECTION

Inspector:	Manufactured Housing Staff	Date:	10/20/2006
Overall Assessment:	<input type="checkbox"/> Excellent	<input checked="" type="checkbox"/> Acceptable	<input type="checkbox"/> Questionable <input type="checkbox"/> Poor <input type="checkbox"/> Unacceptable
Comments:	_____		

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated September 5, 2006 was prepared by The Murillo Company and contained the following findings and recommendations:

Findings:

- € **Noise:** “There are no airports or railroads within a ½ mile radius of the subject property. However, due to the high volume of vehicles traveling on F.M. 1960, TMC suggests a noise study be conducted on the subject property.” (p. 22)
- € **Floodplain:** “According to the Federal Emergency Management Act (FEMA) Flood Insurance Rate Map (FIRM) Panel Number 48201C0430K (April 20, 2000), this site is located in Zone “X”, areas determined to be outside the 500-year floodplain.” (p. 18)
- € **Asbestos-Containing Materials (ACM):** “The subject property is a new apartment complex under construction. There is no potential threat for asbestos containing materials...to be present on the property.” (p.22)
- € **Lead-Based Paint (LBP):** “The subject property is a new apartment complex under construction. There is no potential threat for...lead-based paint to be present on the property.” (p.22)
- € **Radon:** “...Contact with Texas Commission on Environmental Quality, and review of EPA files indicate that the Harris County area does not have the source material needed for radon to be produced and radon is not considered a major problem in the Harris County area.” (p. 21)

A Limited Phase II Investigation report dated October 12, 2006 was prepared by The Murillo Company and contained the following conclusions:

- € “Of the Volatile Organic Compounds tested, all levels were found to be Not Detected at the reporting limit.
- € Based on the findings of this investigation, there is no evidence of groundwater contamination at the subject property. No further action is recommended at this time.” (p. 4)

Recommendations and Conclusions: “Based upon TMC site investigation of the subject property, surrounding properties, regulatory agency records review and inquiries, interviews, and historical research, evidence was found indicating recognized environmental conditions exist at the subject property.

The following conclusions are suggested:

TMC suggests that a Phase II Environmental Site Assessment Limited Subsurface Investigation be conducted at the subject property. This assessment should include the collection and analysis of groundwater samples.

TMC suggests that a Noise Study be conducted on the subject property, due to the high volume of vehicles traveling on F.M. 1960.

We have performed a Phase I Environmental Site Assessment Update in conformance with the scope and limitations of ASTM Standard Practice E1527-00. Any exceptions to, or deletions from this practice are described in body of the report. This assessment has revealed no evidence of Recognized Environmental Conditions in connection with the subject property.” (p.24)

It should be noted that neither the Phase I or the Limited Phase II Investigation report did not address lead in drinking water; therefore, receipt, review, and acceptance of an opinion from The Murillo Company on lead in drinking water is a condition of this report. In addition, receipt, review and acceptance of a noise study as recommended in the Phase I assessment is a condition of this report.

INCOME SET-ASIDE

The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside.

To qualify as a Priority 2 Private Activity Bond allocation for a Qualified Residential Rental Project, the Applicant has elected to set-aside 100% of the units with rent and income restrictions at 60% of area median family income (§ 1372.0321).

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

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 May 17, 2006 was prepared by Patrick O'Connor and Associates, LP ("Market Analyst") and included the following findings:

Secondary Market Information: The Market Analyst did not define a secondary market for the subject development.

Definition of Primary Market Area (PMA): "The subject's primary market is defined as that area within the following general boundaries: Zip Codes 77064, 77066, & 77086: FM 1960 and Cypress North Houston Road to the north; Stuebner Airline and Mosielee Street to the east; Jones Road and Highway 290 to the west, and Breen Road to the south" (p. 10). This area encompasses approximately 31 square miles and is equivalent to a circle with a radius of 3.15 miles.

Population: The estimated 2006 population of the PMA was 96,416 and is expected to increase by 13% to approximately 107,091 by 2011. Within the primary market area there were estimated to be 30,040 households in 2006.

Total Market Demand: The Market Analyst utilized a household size-appropriate adjustment rate of 91.15% (p. 70). The Analyst's income band of \$23,520 to \$39,540 (p. 66) results in an income eligible adjustment rate of 7.958% (p. 67). The tenure appropriate adjustment rate of 28.83% is specific to the target population (p. 66). The Market Analyst indicates a turnover rate of 65% applies based on IREM (p. 67).

In addition, "Section 8 vouchers will also be accepted at the subject property. The demand created by Section 8 renters will be added to the demand for rent-restricted units. At the suggestion of Tom Gouris, Director of Real Estate Analysis at the TDHCA, theoretical demand from Section 8 vouchers in the PMA is calculated by multiplying the total number of vouchers for the entire city by the ratio of income-qualified households in the PMA to the voucher income-qualified households in Houston. The number of Section 8 vouchers available was determined by contacting the local housing authority with jurisdiction over the subject's location, which in this case was the City of Houston. The number of income-qualified households was determined by calculating the number of households in the PMA earning below the minimum income required to rent at the subject property, which equated to 14.45% of the households earning below \$23,520. Since the purpose of this calculation is to determine the theoretical number of vouchers available within the PMA, and virtually all voucher holders are renters, we have not applied a renter percentage. The percentage of seniors to the total population was applied to factor our non-seniors. The number of income-qualified households in Houston was determined by calculating the number of households in the PMA earning below the maximum income required to obtain a Section 8 voucher (50% of AMI)...According to the Housing Authority to the Housing Authority of the City of Houston's PHA Plan, Annual Plan for Fiscal Year 2006, there were a total of 14,898 existing housing vouchers administered by the Housing Authority of the City of Houston. Theoretical demand from Section 8 Vouchers is calculated by multiplying the total number of vouchers by the ratio of income-qualified Senior households in the PMA and in Houston. Utilizing the typical 65% turnover rate, total theoretical demand from Section 8 vouchers is estimated to be 152 units..."(p. 68 & 69).

MARKET DEMAND SUMMARY				
Type of Demand	Market Analyst		Underwriter	
	Units of Demand	% of Total Demand	Units of Demand	% of Total Demand
Household Growth	65	3.98%	51	3%
Resident Turnover	1,415	90.66%	1,393	87%
Other Sources: Section 8	152	9.34%	156	10%
TOTAL DEMAND	1,632	100%	1,600	100%

p. 70

Inclusive Capture Rate: The Market Analyst calculated an inclusive capture rate of 15.31% based upon

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

1,632 units of demand and 250 unstabilized affordable housing in the PMA (including the subject) (p. 71). The Underwriter calculated an inclusive capture rate of 16% based upon a revised demand estimate for 1,600 affordable units.

Unit Mix Conclusion: “The proposed subject property will have 21% one bedroom units, 45% two-bedroom units, and 34% three-bedroom units. Based on discussions with leasing agents and our own analysis of the rental rates at the selected comparables in the primary market, the proposed unit mix is appropriate and will complement the local affordable housing market. Because the average household size is 3.20 persons, and approximately 29.70% of the households consist of 4 persons or more, having over 20% of the unit mix in three-bedroom units is considered appropriate.” (p. 11)

Market Rent Comparables: The Market Analyst surveyed five comparable apartment projects totaling 1,511 units in the market area.

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	Proposed	Program Max	Differential	Est. Market	Differential
1-BR (60%/MRB)	\$612	\$613	-\$1	\$765	-\$153
1-BR (60%/MRB)	\$612	\$613	-\$1	\$770	-\$158
1-BR (60%/MRB)	\$612	\$613	-\$1	\$790	-\$178
1-BR (60%/MRB)	\$612	\$613	-\$1	\$795	-\$183
1-BR (60%/MRB)	\$612	\$613	-\$1	\$800	-\$188
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,000	-\$264
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,010	-\$274
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,015	-\$279
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,020	-\$284
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,020	-\$284
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,025	-\$289
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,025	-\$289
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,035	-\$299
2-BR (60%/MRB)	\$736	\$736	\$0	\$1,040	-\$304
3-BR (60%/MRB)	\$843	\$736	\$0	\$1,155	-\$312
3-BR (60%/MRB)	\$843	\$736	\$0	\$1,185	-\$342
3-BR (60%/MRB)	\$843	\$843	\$0	\$1,185	-\$342
3-BR (60%/MRB)	\$843	\$843	\$0	\$1,210	-\$367
3-BR (60%/MRB)	\$843	\$843	\$0	\$1,230	-\$387

(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 occupancy of the comparable rentals included in this study range from 86% to 97%, with a median occupancy of 91.40%. The average occupancy for comparable apartments in the Primary market area was reported at 85.23% in the most recent O'Connor Data Apartment Database survey (1" quarter 2006). According to the survey, occupancy in the primary market area in March 2006 has increased slightly from the prior quarter. Average occupancy in the primary market area has remained in the upper to mid 80's since September 1995. Based on our analysis of the market, moderate increases in occupancy are projected for this market.” (p. 39)

Absorption Projections: “Considering the strong absorption history of similar properties and the lack of available quality affordable units in this market, we project that the subject property will lease an average of 20-25 units per month until achieving stabilized occupancy. We anticipate that the subject property will achieve stabilized occupancy within six to twelve months following completion.” (p. 78)

Unstabilized, Under Construction, and Planned Development: “...there are two HTC projects within the primary market area. There is no non-stabilized HTC projects, one HTC project currently under construction (primrose @ Heritage Park, a Seniors facility), and no approved HTC project within the Primary market area. There are two HTC projects located within a two-mile radius of the subject (Willow Green and Wellington Park, both outside the PMA). Typically, HTC projects in the Greater Houston area have achieved stabilized occupancy at a rapid pace, most likely due to the projects being new and superior compared to older multifamily projects. The subject should be able to reach a stabilized occupancy level within 12 months of

completion. Pre-leasing should begin prior to completion of the construction.” (p. 40)

According to the Market Analyst, Champion Townhomes f.k.a. Providence at Veterans Memorial (TDHCA #03462), a 238 unit development targeting families located within the subject’s defined PMA boundary, has been stabilized since May 2005; therefore, the Underwriter has not included these units in the inclusive capture rate calculation.

Furthermore, Primrose at Bammel (TDHCA #04467) is a 210 unit senior’s development also located within the subject’s defined PMA boundary. However, units for developments exclusively targeting seniors are not included in the inclusive capture rate analysis for developments targeting families. Finally, it should be noted, Wellington Park Apartments (TDHCA #03466) is a 2004 awarded 244-unit development targeting families, but this development exists just outside the designated PMA and approximately 1.54 miles northeast of the subject. If Wellington Parks’ 244 units were included in the inclusive capture rate, it is certain the inclusive capture rate would exceed 25%.

Market Impact: “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. 78)

Other Information: The Department commissioned a market study for the Houston-Baytown-Sugar Land Metropolitan Statistical Area (MSA). The proposed development is located in the West (#15) submarket within the Houston MSA. According to the Department market study; there are -36 units of demand for 1-bedroom units at the 60% income level; -32 units of demand for 2-bedroom units at the 60% income level; and -14 units of demand for 3-bedroom units at the 60% income level (p. III-587).

The Department’s market study for the entire MSA does not incorporate demand from turnover as normally allowed in development specific market studies because in an overall study the demand from turnover returns to all of the units in the market area. A development specific market study identifies the demand from turnover as potential demand that can be attract away from existing units and to the proposed development (and any other new developments that have not yet become fully occupied.). Moreover, the subject units were included in the analysis commissioned by the Department.

The Underwriter requested additional information from the Market Analyst to explore these and other differences. In a follow-up analysis dated October 16, 2006 the Market Analyst indicated the following concerns with the study commissioned by the Department:

- € “Vogt Williams PMA has a population of 371,371 (in 2006), well over the IDHCA maximum of 250,000 persons
- € Vogt Williams PMA includes several very divergent submarkets within their one submarket. Properties and demographics north of FM 1960 are very different from those south. The same is true west of SH 249 and east of SH 249.
- € Arbitrary use of replacement of 2.5% of “Functionally Obsolete” units perpetuates and exacerbates the problem of substandard housing. Without new/newly-renovated product within the submarket, the owners of the “functionally obsolete” complexes have no impetus to demolish or renovate.
- € Vogt Williams’ methodology does not conform to 2006 QAP.
- € Vogt Williams study states that 17.6% of the population within the submarket is Rent-Overburdened, but does nothing to address this problem.
- € Vogt Williams study surveyed only 28 complexes in the submarket.
- € Numerous minor errors in project names, number of units, status (tax credit or market, or senior versus family) which diminish the confidence level in conclusions. Examples:
 - o Quail Chase has 248 units, whereas Vogt Williams stated 240 units.
 - o The Bridge is noted to be a Seniors complex, but is a Family project.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

- o Sprucewood was reported by Vogt Williams to have 114 units, whereas it actually has 152 units.
- o Louetta Village, an under-construction Seniors HTC project within Vogt Williams' submarket, was not mentioned in their analysis.

These are only examples of the significant number of minor errors and inconsistencies within the report.

€ The study showing minimal demand at the 40% to 60% AMI level for Seniors units ranging from 3 to 46 units annually for the years 2006 to 2009 makes no intuitive sense. If there were such minimal demand, the existing HTC complexes would not be operating in the 90% to 100% occupancy level, for the most part.”

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 projected rents collected per unit were calculated by subtracting tenant-paid utility allowances as of March 6, 2006 maintained by the Housing Authority of the City of Houston from the 2006 program gross rent limits. Tenants will be required to pay electric, water, and sewer costs. The Applicant's secondary income and vacancy and collection loss assumptions are in line with current TDHCA underwriting guidelines and effective gross income is within 5% of the Underwriter's estimate.

Expenses: The Applicant's total annual operating expense projection at \$3,900 per unit is within 5% of the Underwriter's estimate of \$4,064, derived from the TDHCA database, and third-party data sources.

The Applicant's line item expenses utilities (\$22K lower) and water, sewer and trash (\$19K higher) varied significantly when compared to the Underwriter's estimates. It should be noted both the Applicant's and Underwriter's total annual operating expense are significantly higher than the permanent lender's underwritten annual expenses (\$3,771 per unit).

Conclusion: Because the Applicant's gross income, total annual operating expense, net operating income are each within 5% of the Underwriter's estimates, the Applicant's proforma is used to determine the development's debt capacity.

The proposed permanent financing structure results in an initial year's debt coverage ratio (DCR) below the current underwriting minimum guideline of 1.10. When the corrected debt service is calculated, the Applicant included a debt service of \$1,035,995 that while appropriate for meeting a 1.10 DCR, was inconsistent with the calculated amount of \$1,067,494 based on the terms of the commitment. Therefore, a reduction in the permanent debt amount may be necessary to meet the lender's minimum DCR if the Applicant's or Underwriter's expenses materialize. Consequently, the recommended financing structure reflects a decrease in the permanent mortgage based on the interest rate and amortization period indicated in the permanent financing documentation submitted at application. This is discussed in more detail in the conclusion to the "Financing Structure Analysis" section (below).

Long-Term Feasibility: The underwriting 30-year proforma utilizes a 3% annual growth factor for income and a 4% annual growth factor for expenses in accordance with current TDHCA guidelines. As noted above, the Applicant's base year effective gross income, expense and net operating income coupled with reduced debt service result in a debt coverage ratio that remains above 1.10 and continued positive cashflow. Therefore, the development can be characterized as feasible for the long-term.

ACQUISITION VALUATION INFORMATION

ASSESSED VALUE

Land: 15.4599862 acres	\$1,010,155	Assessment for the Year of:	2006
Building:	N/A	Valuation by:	Harris County Appraisal District
Total: prorated 10 acres	\$1,010,155	Tax Rate:	3.25697

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

EVIDENCE of SITE or PROPERTY CONTROL			
Type of Site Control:	Earnest money contract (15.9146 acres)		
Contract Expiration:	11/24/2006	Valid through Board Date?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Acquisition Cost:	\$2,149,720	Other:	_____
Seller:	Minou Talimi, Luba Adams, Bahram Khatiblou, & Jafar Riaz Davoody	Related to Development Team?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

CONSTRUCTION COST ESTIMATE EVALUATION
<p>Acquisition Value: The site cost of \$65,340 per acre or \$8,599 per unit is assumed to be reasonable since the acquisition is an arm's-length transaction.</p> <p>Sitework Cost: The Applicant claimed sitework costs over the Department's maximum guideline of \$7,500 per unit and provided sufficient third party certification through a detailed certified cost estimate by Mucasey & Associates to justify these costs. In addition, these costs have been reviewed by the Applicant's CPA, Reznick Group to preliminarily opine that \$2,507,500 of the total \$2,507,500 will be considered eligible. The CPA has not specifically indicated that this opinion of eligibility has taken into account the effect of the IRS Technical Advisory Memorandums on the eligibility of sitework costs, but it should be presumed that they have done so.</p> <p>Direct Construction Cost: The Applicant's direct construction cost estimate is \$572K or 4% lower than the Underwriter's Marshall & Swift <i>Residential Cost Handbook</i>-derived estimate. The Applicant submitted an unsigned construction contract with the related general contractor, Idlewilde Contractors, LLC. The Contract Price of \$18,759,950 includes site work costs of \$2.5M, contract fees and general requirements of \$2.2M, and contingency of \$500K indicating direct construction costs of \$13,510,000. Because the contract has not been executed, the underwriting estimate will continue to rely on the Marshall & Swift evaluation for comparison to the Applicant's estimate.</p> <p>Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by \$210K 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>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 a total of \$35K 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. The Applicant's developer fee also exceeds 15% of the Applicant's adjusted eligible basis by \$59,674 and therefore the eligible portion of the Applicant's developer fee must be reduced by the same amount. It should be noted, the Applicant claimed eligible housing consultant fees of \$70K, which the Underwriter included in total developer fees limited to 15% of all other eligible costs.</p> <p>Conclusion: The Applicant's total development cost is within 5% of the Underwriter's estimate; therefore, the Applicant's cost schedule will be used to determine the development's need for permanent funds and to calculate eligible basis. An eligible basis of \$25,347,133 supports annual tax credits of \$1,189,541. This figure will be compared to the Applicant's request and the tax credits calculated based on the gap in need for permanent funds to determine the recommended allocation.</p>

FINANCING STRUCTURE			
INTERIM TO PERMANENT BOND FINANCING			
Source:	Capmark (DUS Lender for Fannie Mae)	Contact:	Lloyd Griffin
Tax-Exempt:	\$14,800,000	Interest Rate:	Variable rate underwritten at 6.455%, lender's estimate
Amort:	420 months		
Documentation:	<input type="checkbox"/> Signed <input type="checkbox"/> Term Sheet <input type="checkbox"/> LOI <input type="checkbox"/> Firm Commitment <input checked="" type="checkbox"/> Conditional Commitment <input type="checkbox"/> Application		
Comments:	30-month construction period, Minimum 5-year interest rate cap required		

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

TAX CREDIT SYNDICATION

Source:	Boston Capital	Contact:	Thomas Dixon
Proceeds:	\$11,371,071	Net Syndication Rate:	96%
		Anticipated HTC:	\$1,184,605/year
Documentation:	<input checked="" type="checkbox"/> Signed <input type="checkbox"/> Term Sheet <input checked="" type="checkbox"/> LOI <input type="checkbox"/> Firm Commitment <input type="checkbox"/> Conditional Commitment <input type="checkbox"/> Application		
Comments:			

OTHER

Amount:	\$1,200,000(\$200K during construction phase)	Source:	Guaranteed Income Contract
Amount:	\$1,389,720	Source:	Deferred Developer Fee

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by TDHCA and initially purchased by Capmark. The permanent financing commitment is generally consistent with the terms reflected in the revised sources and uses of funds listed in the application, as the application sources and uses reflect \$15M, but the commitment reflects \$14.8M. Furthermore, the debt is said to be a Fannie Mae Delegated Underwriting and Servicing (DUS) Program commitment with a variable interest rate and a 30-year term following conversion. The amortization will be based on a 35-year period subject to Fannie Mae Wavier approval. The base interest rate was not specifically described in the commitment but is typically the Bond Market Association (BMA) index plus a stack. The stack in this case totals 35 basis points during the construction phase and 110 basis points during the permanent phase. The interest rate cap requirements were not fully disclosed in the commitment provided to underwrite this. However, the commitment did identify the lender’s anticipated underwriting rate to be 6.455%.

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.

GIC Income: The Applicant included \$1,200,000 in anticipated permanent income and from investment of the bond proceeds in a guaranteed investment contract (GIC) during the construction phase; the Underwriter has included this amount in deferred developer fee in the recommended financing structure.

Deferred Developer’s Fees: The Applicant’s proposed deferred developer’s fees of \$1,389,720 amount to 42% of the total fees.

Financing Conclusions: As stated above, the proforma analysis results in a debt coverage ratio below the Department’s minimum guideline of 1.10. The current underwriting analysis assumes a decrease in the permanent loan amount to \$14,360,000 based on the terms reflected in the application materials. As a result the development’s gap in financing will increase. Furthermore, as the lender appears to have committed to a higher debt amount, the difference may ultimately be held in an earnout account. However, the conclusions of this analysis will reflect what could occur if the earnout is not paid.

The Applicant’s total development cost estimate less the revised permanent loan of \$14,360,000 indicates the need for \$14,600,791 in gap funds. Based on the submitted syndication terms, a tax credit allocation of \$1,521,068 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, Applicant’s request (\$1,184,604), the gap-driven amount (\$1,521,068), and eligible basis-derived estimate (\$1,189,541), the Applicant’s request of \$1,184,604 is recommended resulting in proceeds of \$11,371,061 based on a syndication rate of 96%.

The Underwriter’s recommended financing structure indicates the need for \$3,229,730 in additional permanent funds. Deferred developer and contractor fees in this amount do not appear to be repayable from development cashflow within 10 years of stabilized operation, but appear to be repayable within 15 years. However, this transaction has a low variable rate structure and should be able to generate significant interest rate debt service savings that will expedite the payment of these fees faster than predicted in this report, as long as the ultimate all-in interest rate stays lower than the underwritten rate.

**TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS
MULTIFAMILY UNDERWRITING ANALYSIS**

**DEVELOPMENT TEAM
IDENTITIES of INTEREST**

€ The Applicant, Developer, and General Contractor are related entities. These are common relationships for HTC-funded developments. The proposed property manager, broker and Application Consultant are also related parties.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- € The Applicant and Managing General Partner are single-purpose entities created for the purpose of receiving assistance from TDHCA and therefore have no material financial statements.
- € The Member and 100% owner of the Managing General Partner, Dwayne Henson Investments, Inc., submitted an unaudited financial statement as of December 31, 2005, reporting total assets of \$13.4M and consisting of \$1.2M in cash, \$16K in machinery, equipment, and fixtures, \$8.9M in receivables, and \$2.3M in partnership interests. Liabilities totaled \$3M resulting in a net worth of \$13.1M.
- € The principals of these members of the General Partner that submitted unaudited financial statements are: Pamela, Laura, Cheryl, and William D. Henson. Some or all of these principals are anticipated to be guarantors of the development, particularly the Managers of the General Partner: William D. Henson, J. Steve Ford, and M. Scot Davis.

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

- € Environmental/location risks exist regarding noise.
- € 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.
- € An increase in the variable interest rate on the permanent debt could adversely affect the development's DCR and cash flow.
- € 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:	_____	Date:	November 1, 2006
	<i>Diamond Thompson</i>		
Reviewing Underwriter:	_____	Date:	November 1, 2006
	<i>Lisa Vecchietti</i>		
Director of Real Estate Analysis:	_____	Date:	November 1, 2006
	<i>Tom Gouris</i>		

MULTIFAMILY COMPARATIVE ANALYSIS

Idlewild Apartments, Houston, 4% HTC #060617

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	Trash Only
TC 60%	24	1	1	718	\$686	\$613	\$14,712	\$0.85	\$73.00	\$13.31
TC 60%	2	1	1	727	686	\$613	1,226	0.84	73.00	13.31
TC 60%	2	1	1	765	686	\$613	1,226	0.80	73.00	13.31
TC 60%	4	1	1	773	686	\$613	2,452	0.79	73.00	13.31
TC 60%	20	1	1	788	686	\$613	12,260	0.78	73.00	13.31
TC 60%	10	2	2	962	823	\$736	7,360	0.77	87.00	13.31
TC 60%	14	2	2	980	823	\$736	10,304	0.75	87.00	13.31
TC 60%	8	2	2	982	823	\$736	5,888	0.75	87.00	13.31
TC 60%	8	2	2	989	823	\$736	5,888	0.74	87.00	13.31
TC 60%	12	2	2	999	823	\$736	8,832	0.74	87.00	13.31
TC 60%	14	2	2	1,008	823	\$736	10,304	0.73	87.00	13.31
TC 60%	4	2	2	1,009	823	\$736	2,944	0.73	87.00	13.31
TC 60%	28	2	2	1,025	823	\$736	20,608	0.72	87.00	13.31
TC 60%	14	2	2	1,037	823	\$736	10,304	0.71	87.00	13.31
TC 60%	20	3	2	1,210	951	\$843	16,860	0.70	108.00	13.31
TC 60%	36	3	2	1,234	951	\$843	30,348	0.68	108.00	13.31
TC 60%	20	3	2	1,239	951	\$843	16,860	0.68	108.00	13.31
TC 60%	4	3	2	1,285	951	\$843	3,372	0.66	108.00	13.31
TC 60%	6	3	2.5	1,325	951	\$843	5,058	0.64	108.00	13.31
TOTAL:	250		AVERAGE:	1,032	\$839	\$747	\$186,806	\$0.72	\$91.31	\$13.31

INCOME Total Net Rentable Sq Ft: 258,024

POTENTIAL GROSS RENT
 Secondary Income Per Unit Per Month: \$15.00
 Other Support Income:
 POTENTIAL GROSS INCOME
 Vacancy & Collection Loss % of Potential Gross Income: -7.50%
 Employee or Other Non-Rental Units or Concessions

TDHCA	APPLICANT
\$2,241,672	\$2,241,048
45,000	45,000
0	0
\$2,286,672	\$2,286,048
(171,500)	(171,456)
0	0
\$2,115,172	\$2,114,592

Comptroller's Region 6
 IREM Region Houston
 Per Unit Per Month
 Per Unit Per Month
 of Potential Gross Income

EFFECTIVE GROSS INCOME

EXPENSES % OF EGI PER UNIT PER SQ FT

General & Administrative 4.41% \$373 0.36
 Management 3.60% 305 0.30
 Payroll & Payroll Tax 11.55% 978 0.95
 Repairs & Maintenance 5.52% 467 0.45
 Utilities 2.32% 196 0.19
 Water, Sewer, & Trash 2.81% 238 0.23
 Property Insurance 3.73% 315 0.31
 Property Tax 3.47163 10.26% 868 0.84
 Reserve for Replacements 2.36% 200 0.19
 Supp serv, compl fees 1.47% 124 0.12
 TOTAL EXPENSES 48.03% \$4,064 \$3.94

TDHCA	APPLICANT
\$93,254	\$74,666
76,173	105,730
244,391	220,170
116,796	95,500
49,020	27,500
59,394	78,000
78,874	79,934
216,977	212,500
50,000	50,000
31,000	31,000
\$1,015,878	\$975,000
\$1,099,293	\$1,139,592

PER SQ FT PER UNIT % OF EGI
 \$0.29 \$299 3.53%
 0.41 423 5.00%
 0.85 881 10.41%
 0.37 382 4.52%
 0.11 110 1.30%
 0.30 312 3.69%
 0.31 320 3.78%
 0.82 850 10.05%
 0.19 200 2.36%
 0.12 124 1.47%
 \$3.78 \$3,900 46.11%
 \$4.42 \$4,558 53.89%

NET OPERATING INC 51.97% \$4,397 \$4.26

DEBT SERVICE

Bond-financed First Lien 50.47% \$4,270 \$4.14
 GIC Income 0.00% \$0 \$0.00
 Additional Financing 0.00% \$0 \$0.00
 NET CASH FLOW 1.50% \$127 \$0.12

AGGREGATE DEBT COVERAGE RATIO 1.03
 RECOMMENDED DEBT COVERAGE RATIO 1.10

TDHCA	APPLICANT
\$1,067,494	\$1,035,995
0	0
0	0
\$31,799	\$103,597
1.03	1.10

\$4.02 \$4,144 48.99%
 \$0.00 \$0 0.00%
 \$0.00 \$0 0.00%
 \$0.40 \$414 4.90%

CONSTRUCTION COST

Description Factor % of TOTAL PER UNIT PER SQ FT

Acquisition Cost (site or bldg) 7.25% \$8,599 \$8.33
 Off-Sites 0.00% 0 0.00
 Sitework 8.46% 10,030 9.72
 Direct Construction 46.64% 55,327 53.61
 Contingency 3.61% 1.99% 2,360 2.29
 General Req'ts 5.88% 3.24% 3,844 3.72
 Contractor's G & A 1.96% 1.08% 1,281 1.24
 Contractor's Profit 5.88% 3.24% 3,844 3.72
 Indirect Construction 4.80% 5,692 5.51
 Ineligible Costs 3.94% 4,677 4.53
 Developer's G & A 2.25% 1,726 1.97
 Developer's Profit 12.61% 9,633 11.07
 Interim Financing 6.92% 8,212 7.96
 Reserves 1.08% 1,284 1.24
 TOTAL COST 100.00% \$118,614 \$114.93

TDHCA	APPLICANT
\$2,149,720	\$2,149,720
0	0
2,507,500	2,507,500
13,831,745	13,260,000
590,000	590,000
961,050	961,050
320,350	320,350
961,050	961,050
1,423,000	1,423,000
1,169,264	1,169,264
509,443	509,443
2,856,379	2,856,379
2,053,035	2,053,035
321,033	200,000
\$29,653,569	\$28,960,791

PER SQ FT PER UNIT % of TOTAL
 \$8.33 \$8,599 7.42%
 0.00 0 0.00%
 9.72 10,030 8.66%
 51.39 53,040 45.79%
 2.29 2,360 2.04%
 3.72 3,844 3.32%
 1.24 1,281 1.11%
 3.72 3,844 3.32%
 5.51 5,692 4.91%
 4.53 4,677 4.04%
 1.97 2,038 1.76%
 11.07 11,426 9.86%
 7.96 8,212 7.09%
 0.78 800 0.69%
 \$112.24 \$115,843 100.00%

Construction Cost Recap 64.65% \$76,687 \$74.30

SOURCES OF FUNDS

Bond-financed First Lien 49.91% \$59,200 \$57.36
 GIC Income 4.05% \$4,800 \$4.65
 HTC Syndication Proceeds 38.35% \$45,484 \$44.07
 Deferred Developer Fees 4.69% \$5,559 \$5.39
 Additional (Excess) Funds Req'd 3.01% \$3,571 \$3.46
 TOTAL SOURCES

TDHCA	APPLICANT
\$14,800,000	\$15,000,000
1,200,000	1,200,000
11,371,071	11,371,071
1,389,720	1,389,720
892,778	0
\$29,653,569	\$28,960,791

RECOMMENDED \$14,360,000
 Developer Fee Available \$3,306,148
 % of Dev. Fee Deferred 98%
 15-Yr Cumulative Cash Flow \$4,283,479

MULTIFAMILY COMPARATIVE ANALYSIS (continued)
Idlewild Apartments, Houston, 4% HTC #060617

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			\$49.20	\$12,693,594
Adjustments				
Exterior Wall Finish	3.30%		\$1.62	\$418,889
9-Ft. Ceilings	3.30%		1.62	418,889
Garages(Detached)	33.61	5280	0.69	177,461
Subfloor			(1.08)	(277,427)
Floor Cover			2.07	533,078
Porches/Balconies	\$19.15	24,560	1.82	470,334
Plumbing	\$680	670	1.77	455,600
Built-In Appliances	\$1,675	250	1.62	418,750
Stairs (Interior & Exterior)	\$1,650	277	1.77	457,710
Rough Ins	\$340	244	0.32	82,960
Heating/Cooling			1.73	446,382
Garages(Built-In)	\$18.82	49,720	3.63	935,730
Amenity Center	\$63.36	5,108	1.25	323,646
Other:			0.00	0
SUBTOTAL			68.04	17,555,594
Current Cost Multiplier	1.07		4.76	1,228,892
Local Multiplier	0.90		(6.80)	(1,755,559)
TOTAL DIRECT CONSTRUCTION COSTS			\$66.00	\$17,028,926
Plans, specs, survy, bld prmts	3.90%		(\$2.57)	(\$664,128)
Interim Construction Interest	3.38%		(2.23)	(574,726)
Contractor's OH & Profit	11.50%		(7.59)	(1,958,326)
NET DIRECT CONSTRUCTION COSTS			\$53.61	\$13,831,745

PAYMENT COMPUTATION

Primary	\$14,800,000	Amort	420
Int Rate	6.455%	DCR	1.03

Secondary	\$1,200,000	Amort	
Int Rate		Subtotal DCR	1.03

Additional	\$11,371,071	Amort	
Int Rate		Aggregate DCR	1.03

RECOMMENDED FINANCING STRUCTURE APPLICANT'S N

Primary Debt Service	\$1,035,758
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	\$103,834

Primary	\$14,360,000	Amort	420
Int Rate	6.46%	DCR	1.10

Secondary	\$1,200,000	Amort	0
Int Rate	0.00%	Subtotal DCR	1.10

Additional	\$11,371,071	Amort	0
Int Rate	0.00%	Aggregate DCR	1.10

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

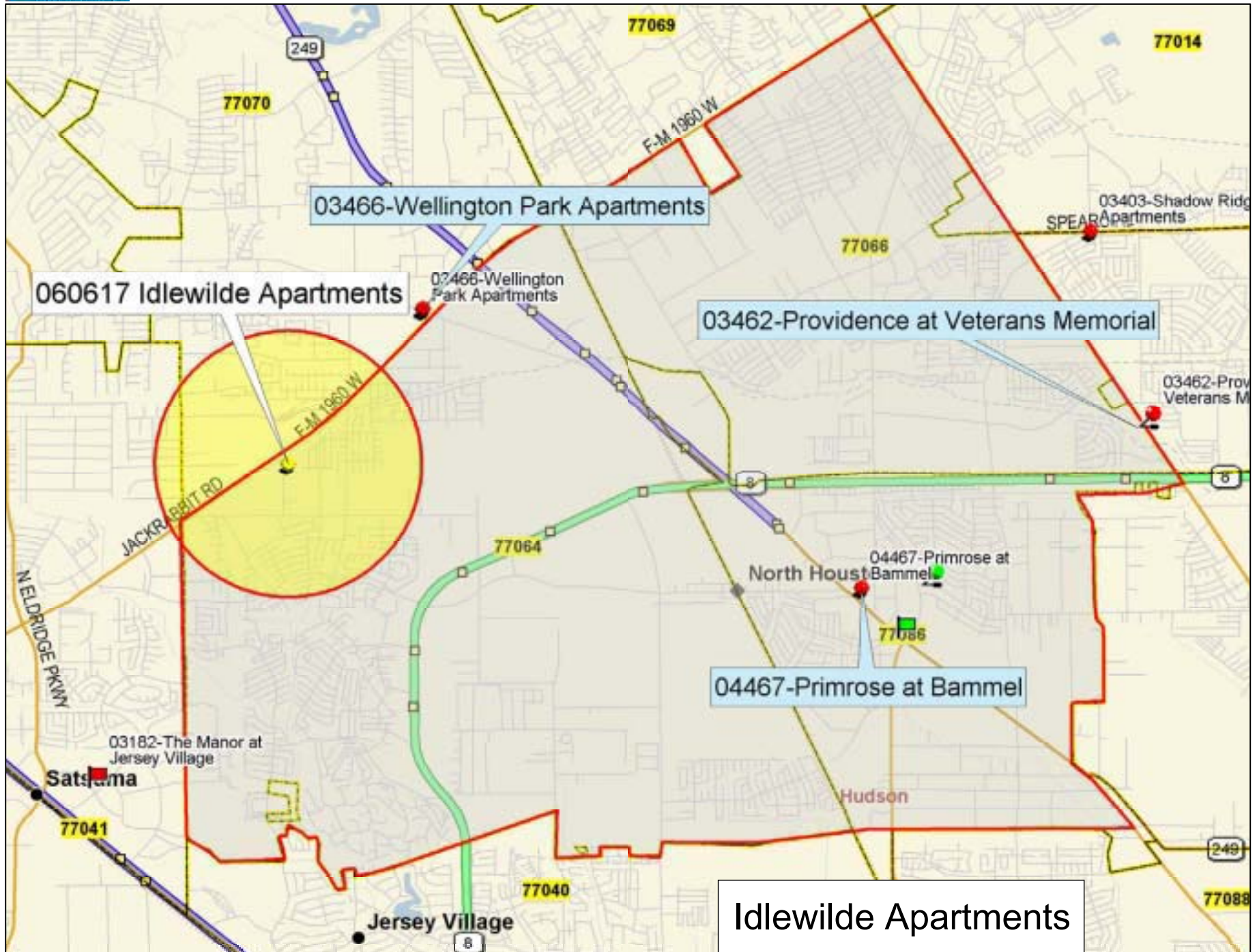
INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	\$2,241,048	\$2,308,279	\$2,377,528	\$2,448,854	\$2,522,319	\$2,924,059	\$3,389,786	\$3,929,691	\$5,281,176
Secondary Income	45,000	46,350	47,741	49,173	50,648	58,715	68,067	78,908	106,045
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	2,286,048	2,354,629	2,425,268	2,498,026	2,572,967	2,982,774	3,457,853	4,008,599	5,387,222
Vacancy & Collection Loss	(171,456)	(176,597)	(181,895)	(187,352)	(192,973)	(223,708)	(259,339)	(300,645)	(404,042)
Employee or Other Non-Rental Unit	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	\$2,114,592	\$2,178,032	\$2,243,373	\$2,310,674	\$2,379,995	\$2,759,066	\$3,198,514	\$3,707,954	\$4,983,180
EXPENSES at 4.00%									
General & Administrative	\$74,666	\$77,653	\$80,759	\$83,989	\$87,349	\$106,273	\$129,297	\$157,310	\$232,857
Management	105,730	108902.024	112169.0843	115534.1568	119000.1815	137953.8253	159926.2931	185398.4054	249159.9537
Payroll & Payroll Tax	220,170	228,977	238,136	247,661	257,568	313,371	381,263	463,865	686,633
Repairs & Maintenance	95,500	99,320	103,293	107,425	111,721	135,926	165,375	201,204	297,831
Utilities	27,500	28,600	29,744	30,934	32,171	39,141	47,621	57,938	85,763
Water, Sewer & Trash	78,000	81,120	84,365	87,739	91,249	111,018	135,071	164,334	243,255
Insurance	79,934	83,131	86,457	89,915	93,511	113,771	138,420	168,409	249,286
Property Tax	212,500	221,000	229,840	239,034	248,595	302,454	367,981	447,705	662,713
Reserve for Replacements	50,000	52,000	54,080	56,243	58,493	71,166	86,584	105,342	155,933
Other	31,000	32,240	33,530	34,871	36,266	44,123	53,682	65,312	96,678
TOTAL EXPENSES	\$975,000	\$1,012,943	\$1,052,372	\$1,093,345	\$1,135,923	\$1,375,196	\$1,665,221	\$2,016,819	\$2,960,110
NET OPERATING INCOME	\$1,139,592	\$1,165,089	\$1,191,002	\$1,217,330	\$1,244,071	\$1,383,870	\$1,533,293	\$1,691,135	\$2,023,070
DEBT SERVICE									
First Lien Financing	\$1,035,758	\$1,035,758	\$1,035,758	\$1,035,758	\$1,035,758	\$1,035,758	\$1,035,758	\$1,035,758	\$1,035,758
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	\$103,834	\$129,332	\$155,244	\$181,572	\$208,314	\$348,112	\$497,535	\$655,377	\$987,312
DEBT COVERAGE RATIO	1.10	1.12	1.15	1.18	1.20	1.34	1.48	1.63	1.95

HTC ALLOCATION ANALYSIS -Idlewilde Apartments, Houston, 4% HTC #060617

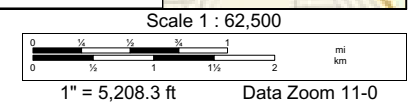
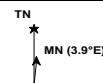
CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	\$2,149,720	\$2,149,720		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	\$2,507,500	\$2,507,500	\$2,507,500	\$2,507,500
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	\$13,260,000	\$13,831,745	\$13,260,000	\$13,831,745
(4) Contractor Fees & General Requirements				
Contractor overhead	\$320,350	\$320,350	\$315,350	\$320,350
Contractor profit	\$961,050	\$961,050	\$946,050	\$961,050
General requirements	\$961,050	\$961,050	\$946,050	\$961,050
(5) Contingencies				
	\$590,000	\$590,000	\$590,000	\$590,000
(6) Eligible Indirect Fees				
	\$1,423,000	\$1,423,000	\$1,423,000	\$1,423,000
(7) Eligible Financing Fees				
	\$2,053,035	\$2,053,035	\$2,053,035	\$2,053,035
(8) All Ineligible Costs				
	\$1,169,264	\$1,169,264		
(9) Developer Fees				
			\$3,306,148	
Developer overhead	\$509,443	\$509,443		\$509,443
Developer fee	\$2,856,379	\$2,856,379		\$2,856,379
(10) Development Reserves				
	\$200,000	\$321,033		
TOTAL DEVELOPMENT COSTS	\$28,960,791	\$29,653,569	\$25,347,133	\$26,013,552

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		\$25,347,133	\$26,013,552
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		\$32,951,273	\$33,817,618
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		\$32,951,273	\$33,817,618
Applicable Percentage		3.61%	3.61%
TOTAL AMOUNT OF TAX CREDITS		\$1,189,541	\$1,220,816

Syndication Proceeds	0.9599	\$11,418,451	\$11,718,662
Total Tax Credits (Eligible Basis Method)		\$1,189,541	\$1,220,816
Syndication Proceeds		\$11,418,451	\$11,718,662
Requested Tax Credits		\$1,184,604	
Syndication Proceeds		\$11,371,061	
Gap of Syndication Proceeds Needed		\$14,600,791	
Total Tax Credits (Gap Method)		\$1,521,068	



Idlewilde Apartments



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

IDLEWILDE APARTMENTS

PUBLIC HEARING

Campbell Middle School
11415 Bobcat Road
Houston, Texas 77064

October 17, 2006
6:15 p.m.

BEFORE:

SHANNON ROTH, Housing Specialist

I N D E X

<u>SPEAKER</u>	<u>PAGE</u>
Shannon Roth	3
Dwayne Henson	6
Cindi Simpson	10
Jeff Hayes	12
Chau Hoang	14
Cynthia Brandt	15
Christopher Prince	16
Jack Hallonquist	17
Michael Weber	19
Patricia Webster	21
Robert Ostrander	24
Jason Crawford	25
Connie Lawrence	27
Andrea Hecht	29
Jason Wong	31
Patricia Stewart	33
Nina Kulikova	34
Question-and-Answer Session	35

P R O C E E D I N G S

MS. ROTH: My name is Shannon Roth. I am with the Texas Department of Housing and Community Affairs and I just want to go over the format for this evening's hearing. What I'm going to do is do a presentation of the program that the developer has applied for; then I'm going to have Mr. Henson come up and give a presentation on the specifics of the development. Then I'm going to read a speech for the IRS purposes. At the conclusion of the speech, the floor will be opened up for public comments.

I'm sorry. Is the mic turned on?

MS. ROTH: I'm sorry; you're right. No. Yes, ma'am, you can just give that back to me.

Who did you say you were ma'am? I didn't hear you.

MS. ROTH: My name is Shannon Roth and I'm with the Texas Department of Housing and Community Affairs. According to the IRS Code, the Department is only required to take public comment on the bond issuance; however, TDHCA has extended this to take comments on the development itself. We are not required to do that, but we want the community input. TDHCA schedules a public hearing where the development is to be located at a time and location that is convenient for the community. The

two programs the developer has applied for include the private activity bond program and the housing tax credit program. Those programs were stated by the federal government to include private industry to build quality housing that is affordable to individuals and families in lower-than-average income.

The private activity bond program refers to the issuance of tax-exempt bonds. The tax exemption is not an exemption of property tax, but rather an exemption to the purchaser of the bonds. The bond purchaser does not have to pay taxes on their investment and the income on that investment. The bond purchaser accepts a lower rate of return; therefore, the lender that is involved will charge a lower interest on the mortgage that will be placed on the property to the developer.

The housing tax credit program was created as a result of the Tax Reform Act of 1986. The housing tax credit is an investment to an investor that purchases a tax credit. It is an IRS credit to the development unrelated to property taxes. The housing tax credit provides equity to the development, which allows the developer to provide lower rents to affordable tenants.

In conclusion, with both of these programs, the tax benefit goes to the investors that help finance the

development. This is what gives the developer the opportunity to bring something of high quality to your area. All of these properties are privately owned and privately managed. The ongoing responsibilities between affordable housing development and the Texas Department of Housing and Community Affairs includes state compliance monitoring. The compliance monitoring cleared with the state is the greater of 30 years or as long as the bonds are outstanding. The oversight responsibilities include seeing that they are occupied by eligible households, physical appearance, rents that are taxed at appropriate levels and repairs and other accounts are established and funded.

The private activity bond developments are monitored every two years by TDHCA and desk reviews are done quarterly. After a lease-up, a survey is usually done to determine the tenant profile and the types of services that would be of interest to the tenant. These services can include tutoring or honor roll programs, computer access, educational classes, after school activities, summer camp, immunizations for school children, ESL classes, GED certification, health care screening, financial planning, credit counseling and down payment assistance.

I'm going to ask Mr. Henson to come up and make a brief presentation regarding the specifics of the development.

Do you want to come up to the podium, or -- I don't know if they'll be able to hear you.

MR. HENSON: Do you want us to make a presentation?

MS. ROTH: Yes, if you can make just a brief presentation about the specifics. Do you think you'll need the microphone? If you want to just stand right here.

MR. HENSON: I'm Dwayne Henson and, together with my partner, Steve Ford, we're the developers. Can you hear that?

MS. ROTH: Yes, get a little closer. You might have to hold it. There you go; perfect.

MR. HENSON: I'm Dwayne Henson and, together with my partner, Steve Ford, we're the developers of the proposed apartment project and I'll just give you a little brief summary of the type of project we're going to build, and I'll just let you ask questions and I'll do my best to answer them.

But we propose a Class A, 250-unit garden-type apartment project, and this project will have 250 garages;

most of the units will have attached garages. We'll have probably one or two three-story buildings that will have detached garages, but every unit will have a garage.

In addition to the garages for each unit, we will have the standard amenities associated with a Class A project, such as each unit will be wired for a security system. It will have nine-foot ceilings. We will have a controlled-access system with security gates and an iron fence surrounding the project. We'll have supportive services, which means computer and education classes for the children, as well as adults if they choose to participate.

We will have approximately 12 to 14 computer stations for the participants, for the ones that want to participate. We will not ask for a property tax exemption. We will pay city, county and school taxes on the basis of the HCAD appraised valuation. The unit mixture will be approximately or it will be this: 52 one-bedrooms; 112 two-bedrooms; and 86 three-bedrooms.

VOICE: Will you go over that please? I'm sorry, the number of, like 152 --

MR. HENSON: We'll have 52 one-bedrooms --

MS. ROTH: It's in your handout.

VOICE: Oh, okay. I'm sorry.

MR. HENSON: Okay. The income for a project of this type, if you're not familiar with it, will be limited. A husband and wife with two children can make approximately \$40,000 per year, whereas a single person can make approximately \$26,000 per year. What this means is the people who live at this project, they have to be employed. If they're not employed and make at least 2-1/2 times the rent that they'll be paying, we will not lease to them. We run criminal background checks on every applicant that comes through the door and I can truthfully say that our project -- we have about 24 or 25 projects of this type scattered through the various counties, Galveston County, Brazoria County. Our crime rate is much, much less than the city and county at large, because if a person has any inkling of a criminal background record, we simply do not rent to them and we do not have to rent to them. And at this time, this about covers the notes that I have, I will just throw the meeting open for any questions that you might have.

MS. ROTH: Let me read my speech, and then we'll open it up. I'm going to read the speech to the IRS, then we'll open it up for public comment.

MR. HENSON: Okay.

MS. ROTH: Okay. At this time I'm going to go

ahead and read the speech for the IRS purposes and then we're going to open up the floor for public comment and then for questions and answers.

Good evening. My name is Shannon Roth. I'd like to proceed with the public hearing. Let the record show that it is 6:30 p.m. on Tuesday, October 17, 2006. We're at the Campbell Middle School, located at 11415 Bobcat Road, Houston, Texas. I'm here to conduct a public hearing on behalf of the Texas Department of Housing and Community Affairs, with respect to an issuance of tax-exempt multi-family revenue bonds for a residential rental community. The hearing is required by the Internal Revenue Code. The purpose of this hearing is to provide a reasonable opportunity for interested individuals to express their views regarding the development and the proposed bond issue.

No decisions regarding the development will be made at this hearing. The Department's board is scheduled to meet to consider the transaction on November 9, 2006. In addition to providing your comments at this hearing, the public is also invited to provide comment directly to the board at any of their meetings. The Department staff will also accept written comments from the public up to 5:00 p.m. on October 30, 2006.

The Bonds will be issued as tax-exempt multifamily revenue bonds in the aggregate principal amount not to exceed \$15,000,000 and taxable bonds, if necessary, in an amount to be determined and issued in one or more series, by the Texas Department of Housing and Community Affairs, the "Issuer." The proceeds of the Bonds will be loaned to Idlewilde Apartments, LP (or a related person or affiliate entity thereof), to finance a portion of the costs of acquiring, constructing and equipping a multifamily rental housing community described as follows: a 250 unit multifamily residential rental development to be constructed on approximately 15.9 acres of land located at approximately the 11600 block of Bobcat Road and the 9905 block of FM 1960 West Road, Harris County, Texas. The proposed multifamily rental housing community will be initially owned and operated by the borrower (or a related person or affiliate thereof).

I would not like to open the floor up for public comment. I'm going to call out the names I have on the witness affirmation form. If you'd like to come up to the blue podium and speak into the microphone at that time.

First we have Cindi Simpson and then it will be Jeff Hayes.

MS. SIMPSON: I have to talk into this?

MS. ROTH: It's important to talk into this one so we get it on the record? If you talk loud --

MS. SIMPSON: I talk loud. Can you hear me? First of all, my concern is when you start building all this stuff, you put more concrete in, we're going to have flooding a lot worse than we already have. I mean, yesterday, with whatever amount of rain that we got, I couldn't get out of my driveway and go to work. This is -- the last time this happened was back in June, I believe, so I mean, it happens probably five or six times a year that my street floods. I'm in the back part of the subdivision and the people that are in the front part get it a lot worse than I get it. But I mean, I lose a day's work, and so when you start building and putting all this stuff in, it's going to make it worse. And since they've built all the homes, the new houses that they put in off of Windfern, it's actually gotten worse since they started that construction, and I've lived here 11 years and in the last probably five to six years, the flooding in our neighborhood is a lot worse than when we first, you know, moved here.

And the second thing is, I want to know if everybody -- you're so gung ho about all this, why don't

you put it in your neighborhood, you know, because I don't particularly feel like that it ought to be in my neighborhood. I mean, you say you're going to check everybody's background and all that kind of stuff, but how do I know for sure you're going to do it? I mean, I have -- I mean, there's -- without pointing fingers and all that kind of stuff, I mean, we've got a lot of people here from Katrina and we've had a lot of problems, you know, from people that have come here. I'm not saying everybody is like that, but when you have people that get into government housing and all that kind of stuff, I don't care, you know. I mean, if somebody's only making -- a family is only making \$40,000 a year, you tell me how they can afford a \$900 and some odd dollar house payment or rent payment? Why don't they go buy a house? Is it because they can't qualify because of the money they make? So they're not going to be able to afford that, so who's going to give them the money? Where are they going to get the money to afford what you're going to put them in? -- because it sounds to me like that what you're charging -- I mean, they could go live in any apartment complex here in Houston for the same price. So that's my concern.

MS. ROTH: Okay, thank you. Jeff Hayes.

MR. HAYES: Well, I think she was pretty close to what a lot of us think. One thing I was kind of curious about is the times and I'm looking at -- this was filed in June and we're just now hearing about it in November when this is almost over, so one of my questions is: no matter how we feel about it, is this project going to go through, regardless? -- because if it is, then I mean, this is all a smokescreen and we didn't have enough time to really gather anything together because the same concerns we all have.

We've got concerns about the flooding; every time you build something around here, it floods. Every time we add a new building -- Harvest Bend didn't use to flood nine or ten years ago, until we built those warehouses. Every time we build something new around here, do you not take in concerns about the existing residential subdivisions around here, and we flood. And you're going to build something right over next to this school. That's going to change the flood plane on this school; I bet this school will flood, unless there's a whole lot of new drainage ditches, which is a new bond issue, which will raise taxes.

It's going to change a considerable lot of things that you're saying it's not going to have a

financial effect, because it will. We have to put in drainage; that's going to cost more money. That's what I -- also, increased school bonds, that's going to increase our taxes. Now, you also are talking about adding a 250-unit complex over here, which means you're going to now increase the school district by another 500 kids. That's going to max out the school; we're going to have to build another school; that's going to be an increase.

You're talking about lower income people; where are they going to work at out here in this area? That means bus routes; everything's going to change. Everything is all -- well, this is not going to change, it's all nice and simple. It's not that nice and simple; there's a lot of little details that are being left out. We're just now getting to the very tail end of this, and I'm concerned, just like, this has been going on, it looks like it's already in place, and it's going to change this area considerably and we have absolutely nothing to say about it and with two weeks left before this issue closes, I'm a little concerned that we've been bum-rushed.

So like I say, this is going to change the financial situation for the school board, it's going to change the flood planes and one thing we're all concerned

about, low income, regardless of where they're from, attracts gangs. Period. I don't care what side of town you're on, where you -- city you're on, low income housing always has gangs around them. Now, they're right next to the school and I'm quite sure none of us here need any more gangs in this general vicinity. We don't need any new kind of consequences out here like that, so I don't think this is a real good idea for this area.

MS. ROTH: Thank you. Okay.

Ms. Hoang, did you wish to speak at this time?

VOICE: [inaudible]

MS. ROTH: If you could come up to the microphone and just state what you're stating, that would be wonderful.

MS. HOANG: Hi. I didn't have idea about the neighborhood [indiscernible].

MS. ROTH: Okay, thank you. Cynthia Brandt?

MS. BRANDT: I don't have anything new to say, really, but pictures speak a lot. This is from my house, where I couldn't get out yesterday. I wasn't able to flush my commode back in June. I wasn't able to flush my commodes, because it looked like this. This is Windfern, where they're talking about all the new homes going in. These ditches have never overflowed; they're up to their

banks.

This one here is one of the new subdivisions that went in on Windfern. They were parking out front, because they couldn't even get into their subdivision. There here is also a retention pond in those new subdivisions; it's up to its bank and overflowing. This one is a retention pond over in Harvest Bend that's just been built, and it's very tall, very deep and it's full.

This is the corner of my subdivision; you cannot get in or out. Every time it rains hard, this is what we deal with, and you're talking about putting in a big complex. You're going to -- even if you put in a retention pond, you're going to overflow just like these do. We have too much concrete and no place for it to go.

MS. ROTH: Thank you. Christopher Prince.

MR. PRINCE: I don't have a whole lot new here to add. I want to reiterate on the flooding. I've been in the subdivision here about eight years and we used to get flooded maybe once every two years. Now, as other people said, it's as many as three, four, five times a year. I just don't understand how you can build something and put down 15 acres of concrete, with or without a retention pond, plus raise the elevation of the land; where's the water going to go? That seems to be the major

concern here.

Another concern that also has been brought up is education, the school district. The school district is building schools left and right and the first choice of people who would be living in the apartment complex down here would be the elementary school, junior high school and the high school right here, which, I'm sure, are at capacity as we speak.

Also, traffic, traffic around here has just gone crazy. Traffic control, during the school hours or whatnot, if you add another 500 students, you cannot even get out of Perry and Falcon anymore, because the traffic is all bogged up during the school days.

Also, as another individual iterated, the timing of this, as we've seen, the bond is supposed to be voted on in November which is just a month away, and we have barely got a chance to really dig into this issue and fully research the -- I'm at a loss for words here -- fully research the problems that this residential community will cause. Thank you.

MS. ROTH: Thank you. Jack Hallonquist?

MR. HALLONQUIST: I only have about two things. First, there was a man up here, let me ask a question.

MS. ROTH: We're going to address all the

questions at question and answer, if you don't mind. I'm going to make a list of them, so we can address them. So, you're free to ask it now, but I'd rather try to address them all --

MR. HALLONQUIST: Like the man said, is this done? Is this a done deal? Is it over? Is it past-tense? Is it? Yes, no.

MR. HENSON: May I answer that?

MR. HALLONQUIST: Yes, please.

MS. ROTH: Sure, go ahead. I'm just trying to keep us on track.

MR. HENSON: The project's backed by private activity bonds combined with tax credits. From the time you get the reservation of the bonds, you have five months in which to close it. Did you hear what I said?

MR. HALLONQUIST: Yes, keep going.

MR. HENSON: We have approximately five months in which to close these projects, and it's an ongoing process; it's not a done deal until we have the title closing of the bond which is supposed to happen in November. A lot of things can happen; we have done, oh, approximately -- we've done a lot of tax credit properties, of which approximately 16 or 17 of them are bond-back deals that we have completed. We have about as

many deals to fall through as we do; in other words, we invest money in these deals, and for one reason or another, they fall through and we have a lot of them that close.

But, in answering your question, it is not a done deal. In other words, you can have a right to protest all the way up to the closing of the bond. When they award the tax credits to this property, I believe that's probably later on in this month or it may even be in November, you have the right to come to Austin and meet at the Texas Department of Housing and Community Affairs and protest it all the way to the final closing.

I don't know whether I've answered your question or not, but I've answered it as well as I can. It is not a done deal; I wish it were, but it's not.

MR. HALLONQUIST: The second part of my question is, property values in this area. I have lived here quite some time; my house is my investment; I expect to make a return on my investment, and you are taking that investment away. Do you understand what I'm saying?

MR. HENSON: I don't know whether you can hear me or not, but --

MR. HALLONQUIST: I can hear you very well.

MR. HENSON: -- I understand what you're

saying. I don't necessarily agree with you, but I understand what you're saying.

MR. HALLONQUIST: From what the other people have said, gangs will move in. I'm worried about my property values on my house. I'm not worried about your property; I'm worried about mine, and you're in my neighborhood, you're coming into my neighborhood, and I don't appreciate it. Thank you.

MS. ROTH: Michael Weber?

MR. WEBER: I believe everything's been covered from my point. I do want to say having always lived in a nice neighborhood, so I'd like to say, I moved into this neighborhood, hoping it would stay nice. I'm not saying that people with a lower income coming in, I think it's a great thing to try to help people that need affordable housing, and I just -- my concern would be the screening process, because what this has done, we don't have any say on the screening process of who you allow into this complex.

Already, just in the last five years, the crime rate's climbed in our neighborhood. I mean, I don't even have to know that, but I can see it in graffiti and things like that, and that was never an issue before. I'm not saying the people moving into this complex would be doing

that, but I do believe that anytime that a government-assisted, or I'm not sure what kind of assistance this is, it's not typical government housing or Section 8 houses, it's different than that, but you're giving tax credits to allow these people to be able to afford -- the government's helping you to help them is the way I understand it, and I just -- normally those people are larger families. How many teenagers might be living in some of those places, and I'm not picking on teenagers, I was one, but that's another reason I just -- you're adding 500 cars, at least, into an area that -- 1960 doesn't need any more traffic than it's already got, especially at this red light down here. I can only imagine what the traffic on Bobcat's going to be like coming onto Windfern and to 1960; this is not even going to be a good deal there.

But I really just hope that this turns into a positive thing, whatever happens. I prefer it not to happen, but if it does, I just hope that y'all do your job.

MS. ROTH: Thank you. And last we have Ms. Patricia Webster. Sure. Please speak into this one; that way everyone can hear you and the court reporter should have no problem picking you up as well. Thank you.

MS. WEBSTER: Thank you for this time.

MS. ROTH: You might want to either pick it up or bend down a little bit.

MS. WEBSTER: Which one?

MS. ROTH: This one; that's the one for the folks up there.

MS. WEBSTER: Okay. Can you hear me?

MS. ROTH: I can hear you fine. Can you folks hear her okay?

VOICE: Yes.

MS. WEBSTER: Okay. I get a little nervous speaking in crowds, so just bear with me.

MS. ROTH: No problem.

MS. WEBSTER: Thank you for this time to let me speak.

VOICE: We can't hear you.

MS. WEBSTER: I'm sorry?

VOICE: We can't hear you.

MS. WEBSTER: I'm sorry. Thank you for this time. As it is for now, we are overwhelmed by the traffic on Perry. About three-fourth's of the traffic on Perry do not even live in our area. Besides that, we have the large trucks that start running around 4:30; there are beer trucks, soda trucks, dump trucks and, you can even imagine, larger trucks. Then there's cars and then

there's -- for going to work, and trucks. And then we have the buses, which we need, because in our area, which we live right beside the swimming pool, if y'all are familiar with that, the students have -- they can't go there, to Cy-Fair. They have to go to the other school on Eldridge, which that's a long way to go.

And then Campbell is about to burst, I mean, you know, and so we're going to have to have another, like someone else, I think this gentleman said, we're going to have to have more schools, and it's going to be out of our pockets. The school taxes are going to go up and it's going to be a waste on our -- not a waste, I'm sorry. It's just going to be very -- it's an inconvenience for all of us, and we -- what we think about your apartment, what you're doing is making a horrible mistake, because I believe there should be some woods to maintain for the animals and for the rain, so it can set.

But when you start building, and I've seen it so many times down the street, at the curb, they're building these buildings and all the cement, and there's no place for the rain to go, except flood. And we flood, the lady with the pictures, yes, she -- thank you for showing the pictures. When Allie hit, we've never had -- we've lived here 17 years. We've never flooded, and so I

called our insurance and asked if we need flood insurance; no you don't. Now we do, and it's unimaginable, the rate is so high. But with her pictures, that's what happens to our back yard, but it's not just simple rain water; it's sewage from the sewage pipes, you know, on the sidewalks, because that's how high it gets and it comes up all the way to our garage and into our garage, and we're lucky that we have steps in the front, but anyway, I'm sorry, I'm rambling.

Like I said, we're going to have more kids and it's just going to be too many, too much for these little kids to wake up at 6:00 o'clock to get ready for their bus that comes at 6:30 to take them 13 miles away, which that shouldn't happen, and this isn't just Turtle Lake, it's Turtle Hill, Harvest Bend, all the Harvest Bend. So we ask that you please not build your apartment here; take it to another place; take it over to Gessner, or take it off of -- what is that place, what is that -- 249. Take it off, way down 249, off of West Montgomery. And I can tell by the way you're looking, is that this woman is just rambling, but, and you're already got your mind set. But we have petitions, if you need that, we can have petitions from all, not just Turtle Lake or, you know, whatever that is, where we live, but we could have so many people that

are angry. But it's not a good time, because they're still at work, trying to get home. Do you understand?

MS. ROTH: Your comments have been duly noted.

MS. WEBSTER: I'm sorry. Okay. Well, anyway, thank you, and please don't build this here. I mean, we do have gangs; we do have some bad people behind McDonald's and stuff, so we don't need that, you know, and please don't do that.

MS. ROTH: Robert?

MR. OSTRANDER: I just want to say I agree with the things that have been said up to this point. I have a concern of my own that's a question that I'd like to pose and that is, does the criminal background checks that you've talked about earlier, will that include people that are breaking immigration laws by being here illegally in the United States, because I think that's against the law too. My wife is a person from Russia. We waited a long time for her to be legally become a citizen, and so, my concern is that this would mean affordable living to people that are breaking the law by being here illegally; I don't think that's right. In addition, I agree with the other concerns that have been brought forth, and that's what I have to say.

MS. ROTH: Okay, thank you. Jason Crawford?

VOICE: At the very end, can I ask one more question?

MS. ROTH: Yes, ma'am, as soon as everyone makes their public comments, we'll open it up for question and answer. Excuse me.

MR. CRAWFORD: This one?

MS. ROTH: Yes, unless you speak really loud, where they can all hear you. It's up to you.

MR. CRAWFORD: Now, there's several reasons why there's not a need for this development at this location.

A few have been touched on already; the traffic is an issue on 1960 and it has been forever and it's continuing to get worse. We don't need it any worse. The intersection that this proposal is set for is Bobcat and 1960, and anybody that lives around here knows that's a pretty small road, to intersect, to put 250 additional units right there. You're talking about traffic from school and houses. There's no room for that. Overcrowding of the schools is another issue. Somebody mentioned that Campbell Middle School is already at their limit, as is Springtime Elementary which is right next door. So there's not a need for that here, because of the school count.

Flooding is another major concern, because all

these developments have to be built 18 inches, is that correct, of build-up on your construction?

MR. HENSON: Are you asking me?

MR. CRAWFORD: Yes.

MR. HENSON: We have to be at least 12 inches above the 100-year flood plane.

MR. CRAWFORD: So you have to be 12 inches to pour your concrete on --

MR. HENSON: Yes. That could be 12 inches off the natural dirt; it could be 18 inches; it could be 24 inches.

MR. CRAWFORD: Right. Okay. So that's at least a foot higher than my house --

MR. HENSON: We have to --

MR. CRAWFORD: -- and everything else around.

MR. HENSON: -- elevate our apartment, just like any other apartment project.

MR. CRAWFORD: Any other new construction.

MR. HENSON: That's been a rule as long as I can remember that you've got to be a certain height above the 100-year flood plane.

MR. CRAWFORD: That's correct. The reservoirs that we have are already at their cap, because of all the new construction that is being built in the immediate

area, and lastly is, there is not a need for this, because of the market rate on complexes and plus the Meadowland just approved puts us at the limit. There's not a need for any more of these housing, because we have it available already that's not being used. So that's what I have to say.

MS. ROTH: Thank you. Connie Lawrence?

MS. LAWRENCE: I agree with what everybody said and a lot of them said things that I've wanted to talk about. The schools around here -- I've been a school bus driver for Cy-Fair for six years now. I've driven lots of areas, lots of schools. I've driven low-income apartments, government housing, and we don't need any more of that here. I drive two of those apartments right now and I drove one last year, and it's kind of where, the way I see it, driving all sorts of neighborhoods, and just with the kids, and I see where the ALC students live, not that they don't live -- I'm sure there's somebody that lives in a nice home, but you do get gangs in these low-income projects. That's where they were going when they came from Katrina. We had overloads on our buses, we had fights on our buses with gang members. I had never had a fight before, I mean, I know there's gangs everywhere, but it just brought in more.

You're taxing the schools; we are already overcrowded. You do bring in 250 homes, you're probably going to have 500 kids. We are understaffed with school buses, we are building schools as fast as we can. Like they say, we've got kids on this side of the street going to a high school four miles away. The kids on this side will get to go finally now, starting this year, 1-1/2 miles down the road. When these kids come in, you're not only going to have elementary, middle school and high school, that these -- you're going to have to send some of these kids to other schools, because they have things with problem kids where we transport them to other schools.

And like I said, we are starved for bus drivers. We get supervisors to drive, we get administrator's staff to drive, and also, as far as the, with the bilingual students, I've driven bilingual, that they can't speak English or no English at all, I have driven them five miles across town to another school, which Cy-Fair does not get paid for. We do not get paid for that from Texas, from the Texas school system. Cy-Fair eats that, on their own. And we have done everything we can to help these kids that, it seems their parents, they just -- they don't know.

I just don't understand why we have to take

care of people that come in, that don't seem to -- that their parents just don't care if they get in trouble. And like the one lady said, there's a whole lot of space down 249, heading towards town, into Houston, into I-45, where there are just buildings -- vacant buildings after buildings after buildings on all this concrete already. I don't know why you can't build over there. Yes, just tear it down. Buy it up; they're vacant. Don't do this to us.

With the flood yesterday, they -- it was on our dispatch for us bus drivers, Do not come down Bobcat or Falcon off of Windfern, because you could not see the road. Okay. I was going down there, right when they were announcing it, and I was supposed to turn right onto Falcon, which is adjacent to Bobcat, and as one man mentioned, that road is so tiny, and I told the kids, I can't go that way. I can't see the road, because it was so flooded. It was also flooded down there. The drivers had to re-route somehow, to get into Campbell, because of the flooding waters yesterday. And I don't know where all this water's going to go; we're going to have to shut down the school, every time -- if it rains like this again.

I, you know, I don't want you to build; I know a lot of people that don't want you to build. I think there's a whole lot of space in the Houston area, and you

know it, just vacant, old shopping centers. Why can't you just build there?

MS. ROTH: Thank you. Andrea Hecht? Did I say that right? All right, sorry.

MS. HECHT: Hi. I don't really like talking to a group of people and I'm nervous, and most of what I had to say has been said. In regard to the flooding issue, it is a horrible issue. I drove my daughter here to Campbell yesterday. On five minutes or less to this school, it took me 40 minutes to get her to the school, trying to zigzag around and get through all the flooding and when my daughter started here at Campbell last year in sixth grade, the school was already overcrowded. They had to add additional lockers, and then we had the Katrina people come in and that just really made it overcrowded.

I can't imagine they can put one more kid in this school, and it be a safe place to send your child to school. Overcrowding in the schools is no good.

The low-income issue, I believe it does bring problems. I know everyone needs a little help, but we've got other low-income facilities nearby. I know there is at least two near the 249 and 1960, kind of behind the Fiesta, and I do know that one of the apartment complex over in that area started taking in Katrina people and

they had so many problems, that we had friends that moved out. So I'm really very -- oh, another thing is, I'm wondering if such a project so close to Campbell here is safe for our children. I mean, I'm real concerned about that, not only the overcrowding, but is it just going to be safe? And I am very irate over the fact that my property values are going to decrease if you build this project here. And I don't think you'd want one near your home and I think you'd be in my shoes opposing it. Thank you.

MS. ROTH: Okay, Jason Wong? Hello.

MR. WONG: A lot of things have already been said, but I want to make my point. A lots of points are already been made, but my concern is, I want to make three points. One is I've been here since 1997. It floods almost every year. Okay. 1998, I have all those photos if you want to see, I'll put it on the website. It's embarrassing. Each time it floods, everybody gets to work. I have to call my boss, I can't go to work. Okay. What's the reason? Do you live in a flood home? No. What's the reason? It's embarrassing. Okay. In my profession, I have to work like a clock; I can't just goof off. In the mornings I can't go not in without a good reason. Right? So not only to say, well, the potential

damage of the property, which made us worry and worry again, you know? And when Alison happened, we were out of town, but you know, when you come back, you see where the floodline was and you get concerned, you know, when you are out of touch, all those things.

The second point is, since I've been here, at least since I've been here, the infrastructure has not changed in this neighborhood. You have those roads, they are still two-lane, one-lane, okay? There was so many constructions on Windfern and Perry Road, so many house, new subdivisions have been built, but you don't have infrastructure to support it. You don't have drainage, you don't have roads, okay? So before any new development should be considered, we have to say, how are we going to improve our infrastructure first, before we can put all these housings upon it, by bringing another thousand people in, and two children in each family? Okay. So that's very important, you know, before we discover any development.

The third thing is, to me, my opinion, this location is not quite suitable here for residential housing, okay? For low-income, they need to be on a bus route, and this is right off 1960. You probably can make much more money, developing it into a commercial center or

something else. So I don't see the reason, building a residential housing apartment in this location. Thank you.

MS. ROTH: Thank you. Did you want to speak also?

MS. STEWART: Yes.

MS. ROTH: Okay. You can go ahead. Patricia Stewart.

MS. STEWART: Most of my concerns have already been addressed.

MS. ROTH: The other one, yes.

MS. STEWART: Most of my concerns have already been stated, but I would like to reiterate them. My son attends Cy-Ridge High School and the school has not been around more than five years; it's already overcrowded. The school was built to educate, I think, 2800 students, and there are already over 3,000. As the gentleman stated, there are no buses in this area, so how will the people work? You know, that's a concern for me, because generally, low-income people, they might not have cars to get around.

I'm also concerned about my property values, but more importantly, the quality of life in this area would change considerably. I have two children, a six-

year-old and a 16-year-old, so that brings about my concerns for gangs. I'm also concerned about, this says that it's a tax credit property. We have one called Willow Green Apartment Complex; most of the students there score below average on TACTS exams. If you look at the property, it's a mess, if you ever walked around the site.

So I don't see anything positive coming out of this. It almost sounds like project housing, and I wouldn't want project housing in this area, because I live here. I think that's it. Thank you.

MS. ROTH: Okay. Ma'am, were you wishing to speak? Okay. You can come up now. After this, you can fill this, if you'll give me that, once you're done. You're the next person. State your name if you would, for the record.

MS. KULIKOVA: My name is Nina Kulikova. I'm from Russia. I have lived in the United States seven years. I worked in Russia with kids 14 years. I love kids. Can you build, not apartment for poor people, just parks for kids? Thank you very much.

MS. ROTH: Ms. Kulikova, could you please fill out one of those forms? Thank you.

Does anyone else wish to make public comments? Not question and answer, but if you haven't filled out a

form and want to make a public comments? Okay. I'd like to ahead and I'm going to adjourn the hearing and then we'll do question and answer.

Thank you for attending the hearing. Your comments have been recorded. The meeting is now adjourned and it is 7:10 p.m.

(Whereupon, at 7:10 p.m., the public hearing was concluded.)

QUESTION-AND-ANSWER SESSION

MS. ROTH: What I'd like to do now is open the floor for question and answer. If you would kind of speak up -- if you could, I guess, try to come up, state your question, that way we can get it on the record. That way, you can hear, and Mr. Henson, hopefully -- you want to come down here, so you can be closer to the mic? And hopefully, he'll be able to address it, or it might be a question that I can --

MR. HAYES: This is a question for you. I think everybody here has -- we've all stated how we feel. We want to know one thing: What do we need to do to protest and stop this?

MS. ROTH: Your comments have been recorded. The transcript -- a copy goes to our board members prior to our hearing. As Mr. Henson said earlier, it's not a done deal until our board votes and the bonds actually close. You're invited to attend the board meeting on November 9 in Austin at the Capitol, and you can come at that time and make the same kind of public comments that you made here this evening at that time also.

If you're not able to attend, you can submit your written comments, fax, e-mails, mail, overnight mail, however you wish to do it, and then it will also be noted

in our, what we call our board book, that our board will be able to see, that we received X number of comments regarding this development and some of the concerns.

VOICE: Could you please give us your address that you send --

MS. ROTH: If you're going to send it regular mail, please send it to our PO box.

VOICE: This gives you an e-mail address?

MS. ROTH: Yes, you can send an e-mail; it will suffice just as well, whatever is more convenient and easier for you.

VOICE: You said our comments have been recorded. Can I turn these in?

MS. ROTH: You can, yes.

VOICE: The PO box is -- that's on your card here?

MS. ROTH: Yes; that is for regular US mail only. Sir?

VOICE: Thank you for coming down here. My question is, I don't know if you misspoke, but you had said the city and the county approving this. I don't recall that area ever being in the city limits. Have you made a deal with the city?

MR. HENSON: It's not in the City of Houston.

It's in Harris County. It's not incorporated, but it is not in the city.

VOICE: Okay. I just wanted to verify that, because I was wondering what city --

MR. HENSON: Utilities you have to get from the MUD district.

MS. ROTH: Mr. Henson, could you please use the mic? They're having some trouble hearing you. Okay. He said that the utilities are with the MUD district and that the property is located in the county. Is that correct?

MR. HENSON: That is correct.

MS. ROTH: Any other questions? Yes.

MS. WEBSTER: Do I need to use this or do I just talk to you, or talk to this?

MS. ROTH: If you'll just speak to the general audience, that would be awesome.

MS. WEBSTER: Okay. I'm sure y'all can hear me now, because I've gotten upset. For the last 17 years, my husband and my two children have lived here right off of Perry. We've made that into a little home. Now, you said that you're going to do a background check. We all know that that's kind of a joke. What person is going to say, oh, yea, I'm with the Crips, yea, or I'm with the Bloods. That's not going to come out, you know. And another

thing, about this background check, are you going to check for mainly what is best for our children, pedophiles, rapists? Are you going to do that for us? Thank you.

VOICE: I think that would be better answered -- question would be answered, are you just going to check the people's names that's on the lease or everybody that's going to be in --

(Many voices simultaneously.)

MR. HENSON: Ma'am, I can assure you that we do a very thorough background check.

VOICE: Okay. I don't want to hear from you.

MS. ROTH: Just a minute. Let him talk, sir.

MR. HENSON: I don't want bad people in our project any worse than you want them in your neighborhood, because I'm in this -- I don't want any bones about it, I'm in this to make money. I can't move bad people into my projects and make money, because at the end of two or three years, I've got a bunch of crap that nobody wants to live in, and they're going to move out, because we have certain guaranties on these projects, continuing guaranties, and we lose money if we don't check these people out real thorough and, believe me, we give them a much better criminal background check than they do at so-called conventional projects, believe me.

VOICE: Would you want projects in your neighborhood?

MR. HENSON: I think I'm telling you the truth.

VOICE: Would you want this apartment in your area?

MR. HENSON: I can't hear you.

MS. ROTH: The question is, would you want this apartment in your neighborhood?

MR. HENSON: I live in a neighborhood that has apartments all over the place.

VOICE: We're talking low-income apartments.

MR. HENSON: Some of these apartments, the rents are lower than our rents.

VOICE: That's not what I'm asking.

MR. HENSON: Some of the rents of the apartments in the area that I live are lower than the rents we'll be charging on this project. Let me say something, I don't want to leave the wrong impression. I want to thank all of you for being a well-mannered, courteous audience. We have been to some of these hearings and you can't believe what we encounter. I want to compliment you -- I'm trying to answer your questions as well as I can, but you are a very nice audience, believe me. I just want to get that point across.

But believe me, all over this city, you go into some of these very affluent areas in the city, and they typically have a stock of old apartments. Their rents are lower than ours. We build in areas where the rents are lower than our rents; a lot of people don't want to live in those projects, because they do have crime, and they just don't even on your class-age projects in good areas that charge high rents, they don't check their residents out as well as we do, because they're not under the same program, the same constraints, because we have to report to the state continually. Every month, we have to submit a report to the TDHCA and they monitor the dickens out of these projects, believe me.

Let me make another point, and we've had this to actually happen to us. Out on Fry Road in the Park Row area, this is probably five years ago, we were planning a 200-unit apartment project. For one reason or another, I believe the school district objected to the project very, very much and I have a lot of respect for Dr. Murrell, who is the, I believe he is the superintendent of the schools.

He has, in the past, approved some of our projects, but for one reason or another, we had to withdraw from this project.

Now, keep in mind, Harris County and the City

of Houston does not have zoning requirements. Right behind us -- we were going to do a couple of hundred units. Right behind us, when we withdrew the project, there was a hideous -- and it's there now -- approximately 350-unit, three-story project that took the place of ours, so by defeating our project, they got a worse project.

That could happen on this land; you can't -- you're in a -- the difference between us and somebody else coming in, they're not going to get up here before you and try to convince you that we're not going to do your neighborhood any harm. They're going to go ahead and build that project, and there's not a whole lot you can do to stop it.

VOICE: What was the address there?

MR. HENSON: I can't hear you, ma'am. I'm an old --

VOICE: Well, we can't hear you because you -- what was the address?

MR. HENSON: I have what you call pilot ears. I was an Air Force pilot in the '50s, and I have a problem hearing. I have a problem hearing you, ma'am.

VOICE: What was the location of that apartment complex? Fry Road and Park.

MR. HENSON: Well, it was off of Fry Road,

about a block off of Park Road and about a block or two off of Fry Road. If you go in there, you'll see a project in there; it's about 350 units.

VOICE: When you said you're going to do a criminal check, are you going to go strictly on their name on the application or are you going to take fingerprints?

MS. ROTH: Did you all hear her question?

VOICE: Yes, we did.

MR. HENSON: I don't think -- I'd have to check with the project itself; I don't think we go to the extent of taking fingerprints. We have to get their permission to do a --

VOICE: Then how can you be sure that there are -- that there will not be any criminals there?

MR. HENSON: Well, we simply -- you know, we turn their name in to the Police Department and people like that and run the criminal background check. We can't do an investigation such as someone better qualified than us, like the FBI or the Police Department or something like that.

VOICE: First of all, I noticed that more and more places are taking fingerprints. And it's easy to --

MR. HENSON: I mean, that's a good idea. I don't object to doing it, but I don't think we're doing it

at this time.

VOICE: I mean, I just recently had an ID card made. My husband has been in the military, and I had to give my fingerprints in that, which was the first time in many year, so to me, if you're going to do a criminal check, the most accurate way would be to do it based on fingerprints.

Now, I don't know whether it's legal or not, but it's to change your name; it's easy to buy false identification; then you cannot be sure that there will not be criminals there, unless you have a more foolproof way of checking the background, i.e., fingerprints.

MR. HENSON: I don't think we're taking fingerprints. In fact I know we're not taking fingerprints, and like you say, that's what I was thinking, I don't know whether it's legal or not, and I'm not saying it's a bad idea; I'm just saying that we don't, at this point, we don't do that.

VOICE: To me, it would be more accurate. Then you guarantee anything.

MR. HENSON: We can guarantee as much as, say, like a person moving into your neighborhood, in a house or something; in other words --

VOICE: No, you can't.

MR. HENSON: -- and if you've got another apartment project that could come to your area, I think we'll probably do a better job than, say, the conventional project. But I can't sit up here and tell you that what we do is foolproof, but neither can anybody else.

VOICE: Why did you pick this area?

MR. HENSON: We do a lot of driving, and we do market studies and things of that nature, and we find what we -- we just drive around and pick out what we think is a good location, and we do this, like I say, we've got about 20 something, 24 projects scattered over the area.

VOICE: You have projects here in Houston?

MR. HENSON: Ma'am?

VOICE: The projects are here in Houston?

MR. HENSON: Most of them are, yes, ma'am.

VOICE: What are some of the names of the projects that --

MR. HENSON: If you'll give my assistant there your name and address, fax number, we'll send you a complete list of addresses where you can drive around and look at them.

MS. ROTH: Sir, you had a question?

VOICE: Yes, I believe he did too. I thought we were coming up to ask her questions.

MS. ROTH: Good intentions. You can go ahead, sir.

VOICE: Okay. I just wanted to make a comment of, I believe this meeting is kind of over, but before it's over, if y'all could hang out for about 15 minutes, I'd like to get together and maybe get some names and phone numbers so we can talk offline, if that's okay. Thank you.

MR. HENSON: Let me point out something else. The term government housing keeps coming up. It's not government housing; I don't think you could call it government housing in the sense of Section 8 and stuff like that.

VOICE: It's subsidized housing.

MR. HENSON: No, it's not even subsidized housing. We run this project without government interference. The only restriction we have, we have certain requirements we have to abide by, but the number one restriction, we cannot rent to individuals that make over a certain income. Other than that, we run this project just like a conventional project.

VOICE: What's the minimum income?

MR. HENSON: It depends upon family size, but the very minimum income is a single person, it's

approximately \$26,000.

VOICE: That's the minimum that they have to make or the maximum that they can make.

MR. HENSON: Excuse me, I said it wrong. That is the maximum they can make is \$26,000.

VOICE: What's the minimum they have to make?

MR. HENSON: The minimum -- we do not lease to anybody unless they make 2-1/2 times what their rent is.

VOICE: What's the minimum rent?

MR. HENSON: The minimum rent for a one bedroom is approximately \$600.

VOICE: Can you speak up a little bit?

MS. ROTH: Yes, you might want to hold the mic closer? They're having a hard time.

Okay, sir?

VOICE: I have two questions, and I'm going to ask the first, then you answer that, then I'll ask the second. First of all, I happen to enjoy my property backing up to the woods and have for 20 years. So they're about to go away. What do you plan to do about the privacy that I'm about to lose? Not having neighbors in back there, I heard you say you may have some 3-story apartments, so am I now going to have residents in a 3-story apartment looking over in my back yard, or --

MR. HENSON: I don't know what size property you're on, but 3 stories --

VOICE: Well, there's only one side that backs up to it.

MR. HENSON: -- we have, I believe, either one or two 3-story apartments that will be up close to the front, and we'll leave you with a site plan when we leave from here.

VOICE: Well, I was going to say, and this isn't my question, but I was a little disappointed there's not a site plan here or anything, so we can see exactly what the plans are.

MR. HENSON: We'll leave you a site plan.

VOICE: Okay. Question number two is -- well, let me back up a second. One, a, okay? Are you planning to put in any kind of security fence, a tall fence to give me any kind of privacy? Or am I just going to have a little six foot high wooden fence I have now? And parking and whatever in back --

MR. HENSON: We typically, over on the side, but the side I think you're talking about, we would typically put in an eight foot security fence. And normally, that fence is usually an ornamental iron fence.

VOICE: Okay. Ornamental iron? Okay. Well,

right now we have cedar fencing, so that wouldn't provide any privacy whatsoever.

MR. HENSON: If a neighbor came to me and said, I'd rather have an eight-foot cedar fence, it's a whole lot cheaper than an ornamental iron fence; I'd be happy to put it in. We put the ornamental iron fence in because we just think it looks better.

VOICE: Well, like I said, my back yard and my fence backs up to the property. I mean, it's the only row of homes there that backs up to the property.

MR. HENSON: We have put in cedar fences before; let's put it that way.

VOICE: Okay, because I would think we would want something solid, not -- you know, not a wrought iron fence.

MR. HENSON: We'd be happy to accommodate you on that.

VOICE: But remember that they cannot [inaudible] on the wood.

MR. HENSON: But you have to -- since I can't remember everything, if you wanted something like that, assuming that we proceed with the project, you'd need to come get with us.

VOICE: Okay. Question number two. I heard

that -- you've heard all the flooding, and that's true to form, and my street backs up right to your property that you're discussing here. Yesterday we flooded, okay? Couldn't get out of the neighborhood. You're going to raise that property 12 inches, okay? Today I have a drain in my back yard that I put in that drains to the curb so that I can minimize the flood I already have.

All right. When you raise that property 12 more inches, I now have a lake. Okay? Who do I come to see about my property issues?

MR. HENSON: I cannot dump water over on your property.

VOICE: But what do you plan to do to resolve the flooding issue?

MR. HENSON: Well, we would have adequate detention. In a normal rain, that detention holds back the water and then slowly releases it so it does not cause a flooding problem. In fact, it's probably a less flooding problem than what it is now.

If you have a rain like we had -- I'm not going to sit here and tell you something that's not true. If you have a rain like we had the other day, I don't care whether you've got an apartment project there or you've got vacant land, you're not going to eliminate the

flooding if it already exists. There's nothing that anybody can do when you overwhelm the system.

VOICE: And what we're talking about here is further overwhelming the system.

MR. HENSON: But we will not add to the overwhelming of the system.

VOICES: Yes, you will.

MR. HENSON: I wish I had our engineer here, because he can address this a whole lot better than I can, and I may sit here and tell you something and I'll check it out later, I may have said the wrong thing, let's put it that way. And I'd be happy to have my engineer -- if you'll give Lilly your comments, we'll be happy to have the engineer write you a letter.

What I'm saying is, and I think I'm telling it you right, we're not going to add to the system, we're not going to add to the problem that you already have, to the existing problem.

VOICE: How are you not?

MR. HENSON: We will follow a design.

VOICE: But in June, it was the system -- it wasn't as bad as yesterday and we still had flooding. I still couldn't flush commodes because of the water backing up. Eleven years ago in this subdivision, when I moved in

in '95, we didn't have any flooding until 1998.

After all this other stuff that they started down Windfern, buildings that -- not Windfern, Perry, the two -- that one subdivision -- when they started building in '98 is when we started having flooding problems.

In '98, we were only having maybe one big rain that would flood the streets once a year. In the last six months, it's flooded twice, so you can't sit here and tell me and make me believe that you putting in something that's higher than his property, and then say you're not adding to the problem.

I don't know what planet you're living on, but that's going to -- you know, if I'm up here and somebody's building a house up here and I'm already flooding, everything's that's going to come down their hill is now going to be in my back yard.

MR. HENSON: I prefer that our engineers answer your concerns.

VOICE: It's kind of convenient that he's not here. Why isn't he here?

MR. HAYES: I've got a question. So you've already had an engineer already mapped out this location. My question is then --

MR. HENSON: Well, he didn't map out the

location. He's done the engineering.

MR. HAYES: Well, he's done elevation --

MR. HENSON: Yes.

MR. HAYES: -- and he's looked at it.

MR. HENSON: Absolutely.

MR. HAYES: -- so the three questions that we are already asking: If the drainage does become an issue -- if, like it will, and these roads -- who's going to pay for the new drainage and the new roads that are going to have to be constructed for your project? -- because you are on this tax credit from the government, which means you are getting subsidized profits to help build this. Correct?

MR. HENSON: We're getting private activity bonds, which are tax-exempt bonds, which --

MR. HAYES: Private activity, you're getting bonds.

MR. HENSON: But the government -- this is not government money; this is private money.

MR. HAYES: All right, so the private money that you're getting --

MR. HENSON: There is no government money given to us for this project.

VOICE: Do you pay taxes --

MR. HAYES: The extra money, then, that's going to be needed for the drainage and these two roads out here that you've already been on -- you know that you cannot put any more people on these roads. Who's going to pay to have these roads widened and have the sewers done?

MR. HENSON: Well, I think our --

MR. HAYES: Is it going to be a Cy-Fair bond issue now? Because these are private monies that are building your complex, so the rest of this money has to come from the Cy-Fair district, which is us, which means we've got to pay for your roads and your sewers that you don't think are going to create an issue. And you know you can't drive out and get up on this road right now.

(Applause.)

VOICE: Because he's a businessman.

MR. HENSON: But what I'm saying is we're not going to add to an existing problem.

MR. HAYES: Okay. Well, let's say that you do. Let's just, you know, be outside the box. If you do come back, well, all these engineers were, oh, yeah, we need to widen this and we do need some drainage. Are you going to pay for it, or is that going to come back and be a Cy-Fair bond referendum?

VOICE: It won't be the government. I mean,

the subsidized --

MR. HAYES: We're going to have to pay for that. Right?

VOICE: -- people over there paying for it; it's us.

MR. HENSON: There's no way we -- if you've got an existing problem that needs to be corrected, there's no way we have that kind of money.

MR. HAYES: All right. We already have an existing problem; we know that. So what are you going to do when you find out that you've got the same problem now?

VOICE: He's going to build above it and make our problem even worse.

MR. HAYES: But still my question is, since we already know we have a problem, you know it, what are you going to do?

MR. HENSON: The entire city, the entire county --

MR. HAYES: Are you going to help the area by bringing funds in and help build some new roads and build some new sewers out of your pocket, or are you going to push it back to us?

MS. ROTH: Okay. I don't think -- excuse me; Shannon Roth with TDHCA. I don't think we're going to be

able to -- Mr. Henson is going to be able to address -- I mean, he addressed some of the flooding issues, and I understand it's not satisfying, so it would -- and as he has agreed to do, you can get a copy of the site plan from him. His engineer will be happy to contact you and vice versa. I don't know if we're going to be able to allay any of your fears any further than that this evening.

VOICE: I've got one more question.

MS. ROTH: After this lady, does anyone else have any questions and we can just get them answered --

VOICE: I have a couple of questions that I need you to --

VOICE: You were talking about some bonds that are coming out for us to vote on in November.

MS. ROTH: No, ma'am, it's not for you to vote; it's for the Texas Department of Housing and Community Affairs board to vote on.

VOICE: Oh.

MS. ROTH: That's why we're having the public hearings, to get your input on them. Like I said a few times earlier, the public is welcome to attend our meetings in Austin; you're welcome to fax, e-mail, mail any type of, like that, give your public comment to the board.

Everything said tonight at this hearing is in the transcript, which is being taken by the court reporter. The transcript is given to the board to have access to what was said right here.

Any other questions? Sir?

VOICE: When you have your property, are you going to be subject to sewage and MUD tax, property tax and school district tax, or are you exempt from all that?

MS. ROTH: The question is, are they going to be paying taxes on the property?

MR. HENSON: Absolutely.

VOICE: So you'll pay the same amount of taxes as we will.

VOICE: No.

MR. HENSON: We pay taxes based upon a Harris County appraisal of the project at the same rate that you pay. I think that would be a fair answer.

VOICE: Okay. And I've got one more question. What kind of security are you going to give us? Or what kind of security are you going to put on this property? Are you going to have security guards, or are you going to have off-duty police officers, anything like that?

MR. HENSON: We have a security fence around the project; we have secured access. Every unit is wired

for a burglar alarm. We're not in the burglar alarm business; every resident that moves in has to call his own security company to furnish his monitoring of his security system I think would be a fair way of saying that.

VOICE: He put the security system in because he's got enough low-income people in there, and they've got to be able to --

MR. HENSON: We do have -- typically have a part-time security guard either from the police department or the sheriff's department, that sort of thing, but it's usually a part-time guard.

MS. ROTH: Any other questions? One more?

VOICE: Yes. I have --

MS. ROTH: Just a moment, please.

VOICE: Is the detention pond part of your project?

MS. ROTH: Did y'all all hear the question?

VOICE: Yes.

MR. HENSON: Yes, ma'am.

MS. ROTH: Okay. Just a couple more.

VOICE: I would like to comment on the picture that was taken of the detention pond at Harvest Bend from yesterday. Yes, it did cover construction in that area, but by yesterday evening, it was drained down to the

normal level. It did not overflow; it did not do any damage to our construction in that -- but it served its purpose of collecting the water that was overflowing from the rain and the subdivision.

MS. ROTH: Okay. I believe this lady in the red shirt had her hand up.

VOICE: I have a question. I live in Turtle Lake, which is downstream from this project that you're building, and you are going to have a detention pond; I understand that. But when you release that, it's going where?

MS. ROTH: Did everyone hear her question?

MR. HENSON: It goes into the system, is the best --

VOICE: In that bayou. And let me tell you, yesterday, the water was six inches from being inside my home. So when you are releasing that detention pond into Greens Bayou, you're literally releasing it into my home and my neighbors' homes. So how is it not going to affect us, if I'm downstream?

MR. HENSON: We hope to release the water at a point where the big flow has already passed you, and then we gradually release it, which is supposed --

VOICE: Is it on a timer?

MR. HENSON: -- to correct the problem. This is the reason I say this is something better answered by our engineer.

VOICE: Okay. And why didn't he come with you? I mean -- okay, where you're planning on putting this, we couldn't even go down this road yesterday to get our kids TO the school.

MR. HENSON: You're more likely to get your home flooded if we didn't have a detention pond than having a detention pond.

VOICE: I understand you can't do that without detention pond. But now, the existing neighborhood where we don't have that luxury, you know -- I'm sorry, but how -- why wouldn't the engineer be here if this a flooded area that floods quite often? Why is he not here?

MR. HENSON: Why isn't the engineer here? I didn't know he was needed.

VOICE: Well, why would he not come?

MR. HENSON: Well, I would have advised him if I knew he was needed. I've been to dozens of these hearings --

VOICE: Not here you haven't, and we have a problem.

MR. HENSON: -- and I've never had to have an

engineer at one of these hearings, so it's my fault. I would have -- if I had known that I needed an engineer here, I would have been happy to --

VOICE: You know what? If you're really planning a retention pond, you would have known that there was a flooding issue here and you would have known you needed somebody here to talk to us about it. You don't have a clue as to what goes on out here. You drove around and found some property that looks good.

MS. ROTH: Okay. Does anyone else have a question before we wrap this up?

Yes, ma'am?

VOICE: How much of the bond has been approved?

MS. ROTH: At this point, it has not gone before the TDHCA board to be approved, so at this point, we have no approval. November 9 is when it's expected to meet.

VOICE: So there's no promise at all of any amount of --

MS. ROTH: At this point, we've not met and voted on this particular development, so at this point --

VOICE: What's the TDHCA number -- development number on the project?

MS. ROTH: I think it's 060617, and just by the

date on there, we'll know exactly what development you're talking about.

Yes, ma'am?

VOICE: I have a couple of questions.

MS. ROTH: Okay.

VOICE: Who's going to take care of all the graffiti? Are you going to have --

MR. HENSON: I didn't hear the question.

VOICE: The question is who is going to handle the graffiti? And as I stated earlier in my presentation, all the developments are privately managed.

MS. ROTH: Can you address that a little further?

MR. HENSON: Did you say graffiti?

VOICE: Yes.

MR. HENSON: We don't allow it on our projects. If someone puts it on our project, it would be the same thing if they put it on their house. Number one, we'd try find out who did it and call the police. But if I don't know who did it, I've got to clean it up, let's put it that way. We would take care of it.

MS. ROTH: Any other questions?

VOICE: Well --

MS. ROTH: Did you have another one?

VOICE: Yes. Another one. Why did you choose that little patch of woods? Why would you do that?

VOICE: It was cheap.

MS. ROTH: Did y'all hear her question? Why that particular parcel of land was chosen?

VOICE: Why couldn't you have --

MR. HENSON: We try to pick an area that there's not a great concentration of apartments --

(Many voices simultaneously.)

MR. HENSON: You don't have, in your area, if you don't have this project, you're going to have other apartments in your area. You can't stop them.

VOICE: How about this? If you're getting 800 or \$900 a month, why don't you build maybe two homes, and let these people, you know, buy their homes, so at least they have something in the future; they have something, oh, I have a house.

MR. HENSON: I don't think this program covers homes.

MS. ROTH: Okay. Let's just get a few more questions.

VOICE: I'm sorry. What's the address, so we can send --

MS. ROTH: It's all in that information that

you picked up earlier, ma'am, for the Texas Department of Housing. You have our e-mail -- is that what you're --

VOICE: No, for all the people that --
petitions.

MS. ROTH: You want to send us a petition?

VOICE: Yes, we have --

MS. ROTH: You would just use the address that's on that purple card that you have, and you can just mail it to me, fax me -- that's our address. And if you want to fax this to me or e-mail it, that would be quicker and probably a little bit easier for everyone.

Yes, sir, in the blue shirt?

VOICE: Will a certified property management company manage the property, or how do you select the management company?

MS. ROTH: Do you want to give us a background on your management company?

MR. HENSON: We have two different management companies that manage our properties, and we even have a management company ourselves. This particular project will either be managed by Alpha Barnes from out of Dallas or Orion Real Estate Services, Inc.

They are two of the outstanding management companies in the state of Texas. Now, when you say a

certified management company -- I don't think there's any management company that has to have any kind of certification.

I mean, some of their managers, they go to certain schools, and they get certain certifications, but I don't think the management company itself has to be certified. I think anybody can go out and set up a management company.

But these are two of the -- in my opinion, two of the better management companies in this area and the state. They manage apartments statewide.

VOICE: Alpha Barnes and O'Reilly? Orion?

MS. ROTH: Orion, yes. And would it be safe to say that both Alpha Barnes and Orion have websites, if these folks wanted to go to and check it out and see what their credentials are and what they do? Is that correct?

MR. HENSON: Yes.

MS. ROTH: Okay. That might help you get some more information.

Yes, ma'am?

VOICE: I don't see anything that we've got that gives us his name or his company or --

MS. ROTH: Well, I'm sure it's -- well, I did introduce him earlier, but if you like, I'm sure you could

check with his assistant, or he would be happy to give you that information. If you would like to contact me, I can give you the same information.

Anybody else have any questions? Oh, I'm sorry.

MR. WONG: I have a question about the Texas Department of Housing.

MS. ROTH: Okay.

MR. WONG: How did this urban planning [inaudible]?

MS. ROTH: The applications are submitted to us; they are reviewed for financial feasibility, as well as other items. Then our board --

MR. WONG: Is there review -- urban planning review committee on -- look at the overall situation? You know, how --

MS. ROTH: Our board looks at the overall -- I mean, it goes to our board. It's underwritten, it goes to our board, and the board has a look at it, and all that information will be posted to our website seven days before the board meeting for you all to review if you would like, also.

Sir?

VOICE: Where can we get a copy of the

preapplication?

MS. ROTH: You can request that under the open records act. My information is up here on the table on the purple cards. Please note if you want our -- the entire application, it is quite voluminous. You're talking probably 900, you know, pieces of paper. And you can request that. I believe there is a charge.

VOICE: You have it on disk, don't you?

MS. ROTH: I do believe so, and if you contact our office, Misael Arroyo handles that, and she'll be happy to get you that.

MR. HENSON: There's one thing in this application -- one thing they won't give you is the financial statements of the participants, because those are -- they go in a separate package, and I believe I'm correct in saying they're not permitted to pass that information out.

MS. ROTH: Those are confidential.

MR. HENSON: It's confidential, yes.

MS. ROTH: Okay. You have our contact information. If you have any other questions, please feel free to contact us. On the purple cards up front are our business cards also.

Thank you and have a good evening.

(Whereupon, at 7:40 p.m., the meeting was concluded.)

C E R T I F I C A T E

IN RE: Idlewilde Apartments public hearing
LOCATION: Houston, Texas
DATE: October 17, 2006

I do hereby certify that the foregoing pages, numbers 1 through 70, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum, before the Texas Department of Housing & Community Affairs.

(Transcriber) 10/23/2006
(Date)

On the Record Reporting
3307 Northland, Suite 315
Austin, Texas 78731

Petition

The signing of this petition states we are against the proposed 250 unit Multi-Family Residential Apartment Unit, Idlewilde Apartments, to be located in the area of 11600 Bobcat Rd. & 9900 Block 1960 in Houston, Texas. Project # 060617.

We, the undersigned, are against this development because:

1. This area already supports a number of Residential Rental Communities, for example, Willow Green and Sugar Creek, as well as, recently approved Meadowland. The "Demographic Characteristics and Trends West Submarket #15", by Vogt, Williams & Bowen LLC, shows this area is not in need of the proposed Family Residential Apartment Unit. The market is soon to have more units than the report states than needed.
2. It would increase already existing flooding issues to residential properties. Current properties along Breezy Knoll, which back up to the property and currently flood, will see more flooding, when the land is elevated and poured over with concrete.
3. It would increase already overcrowded schools, thereby increasing residential school taxes for additional space; proposed new schools, increased need for teachers, TAKS preparation programs, etc.
4. There is limited or no public transportation to facilities, such as supermarkets, medical care, academic activities and social services.
5. It would increase noise and create conflict with the surrounding community's infrastructure, for example, overcrowding streets.
6. The resulting increase in population from this project would equally increase the need for police presence. As a result, there would be additional cost to the tax payers of the affected community.
7. Many surrounding homes would be affected by reduced appraisal value due to this development.
8. The quality of life would be negatively impacted in the nearby schools and neighborhoods due to the issues listed above.

The desired outcome of this petition is to prevent the development of this Residential Rental Apartment unit and protect the quality of life of the existing tax payers; as well as, prevent this builder from benefiting from this project by passing off its cost to the homeowners of this community. We do not wish to fall victim to flooding, safety issues, higher taxes, higher annual fees, and overbuilding in the area. We call on the board to respect and honor our request by preventing this project from taking place.

Respectfully
The Undersigned

Name	Address	Zip Code	Phone #
Steve Williams	10014 Waring Field	77064	281 469 1462

Name	Address	Zip Code	Phone #
Candace V	10006 WAVING FIELDS	77064	281-896-9233

Name	Address	Zip Code	Phone #
Danniel P. Davis	9914 Waving Fields	77064	281-970-3950

Name	Address	Zip Code	Phone #
Paul D	9914 Waving Fields	77064	281-970-3950

Name	Address	Zip Code	Phone #
Catherine L Williams	9911 Waving Fields	77064	281-469-7558

Name	Address	Zip Code	Phone #
Norma Hernandez	9706 WAVING FIELDS DR	77064	281 469 1042

Name	Address	Zip Code	Phone #
Auris K. Primm	9806 Walnut Glen Dr	77064	281-1412

Name	Address	Zip Code	Phone #
Joel Gonzalez	10011 Walnut Glen	77064	832-868-9570

Name	Address	Zip Code	Phone #
Aleyda Gonzalez	10011 Walnut Glen	77064	281 890 9570

Name	Address	Zip Code	Phone #
Delia R. Zapata	10115 Walnut Glen	77064	281-897-4363

Name	Address	Zip Code	Phone #
Common Zapata	10115 Walnut Glen	77064	281-897-4363

Name	Address	Zip Code	Phone #
Victoria McDonald	11826 Hickory Hill Cypress	77479	281 948 5881

Name	Address	Zip Code	Phone #
Cynthia Lopez	10000 Twilight Moon	77064	713-494-8807

Name	Address	Zip Code	Phone #
Paul B	9906 Twilight Moon	77064	281-744-7534

Name	Address	Zip Code	Phone #
Earl Jones	17107 Crestwood	78741	(210) 831-1701

Name	Address	Zip Code	Phone #
Thomas V. Mason	10115 Gusty Winds	77064	281-469-8752



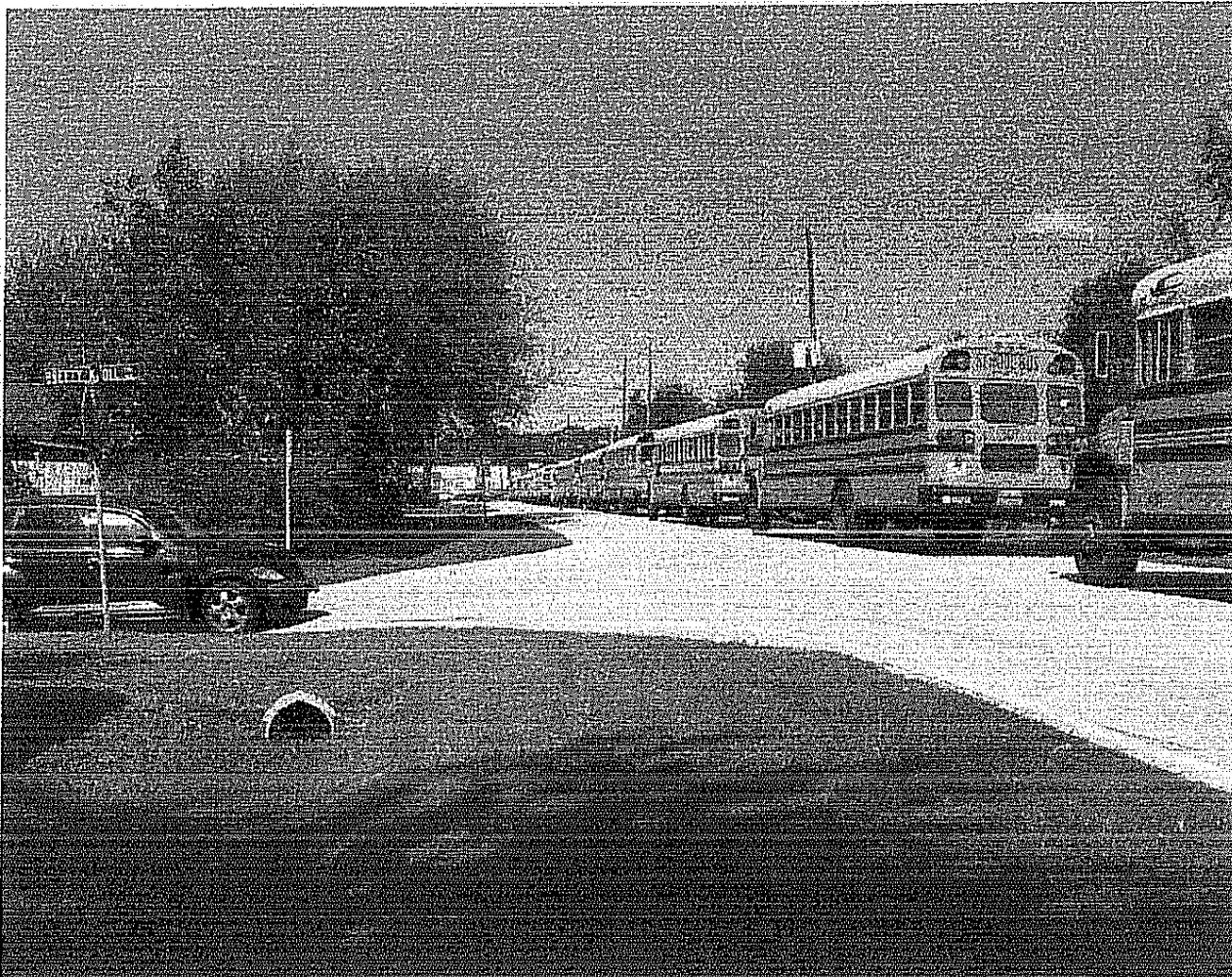
Oct. 27, 2006
Bob Cat Rd. & FM 1960
These buses are loaded with kids
going home from
Campbell Intermediate School.



Oct. 27, 2006, about 2:10 PM

Standing at Breezy Knoll & Falcon (looking away from FM 1960) looking towards Cedar Bluff where the traffic stops at this time, but more buses are coming out of the bus barn heading this way.





Oct. 27, 2006, about 2:10 PM

The buses are leaving the bus barn to go pick up children. This is at the corner of Breezy Knoll & Falcon heading to FM 1960. It is like this in the morning, when some people are trying to go to work.



Over flowing retention pond.
Windfern near Beltway 8.

Picture taken around noon
time, still raining.

Over flowing retention pond.
Windfern near Beltway 8.

picture taken around noon time, still
raining.



Ditches on Windfern near Beltway 8.

picture taken around noon time, still
raining



This picture was taken heading up Windfern away from Beltway 8.

It was taken around noon & it was still raining.

This is a brand new subdivision on Windfern near Beltway 8. The people could not get into their subdivision. They were parking at the entrance & walking home. Taken about noon time & still raining.



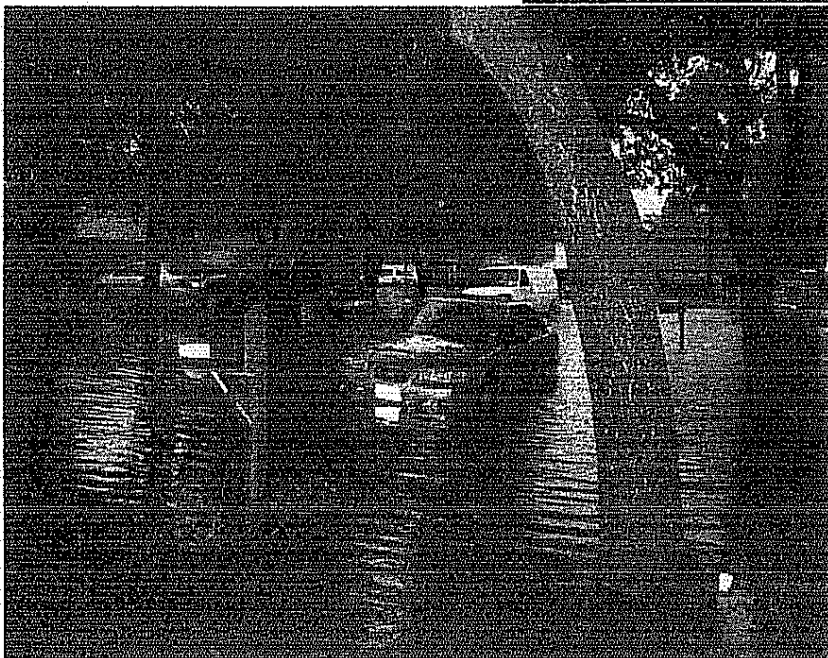
This retention pond is in Harvest Ben. It is quite full, but this pond does empty into a bayou.

This was taken about noon time & it was still raining



All 3 pictures are of Ridge Run looking down toward the corner of Cedar Bluff & Ridge Run.

These pictures were taking in the morning & it was still raining.





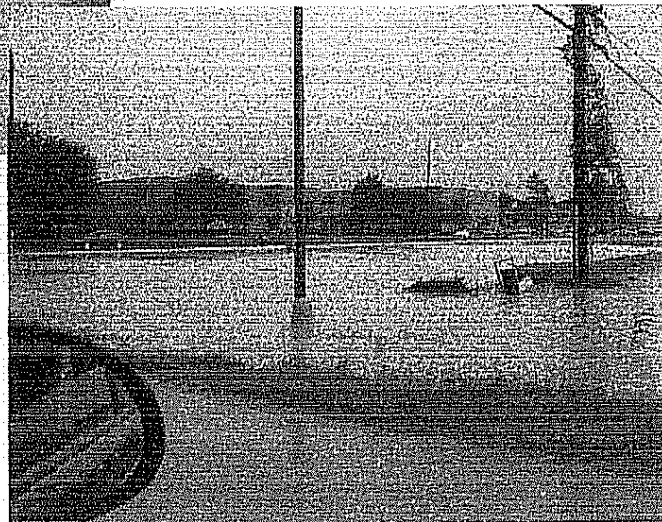
11507 Ridge Run, one house away from the corner of
Cedar Bluff & Ridge Run.

Taken around noon time, still raining.



All 4 picture around the High School at Perry & Grant. As you can see there is water over the road.

The picture were taken around noon time & it was still raining.





**REQUEST FOR BOARD ACTION
Multifamily Finance Production**

Private Activity Bond Program – Waiting List

1 Priority 2 Application for 2007 Waiting List

TABLE OF EXHIBITS

TAB 1	TDHCA Board Presentation – November 9, 2006
TAB 2	Summary of Applications
TAB 3	Inducement Resolution
TAB 4	Prequalification Analysis Worksheet
TAB 5	Map of Development Site

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Item

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 2007.

Requested Action

Approve the Inducement Resolution to proceed with application submission to the Texas Bond Review Board for possible receipt of State Volume Cap issuance authority from the 2007 Private Activity Bond Program for one (1) application.

Background

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 \$402 million is set aside for multifamily until August 15th for the 2007 bond program year. TDHCA has a set aside of approximately \$80.5 million available for new 2007 applications. The Waiting List applications will be submitted to the Texas Bond Review Board on or before January 3, 2007.

Inducement Resolution 06-046 includes one (1) application that was received on or before October 12, 2006. The application will reserve approximately \$15 million in 2007 state volume cap. Upon Board approval to proceed, the application will be submitted to the Texas Bond Review Board for placement on the 2007 Waiting List. The Board has previously approved one application for the 2007 program year. Approval of the inducement resolution, however, does not assure that the development will ultimately receive approval for a Housing Tax Credit Determination or the issuance of Private Activity Bonds.

Mesquite Creek Apartments – The proposed new construction development will be located at approximately 700 Gross Road, Mesquite, Dallas County. Demographics for the census tract (177.03) include AMFI of \$45,129; the percent of the population that is below the poverty line is 10.02%; the total population is 3,880; the percent of the population that is minority is 35.49%; the number of owner occupied units is 742; number of renter occupied units is 644; and the number of vacant units is 64. (Census Information from FFIEC Geocoding for 2006). This application was previously brought before the Board at the October 12, 2006 Board meeting, however the application was tabled to the November 9, 2006 Board meeting after the Board strongly encouraged the applicant to meet with the elected officials. The Board specifically urged the applicant to meet with Mayor Mike Anderson. The applicant has met with County Commissioner Mike Cantrell on October 30, 2006, Councilmember Stan Pickett and the City Manager on November 1, 2006 and has spoken verbally with the president of a neighborhood association in the area.

Public Comment: The Department has received one letter of support from the Pleasant Ridge Homeowners Association and letters of opposition have been received from State Senator Robert Deuell, State Representative Elvira Reyna, Mayor Mike Anderson and Assistant Superintendent Michael Coffey. A copy of the letters are included in this presentation.

Recommendation

Approve the Inducement Resolution as presented by staff. Staff will present all appropriate information to the Board for a final determination for the issuance of the bonds and housing tax credits during the full application process for the bond issuance.

Texas Department of Housing and Community Affairs

2007 Multifamily Private Activity Bond Program - Waiting List

Application #	Development Information	Units	Bond Amount	Developer Information	Comments
07602	Mesquite Creek Apartments 700 Gross Road	252	\$ 15,000,000	One Mesquite Creek, L.P. Will Thorne	Recommend
Priority 2	City: Mesquite County: Dallas <i>New Construction</i>	General	Score - 60	832 S. Carrier Parkway, Suite 100 Grand Prairie, Texas 75051 469-212-0635	
Totals for Recommended Applications		252	\$ 15,000,000		

RESOLUTION NO. 06-046

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS WITH RESPECT TO RESIDENTIAL RENTAL DEVELOPMENTS; 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, very low and extremely low income and families of moderate income (all as defined in the Act); 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, very low and extremely 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 development 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 multifamily residential rental developments (each a “Development” and collectively, the “Developments”) as more fully described in Exhibit A attached hereto. The ownership of each Development 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 Development 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 Development 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 Development will be occupied at all times by eligible tenants, as determined by the Governing Board of the Department (the “Board”) pursuant to the Act (“Eligible Tenants”), that the other requirements of the Act and the Department will be satisfied and that its Development 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 Development 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 Development 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 Development 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 Development is not dependent or related to the issuance of Bonds (as defined below) for any other Development and that a separate Application shall be filed with respect to each Development; 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 Development on the terms and conditions hereinafter set forth; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD THAT:

Section 1--Certain Findings. The Board finds that:

- (a) each Development is necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) each Owner will supply, in its Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the financing of each Development is a public purpose and will provide a public benefit;
- (d) each Owner is financially responsible; and
- (e) each Development will be undertaken within the authority granted by the Act to 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 Development in an aggregate principal amount not to exceed those amounts, corresponding to each respective Development, 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 development 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 Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the "Attorney General"); (v) satisfaction of the Board that each Development 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 Development and listed on Exhibit A attached hereto ("Costs of each respective Development") 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 or rehabilitation of its Development, 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 or rehabilitation of its Development; (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 Development will not exceed the amount set forth in Exhibit A which corresponds to its Development.

Section 6--Limited Obligations. The Owner may commence with the acquisition and construction or rehabilitation of its Development, which Development 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 Development 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 Development, 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 Development. Substantially all of the proceeds of the Bonds shall be used to finance the Developments, 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 Development.

Section 9--Costs of Development. The Costs of each respective Development may include any cost of acquiring, constructing, reconstructing, improving, installing and expanding the Development. Without limiting the generality of the foregoing, the Costs of each respective Development 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 Development, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Development, the placing of the Development in operation and that satisfy the Code and the Act. Each Owner shall be responsible for and pay any costs of its Development incurred by it prior to issuance of the Bonds and will pay all costs of its Development 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, 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 Development will be occupied at all times by Eligible Tenants, that all other requirements of the Act will be satisfied and that each Development 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 Bond Review Board, if required, and the Attorney General.

Section 13--Certain Findings. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for each Development 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 Development's necessary review and legal documentation for the filing of an Application for the 2007 program year and the issuance of the Bonds, subject to satisfaction of the conditions specified in Section 2(i) and (ii) hereof. The Board further authorizes staff, Bond Counsel and other consultants to re-submit an Application that was withdrawn by an Owner so long as the Application is re-submitted within the current or following program year.

Section 15--Related Persons. The Department acknowledges that financing of all or any part of each Development 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 Development 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 Development 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 of the State of Texas (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 9th day of November, 2006.

[SEAL]

By: /s/ Elizabeth Anderson
Elizabeth Anderson, Chair

Attest: /s/ Kevin Hamby
Kevin Hamby, Secretary

EXHIBIT "A"

Description of each Owner and its Development

Project Name	Owner	Principals	Amount Not to Exceed
Mesquite Creek Apartments	One Mesquite Creek, L.P., or other entity	OPLP Mesquite Creek, Inc., or other entity, the principals of which will be Will Thorne and/or Hal Thorne, or other entity	\$15,000,000
Costs: (i) acquisition of real property located at approximately the 700 block of Gross Road, Mesquite, Dallas County, Texas; and (ii) the construction thereon of an approximately 252-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**

Mesquite Creek Apartments, Mesquite (#07602) Priority 2

Unit Mix and Rent Schedule					
Unit Type	Beds/Bath	# Units	Rents	Unit Size S.F.	Rent/S.F.
60% AMI	1BD/1BA	32	\$ 645	741	0.87
60% AMI	1BD/1BA	40	\$ 655	766	0.86
60% AMI	2BD/2BA	64	\$ 790	967	0.82
60% AMI	2BD/2BA	68	\$ 790	992	0.80
60% AMI	3BD/2BA	24	\$ 900	1,118	0.81
60% AMI	3BD/2BA	24	\$ 900	1,141	0.79
					0.00
					0.00
					0.00
					0.00
					0.00
Totals		252	\$ 2,331,840	237,912	\$ 0.82
Averages			\$ 771	944	

Uses of Funds/Project Costs				
	Costs	Per Unit	Per S.F.	Percent
Acquisition	\$ 1,500,000	\$ 5,952	\$ 6.30	0.06
Off-sites	0	0	0.00	0.00
Subtotal Site Costs	\$ 1,500,000	\$ 5,952	\$ 6.30	0.06
Sitework	1,878,487	7,454	7.90	0.08
Hard Construction Costs	11,888,742	47,178	49.97	0.49
General Requirements (6%)	826,034	3,278	3.47	0.03
Contractor's Overhead (2%)	275,345	1,093	1.16	0.01
Contractor's Profit (6%)	826,034	3,278	3.47	0.03
Construction Contingency	0	0	0.00	0.00
Subtotal Construction	\$ 15,694,641	\$ 62,280	\$ 65.97	0.65
Indirect Construction	1,091,802	4,333	4.59	0.04
Developer's Fee	2,588,129	10,270	10.88	0.11
Financing	2,406,990	9,552	10.12	0.10
Reserves	1,027,408	4,077	4.32	0.04
Subtotal Other Costs	\$ 7,114,329	\$ 28,231	\$ 30	0
Total Uses	\$ 24,308,970	\$ 96,464	\$ 102.18	1.00

Applicant - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 6,774,868	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 14,847,964	6.75%	40	\$ 1,075,034
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 508,707	19.7%	\$ 2,079,422	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ -		\$ -	
Total Sources	\$ 22,131,539			\$ 1,075,034

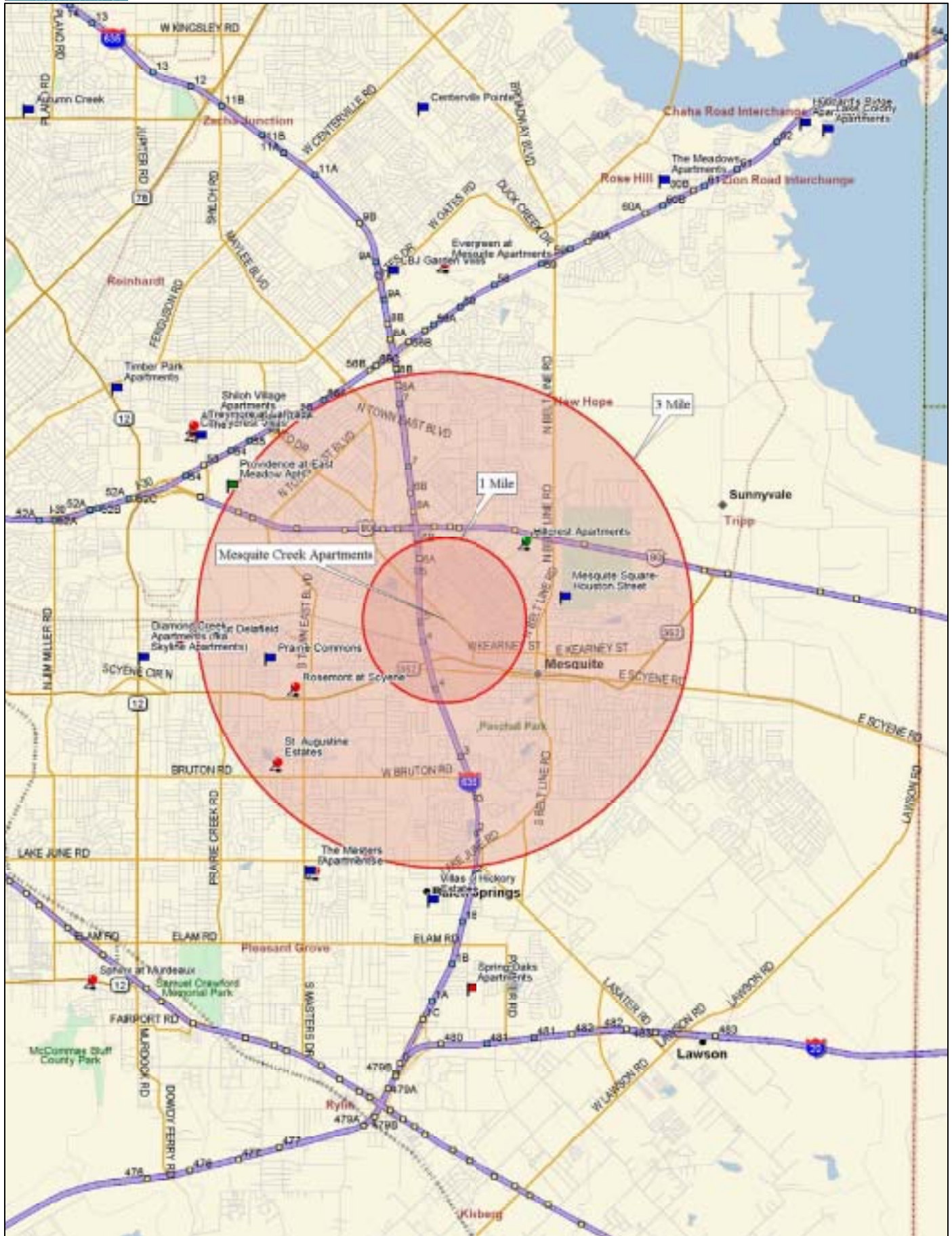
TDHCA - Sources of Funds				
Source I	Net Proceeds	Sale Price	Applicable Percentage	
Tax Credits	\$ 6,774,868	\$0.80	3.55%	
Source II	Proceeds	Rate	Amort	Annual D/S
Bond Proceeds	\$ 14,847,964	6.75%	40	\$ 1,075,034
Source III	Proceeds	% Deferred	Remaining	
Deferred Developer Fee	\$ 2,070,503	80.0%	\$ 517,626	
Source IV	Proceeds	Description	Annual D/S	
Other	\$ -		\$ -	
Total Sources	\$ 24,308,970			\$ 1,075,034

Applicant - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,331,840	\$9.80		
Other Income & Loss	45,360	0.19	180	
Vacancy & Collection	-7.67% (182,220)	-0.77	-723	
Effective Gross Income	\$2,194,980	9.23	8,710	
Total Operating Expenses	\$1,015,871	\$4.27	\$4,031	
Net Operating Income	\$1,179,109	\$4.96	\$4,679	
Debt Service	1,075,034	4.52	4,266	
Net Cash Flow	\$104,075	\$0.44	\$413	
Debt Coverage Ratio	1.10			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$104,075	\$0.44	\$413	
DCR after TDHCA Fees	1.10			
Break-even Rents/S.F.	0.73			
Break-even Occupancy	89.67%			

TDHCA - Operating Proforma/Debt Coverage				
		Per S.F.	Per Unit	
Potential Gross Income	\$2,331,840	\$9.80		
Other Income & Loss	45,360	0.19	180	
Vacancy & Collection	7.50% (178,290)	-0.75	-708	
Effective Gross Income	2,198,910	9.24	8,726	
Total Operating Expenses	46.2% \$1,015,871	\$4.27	\$4,031	
Net Operating Income	\$1,183,039	\$4.97	\$4,695	
Debt Service	1,075,034	4.52	4,266	
Net Cash Flow	\$108,005	\$0.45	\$429	
Debt Coverage Ratio	1.10			
TDHCA/TSAHC Fees	\$0	\$0.00	\$0	
Net Cash Flow	\$108,005	\$0.45	\$429	
DCR after TDHCA Fees	1.10			
Break-even Rents/S.F.	0.73			
Break-even Occupancy	89.67%			

Applicant - Annual Operating Expenses			
		Per S.F.	Per Unit
General & Administrative Expenses	\$71,148	0.30	282
Management Fees	90,367	0.38	359
Payroll, Payroll Tax & Employee Exp.	232,849	0.98	924
Maintenance/Repairs	135,828	0.57	539
Utilities	134,534	0.57	534
Property Insurance	62,093	0.26	246
Property Taxes	220,652	0.93	876
Replacement Reserves	68,400	0.29	271
Other Expenses	-	0.00	0
Total Expenses	\$1,015,871	\$4.27	\$4,031

Staff Notes/Comments
Other Expenses: \$0 - None listed.



PLEASANT RIDGE HOMEOWNERS ASSOCIATION, INC.

4849 Greenville Avenue, Suite 1690
Dallas, TX 75206
(214) 369-6300

November 1, 2006

Teresa Morales
Multifamily Bond Administrator
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3491

Re: Mesquite Creek Apartments
700 Gross Road, Mesquite, Texas

Dear Ms. Morales,

On behalf of the Pleasant Ridge Homeowners Association and consistent with our prior letter of support for proposed development of this property, I would like to express our support for the Mesquite Creek Apartments development. This development will contribute to the revitalization of community and will improve the infrastructure of the neighborhood. This new apartment project will also help fulfill a need for new quality affordable housing in Mesquite.

Thank you for your consideration and we ask that you look favorably on the application submitted by One Mesquite Creek, L.P.

Sincerely,


Dennis J. Sheridan, President
Pleasant Ridge Homeowners Association

November 1, 2006

Ms. Teresa Morales
Multifamily Bond Administrator
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3491

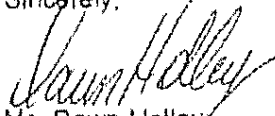
Re: Mesquite Creek Apartments TDHCA Bond Application
700 Gross Road, Mesquite, Texas

Dear Ms. Morales,

This letter is to let you know that I support the proposed Mesquite Creek Apartments development. The apartments will provide housing that is affordable. The development will also create a greater quality of life for future residents in Mesquite and help revitalize an older neighborhood in Mesquite.

Thank you for your consideration and I ask that you approve this application submitted by One Mesquite Creek, L.P.

Sincerely,



Ms. Dawn Holley
1109 Americana Lane
#11105
Mesquite, TX 75150

The Senate of The State of Texas

CAPITOL OFFICE:

P.O. Box 12068
Austin, Texas 78711
(512) 463-0102
Fax: (512) 463-7202
Dial 711 For Relay Calls



ROBERT F. DEUELL, M.D.
TEXAS SENATE DISTRICT 2

DISTRICT OFFICES:

18601 LBJ Freeway, Suite 400
Mesquite, Texas 75150
(972) 279-1800
Fax: (972) 279-1065

2500 Stonewall St., Suite 805
Greenville, Texas 75401
(803) 450-9797
Fax: (803) 450-9796

October 2, 2006

Ms. Teresa Morales
Multifamily Bond Administrator
Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, Texas 78711-3941

RE: Mesquite Creek Apartment, 700 Gross Road
Housing Tax Credit Application # 07602

Dear Ms. Morales:

It has come to my attention that One Mesquite Creek, L.P., has submitted a pre-application to construct the Mesquite Creek Apartments located at 700 Gross Road. The apartments are to have 252-units on a 27 acres of land.

I am writing to let you know that I do not support this project. The City of Mesquite has a comprehensive plan that designates that property as the most appropriate use for Neighborhood Medium Density development. The City of Mesquite has ample supply of low-income housing facilities. Nearly 60 percent of the rental units in Mesquite have a monthly rental rate below \$750.

Please do not approve this pre-application request for apartments located at 700 Gross Road.

Sincerely,

A handwritten signature in black ink that reads "Robert F. Deuell, M.D." with a stylized flourish at the end.

Robert F. Deuell, M.D.
Texas Senate, District Two

CC: City of Mesquite

RFD:ljc



RECEIVED TEXAS HOUSE OF REPRESENTATIVES

OCT 02 2006 Elvira Reyna
Multifamily Finance Division STATE REPRESENTATIVE, DISTRICT 101

COMMITTEES:
Chair, Local & Consent Calendars
Human Services
Juvenile Justice & Family Issues

October 2, 2006

Teresa Morales
Multifamily Bond Administrator
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3491

Re: Application of Affordable Rental Housing for Mesquite, Texas

Dear Ms. Morales:

Please consider this as a strong objection to the recent application of One Mesquite Creek, L.P., for additional low income housing for the City of Mesquite, Texas. Another low income housing development is not needed in this neighborhood.

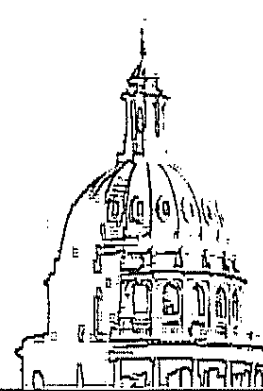
As you know, the purpose of the Tax Exempt Multifamily Bond Program is to provide financial incentives to generate or maintain affordable housing. The City of Mesquite has more than an adequate number of rental housing for low income residents. In fact, we have almost 60 per cent of rentals with rates below \$750. Our neighboring cities have rental rates which average well above \$750.00 per month. There is no further need to for low income housing at this time. I encourage you to consider that the area of Gross Road in Mesquite, Texas has no shortage of low income housing. Further projects of this nature would not assist with the safety and healthy economic growth for our city.

I respectfully urge you to deny this application by One Mesquite Creek of Grand Prairie, Texas for affordable rental housing in Mesquite, Texas.

Sincerely,

Elvira Reyna
State Representative
District 101

ER:cr





Mesquite Independent School District

Linda Henrie, Ed.D.
Superintendent

October 17, 2006

Teresa Morales
Multifamily Board Administrator
P. O. Box 13941
Austin, Texas 78711-3491

RECEIVED

OCT 23 2006

Multifamily Finance Division

Dear Ms. Morales:

I am writing this letter to express the concerns of the Mesquite Independent School District regarding the construction of the 252 unit Mesquite Creek Apartments at 700 Gross Road. Our foremost concern relates to the impact on the enrollment of Hanby Elementary School.

Approximately 865 students attend Hanby at this time. The addition of this apartment complex would result in a significant increase in enrollment at Hanby. Using your suggested figure of 1.5 students per unit, we project approximately 378 students from this complex. Approximately 54% of those 378 students (204) would attend Hanby. This would result in an enrollment of approximately 1069 students. Hanby currently has eleven single classroom units (SCUs) or portable buildings to house students. This increase in enrollment would require an additional 8 SCUs. Due to the large number of students and SCUs the school district would have to consider alternatives such as busing these students to another less crowded elementary.

We respectfully request that you consider this important issue in your deliberations regarding the approval or rejection of this project. Please call me at 972-882-7313 if I can be of further assistance in this matter.

Sincerely,

Michael Coffey
Assistant Superintendent-Administrative Services
Mesquite Independent School District

cc: City of Mesquite

MESQUITE

T E X A S

Real. Texas. Flavor.

Mike Anderson
Mayor

John L. Heiman, Jr.
Mayor Pro Tem

David L. Paschall
Deputy Mayor Pro Tem

John Monaco
Councilmember

Stan H. Pickett
Councilmember

Shirley Roberts
Councilmember

Dennis Tarpley
Councilmember

Ted Barron
City Manager

October 2, 2006

Teresa Morales
Multifamily Bond Administrator
Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3491

Re: Mesquite Creek Apartments, 700 Gross Road
Housing Tax Credit Application #07602

Dear Ms. Morales:

The City of Mesquite cannot support the pre-application of One Mesquite Creek, L.P. to construct the Mesquite Creek Apartments, a 252-unit tax credit and tax exempt bond project at 700 Gross Road.

The City's Comprehensive Plan designates the subject property as most appropriate for Neighborhood Medium Density (NMD) development. It is the primary intent of this designation to encourage a *single-family* environment with traditional neighborhood design elements of walkability and strong linkages to service areas and public facilities. New construction within the NMD designation should influence adjacent development over time to transition and infill toward a greater degree of neighborhood-oriented living.

In contrast with these objectives, the proposed Mesquite Creek Apartments would perpetuate an undesirable development pattern in the area. Standard multifamily apartment complexes are already clustered at this location, and Mesquite Creek would do nothing to change that.

In addition to concern regarding the type of development that will be constructed at this particular site, the City of Mesquite is concerned about having additional low-income housing in our city. The City does not object to the merits of the tax credit program, but feels that Mesquite already has an ample supply of low-income housing facilities. According to a survey of housing prices and rental rates, nearly 70 percent of the homes in Mesquite are valued below \$100,000. Most

cities in the Dallas area average only 34 percent of homes below this value. Nearly 60 percent of the rental units in Mesquite have monthly rates below \$750. Several neighboring communities have rental rates that average well above \$750.

We strongly oppose any tax credits or tax free bond financing for a low-income multifamily development at this location. This is not a new position for the City. We have opposed a similar initiative in 2005 for related type developments at 700 Gross Road. It is our intention to hold firm on this position on this and future proposals of this nature.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Anderson".

Mike Anderson
Mayor

LEGAL SERVICES DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Items

Presentation, Discussion and Possible Approval for publication in the Texas Register of the Final Staff Appeals Process, to be codified at 10 Texas Administrative Code §1.7

Required Action

Approve, reject or approve with modifications the final rule governing the staff appeals process under Title 10 Texas Administrative Code §1.7.

Background

The Board approved publication of the draft rule at the August 30, 2006 Board meeting. No comments were received during the public comment period. The change in this rule reflects a greater opportunity to appeal staff decisions to the Executive Director and ultimately the Board on most of the Department's programs and lays out the timelines and allowable issues for appeal.

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

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

Recommendation

Staff recommends the Board approve the final rule regarding staff appeals under §1.7 for publication in the Texas Register.

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

1.7. Staff Appeals Process

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

- (1) Administrator--the Person responsible for performing under a Contract with the Department.
- (2) Affiliated Party--A person in a relationship with the Administrator on a Contract with the Department. Does not apply to an Affiliated Party for Application purposes.
- (3) Appeal--An Appealing Party's notice to challenge a decision or decisions made by staff and/or the Executive Director regarding an Application, Commitment, Contract, Loan Agreement or LURA as governed by this Section 1.7.
- (4) Appeal file--The written record of an Appeal that contains the applicant's Appeal; the responses, if any, of Department staff, and the executive director, and the final decision.
- (5) Appealing Party--The Administrator, Affiliated Party, Applicant, or Person who files, intends to file, or has filed on their behalf, an Appeal before the Department.
- (6) Applicant--A person who has submitted to the Department an Application for Department funds or other assistance.
- (7) Application--The written request for Department funds or other assistance in the format required by the Department including any exhibits or other supporting material.
- (8) Board--The Governing Board of the Texas Department of Housing and Community Affairs.
- (9) Commitment--A fully executed document that commits the Department to funding or other activity related to a program administered by the Department.
- (10) Contract--The executed written agreement between the Department and an Administrator performing an activity related to a program that outlines performance requirements and responsibilities assigned by the document.
- (11) Department--The Texas Department of Housing and Community Affairs.
- (12) Executive Director--As defined under Texas Government Code §§2306.036 and/or 2306.038
- (13) Loan Agreement--An agreement between the Department and a Person regarding the terms and conditions of a loan provided to the Person from the Department.
- (14) LURA--A Land Use Restriction Agreement that has been executed by the Department and a Person related to a specific property or properties and filed with the responsible recording authority.
- (15) Person--Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character.

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

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

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

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

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

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

(A) Extension of a Contract;

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

(C) Alteration of funding.

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

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

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

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

(c) Appeal of Staff Decision to the Executive Director. An Appealing Party must file a written Appeal with the Department for the Executive Director not later than the seventh day after notice has been provided to the Appealing Party. For purposes of this section, posting on the Department's website is considered adequate notice when identified in the application process as a public notification mechanism. The written appeal must include specific information relating to the disposition of the Application or written request for change to the Contract, Commitment, Loan Agreement, and/or LURA. The Appealing Party must specifically identify the grounds for the Appeal based on the disposition of underlying document. Upon receipt of an Appeal, staff shall prepare an Appeal file for the Executive Director's review. The Executive Director shall respond in writing to the Appeal not later than the fourteenth day after the date of receipt of the Appeal. The Executive Director may take one of the following actions.

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

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

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

The Executive Director shall prepare an Appeal file for the board's review based on the information provided. If the Appealing Party receives additional information after the Executive Director has denied the Appeal, but prior to the posting of the Appeal for Board consideration, the new information must be provided to the Executive Director for further consideration or the Board will not consider any information submitted by the Applicant after the written Appeal. New information will cause the deadlines in this subsection to begin again. The Board will review the Appeal de novo and may consider any information properly considered by the Department in making its prior decision(s).

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

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

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

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

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

LEGAL SERVICES DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Items

Presentation, Discussion and Possible Approval for publication in the Texas Register of the final rule for the Board Appeals Process, to be codified at 10 Texas Administrative Code §1.8.

Required Action

Approve, reject or approve with modifications the suggested final rule governing the Board appeals process under Title 10 Texas Administrative Code §1.8.

Background

The Board approved a draft version of this rule for publication and public comment at its August 30, 2006 meeting. During the public comment process, three comments were received. The staff has concurred with the public comment and has altered the rules for clarification of what parties may appeal a decision of the Board.

The original modifications clarify deadlines on notice and what may be considered on appeal. The original modifications also provide additional actions if an appeal is granted to reflect the modifications for more grounds for staff appeal found in 10 TAC §1.7.

Recommendation

Approve, reject or approve with modifications the suggested final rule governing the Board Appeals Process to be codified at Title 10 Texas Administrative Code §1.8.

Board Appeal Process 10 TAC §1.8 Comments from (1, 4, 38)

Comments were received on Rule 1.8 requesting a clarification of the rule. All three of the commenting parties were similar and stated that by adopting the definition of Appealing Party included in 10 TAC §1.7 that you could allow almost anyone to appeal a decision made by the Board and “potentially have hundreds or more people appealing board decisions of allocations of tax credits because this provision allows anyone, not just an applicant, not just a related party, not just the board or anyone, but it allows anyone virtually anyone to appeal a board decision.”

Staff Response:

The rule specifically excludes the tax credit program from the appeal process, but staff agrees that clarification on who may request a rehearing of the Board decision should be limited only to those who had the proper party status and grounds to bring the initial issue or request and received a decision from the Board. Therefore staff has requests the Board adopt the following qualifying language:

(b) Grounds. Any action taken by the Board which was allegedly not made in accordance with the applicable rules may be appealed. This Appeal process is available to any Appealing Party that originally filed the item before the Board and received a decision, except for low income housing tax credits which are subject to the State housing credit ceiling and which have a separate appeals process.

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 1. ADMINISTRATION
SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES
10 TAC <*>1.8. Board Appeals Process

<*>1.8. Board Appeals Process

(a) Definitions. For purposes of this section, the words and terms, shall have the same meanings as found in <*>1.7 of this title, unless the context clearly indicates otherwise.

(b) Grounds. Any action taken by the Board which was allegedly not made in accordance with the applicable rules may be appealed. This Appeal process is available to any Appealing Party that originally filed the item before the Board and received a decision, except for low income housing tax credits which are subject to the State housing credit ceiling and which have a separate appeals process.

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

(d) Public Comment. The Board will hear public comment on the Appeal under its usual procedures. While public comment will be heard, persons making public comment are not parties to the Appeal and no rights accrue to them under this section or the Appeal process. If a representative of a neighborhood group or other interested party completed a witness affirmation form including their telephone number and spoke in support of or opposition to an Application at the Board meeting at which the Board made the decision appealed from, Department staff will telephone the representative not later than the seventh day before the date of the Board meeting at which the Board will consider the Appeal and advise the representative of the date, time, and place of the Board meeting and that an Appeal will be considered by the Board. This notice requirement is satisfied if the Department makes three attempts to reach one group representative by telephone and is unsuccessful.

(e) Possible Actions. In instances in which the Appeal if sustained by the Board would have resulted in an award to the Appealing Party, the Application shall be approved by the Board contingent on the availability of similar fund mechanisms. If no funds are available in the current year's funding cycle, then the Applicant may be awarded funds from the next year's available funding or from the pool of deobligated funds at the discretion of the Board. If the Appeal is denied, the Department shall notify the Applicant of the decision.

(f) (no change)

**LEGAL SERVICES DIVISION
BOARD ACTION REQUEST**

November 9, 2006

Action Items

Presentation, Discussion and Possible Approval for publication in the Texas Register of the Alternative Dispute Resolution and Negotiated Rulemaking Process, to be codified at 10 Texas Administrative Code §1.17.

Required Action

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

Background

The Board approved the draft version of this rule at the August 30th board meeting. No direct suggestions or comments were received during the public comment period except an indirect statement that the new rule made efforts to make the ADR process more useful. The revisions to the ADR policy encourage the earlier use of ADR. In addition, the changes alter the suggested purposes of ADR. Other revisions clarify the role of the Dispute Resolution Coordinator as the primary contact and decision maker in the initial referral rather than the Department. The changes encourage the use of the State Office of Administrative Hearings as an alternative for a mediator. The most significant change is that if used during an appeal process before the Board hears the matter, the Executive Director will abide by an agreed upon solution, although the Board could still act upon the decision.

Recommendation

Staff recommends the Board approve the final rule for publication in the Texas register regarding ADR under §1.17.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) ADR Procedure.

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

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

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

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

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

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

(3) ADR Proposal. If at any time an applicant for Department programs or other interested person would like to engage in an ADR procedure with the Department, the person may submit by letter a written ADR proposal to the Department's Dispute Resolution Coordinator stating the nature of the dispute, the parties involved, any pertinent or impending deadlines, whether all parties agree to refer the dispute to ADR, proposed times and locations, the preferred type of ADR procedure, and, if known, one or more potential impartial third parties.-If an applicant or other interested person is uncertain whether to propose the possible use of ADR or is uncertain about any particular aspect of a possible proposal, they should contact the Department's Dispute Resolution Coordinator to discuss the matter.

(4) Action on ADR Proposal. The Dispute Resolution Coordinator shall provide the Department a copy of the ADR proposal for review, discuss it with the interested parties, as appropriate, and assess whether ADR would assist in fairly and expeditiously

resolving the dispute. If the parties, including the Department, cannot agree on whether an ADR procedure should be used or on the particulars of the ADR procedure, the Dispute Resolution Coordinator will notify affected parties of that outcome. The Dispute Resolution Coordinator will promptly notify all affected parties within five (5) days of receiving an ADR proposal, or as soon as reasonably possible if a pertinent or impending deadline is indicated in the ADR proposal. If the Dispute Resolution Coordinator determines not to refer the dispute to ADR, the Dispute Resolution Coordinator shall state the reasons in writing. If the Dispute Resolution Coordinator determines to refer the dispute to ADR, they will include the date for the selected ADR process in its notice. (5) Department Proposal. Independent of any proposal from interested parties outside the Department, the Department may propose using ADR procedures to interested parties to try and resolve a dispute.

(f) Selection of Impartial Third Parties. An Impartial Third Party must possess the qualifications required under §154.052, Civil Practice and Remedies Code (a minimum of 40 classroom hours of training in dispute resolution techniques), is subject to the standards and duties prescribed by §154.053, Civil Practice and Remedies Code, and has the qualified immunity prescribed by §154.055, Civil Practice and Remedies Code, for volunteer third parties not receiving compensation in excess of expenses, if applicable. (§2009.053(d) Governmental Dispute Resolution Act). The selection of an Impartial Third Party is subject to the approval of the parties to the dispute. If the parties do not suggest potential third parties, the Dispute Resolution Coordinator will provide a list of potential third parties from which to choose or elect to use personnel of the State Office of Administrative Hearings. If all parties agree to use an impartial third party who charges for ADR services, then the costs for the impartial third party shall be apportioned equally among all parties, unless otherwise agreed by the parties.

(g) Good faith; Voluntary Agreement; Public Information. All parties participating in an ADR procedure are expected to do so in a good faith effort to reach agreement. All parties participating must have the authority to reach an agreement to make a final recommendation to resolve the dispute. The Executive Director will abide by an agreed upon solution to the dispute and either approve that agreement or offer that recommendation to the Board, if Board authorization is needed. The decision to reach

agreement is voluntary. If the parties reach a resolution and execute a written agreement, the agreement is enforceable in the same manner as any other written agreement of the same nature with the State. A written agreement to which the Department is a signatory resulting from an ADR procedure must be approved by the appropriate authority and is subject to the Public Information Act, Chapter 552, Texas Government Code.

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

(i) Negotiated Rulemaking.

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

(2) Any person or organization that would like for the Department to use negotiated rulemaking for the adoption of a Department rule may submit a proposal to the Department's Dispute Resolution Coordinator. The proposal should identify the rule proposed for negotiated rulemaking; potential participants for the negotiated rulemaking committee, possible third party facilitators, and a timeline for the process. The Department will promptly respond to the proposal. The Department may also on its own propose to use negotiated rulemaking. In determining whether a proposed negotiated rulemaking is appropriate in a particular situation, the Department and interested parties may consider any relevant factors, including:

(A) The number of identifiable interests that would be significantly affected by the proposed rule;

(B) The probability that those interests would be adequately represented in a negotiated rulemaking;

(C) The probable willingness and authority of the representatives of affected interests to negotiate in good faith;

(D) The probability that a negotiated rulemaking committee would reach a unanimous or a suitable general consensus on the proposed rule;

(E) The probability that negotiated rulemaking will not unreasonably delay notice and eventual adoption of the proposed rule;

(F) The adequacy of agency and citizen resources to participate in negotiated rulemaking;

(G) The probability that the negotiated rulemaking committee will provide a balanced representation among all interested and affected parties. (§2008.052(d) Negotiated Rulemaking Act). If the Department decides to proceed with a negotiated rulemaking, it shall follow the process outlined in Chapter 2008 of the Texas Government Code.

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

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

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

**COMMUNITY AFFAIRS DIVISION
BOARD ACTION REQUEST
November 9, 2006**

Action Items

Presentation, Discussion, and Possible Approval of publication in the *Texas Register* of the final Rules, to be codified at 10 Texas Administrative Code, Chapter 6.

Required Action

1. Adoption of Title 10 Community Development, Part I. Texas Department of Housing and Community Affairs, Chapter 6. Energy Assistance Programs, Subchapter A. Department of Energy Weatherization Assistance Program (DOE-WAP)
2. Adoption of Title 10 Community Development, Part I. Texas Department of Housing and Community Affairs, Chapter 6. Energy Assistance Programs, Subchapter B. Low Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP-WAP)
3. Adoption of Title 10 Community Development, Part I. Texas Department of Housing and Community Affairs, Chapter 6. Energy Assistance Programs, Subchapter C. Comprehensive Energy Assistance Program (CEAP)

Background

The Texas Department of Housing and Community Affairs (the Department) Energy Assistance Section administers two different programs addressing the energy needs of low-income persons: Weatherization Assistance Program (WAP), which provides cost effective weatherization measures to improve the energy efficiency of eligible client households; and the Comprehensive Energy Assistance Program (CEAP), which provides utility assistance to eligible client households.

The rules are written in Chapter 6 of the Texas Government Code within three separate subchapters that are divided by funding source and program. Subchapter A pertains to Department of Energy (DOE) WAP, subchapter B pertains to Low-Income Home Energy Assistance Program (LIHEAP) WAP funded through Health and Human Services (HHS), and subchapter C pertains to the CEAP program (funded through the LIHEAP award). The WAP program has two separate rules (Subchapter A & B) because of the two different funding sources, DOE and HHS, and the separate requirements of those funding sources. The final chapter (Subchapter C) contains the CEAP rules.

The Department conducted its Consolidated Public Hearings in September and October 2006 at thirteen locations around the state. The public comment period closed on October 18, 2006. The draft rule has remained available on the Department's internet site since September 15, 2006. Public notice of the proposed rule and public hearings appeared in the *Texas Register*, September 15, 2006 edition.

The Department received two comments verbally at the August 30, 2006, Board meeting, none in the public hearings, and one comment in writing. The following summary represents the officially-submitted comments and the response from the Department. The appended list identifies the commenter and the organization represented.

The comments and responses are divided into the following Subchapters A, B, and C sections:

- I. Subchapter A. Department of Energy Weatherization Assistance Program (DOE-WAP) Public Comments and Department Responses
- II. Subchapter B. Low Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP-WAP) Public Comments and Department Responses
- III. Subchapter C. Comprehensive Energy Assistance Program (CEAP) Public Comments and Department Responses

I. Subchapter A. Department of Energy Weatherization Assistance Program (DOE-WAP) Public Comments and Department Responses

§6.3 (d)

The commenter suggested this section could lead to unfair allocation of funds. They suggest additional funds should be distributed by an allocation formula unless a subrecipient is under-performing at the time of the distribution. (1)

Department Response:

Department recommends no change to this section. The Department receives base funding through first and second quarter awards. Base funding is already distributed with an allocation formula. Section (d) refers to subrecipients who are under-performing and the allocation of additional funds, in which case use of a formula may not be the most prudent step. All of the deobligations or reobligations will be reviewed, documented, and a recommendation made for Executive review.

§ 6.5 (a)

As written, this section could allow subrecipients to establish income eligibility levels at 150% of Federal Poverty Guidelines or more. The commenter recommended that income eligibility levels shall be no more than 125% of the Federal Poverty Guidelines. (1)

Department Response:

Department concurs and recommends that income eligibility levels should be at 125% of the federal poverty level.

§ 6.5 (e)

The commenter suggested that this section include language referencing part-time, temporary and/or self-employed worker categories in addition to the existing migrant and seasonal worker categories. When subrecipients determine income eligibility for part-time, temporary, self-employed, migrant and seasonal workers a longer period than 30 days of income may be used to

annualize income. (1)

Department Response:

Department concurs and recommends insertion of part-time, temporary and self-employed categories to this section.

§ 6.6 (a)

The commenter suggested the SSDI income eligibility criteria for single family units should mirror the income eligibility criteria for multi-family units. (1)

Department Response:

Department concurs and recommends inclusion of identical language with regard to income eligibility for single family in 6.5 (a) and multi-family dwellings units.

§ 6.8 (b) thru (g)

The commenter suggested the following types of denials should receive an initial review before the committee review and hearing process is implemented: applicants who were denied for weatherization services due to household income exceeding eligibility criteria; the unit received weatherization services since the DOE-established date; mold or other health and safety issues exist; or proposed work did not meet TDHCA Audit SIR requirements. Only when the applicant is not satisfied with the initial review will the committee and hearing process be required. (1)

Department Response:

Department recommends if the denial is for any reason other than DOE reweatherization, as specified in 10 CFR 440, the subrecipient will be required to implement the committee review and hearing denial process.

§ 6.8 (i)

The commenter requested clarification regarding the type of funds that should be retained by the subrecipient until an appeal is resolved. (1)

Department Response:

Department recommends the subrecipient retain the maximum allowable cost per unit until the Department renders a decision on the appeal.

§ 6.13

The commenter reminded the Department client education activities are an allowable program support cost. (1)

Department Response:

Department concurs and recommends insertion of language referencing program support funds and removal of the reference to administrative funds for client education activities.

§ 6.14

The commenter suggested language to reflect the average expenditure limit allowed by DOE only applies to DOE funds and not other weatherization funds. (1)

Department Response:

Department concurs and recommends a revision of the first sentence, “Expenditures of financial assistance provided under DOE-WAP funding for the weatherization services for labor, weatherization materials, and related matters shall not exceed the adjusted average expenditure

limit for the current program year per dwelling unit as provided by DOE, without special agreement via an approved waiver from the Department.”

§ 6.16(a)

The commenter suggested a grammatical change. (1)

Department Response:

Department recommends the following revision:

“Subrecipients shall provide weatherization services with the primary goal of energy efficiency.”

§ 6.16 (c)

The commenter requested clarification with regard to repair and/or replacement of windows. (1)

Department Response:

Department recommends the following revision:

“The Department has determined that repair/replacement windows which do not rank with an SIR of one or greater on the audit may be repaired/replaced if deemed a threat to health and safety.”

§ 6.16 (d)

The commenter suggested the Department remove language requiring subrecipients to request approval from a Program Officer before replacing a door that does not meet an SIR of one or more. (1)

Department Response:

Department recommends no change to this section. When a subrecipient recommends the installation of a door that will not result in energy savings to the household, the Department would like to review the proposal and justification for installation (i.e. to address safety concerns).

The commenter reminded the Department that dead bolts are required by Texas law on all rental unit doors. (1)

Department Response:

The law pertains to responsibilities of the Landlord; however the Department recommends the following revision for clarification:

“The absence of deadbolt locks does not constitute a hazardous health and safety condition by itself.”

§ 6.19 (a)

The commenter requested clarification on this section. (1)

Department Response:

Department recommends a revision to the first two sentences:

(a) A vendor agreement is required by the Department and implemented via the subrecipient. The vendor agreement shall contain assurances as to fair billing practices, delivery procedures, and pricing procedures for business transactions involving DOE recipients”

§ 6.20 (c)

The commenter suggested that in many cases, using a local vendor at a higher price is the most efficient method, especially considering warranty service or replacement. (1)

Department Response:

Department recommends the following revision to the second sentence:

“Unless a local vendor is identified through a competitive solicitation who will provide equal or better materials and services, subrecipients shall purchase any equipment, materials, or services paid for with DOE funds from a vendor participating in the Texas Building and Procurement Commission’s Cooperative Purchasing Program.

§ 6.21 (a) & (b)

The commenter suggested the language that states, “This reporting is required,” is redundant. (1)

Department Response:

Department recommends deletion of the last sentence of (a):

Delete: “This reporting is required.”

II. Subchapter B. Low Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP-WAP) Public Comments and Department Responses

§ 6.102 (d)

The commenter requested clarification regarding fifteen (15) percent of LIHEAP funds used for weatherization. (1)

Department Response:

Department recommends a revision of the first sentence of (d):

The Department will reserve fifteen (15) percent of the federal LIHEAP grant award funds for the LIHEAP-WAP weatherization related activities.

§ 6.102 (f)

The commenter requested clarification regarding ten (10) percent Administrative funds. (1)

Department Response:

Department does not recommend a revision. Ten (10) percent of LIHEAP WAP funds are reserved for administrative funds only.

§ 6.105 (a)

As written this section could allow subrecipients to establish income eligibility levels at 150% of Federal Poverty Guidelines or more. The commenter recommended that income eligibility levels shall be no more than 125% of the Federal Poverty Guidelines. (1)

Department Response:

Department concurs and recommends that income eligibility levels are no more than 125% of the Federal Poverty Guidelines.

§ 6.105 (e)

The commenter suggested that this section include language referencing part-time, temporary and/or self-employed worker categories in addition to the existing migrant and seasonal worker categories. When subrecipients determine income eligibility for part-time, temporary, self-employed, migrant and seasonal workers a longer period than 30 days of income may be used to annualize income. (1)

Department Response:

Department concurs and recommends insertion of part-time, temporary and self-employed categories to this section.

§ 6.106 (a)

The commenter suggested the income eligibility criteria for single family units should mirror the income eligibility criteria for multi-family units. (1)

Department Response:

Department concurs and recommends inclusion of identical language with regard to income eligibility for single family and multi-family dwellings units.

§ 6.108 (b) thru (g)

The commenter suggested the following types of denials should receive an initial review before the committee review and hearing process is implemented: applicants who were denied for weatherization services due to household income exceeding eligibility criteria; the unit received weatherization services since the DOE-established date; mold or other health and safety issues exist; or proposed work did not meet TDHCA Audit SIR requirements. Only when the applicant is not satisfied with the initial review will the committee and hearing process be required. (1)

Department Response:

Department recommends that if the denial is for any reason other than DOE re-weatherization, as specified in 10 CFR 440, the subrecipient will be required to implement the committee review and hearing denial process.

§ 6.112

The commenter reminded the Department that client education activities are an allowable program support cost. (1)

Department Response:

Department concurs and recommends insertion of language referencing program support funds and removal of the reference to administrative funds for client education activities.

§ 6.113

The commenter suggested language to reflect that the average expenditure limit allowed by DOE only applies to DOE funds and not other weatherization funds. (1)

Department Response:

Department concurs and recommends a revision of the first sentence, “Expenditures of financial assistance provided under DOE-WAP funding for the weatherization services for labor, weatherization materials, and related matters shall not exceed the adjusted average expenditure limit for the current program year per dwelling unit as provided by DOE, without special agreement via an approved waiver from the Department.”

§ 6.116 (a), (c) and (d) (a)

The commenter requested clarification with regard to repair and/or replacement of windows. (1)

Department Response:

Department recommends the following revision:

“The Department has determined that repair/replacement windows which do not rank with an

SIR of one or greater on the audit may be repaired/replaced if deemed a threat to health and safety.”

§ 6.116 (d)

The commenter suggested that the Department remove language requiring subrecipients to request approval from a Program Officer before replacing a door that does not meet an SIR of one or more. (1)

Department Response:

Department recommends no change to this section.

The commenter reminded the Department that dead bolts are required by Texas law on all rental unit doors. (1)

Department Response:

The law pertains to responsibilities of the Landlord; however, the Department recommends the following revision for clarification:

“The absence of deadbolt locks does not constitute a hazardous health and safety condition by itself.

§ 6.118 (a)

The commenter requested clarification on this section. (1)

Department Response:

Department recommends a revision to the first two sentences:

(a) A vendor agreement is required by the Department and implemented via the subrecipient. The vendor agreement shall contain assurances as to fair billing practices, delivery procedures, and pricing procedures for business transactions involving DOE recipients.”

§ 6.119 (c)

The commenter suggested that in many cases, using a local vendor at a higher price is the most efficient method, especially considering warranty service or replacement. (1)

Department Response:

Department recommends the following revision to the second sentence:

“Unless a local vendor is identified through a competitive solicitation who will provide equal or better materials and services, subrecipients shall purchase any equipment, materials, or services paid for with DOE funds from a vendor participating in the Texas Building and Procurement Commission’s Cooperative Purchasing Program.

§ 6.121 (a) & (b)

The commenter suggested the language that states, “This reporting is required,” is redundant. (1)

Department Response:

Department recommends deleting the last sentence from the end of (a):

Delete: “This reporting is required.”

III. Subchapter C. Comprehensive Energy Assistance Program (CEAP) Public Comments and Department Responses

There were no comments received for CEAP. However, the Department recommends the following revisions to ensure uniformity of all Energy Assistance Programs:

§ 6.205 (a)

Department Response:

Department recommends that income eligibility levels are no more than 125% of the Federal Poverty Guidelines.

§ 6.205 (f)

Department Response:

Department recommends insertion of part-time, temporary and self-employed categories to this section.

§ 6.214 (a)

Department recommends deleting the last sentence from the end of (a):

Delete: "This reporting is required."

General Comments Received at the August 30 Board Meeting

The commenter expressed concern that subrecipients do not have sufficient cash flow to sustain programs when funding is delayed. Any delays in funding can be devastating to client services. Any processes the Department can utilize to expedite the distribution of funds is greatly appreciated. (2)

Department Response:

The Department will work to provide timely funding.

Additionally, the Department should continue to deobligate funds from agencies that have not met performance standards in timely manner and reobligate those same funds to agencies that have met performance standards. (2)

Department Response:

The Department will continue to evaluate performance standards and make recommendations for Executive review.

The commenter expressed concern that delays in funding at the Department level cause subrecipients to delay delivery of services until funding is made available. She expressed optimism that a balance could be found between providing timely funding and still providing the opportunity for public comment and involvement. (3)

Department Response:

The Department will work to provide timely funding.

Appendix A – Collected Public Comments on Weatherization Assistance Program Rules

Reference #	Contact	Organization
1	A.R. Kampschafer	Community Services, Inc.
2	Rhoda Gersch	Combined Community Services
3	Karen Swenson	Greater East Texas Community Action Program

TITLE 10. COMMUNITY DEVELOPMENT

PART I. Texas Department of Housing and Community Affairs

Chapter 6. Energy Assistance Programs

Subchapter A. Department of Energy Weatherization Assistance Program (DOE-WAP)

10 TAC §6.1-§6.21

The Texas Department of Housing and Community Affairs (the Department) proposes new §6.1-§6.21, concerning the Department of Energy Weatherization Assistance Program (DOE-WAP) Rules. These sections are proposed new in order to implement the program effectively.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Gerber has also determined that for each year of the first five-years the sections are in effect the public benefit anticipated as a result of enforcing the section will be to provide the DOE-WAP subrecipients within the State of Texas the tools to implement and administer the program more effectively. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Public hearings will be held across the state between September 21 and October 18, 2006 to receive input on this proposed new rule. More information on the hearings can be found at <http://www.tdhca.state.tx.us>. Comments on the proposed rules may be submitted to Amy Oehler, Program Manager, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941 or facsimile at (512) 475-3864 or e-mail at amy.oehler@tdhca.state.tx.us no later than 5:00 p.m., within thirty days of this notice.

These sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, articles or statutes are affected by this section.

§6.1 Definitions

As used in this subchapter:

- (1) CAA--Community Action Agency.

- (2) Children--households with dependents not exceeding 18 years of age.
- (3) Department (the)--the Texas Department of Housing and Community Affairs
- (4) DOE--the United States Department of Energy.
- (5) Dwelling Unit--a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.
- (6) EASY--the Department of Energy approved audit software used to determine the cost effectiveness of weatherization measures to be installed on a dwelling unit.
- (7) Elderly Person--a person who is 60 years of age or older.
- (8) Electric base-load measure--weatherization measures which address the energy efficiency and energy usage of lighting and appliances.
- (9) Families with young children--a family unit that includes a child not exceeding 6 years of age.
- (10) High energy burden--is determined by dividing annual home energy costs by annual gross income. The percentage at which energy burden is considered high is defined by data gathered from the State Data Center and updated each year.
- (11) High energy consumption--the household energy consumption exceeding the data collected from the State Data Center and updated each year.
- (12) Household--all persons living together in a dwelling unit.
- (13) Local units of Government--city, county, or council of governments.
- (14) Low Income--that income in relation to family size which:
 - (A) Is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;
 - (B) Is the basis on which cash assistance payments have been paid during the preceding twelve month-period under titles IV and XVI of the Social Security Act or applicable State or local law; or
 - (C) If a State elects, is the basis for eligibility for assistance under the Low Income Home Energy Assistance Act of 1981, provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.
- (15) Multifamily Dwelling Unit--a structure containing more than one dwelling unit.
- (16) Persons with Disabilities--any individual who is:
 - (A) a handicapped individual as defined in §7(6) of the Rehabilitation Act of 1973;
 - (B) under a disability as defined in §1614(a)(3)(A) or §223(d)(1) of the Social Security Act or in §102(7) of the Developmental Disabilities Services and Facilities Construction Act; or
 - (C) receiving benefits under chapter 11 or 15 of title 38, U.S.C.
- (17) Rental Unit--a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.
- (18) Single-Family Dwelling Unit--a structure containing no more than one dwelling unit.
- (19) State--the State of Texas.
- (20) Subrecipient--an entity managing a weatherization project which receives a grant of funds awarded.
- (21) 10 CFR 440--the Code of Federal Regulation describing the Weatherization Assistance for Low Income Persons as administered through the Department of Energy.
- (22) WAP--Weatherization Assistance Program.
- (23) Weatherization Material--the material listed in Appendix A of 10 CFR 440.
- (24) Weatherization Project--a project conducted in a single geographical area which undertakes to weatherize dwelling units that are energy inefficient.

§6.2 Program Overview

(a) The Energy Assistance Programs are referred to as the Energy Services Program for Low-Income Individuals in accordance with Texas Government Code, §2306.097. The Department of Energy Weatherization Assistance Program (DOE-WAP) is funded through the U.S. Department of Energy Weatherization Assistance Program for Low Income Persons grant. DOE-WAP offers grants to community action agencies, nonprofits, and local units of government with targeted beneficiaries being households with low incomes, with priority given to the elderly; persons with disabilities; families with young children; households with the highest energy costs or needs in relation to income; and households with high energy consumption. In addition to meeting the income-eligibility criteria, the weatherization measures to be installed must meet specific energy-savings goals.

(b) The program funds the installation of weatherization materials and provides energy conservation education. The program helps to control energy costs to ensure a healthy and safe living environment.

(c) The Department shall administer and implement the program in accordance with DOE rules. LIHEAP weatherization measures may be leveraged with DOE weatherization measures.

(d) The Department retains 5 percent of the annual allocation to administer the program.

§6.3 Distribution of Funds Formula

(a) The Department distributes funds to subrecipients by an allocation formula.

(b) This funding formula was developed with input from subrecipients. This formula allocates funds based on the number of low-income households in a service area and takes into account the special needs of individual service areas. The need for energy assistance in an area is addressed through a weather factor (based on heating and cooling degree days). The extra expense in delivering services in sparsely populated areas is addressed by an inverse population density factor. The lack of additional services available in very poor counties is addressed by a county median income factor. Finally, the elderly are given priority by giving greater weight to this population. The five factors used in the formula are calculated as follows:

(1) County Non-elderly Poverty Household Factor is defined as the number of Non-elderly Poverty Households in the County divided by the number of Non-elderly Poverty Households in the State.

(2) County Elderly Poverty Household Factor is defined as the number of Elderly Poverty Households in the County divided by the number of Elderly Poverty Households in the State.

(3) County Inverse Poverty Household Density Factor is defined as:

(A) The number of Square Miles of the County divided by the number of Poverty Households of the County (equals the Inverse Poverty Household Density of the County); and

(B) Inverse Poverty Household Density of the County divided by the Sum of Inverse Household Densities.

(4) County Median Income Variance Factor is defined as:

(A) State Median Income minus the County Median Income (equals County Variance); and

(B) County Variance divided by sum of the State County Variances;

(5) County Weather Factor is defined as:

(A) County Heating Degree Days plus the County Cooling Degree Days, multiplied by the Poverty Households, divided by the sum of County Heating & Cooling Degree Days of Counties (equals County Weather); and

(B) County Weather divided by the total sum of the State County Weather.

(c) The five factors carry the following weights in the allocation formula: number of non-elderly poverty households (40 percent), number of poverty households with at least one member who is 65 years of age or older (40 percent), household density as an inverse ratio (5 percent), the median income of the county (5 percent), and a weather factor based on Heating Degree Days and Cooling Degree Days (10 percent). All demographic factors are based on the 2000 U.S. Census. The formula is as follows:

(1) County Non-elderly Poverty Household Factor (0.40) plus;

(2) County Elderly Poverty Household Factor (0.40) plus;

(3) County Inverse Poverty Household Density Factor (0.05) plus;

(4) County Median Income Variance Factor (0.05) plus;

(5) County Weather Factor (0.10);

(6) Total sum of paragraph (1)-(5) of this subsection multiplied by total funds allocation equals the County's allocation of funds.

(7) The sum of the county allocation within each subrecipient service area equals the subrecipient's total allocation of funds.

(d) Periodically, the Department must shift resources from low-demand regions to high-demand regions of the state. During the sixth month of the program year, the Department will conduct an in-house performance review of all subrecipients. The performance review will include individual subrecipient expenditure rate and households served as specified in the contract of each subrecipient. Based on the review, the Department may deobligate funds from low performing subrecipients and award the funds to high performing subrecipients. Additional DOE funds received during a program year, beyond the regular grant allocation, may be allocated to subrecipients based upon documented need.

(e) The Department is permitted by 10 CFR §440.18, to obligate an additional five (5) percent of DOE-WAP administrative funds to subrecipient DOE-WAP budgets less than \$350,000. In addition to the DOE funds, the Department utilizes Low Income Home Energy Assistance Program (LIHEAP) funds to provide weatherization services. The Department offsets the funds between DOE and LIHEAP budget awards to allow each subrecipient to receive the maximum allowable administrative funds. Using the distribution formula, the Department makes the corresponding adjustments between the DOE and LIHEAP subrecipient budgets to insure the distribution of funds is appropriately distributed by formula.

§6.4 Subrecipient Eligibility

(a) Pursuant to DOE 10 CFR §440.15, the Department shall ensure that:

(1) Each subrecipient is a CAA or other public or nonprofit entity;

(2) Each subrecipient is selected on the basis of public comment received during a public hearing conducted pursuant to §440.14(a) and other appropriate findings regarding:

(A) The subrecipient's experience and performance in weatherization or housing renovation activities;

(B) The subrecipient's experience in assisting low-income persons in the area to be served; and

(C) The subrecipient's capacity to undertake a timely and effective weatherization program.

(3) In selecting a subrecipient, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under title II of the Economic Opportunity Act of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to, the following:

(A) The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;

(B) The quality of work performed by the subrecipient;

(C) The number, qualifications, and experience of the staff members of the subrecipient; and

(D) The ability of the subrecipient to secure volunteers, training participants, public service employment workers, and other Federal or State training programs.

(b) The Department shall ensure that the funds received under this part will be allocated to the entities selected in accordance with subsection (a) of this section, such that funds will be allocated to areas on the basis of the relative need for a weatherization project by low-income persons.

(c) If the Department finds that a subrecipient selected to undertake weatherization activities under this part has failed to comply substantially with the provisions of the Act or this part and should be replaced, such finding shall be treated as a finding under §440.30(i) for purposes of §440.30.

(d) Any new or additional subrecipient shall be selected at a hearing in accordance with §440.14(a) and upon the basis of the criteria in subsection (a) of this section.

(e) A State may terminate financial assistance under a subgrant agreement for a grant period only in accordance with established State procedures that provide to the subrecipient appropriate notice of the State's reasons for termination and afford the subrecipient an adequate opportunity to be heard.

(f) The Department administers the program through subrecipients in accordance with 10 CFR §440.15 and State rules. If subrecipients comply with the requirements of the program, the Department may offer to renew the contract.

§6.5 Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria

(a) The subrecipients shall establish the client eligibility level at 125% of the federal poverty level in effect at the time the client makes an application for services. Dwelling units that contain household members who receive SSDI only are not automatically eligible.

(b) The subrecipients shall establish eligibility and priorities criteria to increase the energy efficiency of dwellings owned or occupied by low-income persons who are particularly vulnerable such as the elderly, persons with disabilities, families with young children, high residential energy users, and households with high energy burden. High residential energy users and households with high energy burden are considered to be as follows:

(1) Households with high energy burden. The energy burden is determined by dividing annual home energy costs by annual gross income. The percentage at

which energy burden is considered high is defined by data gathered from the State Data Center and updated each year.

(2) Households with high energy consumption as determined by using data collected from the State Data Center and updated each year.

(c) The subrecipients shall follow the Department rules and established state and federal guidelines for determining eligibility for multifamily dwelling units as referenced in §6.6 of this subchapter.

(d) Subrecipients shall base annualized eligibility determinations on household income from the 30 day period prior to the date of application for assistance. Each subrecipient shall document income from all sources for all household members for the entire 30 day period prior to the date of application and multiply by twelve (12) to annualize income. Income documentation must be collected from all income sources for all household members 18 years and older for the entire 30 day period.

(e) Subrecipients shall calculate annual income using, at a minimum, applicant's income from the previous 30 day period. In the case of migrant, seasonal, part-time, temporary, or self-employed workers a longer period than 30 days may be used for annualizing income. However, the same method must be used for all similarly situated workers.

(f) If proof of income is unavailable, the applicant must complete and sign a Declaration of Income Statement (DIS). In order to use the DIS form, each subrecipient shall develop and implement a written policy and procedure on the use of the DIS form. In developing the policy and procedure, subrecipients shall give consideration to limiting the use of the DIS form to cases where there are serious extenuating circumstances that justify the use of the form. Such circumstances might include crisis situations such as applicants that are affected by natural disaster which prevents the applicant from obtaining income documentation, applicants that flee a home due to physical abuse, applicants who are unable to locate income documentation of a recently deceased spouse, or whose work is migratory or seasonal in nature. The Department will review the written policy and its use during on-site monitoring visits.

(g) Subrecipient shall determine income eligibility.

(1) The following list contains the types of income that are included as income in the definition of income for the purpose of determining the total household income:

- (A) Temporary Assistance for Needy Families (TANF);
- (B) money, wages and salaries before any deductions;
- (C) net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);
- (D) regular payments from social security;
- (E) railroad retirement;
- (F) unemployment compensation;
- (G) strike benefits from union funds;
- (H) worker's compensation;
- (I) veteran's payments;
- (J) training stipends;
- (K) alimony;
- (L) military family allotments;
- (M) private pensions;
- (N) government employee pensions (including military retirement pay);
- (O) regular insurance or annuity payments; and
- (P) dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.

(2) The following is a list that contains the types of income that are excluded from the definition of income:

- (A) Social Security Disability Insurance (SSDI) payments;
 - (B) Supplemental Security Income (SSI) payments;
 - (C) capital gains; any assets drawn down as withdrawals from a bank;
 - (D) the sale of property, a house, or a car;
 - (E) one-time payments from a welfare agency to a family or person who is in temporary financial difficulty;
 - (F) tax refunds, gifts, loans, and lump-sum inheritances;
 - (G) one-time insurance payments, or compensation for injury;
 - (H) non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;
 - (I) food or housing received in lieu of wages;
 - (J) the value of food and fuel produced and consumed on farms;
 - (K) the imputed value of rent from owner-occupied non-farm or farm housing;
 - (L) federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches;
 - (M) housing assistance and combat zone pay to the military;
 - (N) college scholarships, Pell and other grant sources, assistantships, fellowships and work study; and
 - (O) child support payments.
- (h) A dwelling unit shall be eligible for weatherization assistance if it is occupied by a family unit which contains a current household member who has received TANF or SSI at anytime during the twelve month period preceding the determination of eligibility. Dwelling units that contain household members who receive SSDI only are not automatically eligible. The eligibility of dwelling units for WAP services can be found in 10 CFR Part §440.22.

§6.6 Eligibility for Multifamily Dwelling Units

- (a) Dwelling units shall be eligible for weatherization assistance if it is occupied by a family unit which contains a household member who has received TANF or SSI at anytime during the twelve month period preceding the determination of eligibility. Dwelling units that contain household members who receive SSDI only are not automatically eligible. The eligibility of dwelling units for WAP services can be found in 10 CFR Part §440.22.
- (b) The substantial investment of weatherization funds required to address multifamily units increases the need for additional quality assurance measures in the WAP. The Department has developed this section to ensure that funds used to weatherize multifamily dwelling units are expended within the scope of established State and Federal guidelines. This section addresses weatherization of multifamily buildings containing more than four but less than 25 dwelling units. Approvals are not required for buildings containing twenty-four dwelling units or less that contain shared central heating and/or cooling systems that use compressed air as a coolant.
- (c) DOE approved the use of Energy Audit System (EASY) for use in single family, mobile home, and multifamily buildings with fewer than twenty-five dwelling units. The approval does not cover large multifamily buildings containing twenty-five or more dwelling units or those with shared central heating (i.e. boilers) and/or shared cooling plants (i.e. cooling towers that use water as the coolant). DOE defines a building as a group of dwellings under the same roof.
- (d) In order to weatherize large multifamily buildings containing twenty-five or more dwelling units or those with shared central heating (i.e. boilers) and/or shared cooling plants (i.e. cooling towers that use water as the coolant) regardless of the number of dwelling units, subrecipients shall

submit in writing a request for approval from the Department. In turn, the Department will seek approval from DOE. Approvals from DOE must be received prior to the installation of any weatherization measures in this type of structure.

(e) In order to weatherize shelters, subrecipients shall submit a written request for approval from the Department. Approvals from the Department must be received prior to the installation of any weatherization measures.

(f) If roof replacement is to be considered as part of repair cost under the weatherization process, the expenses must be shared equally by all eligible units weatherized under the same roof. If multiple storied buildings are weatherized, eligible ground story units must be allocated a portion of the roof cost as well as the eligible top story units. All weatherization measures installed in multifamily units must meet the standards set in 10 CFR §440.18(c)(9) and §(15) and Appendix A - Standards for Weatherization Materials, and meet a savings-to-investment ratio of one or greater on the EASY Audit. DOE specifically addresses the eligibility of multifamily units in 10 CFR §440.22 (a)-(d).

(g) WAP subrecipients shall establish a multifamily master file for each multifamily project in addition to the individual unit requirements found in the record keeping requirement section of the contract. Subrecipients shall maintain a multifamily master file for each complex weatherized. The multifamily master file must include, at a minimum, the following forms:

- (1) Multifamily Pre-Project Checklist Form;
- (2) Multifamily Post-Project Checklist Form;
- (3) Permission to Perform an Assessment for Multifamily Project Form;
- (4) Landlord Agreement Form;
- (5) Landlord Financial Participation Form; and
- (6) Significant Data Required in all Multifamily Project.

§6.7 Contract Expiration, Termination, and Nonrenewal

(a) If available, DOE-WAP grant funds shall be expended in a timely and effective manner, and services provided must be effective and in full compliance with federal and state requirements.

(b) The Department may continue to administer the program through the existing subrecipients that have demonstrated that they are operating the program in accordance with 10 CFR §440.15 and state regulations through contract renewal.

(c) If a subrecipient does not comply with the program requirements, the Department may terminate a contract, in whole or in part, in accordance with 10 CFR §440.15, before the expiration date if:

- (1) The Department and the subrecipient mutually agree to terminate the contract;
- (2) Either the Department or the subrecipient provides the other party 30 days written notice that the notifying party intends to terminate the contract;
- (3) Federal or state laws are changed to reduce or terminate the program;
- (4) The subrecipient ceases to operate the program without the Department's approval; or
- (5) The subrecipient does not comply with the terms of the contract or the negotiated service improvement agreement.

(d) Failure to submit an annual financial and compliance audit, in accordance with the Single Audit Act Amendments of 1996 in a timely manner, shall result

in immediate suspension of payments to the subrecipient and may result in termination and/or nonrenewal of contracts.

(e) Failure to implement proper compliance with materials requirements and the correct installation of materials shall result in contract termination.

(f) The Department shall send the subrecipient a written notice when a contract is terminated. The subrecipient has the right to appeal this action within 15 days of receiving the notice.

(g) Subrecipient shall not be relieved of any liability for damages due to the Department by virtue of any prior or future breach of their contract.

(h) Financial audits resulting in unresolved disallowed costs, and/or unresolved reportable conditions shall result in termination or nonrenewal of contracts.

(i) The Department shall not be liable for any costs incurred by subrecipient after termination or during the suspension of their contract.

(j) Subrecipients shall follow the Department guidelines regarding the use of the approved energy audit and blower door technology.

(k) Subrecipients shall be required to incorporate and implement the Texas Weatherization Field Guide and the Texas Mechanical Systems Field Guide.

§6.8 Subrecipient Requirements for Appeals Process for Applicants

(a) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) days of the adverse determination. If the denial is for any reason other than DOE reweatherization, as specified in 10 CFR 440, the subrecipient will notify the applicant of the adverse determination. This notification shall include written instructions of the appeals process and specific reasons for the denial by component. The applicants wishing to appeal a decision must provide written notice to subrecipient within 10 days of receipt of the denial notice.

(b) The subrecipient who receives an appeal shall establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their client files.

(c) The subrecipient shall hold the appeal hearing within ten business days after the subrecipient received the appeal request from the applicant.

(d) The subrecipient shall tape record the hearing.

(e) The hearing shall allow time for a statement by subrecipient staff with knowledge of the case.

(f) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(g) Subrecipient shall notify applicant of the decision in writing. The subrecipient shall mail the notification by close of business on the business day following the decision. (1 day turn-around)

(h) If the applicant is not satisfied, they may further appeal the decision in writing to the Department within ten days of notification of an adverse decision.

(i) If client appeals to the Department, the subrecipient must retain the maximum allowable cost per unit until the Department renders a decision.

(j) The Department may review the tape recording of the hearing, the committee's decision, and any other relevant information necessary.

(k) The Department appeals committee shall decide the case and forward their recommendation to the Division Director for final concurrence.

(l) The Department will notify all parties in writing of its decision within 30 days of receipt of the appeal.

§6.9 WAP Policy Advisory Council (WAP PAC)

(a) In accordance with Texas Government Code §2110.005, the Department shall establish a State policy advisory council, in accordance with 10 CFR §440.17 and Texas Government Code, Chapter 2110, prior to the expenditure of any grant funds.

(b) The policy advisory council shall meet at least once a year to review the program plan and provide advice to the Department and meet as needed throughout the year to provide advice when it is requested.

(1) The WAP PAC may also meet as necessary in person, by telephone, or via electronic means to provide the Governing Board or Department guidance and advice with respect to the development and implementation of the weatherization assistance program and its activities; and

(2) The WAP PAC will cause minutes of any meetings or telephone conferences to be taken and forwarded to the Department or Governing Board.

(c) All meetings shall be held in accordance with Texas Government Code Chapter 551.

§6.10 Liability Insurance

(a) All subrecipient weatherization work shall be covered by liability insurance. Pollution Occurrence Insurance should be a part of, or an addendum to, general liability insurance. The Department includes funds in the subrecipient budgets for the subrecipients to purchase liability insurance and pollution occurrence insurance as required by DOE.

(b) Subrecipients shall review and maintain their existing policies at least as frequently as contracts are awarded, to ensure that they and their contractors have adequate insurance coverage for all units to be weatherized.

§6.11 Mold Work Practices

(a) The Department may provide Mold Work Practices training methodology to all subrecipients.

(b) The Department may provide Mold Work Practices to new subrecipient hires on an on-going basis.

(c) The subrecipients shall be responsible for providing the training to their weatherization contractors.

§6.12 Mold Conditions

(a) If the subrecipient's energy auditor discovers a mold condition which the weatherization contractor cannot adequately address, then the unit shall be referred to the appropriate public agency for remedial action.

(b) The subrecipient shall provide the applicant written notification that their home cannot, at this time, be weatherized and why. They should also be informed of which agency they should contact to report the mold condition.

The applicant should be advised that when the mold issue is resolved they may reapply for weatherization.

(c) If the energy auditor determines that the mold is treatable and covers less than the 25 contiguous square feet limit allowed to be addressed by the Department of State Health Services guidelines, the subrecipient shall notify the applicant of the existence of the mold and potential health hazards, the proposed action to eliminate the mold, and that no guarantee is offered that the mold will be eliminated and that the mold may return. The auditor must obtain written approval from the applicant to proceed with the weatherization work.

§6.13 Client Education

The subrecipients shall provide client education to each WAP client on energy conservation practices. Subrecipients shall provide education to identify energy waste, manage household energy use, and strategies to promote energy savings. Subrecipients are encouraged to use oral, written, and visual educational materials. These activities are paid with the Department's training and technical assistance funds and the subrecipients' program support funds.

§6.14 Adjusted Average Expenditure Per Dwelling Unit

Expenditures of financial assistance provided under DOE-WAP funding for the weatherization services for labor, weatherization materials, and related matters shall not exceed the adjusted average expenditure limit for the current program year per dwelling unit as provided by DOE, without special agreement via an approved waiver from the Department.

§6.15 Energy Audit Procedures

(a) The Department may set and modify as necessary the allowable Savings-to-Investment Ratio (SIR) for the energy audit procedures to determine the installation of allowable weatherization measures. The weatherization measures must result in energy cost savings over the lifetime of the measure(s), discounted to present value, that equal or exceed the cost of materials, and installation.

(b) The EASY Audit (EASY) has been approved by DOE for use on single family dwellings, mobile homes, and multi-family buildings containing 24 or fewer units.

(c) EASY has not been approved for multi-family buildings containing 25 or more units. Since Texas subrecipients rarely propose to weatherize a building with 25 or more units, the Department will acquire a DOE approved energy audit for use in auditing multi-family buildings containing 25 or more units.

§6.16 Health and Safety

(a) Subrecipients shall provide weatherization services with the primary goal of energy efficiency. The Department considers establishing a healthy and safe home environment to be important to ensuring that energy savings result from weatherization work.

(b) It is the policy of the Department that if health and safety issues identified on an individual unit (which would be exacerbated by any weatherization work performed) cannot be abated within the allowable WAP limits, the unit shall be denied services.

(c) The Department has determined that repair/replacement windows which do not rank with a SIR of one or greater on the audit may be repaired/replaced, if deemed a threat to health and safety. To be eligible for repair/replacement, broken window panes must pose a potential hazardous condition to the client and/or workers. Documentation for replacement must include a clear comprehensible photo showing the hazardous conditions to the occupants. Failure to provide a photo will result in disallowed costs. Slightly cracked window panes do not constitute a hazardous condition.

(d) The Department has determined that repair/replacement doors which do not rank with an SIR of one or greater on the audit, may be repaired/replaced, if deemed a threat to health and safety. To be eligible for repair/replacement the doors must be unable to protect the client from outside elements or unwanted intruders. Documentation for replacement must include a clear comprehensible photo evidencing the hazardous conditions to the occupants. Documentation must be submitted to the assigned Department program officer for approval. The absence of deadbolt locks does not constitute a hazardous health and safety condition by itself.

§6.17 Training and Technical Assistance Carryover Funds

(a) Training and technical assistance funds, allocation figure as provided by DOE, shall not be used to purchase vehicles or equipment for local agencies to perform weatherization services.

(b) Should unexpended training and technical assistance funds remain at the end of the program year, the Department may require these funds to be used to weatherize homes during the following year.

(c) If the Department determines these funds are needed for training and technical assistance, DOE can waive this provision if necessary. If this is the case, the Department will provide justification to DOE of the necessity to carryover these funds into the new program year and that they be included as a part of the new training and technical assistance budget.

§6.18 Electric Base Load Measures

DOE has approved the inclusion of selected Electric Base Load (EBL) measures as part of the weatherization of eligible residential units. EBL measures must be determined cost effective with an SIR of one or greater by either audit analysis or separate DOE approved analytical tools.

§6.19 Payments to Contractors and Vendors

(a) A vendor agreement is required by the Department and implemented via the subrecipient. The vendor agreement shall contain assurances as to fair billing practices, delivery procedures, and pricing procedures for business transactions involving DOE recipients.

(b) Subrecipient shall maintain proof of payment to contractors and vendors.

§6.20 State Contract Purchases

(a) Subrecipients shall comply with the Department rules and state procurement standards regarding competitive solicitation of bids for materials, labor, and equipment and shall adhere to guidelines for selection and award of subcontracts.

(b) Subrecipient shall develop and implement procurement procedures, which conform to the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards, 1 TAC §5.141 et seq.

(c) The State of Texas conducts competitive solicitations to identify equipment and material vendors to provide specified merchandise at discounted prices to State agencies and their contracted agents. Unless a local vendor is identified through a competitive solicitation who will provide equal or better materials and services at the same price or less, subrecipients shall purchase any equipment, materials, or services paid for with DOE funds from a vendor participating in the Texas Building and Procurement Commission's Cooperative Purchasing Program.

§6.21 Subrecipient Reporting Requirements

(a) The subrecipient shall electronically submit to the Department a monthly Funding Report of all expenditure of funds, request for advance or reimbursement, and a monthly performance report no later than fifteen (15) days after the end of each month. This reporting is required.

(b) The subrecipient shall electronically submit to the Department no later than sixty (60) days after the end of the subrecipient contract term a final expenditure or reimbursement and programmatic report utilizing the Funding Report.

(c) The subrecipient shall submit to the Department no later than sixty (60) days after the end of the contract term an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000 or more and a useful life of more than one year, if purchased in whole or in part with DOE-WAP funds.

(d) The subrecipient shall submit other reports, data, and information on the performance of the DOE-WAP program activities as required by DOE pursuant to 10 CFR §440.25 or by the Department.

TITLE 10. COMMUNITY DEVELOPMENT

PART I. Texas Department of Housing and Community Affairs

Chapter 6. Energy Assistance Programs

Subchapter B. Low Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP-WAP)

10 TAC §6.101-§6.121

The Texas Department of Housing and Community Affairs (the Department) proposes new §6.101-§6.121, concerning the Low Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP-WAP) Rules. These sections are proposed new in order to implement the program effectively.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Gerber has also determined that for each year of the first five-years the sections are in effect the public benefit anticipated as a result of enforcing the section will be to provide the LIHEAP-WAP subrecipients within the State of Texas the tools to implement and administer the program more effectively. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Public hearings will be held across the state between September 21 and October 18, 2006 to receive input on this proposed new rule. More information on the hearings can be found at <http://www.tdhca.state.tx.us>. Comments on the proposed rules may be submitted to Amy Oehler, Program Manager, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941 or facsimile at (512) 475-3864 or e-mail at amy.oehler@tdhca.state.tx.us no later than 5:00 p.m., within thirty days of this notice.

These sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, articles or statutes are affected by this section.

§6.101 Definitions

As used in this subchapter:

- (1) CAA--Community Action Agency.
- (2) Children--households with dependents not exceeding 18 years of age.

- (3) Department (the)--the Department of Housing and Community Affairs.
- (4) DOE--the United States Department of Energy.
- (5) Dwelling Unit--a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.
- (6) EASY--the Department of Energy approved audit software used to determine the cost effectiveness of weatherization measures to be installed on a dwelling unit.
- (7) Elderly Person--a person who is 60 years of age or older.
- (8) Electric base-load measure--weatherization measures which address the energy efficiency and energy usage of lighting and appliances.
- (9) Energy Repairs--weatherization related repairs necessary to protect or complete regular weatherization energy efficiency measures.
- (10) Families with young children--a family unit that includes a child not exceeding 6 years of age.
- (11) High energy burden--is determined by dividing annual home energy costs by annual gross income. The percentage at which energy burden is considered high is defined by data gathered from the State Data Center and updated each year.
- (12) High energy consumption--the household energy consumption exceeding the data collected from the State Data Center and updated each year.
- (13) Household--all persons living together in a dwelling unit.
- (14) Local unit of Government--city, county, or council of governments.
- (15) Low Income--that income in relation to family size which:
 - (A) Is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;
 - (B) Is the basis on which cash assistance payments have been paid during the preceding twelve month-period under titles IV and XVI of the Social Security Act or applicable State or local law; or
 - (C) If a State elects, is the basis for eligibility for assistance under the Low Income Home Energy Assistance Act of 1981, provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.
- (16) Multifamily Dwelling Unit--a structure containing more than one dwelling unit.
- (17) Persons with Disabilities--any individual who is:
 - (A) a handicapped individual as defined in §7(6) of the Rehabilitation Act of 1973;
 - (B) under a disability as defined in §1614(a)(3)(A) or §223(d)(1) of the Social Security Act or in §102(7) of the Developmental Disabilities Services and Facilities Construction Act; or
 - (C) receiving benefits under chapter 11 or 15 of title 38, U.S.C.
- (18) Rental Unit--a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.
- (19) Single-Family Dwelling Unit--a structure containing no more than one dwelling unit.
- (20) State--the State of Texas.
- (21) Subrecipient--an entity managing a weatherization project which receives a grant of funds awarded.
- (22) 10 CFR 440--the Code of Federal Regulation describing the Weatherization Assistance for Low Income Persons as administered through the Department of Energy.
- (23) WAP--Weatherization Assistance Program.
- (24) Weatherization Material--the material listed in Appendix A of 10 CFR 440.

(25) Weatherization Project--a project conducted in a single geographical area which undertakes to weatherize dwelling units that are energy inefficient.

§6.102 Program Overview

(a) The Energy Assistance Programs are referred to as the Energy Services Program for Low-Income Individuals in accordance with Texas Government Code, §2306.097. The Low Income Home Energy Assistance Program Weatherization Assistance Program (LIHEAP-WAP) is funded through the U.S. Department of Health and Human Services' Low Income Home Energy Assistance Program (LIHEAP) grant. LIHEAP-WAP offers grants to community action agencies, nonprofits, and local units of government with targeted beneficiaries being households with low incomes, with priority given to the elderly; persons with disabilities; families with young children; households with the highest energy costs or needs in relation to income; and households with high energy consumption. In addition to meeting the income-eligibility criteria, the weatherization measures to be installed must meet specific energy-savings goals.

(b) The program funds the installation of weatherization materials and provides energy conservation education. The program helps to control energy costs to ensure a healthy and safe living environment.

(c) The Department shall administer and implement the program in accordance with a combination of LIHEAP and DOE rules. LIHEAP weatherization measures may be leveraged with DOE weatherization measures.

(d) The Department will reserve 15 percent of the federal LIHEAP grant award funds for the LIHEAP-WAP weatherization related activities. The state and local administrative costs associated with administering the weatherization program under LIHEAP shall not exceed 10 percent.

(e) The Department will reserve 75 percent of the federal LIHEAP grant award funds to implement the Comprehensive Energy Assistance Program (CEAP) activities.

(f) The Department retains a maximum of 10% of the federal LIHEAP grant award funds for subrecipients' and the Department's administrative funds for LIHEAP-WAP and CEAP.

§6.103 Distribution of Funds Formula

(a) The Department distributes funds to subrecipients by an allocation formula.

(b) This funding formula was developed with input from subrecipients. This formula allocates funds based on the number of low-income households in a service area and takes into account the special needs of individual service areas. The need for energy assistance in an area is addressed through a weather factor (based on heating and cooling degree days). The extra expense in delivering services in sparsely populated areas is addressed by an inverse population density factor. The lack of additional services available in very poor counties is addressed by a county median income factor. Finally, the elderly are given priority by giving greater weight to this population. The five factors used in the formula are calculated as follows:

(1) County Non-elderly Poverty Household Factor is defined as the number of Non-elderly Poverty Households in the County divided by the number of Non-elderly Poverty Households in the State.

(2) County Elderly Poverty Household Factor is defined as the number of Elderly Poverty Households in the County divided by the number of Elderly Poverty Households in the State.

(3) County Inverse Poverty Household Density Factor is defined as:

(A) The number of Square Miles of the County divided by the number of Poverty Households of the County (equals the Inverse Poverty Household Density of the County); and

(B) Inverse Poverty Household Density of the County divided by the Sum of Inverse Household Densities.

(4) County Median Income Variance Factor is defined as:

(A) State Median Income minus the County Median Income (equals County Variance); and

(B) County Variance divided by sum of the State County Variances.

(5) County Weather Factor is defined as:

(A) County Heating Degree Days plus the County Cooling Degree Days, multiplied by the Poverty Households, divided by the sum of County Heating & Cooling Degree Days of Counties (equals County Weather); and

(B) County Weather divided by the total sum of the State County Weather.

(c) The five factors carry the following weights in the allocation formula: number of non-elderly poverty households (40 percent), number of poverty households with at least one member who is 65 years of age or older (40 percent), household density as an inverse ratio (5 percent), the median income of the county (5 percent), and a weather factor based on Heating Degree Days and Cooling Degree Days (10 percent). All demographic factors are based on the 2000 U.S. Census. The formula is as follows:

(1) County Non-elderly Poverty Household Factor (0.40) plus;

(2) County Elderly Poverty Household Factor (0.40) plus;

(3) County Inverse Poverty Household Density Factor (0.05) plus;

(4) County Median Income Variance Factor (0.05) plus;

(5) County Weather Factor (0.10);

(6) Total sum of paragraphs (1)-(5) of this subsection multiplied by total funds allocation equals the County's allocation of funds.

(7) The sum of the county allocation within each subrecipient service area equals the subrecipient's total allocation of funds.

(d) Periodically, the Department management must shift resources from low-demand regions to high-demand regions of the state. During the sixth month of the program year, the Department will conduct an in-house performance review of all subrecipients. The performance review will include individual subrecipient expenditure rate and households served as specified in the contract. Based on the review, the Department may deobligate funds from low performing subrecipients and award the funds to high performing subrecipients. Additional LIHEAP funds received during a program year, beyond the regular grant allocation, may be allocated to subrecipient based upon documented need.

(e) The Department is allowed, in accordance with 10 CFR §440.18, to provide an additional five (5) percent of U.S. Department of Energy (DOE) Weatherization Assistance Program (DOE-WAP) administrative funds for subrecipient DOE-WAP budgets less than \$350,000. The Department offsets the funds between DOE and LIHEAP budget awards to allow each subrecipient to receive the maximum allowable administrative funds. The Department makes the corresponding adjustments between the DOE and LIHEAP subrecipient budgets to insure the distribution of funds is appropriately distributed by formula.

§6.104 Subrecipient Eligibility

(a) Pursuant to Low-Income Home Energy Assistance Act of 1981, the Department shall ensure that: To the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that:

(1) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

(b) The Department administers the program through the existing subrecipients that have demonstrated that they are operating the program under the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981 as amended (42 U.S.C. §6861 et seq.), and in accordance with 10 CFR §440.15 and State rules. If subrecipients are successfully administering the program, the Department may offer to renew the contract.

(c) When the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if subrecipient fails to administer the program correctly, the Department reassigns the service area or a portion to another existing subrecipient or conducts solicitation or selection of a new subrecipient in accordance with the Low-Income Home Energy Assistance Act of 1981 and 10 CFR §440.15.

§6.105 Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria

(a) The subrecipients shall establish the client eligibility level at 125% of the federal poverty level in effect at the time the client makes an application for services. Dwelling units that contain household members who receive SSDI only are not automatically eligible.

(b) The subrecipients shall establish eligibility and priorities criteria to increase the energy efficiency of dwellings owned or occupied by low-income persons who are particularly vulnerable such as the elderly, persons with disabilities, families with young children, high residential energy users, and households with high energy burden. High residential energy users and households with high energy burden are considered to be as follows:

(1) Households with high energy burden. The energy burden is determined by dividing annual home energy costs by annual gross income. The percentage at which energy burden is categorized as high is defined by data gathered from the State Data Center and updated each year.

(2) Households with high energy consumption, as determined by using data collected from the State Data Center and updated each year.

(c) The subrecipients shall follow the Department rules and established state and federal guidelines for determining eligibility for multifamily dwelling units as referenced in §6.106 of this subchapter.

(d) Subrecipients shall base annualized eligibility determinations on household income from the 30 day period prior to the date of application for assistance. Each subrecipient shall document income from all sources for all household members for the entire 30 day period prior to the date of application and multiply by twelve (12) to annualize income. Income documentation must be collected from all income sources for all household members 18 years and older for the entire 30 day period.

(e) Subrecipients shall calculate annual income using, at a minimum, applicant's income from the previous 30 day period. In the case of migrant, seasonal, part-time, temporary, or self-employed workers, a longer period than 30 days may be used for annualizing income. However, the same method must be used for all similarly situated workers.

(f) If proof of income is unavailable, the applicant must complete and sign a Declaration of Income Statement (DIS). In order to use the DIS form, each subrecipient shall develop and implement a written policy and procedure on the use of the DIS form. In developing the policy and procedure, subrecipients shall give consideration to limiting the use of the DIS form to cases where there are serious extenuating circumstances that justify the use of the form. Such circumstances might include crisis situations such as applicants that are affected by natural disaster which prevents the applicant from obtaining income documentation, applicants that flee a home due to physical abuse, applicants who are unable to locate income documentation of a recently deceased spouse, or whose work is migratory or seasonal in nature. The Department will review the written policy and its use during on-site monitoring visits.

(g) Subrecipient shall determine income eligibility.

(1) The following list contains the types of income that are included as income in the definition of income for the purpose of determining the total household income:

- (A) Temporary Assistance for Needy Families (TANF);
- (B) money, wages and salaries before any deductions;
- (C) net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);
- (D) regular payments from social security;
- (E) railroad retirement;
- (F) unemployment compensation;
- (G) strike benefits from union funds;
- (H) worker's compensation;
- (I) veteran's payments;
- (J) training stipends;
- (K) alimony;
- (L) military family allotments;
- (M) private pensions;
- (N) government employee pensions (including military retirement pay);
- (O) regular insurance or annuity payments; and
- (P) dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.

(2) The following is a list that contains the types of income that are excluded from the definition of income:

- (A) Social Security Disability Insurance (SSDI) payments;
- (B) Supplemental Security Income (SSI) payments;
- (C) capital gains; any assets drawn down as withdrawals from a bank;
- (D) the sale of property, a house, or a car;

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

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

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

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

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

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

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

(L) federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches;

(M) housing assistance and combat zone pay to the military;

(N) college scholarships, Pell and other grant sources, assistantships, fellowships and work study; and

(O) child support payments.

(h) A dwelling unit shall be eligible for weatherization assistance if it is occupied by a family unit which contains a current household member who has received TANF or SSI at anytime during the twelve month period preceding the determination of eligibility. Dwelling units that contain household members who receive SSDI only are not automatically eligible. The eligibility of dwelling units for WAP services can be found in 10 CFR Part §440.22.

§6.106 Eligibility for Multifamily Dwelling Units

(a) A dwelling unit shall be eligible for weatherization assistance if it is occupied by a family unit which contains a household member who has received TANF or SSI at anytime during the twelve month period preceding the determination of eligibility. Dwelling units that contain household members who receive SSDI only are not automatically eligible. The eligibility of dwelling units for WAP services can be found in 10 CFR Part §440.22.

(b) The substantial investment of weatherization funds required to address multifamily units increases the need for additional quality assurance measures in the WAP. The Department has developed this section to ensure that funds used to weatherize multifamily dwelling units are expended within the scope of established State and Federal guidelines. This section addresses weatherization of multifamily buildings containing more than four (4) but less than 25 dwelling units. Approvals are not required for buildings containing twenty-four dwelling units or less that contain shared central heating and/or cooling systems that use compressed air as a coolant.

(c) DOE approved the use of Energy Audit System (EASY) for use in single family, mobile home, and multifamily buildings with fewer than twenty-five dwelling units. The approval does not cover large multifamily buildings containing twenty-five or more dwelling units or those with shared central heating (i.e. boilers) and/or shared cooling plants (i.e. cooling towers that use water as the coolant). DOE defines a building as a group of dwellings under the same roof.

(d) In order to weatherize large multifamily buildings containing twenty-five or more dwelling units or those with shared central heating (i.e. boilers) and/or shared cooling plants (i.e. cooling towers that use water as the coolant) regardless of the number of dwelling units, subrecipients shall submit in writing a request for approval from the Department. In turn, the Department will seek approval from DOE. Approvals from DOE must be received prior to the installation of any weatherization measures.

(e) In order to weatherize shelters, subrecipients shall submit a written request for approval from the Department. Approvals from the Department must be received prior to the installation of any weatherization measures.

(f) Subrecipients are reminded that if roof replacement is to be considered as part of repair cost under the weatherization process, the expenses shall be shared equally by all eligible units weatherized under the same roof. If multiple storied buildings are weatherized, eligible ground story units must be allocated a portion of the roof cost as well as the eligible top story units. All weatherization measures installed in multifamily units must meet the standards set in 10 CFR §440.18(c)(9) and (15) and Appendix A - Standards for Weatherization Materials, and meet a savings-to-investment ratio of one (1) or greater on the EASY Audit. DOE specifically addresses the eligibility of multifamily units in 10 CFR §440.22 (a)-(d).

(g) WAP subrecipients shall establish a multifamily master file for each multifamily project in addition to the individual unit requirements found in the record keeping requirement section of the contract. Subrecipients shall maintain a multifamily master file for each complex weatherized. The multifamily master file must include, at a minimum, the following forms:

- (1) Multifamily Pre-Project Checklist Form;
- (2) Multifamily Post-Project Checklist Form;
- (3) Permission to Perform an Assessment for Multifamily Project Form;
- (4) Landlord Agreement Form;
- (5) Landlord Financial Participation Form; and
- (6) Significant Data Required in all Multifamily Project.

§6.107 Contract Expiration, Termination, and Nonrenewal

(a) If available, LIHEAP-WAP grant funds shall be expended in a timely and effective manner, and services provided must be effective and in full compliance with federal and state requirements.

(b) The Department may continue to administer the program through the existing subrecipients that have demonstrated that they are operating the program in accordance with the Low-Income Home Energy Assistance Act of 1981, 10 CFR §440.15, and state regulations through contract renewal.

(c) If a subrecipient does not comply with the program requirements, the Department may terminate a contract, in whole or in part, in accordance with the Low-Income Home Energy Assistance Act of 1981, 10 CFR §440.15, before the expiration date if:

- (1) The Department and the subrecipient mutually agree to terminate the contract;
- (2) Either the Department or the subrecipient provides the other party 30 days written notice that the notifying party intends to terminate the contract;
- (3) Federal or state laws are changed to reduce or terminate the program;
- (4) The subrecipient ceases to operate the program without the Department's approval; or
- (5) The subrecipient does not comply with the terms of the contract or the negotiated service improvement agreement.

(d) Failure to submit an annual financial and compliance audit, in accordance with the Single Audit Act Amendments of 1996 in a timely manner, shall result in immediate suspension of payments to the subrecipient and may result in termination and/or nonrenewal of contracts.

(e) Failure to implement proper compliance with materials requirements and the correct installation of materials shall result in contract termination.

- (f) The Department shall send the subrecipient a written notice when a contract is terminated. The subrecipient has the right to appeal this action within 15 days of receiving the notice.
- (g) Subrecipient shall not be relieved of any liability for damages due to the Department by virtue of any prior or future breach of their contract.
- (h) Financial audits resulting in unresolved disallowed costs, and/or unresolved reportable conditions shall result in termination or nonrenewal of contracts.
- (i) The Department shall not be liable for any costs incurred by subrecipient after termination or during the suspension of their contract.
- (j) Subrecipients shall follow TDHCA guidelines regarding the use of the approved energy audit and blower door technology.
- (k) Subrecipients shall be required to incorporate and implement the Texas Weatherization Field Guide and the Texas Mechanical Systems Field Guide standards as required by program policy.

§6.108 Subrecipient Requirements for Appeals Process for Applicants

- (a) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) days of the adverse determination. If the denial is for any reason other than DOE reweatherization, as specified in 10 CFR 440, the subrecipient will notify the applicant of the adverse determination. This notification shall include written instructions of the appeals process and specific reasons for the denial by component. The applicants wishing to appeal a decision must provide written notice to subrecipient within 10 days of receipt of the denial notice.
- (b) The subrecipient who receives an appeal shall establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their client files.
- (c) The subrecipient shall hold the appeal hearing within ten business days after the subrecipient received the appeal request from the applicant.
- (d) The subrecipient shall tape record the hearing.
- (e) The hearing shall allow time for a statement by subrecipient staff with knowledge of the case.
- (f) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.
- (g) Subrecipient shall notify applicant of the decision in writing. The subrecipient shall mail the notification by close of business on the business day following the decision. (1 day turn-around)
- (h) If the applicant is not satisfied, they may further appeal the decision in writing to the Department within ten days of notification of an adverse decision.
- (i) If client appeals to the Department, the funds should remain encumbered until the Department completes its decision.
- (j) The Department may review the tape recording of the hearing, the committee's decision, and any other relevant information necessary.
- (k) The Department appeals committee shall decide the case and forward their recommendation to the Division Director for final concurrence.
- (l) The Department will notify all parties in writing of its decision within 30 days of receipt of the appeal.

§6.109 Liability Insurance

(a) All subrecipient weatherization work shall be covered by liability insurance through DOE-WAP funds. Pollution Occurrence Insurance should be a part of, or an addendum to, general liability insurance. The Department includes funds in the DOE-WAP subrecipient budgets for the subrecipients to purchase liability insurance and pollution occurrence insurance as required for all units to be weatherized, including LIHEAP-WAP units.

(b) Subrecipients shall review and maintain their existing policies at least as frequently as contracts are awarded, to ensure that they and their contractors have adequate insurance coverage for all units to be weatherized.

§6.110 Mold Work Practices

(a) The Department may provide Mold Work Practices training methodology to all subrecipients.

(b) The Department may provide Mold Work Practices to new subrecipient hires on an on-going basis.

(c) The subrecipients shall be responsible for providing the training to their weatherization contractors.

§6.111 Mold Conditions

(a) If the subrecipient's energy auditor discovers a mold condition which the weatherization contractor cannot adequately address, then the unit shall be referred to the appropriate public agency for remedial action.

(b) The subrecipient shall provide the applicant written notification that their home cannot, at this time, be weatherized and why. They should also be informed of which agency they should contact to report the mold condition. The applicant should be advised that when the mold issue is resolved they may reapply for weatherization.

(c) If the energy auditor determines that the mold is treatable and covers less than the 25 contiguous square feet limit allowed to be addressed by the Department of State Health Services' guidelines, the subrecipient shall notify the applicant of the existence of the mold and potential health hazards, the proposed action to eliminate the mold, and that no guarantee is offered that the mold will be eliminated and that the mold may return. The auditor must obtain written approval from the applicant to proceed with the weatherization work.

§6.112 Client Education

The subrecipients shall provide client education to each WAP client on energy conservation practices. Subrecipients shall provide education to identify energy waste, manage household energy use, and strategies to promote energy savings. Subrecipients are encouraged to use oral, written, and visual educational materials. These activities are paid with the Department's and the subrecipients' program support funds.

§6.113 Allowable Expenditure Per Dwelling Unit

Expenditures of financial assistance provided under LIHEAP-WAP funding for the weatherization services for labor, weatherization materials, and related matters shall not exceed the allowable figure as set forth in the annual LIHEAP State Plan. The current allowable amount is set at \$4,000 per dwelling unit.

§6.114 Energy Audit Procedures

(a) The Department may set and modify as necessary the allowable savings-to-investment ratio (SIR) for the energy audit procedures to determine the allowable weatherization measures.

(b) The EASY Audit (EASY) has been approved by DOE for use on single family dwellings, mobile homes, and multi-family buildings containing 24 or fewer units.

(c) EASY has not been approved for multi-family buildings containing 25 or more units. Since Texas subrecipients rarely propose to weatherize a building with 25 or more units, the Department will acquire a DOE approved energy audit for use in auditing multi-family buildings containing 25 or more units.

(d) The Department may change its blower door requirements in order to gain higher savings.

§6.115 Energy Repairs

WAP will provide weatherization energy efficiency and weatherization repair related activities to eligible clients. The list of allowable LIHEAP-WAP weatherization energy related repairs which may be undertaken when necessary to protect and complete regular energy efficiency weatherization measures include:

- (1) roof, wall, and floor repair (excluding leveling);
- (2) repair or replacement of essential electrical wiring;
- (3) solar screens and window film (must be installed in the order of west, east, and south);
- (4) replacement of refrigerators 1993 or older or metered to have an SIR of 1 or greater on the Department refrigerator tool;
- (5) mobile home skirting to protect belly insulation;
- (6) overhangs to protect mobile home doors; and
- (7) carpentry work to protect outside water heater from the elements.

§6.116 Health and Safety

(a) Subrecipients shall provide weatherization services with the primary goal of energy efficiency. The Department considers establishing a healthy and safe home environment to be important to ensuring that energy savings result from weatherization work.

(b) It is the policy of the Department that if health and safety issues identified on an individual unit (which would be exacerbated by any weatherization work performed) cannot be abated within the allowable WAP limits, the unit shall be denied services.

(c) The Department has determined that repair/replacement windows which do not rank with a SIR of one or greater on the audit may be repaired/replaced, if deemed a threat to health and safety. To be eligible for repair/replacement, broken window panes must pose a potential hazardous condition to the client and/or workers. Documentation for replacement must include a clear comprehensible photo showing the hazardous conditions to the occupants. Failure to provide a photo will result in disallowed costs. Slightly cracked window panes do not constitute a hazardous condition.

(d) The Department has determined that repair/replacement doors which do not rank with an SIR of one or greater on the audit, may be repaired/replaced, if deemed a threat to health and safety. To be eligible for repair/replacement the doors must be unable to protect the client from outside elements or unwanted intruders. Documentation for replacement must include a clear comprehensible photo evidencing the hazardous conditions to the occupants. Documentation must be submitted to the assigned the Department program officer for approval. The absence of deadbolt locks does not constitute a hazardous health and safety condition by itself.

§6.117 Electric Base Load Measures

DOE has approved the inclusion of selected Electric Base Load (EBL) measures as part of the weatherization of eligible residential units. EBL measures will be allowable under the LIHEAP-WAP program. The EBL measures must be determined cost effective with an SIR of one or greater by either audit analysis or separate DOE approved analytical tools.

§6.118 Payments to Contractors and Vendors

(a) A vendor agreement is required by the Department and implemented via the subrecipient. The vendor agreement shall contain assurances as to fair billing practices, delivery procedures, and pricing procedures for business transactions involving LIHEAP recipients.

(b) Subrecipient shall maintain proof of payment to contractors and vendors.

§6.119 State Contract Purchases

(a) Subrecipients shall comply with the Department rules and state procurement standards regarding competitive solicitation of bids for materials, labor, and equipment and shall adhere to guidelines for selection and award of subcontracts.

(b) Subrecipient shall develop and implement procurement procedures, which conform to the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards, 1 TAC §5.141 et seq.

(c) The State of Texas conducts competitive solicitations to identify equipment and material vendors to provide specified merchandise at discounted prices to State agencies and their contracted agents. Unless a local vendor is identified through a competitive solicitation who will provide equal or better materials and services at the same price or less, subrecipients shall purchase any equipment, materials, or services paid for with LIHEAP funds from a vendor participating in the Texas Building and Procurement Commission's Cooperative Purchasing Program.

§6.120 Outreach and Accessibility

(a) The Department may continue to develop interagency collaborations with other low-income program offices and energy providers to perform outreach to targeted groups.

(b) Subrecipients shall conduct outreach activities.

(c) Subrecipients and their field offices shall accept applications at sites that are geographically accessible to all households requesting assistance.

(d) Other outreach activities may include:

(1) providing information through home visits, site visits, group meetings, or by telephone for disabled low-income persons;

(2) distributing posters/flyers and other informational materials at local and county social service agencies, offices of aging, social security offices, etc.;

(3) providing information on the program and eligibility criteria in articles in local newspapers or broadcast media announcements;

(4) coordinating with other low-income services to provide LIHEAP information in conjunction with other programs;

(5) providing information on one-to-one basis for applicants in need of translation or interpretation assistance;

(6) providing LIHEAP applications, forms, and energy education materials in English and/or Spanish (or other appropriate language);

(7) working with energy vendors in identifying potential applicants;

(8) assisting applicants to gather needed documentation; and,

(9) mailing information and applications.

§6.121 Subrecipient Reporting Requirements

(a) The subrecipient shall electronically submit to the Department a monthly Funding Report of all expenditure of funds, request for advance or reimbursement, and a monthly performance report no later than fifteen (15) days after the end of each month.

(b) The subrecipient shall electronically submit to the Department no later than sixty (60) days after the end of the subrecipient contract term a final expenditure or reimbursement and programmatic report utilizing the Funding Report. This reporting is required.

(c) The subrecipient shall submit to the Department no later than sixty (60) days after the end of the contract term an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000 or more and a useful life of more than one year, if purchased in whole or in part with LIHEAP-WAP funds.

(d) The subrecipient shall submit other reports, data, and information on the performance of the LIHEAP-WAP program activities as required by the Department.

TITLE 10. COMMUNITY DEVELOPMENT

PART I. Texas Department of Housing and Community Affairs

Chapter 6. Energy Assistance Programs

Subchapter C. Comprehensive Energy Assistance Program (CEAP)

10 TAC §6.201-§6.214

The Texas Department of Housing and Community Affairs (the Department) proposes new §6.201-§6.214, concerning the Comprehensive Energy Assistance Program (CEAP) Rules. These sections are proposed new in order to implement the program effectively.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Gerber has also determined that for each year of the first five-years the sections are in effect the public benefit anticipated as a result of enforcing the section will be to provide the CEAP subrecipients within the State of Texas the tools to implement and administer the program more effectively. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Public hearings will be held across the state between September 21 and October 18, 2006 to receive input on this proposed new rule. More information on the hearings can be found at <http://www.tdhca.state.tx.us>. Comments on the proposed rules may be submitted to Amy Oehler, Program Manager, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941 or facsimile at (512) 475-3864 or e-mail at amy.oehler@tdhca.state.tx.us no later than 5:00 p.m., within thirty days of this notice.

These sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, articles or statutes are affected by this section.

§6.201 Definitions

As used in this subchapter:

- (1) CAA--Community Action Agency.
- (2) Children--households with dependents not exceeding 18 years of age.

- (3) Cooling--modifications including but not limited to the repair or replacement of air conditioning units, evaporative coolers, and refrigerators.
- (4) Dwelling Unit--a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.
- (5) Disabled Person--any individual who is:
- (A) a handicapped individual as defined in §7(6) of the Rehabilitation Act of 1973;
 - (B) under a disability as defined in §1614(a)(3)(A) or §223(d)(1) of the Social Security Act or in §102(7) of the Developmental Disabilities Services and Facilities Construction Act; or
 - (C) receiving benefits under chapter 11 or 15 of title 38, U.S.C.
- (6) Emergency--consists of the following:
- (A) natural disaster;
 - (B) a significant increase in the cost of home energy, as determined by the Secretary;
 - (C) a significant increase in home energy disconnections reported by a utility, a State regulatory agency, or another agency with necessary data;
 - (D) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the national program to provide supplemental security income carried out under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or the State temporary assistance for needy families program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), as determined by the head of the appropriate Federal agency;
 - (E) a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or
 - (F) an event meeting such criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.
- (7) Elderly Person--a person who is 60 years of age or older.
- (8) Energy Crisis--weather-related and supply shortage emergencies and other household energy-related emergencies.
- (9) Energy Education--the process whereby individuals and households learn the choices to use energy efficiently, improve their indoor comfort, and become aware of how their behavior affects energy consumption, energy cost, and health and safety within their homes.
- (10) Families with young children--a family unit that includes a child not exceeding 6 years of age.
- (11) Heating--modifications including but not limited to the repair or replacement of gas and electric furnaces, wall furnaces, gas space heaters, and propane tanks including accessories.
- (12) Highest home energy needs--the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.
- (13) High energy burden--is determined by dividing annual home energy costs by annual gross income. The percentage at which energy burden is considered high is defined by data gathered from the State Data Center and updated each year.
- (14) High energy consumption--the household energy consumption exceeding the data collected from the State Data Center and updated each year.
- (15) Household--any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy.
- (16) Home Energy--a source of heating or cooling in residential dwellings.

- (17) Natural Disaster--a weather event (relating to cold or hot weather), flood, earthquake, tornado, hurricane, or ice storm, or an event meeting such other criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.
- (18) Local units of Government--city, county, or council of governments.
- (19) Low Income--that income in relation to family size which:
- (A) Is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;
- (B) Is the basis on which cash assistance payments have been paid during the preceding twelve month-period under titles IV and XVI of the Social Security Act or applicable State or local law; or
- (C) If a State elects, is the basis for eligibility for assistance under the Low Income Home Energy Assistance Act of 1981, provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.
- (20) Multifamily Dwelling Unit--a structure containing more than one dwelling unit.
- (21) Needs Assessment--activities involving identifying, gathering, comparing and evaluating information and data about a client household or a community in order to determine the type and nature of the problems involved, the capacities and resources of the client households or community, and the services needed to assist the households and community.
- (22) Outreach--the method that attempts to identify clients who are in need of services, alerts these clients to service provisions and benefits, and helps them use the services that are available. It actively strives to locate, contact and engage potential clients.
- (23) Referral--linking a client household with an agency, program, or professional person that can and will provide the service needed by the client.
- (24) Renter--a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.
- (25) Secretary--the Secretary of Health and Human Services.
- (26) State--the State of Texas.
- (27) Subrecipient--an entity which receives a Comprehensive Energy Assistance Program grant of funds awarded.
- (28) Targeting--focusing assistance to households with the highest home energy needs.
- (29) Vendor Agreement--an agreement between the Subrecipient and the local energy vendor that contains assurance as to fair billing practices, delivery procedures, and pricing for business transactions involving LIHEAP recipients.
- (30) WAP--Weatherization Assistance Program.

§6.202 Program Overview

(a) The Energy Assistance Programs are referred to as the Energy Services Program for Low-Income Individuals in accordance with Texas Government Code, §2306.097. The Comprehensive Energy Assistance Program (CEAP) is funded through the U.S. Department of Health and Human Services' Low Income Home Energy Assistance Program (LIHEAP) grant. CEAP offers grants to community action agencies, nonprofits, and local units of government with targeted beneficiaries being households with low incomes, with priority given to the elderly; persons with disabilities; families with young children; households

with the highest energy costs or needs in relation to income; and households with high energy consumption.

(b) The Comprehensive Energy Assistance Program (CEAP) combines activities, as defined in Assurance 16 (The State agrees to use up to five percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.) in the LIHEAP Statute (42 U.S.C. §8624 (b)(16)); education; and financial assistance to help very low- and extremely low-income consumers reduce their utility bills to an affordable level. Services include utility payment assistance; heating and cooling system replacement; repair and retrofit; energy education; and budget counseling as it pertains to energy needs.

(c) Due to diverse weather conditions in Texas, each local subrecipient will determine the key months for heating and/or cooling assistance to the household based on the household's energy consumption. For purposes of comparing federal to state activity categories, the Texas CEAP components reflect LIHEAP categories of heating and cooling. The months of December - February count for heating assistance, while March - November count for cooling assistance.

(d) The crisis assistance component will remain a year-round program. A portion of the crisis assistance funds will be reserved by the State for later distribution to ensure adequate crisis assistance after March 15. Crisis funds not used during the winter months for energy crisis will be made available to local agencies to start crisis operation for the summer months.

(e) The Department will reserve 15 percent of the federal LIHEAP grant award funds to implement the LIHEAP-Weatherization Assistance Program (LIHEAP-WAP) activities.

(f) The Department retains a maximum of 10% of the federal LIHEAP grant award funds for subrecipients' and the Department's administrative funds for CEAP and LIHEAP-WAP.

§6.203 Distribution of Funds Formula

(a) The Department distributes funds to subrecipients by an allocation formula.

(b) This funding formula was developed with input from subrecipients. This formula allocates funds based on the number of low-income households in a service area and takes into account the special needs of individual service areas. The need for energy assistance in an area is addressed through a weather factor (based on heating and cooling degree days). The extra expense in delivering services in sparsely populated areas is addressed by an inverse population density factor. The lack of additional services available in very poor counties is addressed by a county median income factor. Finally, the elderly are given priority by giving greater weight to this population. The five factors used in the formula are calculated as follows:

(1) County Non-elderly Poverty Household Factor is defined as the number of Non-elderly Poverty Households in the County divided by the number of Non-elderly Poverty Households in the State.

(2) County Elderly Poverty Household Factor is defined as the number of Elderly Poverty Households in the County divided by the number of Elderly Poverty Households in the State.

(3) County Inverse Poverty Household Density Factor is defined as:
 (A) The number of Square Miles of the County divided by the number of Poverty Households of the County (equals the Inverse Poverty Household Density of the County); and
 (B) Inverse Poverty Household Density of the County divided by the Sum of Inverse Household Densities.

(4) County Median Income Variance Factor is defined as:
 (A) State Median Income minus the County Median Income (equals County Variance), and
 (B) County Variance divided by sum of the State County Variances.

(5) County Weather Factor is defined as:
 (A) County Heating Degree Days plus the County Cooling Degree Days, multiplied by the Poverty Households, divided by the sum of County Heating & Cooling Degree Days of Counties (equals County Weather); and
 (B) County Weather divided by the total sum of the State County Weather.

(c) The five factors carry the following weights in the allocation formula: number of non-elderly poverty households (40 percent), number of poverty households with at least one member who is 65 years of age or older (40 percent), household density as an inverse ratio (5 percent), the median income of the county (5 percent), and a weather factor based on Heating Degree Days and Cooling Degree Days (10 percent). All demographic factors are based on the 2000 U.S. Census. The formula is as follows:
 (1) County Non-elderly Poverty Household Factor (0.40) plus;
 (2) County Elderly Poverty Household Factor (0.40) plus;
 (3) County Inverse Poverty Household Density Factor (0.05) plus;
 (4) County Median Income Variance Factor (0.05) plus;
 (5) County Weather Factor (0.10);
 (6) Total sum of paragraphs (1)-(5) of this subsection multiplied by total funds allocation equals the County's allocation of funds.
 (7) The sum of the county allocation within each subrecipient service area equals the subrecipient's total allocation of funds.

(d) Periodically, the Department management must shift resources from low-demand regions to high-demand regions of the state. During the sixth month of the program year, the Department will conduct an in-house performance review of all subrecipients. The performance review will include individual subrecipient expenditure rate and households served by program component, as specified in the Service Delivery Plan and contract. Based on the review, the Department may deobligate funds from low performing subrecipients and award the funds to high performing subrecipients. Additional LIHEAP funds received during a program year, beyond the regular grant allocation, may be allocated to subrecipient based upon documented need.

§6.204 Subrecipient Eligibility

(a) Pursuant to Low-Income Home Energy Assistance Act of 1981, the Department shall ensure that:
 To the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity

Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that:

(1) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

(b) The Department administers the program through the existing subrecipients that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981 as amended (42 U.S.C. §8621 et seq.), and State rules. If subrecipients are successfully administering the program, the Department may offer to renew the contract.

(c) When the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if subrecipient fails to administer the program correctly, the Department reassigns the service area or a portion to another existing subrecipient or conducts solicitation or selection of a new subrecipient in accordance with the Low-Income Home Energy Assistance Act of 1981.

§6.205 Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria

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

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

(1) Households with high energy burden (greater than 11.08% of household income). When data becomes available from the State Data Center this percentage figure will be updated. Energy burden is figured by dividing home energy costs by gross income.

(2) Households with high energy consumption (greater than \$1,028 per year). When data becomes available from the State Data Center this figure will be updated. The households' annual home energy consumption is calculated and the ones that exceed \$1,028 are counted as high energy consumption households.

(c) The subrecipients shall follow the Department rules and established state and federal guidelines for determining eligibility for multifamily dwelling units.

(d) Subrecipients shall base annualized eligibility determinations on household income from the 30 day period prior to the date of application for assistance. Each subrecipient shall document income from all sources for all household members for the entire 30 day period prior to the date of application and multiply by twelve (12) to annualize income. Income

documentation must be collected from all income sources for all household members 18 years and older for the entire 30 day period.

(e) Subrecipients shall calculate annual income using, at a minimum, applicant's income from the previous 30 day period. In the case of migrant or seasonal workers, a longer period than 30 days may be used for annualizing income. However, the same method must be used for all similarly situated workers.

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

(g) Subrecipient shall determine income eligibility.

(1) The following list contains the types of income that are included as income in the definition of income for the purpose of determining the total household income:

- (A) Temporary Assistance for Needy Families (TANF);
- (B) money, wages and salaries before any deductions;
- (C) net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses);
- (D) regular payments from social security;
- (E) railroad retirement;
- (F) unemployment compensation;
- (G) strike benefits from union funds;
- (H) worker's compensation;
- (I) veteran's payments;
- (J) training stipends;
- (K) alimony;
- (L) military family allotments;
- (M) private pensions;
- (N) government employee pensions (including military retirement pay);
- (O) regular insurance or annuity payments; and
- (P) dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.

(2) The following is a list that contains the types of income that are excluded from the definition of income:

- (A) Social Security Disability Insurance (SSDI) payments;
- (B) Supplemental Security Income (SSI) payments;
- (C) capital gains; any assets drawn down as withdrawals from a bank;
- (D) the sale of property, a house, or a car;
- (E) one-time payments from a welfare agency to a family or person who is in temporary financial difficulty;
- (F) tax refunds, gifts, loans, and lump-sum inheritances;
- (G) one-time insurance payments, or compensation for injury;
- (H) non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;
- (I) food or housing received in lieu of wages;
- (J) the value of food and fuel produced and consumed on farms;

(K) the imputed value of rent from owner-occupied non-farm or farm housing;
(L) federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches;
(M) housing assistance and combat zone pay to the military;
(N) college scholarships, Pell and other grant sources, assistantships, fellowships and work study; and
(O) child support payments.
(h) Homeowners and renters will be treated equitably under all programs funded in whole or in part from LIHEAP funds. For those renters who pay heating and/or cooling bills as part of their rent, the subrecipient shall make special efforts to determine the portion of the rent that constitutes the fuel heating and/or cooling payment. If "sub metering" is not available, the subrecipient shall exercise care when negotiating with the landlords so the cost of utilities quoted is in line with the consumption for similar residents of the community. If the subrecipient pays the landlord, then the landlord shall furnish evidence that he/she has paid the bill and the amount of assistance must be deducted from the rent, if the utility payment is not stated separately from the rent. An agreement stating the terms of the payment negotiations must be signed by the landlord.

§6.206 Contract Expiration, Termination, and Nonrenewal

(a) If available, CEAP grant funds shall be expended in a timely and effective manner, and services provided must be effective and in full compliance with federal and state requirements.

(b) The Department may continue to administer the program through the existing subrecipients that have demonstrated that they are operating the program in accordance with the Low-Income Home Energy Assistance Act of 1981, 10 CFR §440.15, and state regulations through contract renewal.

(c) If a subrecipient does not comply with the program requirements, the Department may terminate a contract, in whole or in part, in accordance with the Low-Income Home Energy Assistance Act of 1981 and 10 CFR §440.15, before the expiration date if:

- (1) The Department and the subrecipient mutually agree to terminate the contract;
- (2) Either the Department or the subrecipient provides the other party 30 days written notice that the notifying party intends to terminate the contract;
- (3) Federal or state laws are changed to reduce or terminate the program;
- (4) The subrecipient ceases to operate the program without the Department's approval; or
- (5) The subrecipient does not comply with the terms of the contract or the negotiated service improvement agreement.

(d) Failure to submit an annual financial and compliance audit, in accordance with the Single Audit Act Amendments of 1996 in a timely manner, shall result in immediate suspension of payments to the subrecipient and may result in termination and/or nonrenewal of contracts.

(e) Failure to implement proper compliance with materials requirements and the correct installation of materials shall result in contract termination.

(f) The Department shall send the subrecipient a written notice when a contract is terminated. The subrecipient has the right to appeal this action within 15 days of receiving the notice.

(g) Subrecipient shall not be relieved of any liability for damages due to the Department by virtue of any prior or future breach of their contract.

(h) Financial audits resulting in unresolved disallowed costs, and/or unresolved reportable conditions shall result in termination or nonrenewal of contracts.

(i) The Department shall not be liable for any costs incurred by subrecipient after termination or during the suspension of their contract.

§6.207 Subrecipient Requirements for Appeals Process for Applicants

(a) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) days of the adverse determination. This notification shall include written instructions of the appeals process and specific reasons for the denial by component. The applicants wishing to appeal a decision must provide written notice to subrecipient within 10 days of receipt of the denial notice.

(b) The subrecipient who receives an appeal shall establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their client files.

(c) The subrecipient shall hold the appeal hearing within ten business days after the subrecipient received the appeal request from the applicant.

(d) The subrecipient shall tape record the hearing.

(e) The hearing shall allow time for a statement by subrecipient staff with knowledge of the case.

(f) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(g) Subrecipient shall notify applicant of the decision in writing. The subrecipient shall mail the notification by close of business on the business day following the decision. (1 day turn-around)

(h) If the applicant is not satisfied, they may further appeal the decision in writing to the Department within ten days of notification of an adverse decision.

(i) If client appeals to the Department, the funds should remain encumbered until the Department completes its decision.

(j) The Department may review the tape recording of the hearing, the committee's decision, and any other relevant information necessary.

(k) The Department appeals committee shall decide the case and forward their recommendation to the Division Director for final concurrence.

(l) The Department will notify all parties in writing of its decision within 30 days of receipt of the appeal.

§6.208 Types of Assistance Available and Benefit Levels

(a) Subrecipients shall not discourage anyone from applying for CEAP assistance. Subrecipients shall provide all potential clients with ample opportunity to apply for LIHEAP programs.

(b) CEAP provides assistance to targeted beneficiaries being households with low incomes at or below 125% of the Federal Poverty Level, with priority given to the elderly, persons with disabilities, families with young children; households with the highest energy costs or needs in relation to income, and households with high energy consumption.

(c) CEAP combines activities, as defined in Assurance 16 in the LIHEAP Statute (42 U.S.C. §8624 (b)(16)); education; and financial assistance to help very low- and extremely low-income consumers reduce their utility bills

to an affordable level. Services include utility payment assistance; heating and cooling system replacement, repair, and/or retrofit; energy education; and budget counseling. The Department requires subrecipients to expend a minimum of ten percent for each of the Energy Crisis Program, the Elderly and Disabled Assistance, and the Heating and Cooling System Replacement, Repair, and/or Retrofit Components. The Co-payment Component minimum expenditure is established by the subrecipient.

(d) Benefit sliding scale for all CEAP components:

(1) Benefit determinations are based on the household's income, the household size, the energy cost and/or the need of the household, and the availability of funds. Energy bills already paid by householders may not be reimbursed by the program. Subrecipients will calculate payments based on:

(A) a sliding scale benefit structure; and

(B) the highest consumption months remaining in the program year.

(2) To ensure that households with the lowest incomes and greatest needs receive the greatest amount of assistance to alleviate their energy needs (taking into account family size), energy assistance benefit determination will use the following sliding scale (Except Heating and Cooling System Replacement, Repair and/or Retrofit Component):

(A) Households With Incomes of: 0 to 50% of Federal Poverty Guidelines are eligible for a maximum household benefit as follows household may receive an amount needed to address their energy payment shortfall not to exceed \$1,200.

(B) Households With Incomes of: 51% to 75% of Federal Poverty Guidelines are eligible for a maximum household benefit as follows household may receive an amount needed to address their energy payment shortfall not to exceed \$1,100.

(C) Households With Incomes of: 76% to 125% of Federal Poverty Guidelines are eligible for a maximum household benefit as follows household may receive an amount needed to address their energy payment shortfall not to exceed \$1,000.

(3) The Heating and Cooling System Replacement, Repair, and/or Retrofit Component maximum household benefit limit is \$4,000.

(e) Benefit Limits by Program Component - Depending upon client eligibility, some or all of the following benefits may apply:

(1) Co-Payment Component: minimum client service period, three months - unless client fails to meet the provisions of the client service agreement, which may result in an early termination from the program - but service period shall not exceed twelve months:

(A) First payment of co-payment plan may pay 100 percent of a utility bill -- including arrears - or an appropriate percentage determined by the subrecipient as detailed in the Service Delivery Plan; and

(B) annual maximum household benefit \$1,200.

(2) Heating and Cooling Replacement, Repair, and/or Retrofit Component- Maximum annual household benefit \$4,000.

(3) Elderly and Disabled Assistance Component - Maximum annual household benefit \$1,200.

(4) Energy Crisis Program Component - Maximum annual household benefit \$1,200.

(5) Total maximum possible annual household benefit (all components) \$7,600.

(6) Subrecipient shall determine client eligibility for utility payments and/or retrofit based on the agency's household priority rating system and household's income as a percent of poverty.

(7) Subrecipient shall not establish lower local limits of assistance for any component.

(f) Subrecipients shall provide only the following types of assistance with funds from CEAP:

(1) Payment to vendors and suppliers of fuel/utilities, goods, and other services for past due or current bills related to the procurement of energy

for heating and cooling needs of the residence, not to include security lights and other items.

(2) Payment to vendors - only one energy bill payment per month as required by component.

(3) Needs assessment and energy conservation tips, coordination of resources, and referrals to other programs.

(4) Utility assistance to low-income elderly and disabled individuals most vulnerable to high cost of energy for heating and cooling needs of the residence.

(5) Replacement, repair and/or retrofit of household heating and cooling systems if needed. All replacement units must comply with minimum standards for energy efficiency and must result in energy savings for the client. Heating and cooling funds may pay for zoning off a room in which the client spends a majority of time at home, incidental to the above improvements, if necessary to conserve conditioned air. In order to use heating and cooling funds for a room zone off, the household must also be receiving a repair, replacement, or retrofit of a space heating or cooling unit.

(6) Assistance to a household during an energy-related crisis precipitated by extreme weather conditions and/or an energy supply shortage. A utility disconnection notice may qualify, if client demonstrates a history of good faith in paying prior utility bills.

(7) Payment of water bills only when such costs include expenses from operating an evaporative water cooler unit or when the water bill is an inseparable part of a utility bill. As a part of the intake process, outreach, and coordination, the subrecipient shall confirm that a client owns an operational evaporative cooler and has used it to cool the dwelling within sixty (60) days prior to application. Payment of other utility charges such as wastewater and waste removal are allowable only if these charges are an inseparable part of a utility bill. Whenever possible, subrecipient shall negotiate with the utility providers to pay only the "home energy" - heating and cooling - portion of the bill.

(8) Purchase, lease, or repair of butane or propane tanks as well as the residential lines associated with the tanks or natural gas lines of the dwelling not to exceed the household's maximum allowable assistance and only if such service ensures the flow of energy necessary for heating and or cooling the household.

(9) Purchase or repair of residential electric lines, not to exceed household's maximum allowable assistance and only if such service ensures the flow of energy necessary for heating and cooling the household.

(10) Payment of reconnection fees in line with the registered tariff filed with the Public Utility Commission and/or Texas Railroad Commission. Payment cannot exceed that stated tariff cost. Subrecipient shall negotiate to reduce the costs to cover the actual labor and material and to ensure that the utility does not assess a penalty for delinquency in payments.

(11) Payment of security deposits only when state law requires such a payment, or if the Public Utility Commission or Texas Railroad Commission has listed such a payment as an approved cost, and where required by law, tariff, regulation, or a deferred payment agreement includes such a payment. Subrecipient shall not pay any such security deposit that the energy provider will eventually return to the client.

(12) While rates and repair charges may vary from vendor to vendor, subrecipient shall negotiate for the lowest possible payment. Prior to making any payments to an energy vendor a subrecipient shall have a signed vendor agreement on file from the energy vendor receiving direct LIHEAP payments from the subrecipient.

(13) Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient

shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of client is deducted from client's rent.

(14) In lieu of deposit required by an energy vendor, subrecipient may make advance payments. The Department does not allow LIHEAP expenditures to pay deposits, except as noted in paragraph (11) of this subsection. Advance payments may not exceed an estimated two months' billings.

(g) Funds for the Texas CEAP shall not be used to weatherize dwelling units, for medicine, food, transportation assistance (i.e., vehicle fuel), income assistance, or to pay for penalties or fines assessed to clients.

(h) The CEAP Energy Crisis Program Component consists of the following:

(1) A bona fide energy crisis exists when extraordinary events or situations resulting from extreme weather conditions and fuel supply shortages have depleted or will deplete household financial resources and/or have created problems in meeting basic household expenses, particularly bills for energy so as to constitute a threat to the well-being of the household, particularly the elderly, the disabled, or very young children.

(2) A utility disconnection notice may constitute an energy crisis, if client demonstrates a history of good faith in paying prior utility bills. A utility disconnection notice may constitute an energy crisis, if brought about by sudden or unexpected events.

(3) Energy Crisis assistance for one household cannot exceed \$1,200 in one year. Crisis assistance payments cannot exceed the minimum amount needed to resolve the crisis. If the client's crisis requires more than the household limit to resolve, it exceeds the scope of this program. If crisis exceeds the household limit, subrecipient may pay up to the household limit but the rest of the bill will have to be paid from other funds or the client to resolve the crisis. Payments may not exceed client's actual utility bill. The assistance must result in resolution of the crisis.

(4) Where necessary to prevent undue hardships from a qualified energy crisis, subrecipients may directly issue vouchers to provide:

(A) Temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances that inoperable heating/cooling appliances or supply of power to the dwelling is disrupted - causing temporary evacuation of household members. Payments shall not be made for rent or mortgages.

(B) Emergency deliveries of fuel up to 100 gallons per crisis per household, at the prevailing price. This benefit may include coverage for safety precautions - up to the maximum household benefit.

(C) Purchase of portable heating/cooling units (portable electric heaters are allowable only as a last resort) not to exceed household benefit limit during the contract period. Portable air conditioning and heating units may be purchased only in situations that threaten the life of the client.

(i) Subrecipient shall meet local energy crisis criteria prior to purchasing portable units for clients.

(ii) Subrecipient shall maintain in the client file documentation of any special situation affecting client eligibility. For a client to qualify to receive a portable air conditioner or heater to protect life of household occupants, the subrecipient's client file must contain documentation from a medical professional, stating that a health condition of household occupant requires such climate control.

(iii) Portable heating/cooling units must meet or exceed Texas DOE WAP energy efficiency ratings and standards.

(5) Crisis funds, whether for emergency fuel deliveries, purchase of portable heating/cooling units, or temporary shelter, shall be considered part of the total maximum household allowable assistance.

(6) When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures for the following:

(A) Costs to temporarily shelter or house individuals in hotels, apartments or other living situations in which homes have been destroyed or damaged, i.e., placing people in settings to preserve health and safety and to move them away from the crisis situation;

(B) Costs for transportation (such as cars, shuttles, buses) to move individuals away from the crisis area to shelters, when health and safety is endangered by loss of access to heating or cooling;

(C) Utility reconnection costs;

(D) Repair or replacement costs for furnaces and air conditioners;

(E) Insulation repair;

(F) Coats and blankets, as tangible benefits to keep individuals warm;

(G) Crisis payments for utilities and utility deposits; and

(H) Purchase of fans, air conditioners and generators.

(7) Time Limits for Assistance - Subrecipients ensure that for clients who have already lost service or are in immediate danger of losing service, some form of assistance to resolve the energy crisis shall be provided within a 48 hour time limit (18 hours in life-threatening situations). The time limit commences upon completion of the application process. The application process is considered to be complete when an agency representative accepts an application and completes the eligibility process.

(8) Subrecipients maintain written documentation in client files showing crises resolved within appropriate timeframes. The Department disallows improperly documented expenditures.

(i) The Heating and Cooling federal LIHEAP category includes all Texas CEAP components except Energy Crisis. The priority factors other than income eligibility for heating/cooling assistance include the degree of energy burden and household needs. Each agency establishes objective priorities to serve households based on local conditions and client needs. Equipment replacement or repair under this component must reduce energy consumption and energy burden. "Household energy need" takes into account the unique situation of such household that results from having members of vulnerable populations, including children under the age of six, disabled individuals, and older individuals. The Department defines the household's energy need as the requirement for energy used to heat and/or cool the dwelling unit, as well as energy required to heat water and refrigerate food. Inefficient appliances unnecessarily inflate energy needs. Improving energy efficiency of appliances reduces energy burden.

(j) Under Heating and Cooling the program pays water bills only when such costs include operating an evaporative water cooler unit or when the water bill is an inseparable part of a utility bill. LIHEAP Statute allows payment of other utility charges such as wastewater and waste removal only if inseparable from the utility bill. Through client intake, outreach and coordination processes, subrecipients confirm that a client owns an operational evaporative cooler and has used it to cool the dwelling within sixty (60) days prior to application. Whenever possible, subrecipients negotiate with the utility providers to pay only the energy portion of the bill.

(k) Under the Elderly and Disabled Assistance Component:

(1) Elderly and disabled persons receive priority.

(2) Elderly households include at least one member age 60 or above. Disabled households include least one member (age 18 or older) living with a

disability. A disability prevents an individual from engaging in any substantial employment by reasons of a medically determinable physical or mental condition - expected to last for a continuous period of not less than twelve months. Documentation of disability, (i.e. Social Security, Supplemental Security Income statement, doctor's letter) kept in client file will validate eligibility.

(3) Subrecipients make utility payments on behalf of elderly and disabled persons based on the previous 12 month's home energy consumption history, including allowances for cost inflation. In the absence of an available home energy consumption history, subrecipient may base payments on current program year's bill. Subrecipients note such exceptions in client files. Excess amounts over the actual bill shall be treated as a credit with the utility company for the client.

(4) Subrecipient shall provide energy conservation education and referrals.

(5) Elderly and/or disabled clients may receive benefits to cover up to 100 percent of four bills for four billing periods within the contract year as long as the cost does not exceed the maximum annual benefit.

(1) Under the Co-Payment Component:

(1) The Department subrecipients use home energy payments, energy conservation tips, participation by utilities, and coordination with other services to assist low-income households to reduce their home energy needs (Assurance 16). Subrecipients establish cost burden criteria to evaluate eligibility, applicant priority, and benefit levels.

(2) A household's participation in the program may last from three to twelve months. If a co-payment client's assistance period extends beyond the end of a program year, that client must re-apply for eligibility certification to continue receiving assistance.

(3) Subrecipients make payments directly to vendors on behalf of participating households. Participating households make co-payments while participating in the program.

(4) The case worker assists clients with application procedures and maintains required documentation in client files. Assurance 16 activities encourage and enable households to reduce their home energy needs and thereby the need for energy assistance and encourage responsible vendor and consumer behavior.

(m) Under the Heating and Cooling System Replacement, Repair, and/or Retrofit Component:

(1) Equipment repair and replacement targets households with high energy burden, or equipment unsafe or inadequate to protect occupants from extreme temperatures. This component reduces clients' energy burden by reducing excess demand from inefficient heating and cooling appliances. Questionably high energy bills during the heating or cooling season may indicate the need for an assessment of the condition of all major heating and cooling appliances in the client's home. An energy assessment of the home demonstrates whether or not the expected savings from repair or replacement of equipment will exceed the cost and will reduce energy consumption. Appliances consuming the most energy receive highest priority. Estimated repair cost exceeding 60 percent of estimated replacement cost justifies replacement.

(2) Household appliances assessed for condition (health and safety) and efficiency may include any home heating or cooling appliances and propane tanks. The Program allows replacement of evaporative coolers with refrigerated air only for substantiated medical reasons. Subrecipients shall replace appliances with Energy Star® rated equipment or must meet or exceed Texas Department of Energy Weatherization Assistance Program minimum energy efficiency ratings and standards if Energy Star® is not available.

§6.209 Allowable Subrecipient Administrative, Assurance 16 Activities, and Direct Services Support Expenditures

(a) Allowable Expenditures under Direct Services Support may include client intake, salaries, fringe benefits, and travel expenditures of staff when conducting outreach to eligible households; material and printing costs associated with outreach and targeting to eligible households.

(b) Direct Services Support does not include computer purchases and related costs. These belong to Administration. Time/Expenditure Allocation for subrecipients shall demonstrate and document that they separately allocated the appropriate share of Direct Services Support time and expenditures to both outreach and targeting.

(c) Allowable Administrative Costs for administrative activities may include planning, budgeting and accounting; establishing and directing policies, goals, and objectives, and other logistical activities not unique to the mission and goals of LIHEAP. Subrecipients earn administrative budget share based on expenditure of direct services funds. The Department calculates money available for subrecipient administrative activities as a percentage of Direct Services expenditures.

(d) The Department and its subrecipients use the Uniform Grant Management Standards, OMB Circular A-87 for local governments or OMB Circular A-122 for non-profits for determination of allowable and allocable costs. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," increases the threshold for audit from \$300,000 to \$500,000.

(e) To ensure fiscal compliance for this program, the Department may use the following fiscal controls:

(1) review annual audits;

(2) monitor fiscal records; and

(3) review Monthly Expenditure and Performance Reports.

(f) The Department staff may monitor LIHEAP programs through monthly performance reports and periodic on-site visits using a standard monitoring instrument for each program, designed to identify the agency's strengths and weaknesses. A risk assessment process will guide scheduling of visits to ensure that agencies ranking highest in risk will be monitored first.

(g) The Department and its subrecipients shall cooperate in all audits and maintain records in acceptable format for audit purposes and will cooperate with any reasonable state or federal investigation requests.

§6.210 Client Education

The subrecipients shall provide an energy-related needs assessment and referrals, budget counseling, and energy conservation education to each CEAP client. Subrecipients shall provide education to identify energy waste, manage household energy use, and strategies to promote energy savings. Subrecipients are encouraged to use oral, written, and visual educational materials. These activities are paid with the Department's and subrecipients' administrative funds.

§6.211 Payments to Contractors and Vendors

(a) A vendor agreement, is required by the Department and implemented via the subrecipient, shall contain assurances as to fair billing practices, delivery procedures, and pricing procedures for business transactions involving LIHEAP recipients. These agreements are subject to monitoring procedures performed by the Department staff.

(b) Subrecipient shall maintain proof of payment to contractors and vendors.

(c) The subrecipients shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification.

(d) The vendor payment method will be used by subrecipients for CEAP components. Under no circumstances and without exceptions will subrecipient make cash payments directly to eligible household for any of the CEAP components.

§6.212 State Contract Purchases

(a) Subrecipients shall comply with the Department rules and state procurement standards regarding competitive solicitation of bids for materials, labor, and equipment and shall adhere to guidelines for selection and award of subcontracts.

(b) Subrecipient shall develop and implement procurement procedures, which conform to the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards, 1 TAC §5.141 et seq.

(c) The State of Texas conducts competitive solicitations to identify equipment and material vendors to provide specified merchandise at discounted prices to State agencies and their contracted agents. Unless a local vendor is identified through a competitive solicitation that will provide equal or better materials and services at the same price or less, subrecipients shall purchase any equipment, materials, or services paid for with LIHEAP funds from a vendor participating in the Texas Building and Procurement Commission's Cooperative Purchasing Program. Participants must pay an annual fee, allowed by CEAP as an "Administrative" expense. By using the Cooperative Purchasing Division, a subrecipient does not have to competitively solicit for materials purchased; only the labor costs need be solicited.

§6.213 Outreach, Accessibility, and Coordination

(a) The Department may continue to develop interagency collaborations with other low-income program offices and energy providers to perform outreach to targeted groups.

(b) Subrecipients shall conduct outreach activities.

(c) Subrecipients and their field offices shall accept applications at sites that are geographically accessible to all households requesting assistance.

(d) Other outreach activities may include:

(1) providing information through home visits, site visits, group meetings, or by telephone for disabled low-income persons;

- (2) distributing posters/flyers and other informational materials at local and county social service agencies, offices of aging, social security offices, etc.;
 - (3) providing information on the program and eligibility criteria in articles in local newspapers or broadcast media announcements;
 - (4) coordinating with other low-income services to provide LIHEAP information in conjunction with other programs;
 - (5) providing information on one-to-one basis for applicants in need of translation or interpretation assistance;
 - (6) providing LIHEAP applications, forms, and energy education materials in English and/or Spanish (or other appropriate language);
 - (7) working with energy vendors in identifying potential applicants;
 - (8) assisting applicants to gather needed documentation; and
 - (9) mailing information and applications.
- (e) Subrecipients shall coordinate with other social service agencies through cooperative agreements to provide services to client households. Cooperative agreements must clarify procedures, roles, and responsibilities of all stakeholders.
- (f) Subrecipients shall coordinate with other energy related programs. Specifically, subrecipient shall make documented referrals to the local WAP subrecipient.
- (g) Subrecipients shall coordinate with local energy vendors to arrange for arrearage reduction, reasonably reduced payment schedules, or cost reductions.

§6.214 Subrecipient Reporting Requirements

- (a) The subrecipient shall electronically submit to the Department a monthly Funding Report of all expenditure of funds, request for advance or reimbursement, and a monthly performance report no later than fifteen (15) days after the end of each month. .
- (b) The subrecipient shall electronically submit to the Department no later than sixty (60) days after the end of the subrecipient contract term a final expenditure or reimbursement and programmatic report utilizing the Funding Report. This reporting is required.
- (c) The subrecipient shall submit to the Department no later than sixty (60) days after the end of the contract term an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000 or more and a useful life of more than one year, if purchased in whole or in part with LIHEAP-CEAP funds.
- (d) The subrecipient shall submit other reports, data, and information on the performance of the LIHEAP-CEAP program activities as required by the Department.

**COMMUNITY AFFAIRS DIVISION
COMMUNITY SERVICES BLOCK GRANT**

**BOARD ACTION REQUEST
November 9, 2006**

Action Item

Presentation, discussion, and possible approval for publication in the *Texas Register* of the final rule for the Community Services Block Grant rules to be codified at 10 Texas Administrative Code, Chapter 5, Subchapter A.

Required Action

Department staff recommends that the Board review and approve the final rule for the Community Services Block Grant (CSBG) 10 Texas Administrative Code, Chapter 5, Subchapter A.

Background

On September 1, 2006, the Department announced in the *Texas Register* that the Department would conduct a series of public hearings to solicit comments on the draft rule for the Community Services Block Grant Rules, 10 Texas Administrative Code, Chapter 5, Subchapter A. The draft rule was published in the *Texas Register* on September 15, 2006 and a 33 day comment period was allowed for public comment on the rule.

The Department conducted its Consolidated Public Hearings in September and October 2006 at thirteen locations around the state. The thirty-three day public comment period closed on October 18, 2006. The draft rule has remained available on the Department's Internet site since September 15, 2006. Public notice of the proposed rule and announcement of the public hearings appeared in the *Texas Register*, September 15, 2006 edition.

The Department received public comments, as public testimony and written comments from one organization. The following summary represents the officially submitted comments and the response from the Department. The appended list identifies the commentator and the organization represented.

Recommendation

Staff recommends Board approval of the draft Community Services Block Grant (CSBG) rule, 10 Texas Administrative Code, Chapter 5, Subchapter C, including staff recommendations in response to public comment.

Attachment—CSBG TAC Rules and Summary of Public Comment

**COMMUNITY SERVICES BLOCK GRANT, PUBLIC COMMENTS –
OCTOBER 2006**

PUBLIC COMMENTS AND DEPARTMENT RESPONSE:

Comment: The testimony was provided in Spanish at the Public Hearing held in El Paso. Commenter spoke in favor of the Community Services Block Grant (CSBG) program. She stated that there was a group present at the hearing who are clients of the El Paso Community Action Program, Project BRAVO who participate in various programs offered by Project BRAVO, such as citizenship classes, English as a Second Language and other programs such as those that provide replacement of windows and air conditioners and heaters. The group was present to give thanks and show support for the funding that Project BRAVO receives through programs funded by the Texas Department of Housing and Community Affairs. The group would like to see these programs continue. (1)

Department Response: The Department appreciates the testimony.

Comment: Testimony was provided at the Public Hearing held in El Paso. Commenter spoke in favor of the CSBG program. Commenter stated that she represented the Neighborhood Improvement Association. She stated that Project BRAVO has been very helpful and has assisted many families in the neighborhood she represents and that Project BRAVO has made a difference in their lives and helped several families in housing shelters and in the Colonias in Socorro, Texas. (2)

Department Response: The Department appreciates the testimony.

Comment: The testimony was provided in Spanish at the Public Hearing held in El Paso. The commenter spoke in favor of the CSBG program. The commenter stated that she is a direct recipient of education assistance programs operated by Project BRAVO. She expressed appreciation for the programs and funding that is made available through programs such as CSBG and other federally funded programs. (3)

Department Response: The Department appreciates the testimony.

Comment: Testimony was provided at the Public Hearing held in El Paso. Commenter spoke in favor of the CSBG program and provided testimony in support of programs operated by Project BRAVO. Commenter stated that he was laid off from his job after working for a period of ten years. After he lost his job and was trying to find employment, he was asked for a GED, which he did not have. He stated that Project BRAVO helped him get his GED which enabled him to eventually get employed. He stated he was present to express his support for Project BRAVO. (4)

Department Response: The Department appreciates the testimony.

Comment: Sec. 5.1 through 5.15. Commentator requested clarification on the repeal of section 5.1 and the new proposed rules section 5.1 through 5.15. (5)

Department Response: The Department, in its proposed rule, is repealing Section 5.1 from the existing rule and replacing it with the proposed Section 5.1 through 5.15.

Comment: Sec. 5.4 Eligible Entities. “The Department administers the CSBG program through the existing subrecipients organizations referenced in the CSBG Act as “eligible entities.” Delete last ‘s’ in ‘subrecipients.’ (6)

Department Response: The Department concurs with the recommendation.

Comment: Sec. 5.5 Designation and Redesignation of Eligible Entities in Unserved Areas. “In order to serve as the eligible entity for the area, an entity to ensure adequate representation in each of the three required categories.” Strike the word to and substitute with the word must. (6)

Department Response: The Department concurs with the recommendation.

Comment: Sec. 5.8(d) State Application and Plan. “In conjunction with the development of the State plan, the Department is required to hold public hearings in four locations in different areas of the state to solicit public comment on the intended use of CSBG funds.” Although it is the common practice of the Department to post the State plan on its website, it is recommended that the rule state that the Department will post on its website the State plan ten (10) days in advance of public hearings. (6)

Department Response: The Department, as required Texas Government Code, Chapter 2105.054, will provide notice of a public hearing regarding the plan for a block grant not later than the 15th day before the date of the hearing. The Department will publish the Draft State Plan on the Department’s website at least 10 days before the first public hearing. The Department recommends adding the following statement to Sec. 5.8(d) “The Department will provide notice of the public hearings regarding the State Plan not later than the 15th day before the date of the hearing and publish the Draft State Plan on the Department’s website at least 10 days before the first public hearing.”

Comment: Sec. 5.10(c)(3)(A)(i) “Representatives of Private Groups and Interests. Private Nonprofit Entities. The entity shall select persons representing the private sector to serve on the board or it may select private sector organizations from which representatives of the private sector would be chosen to serve on the board. Law enforcement representatives are included in this group.” Suggest deleting the word ‘private’ in ‘private groups’ and as referenced in (i) because as defined in the CSBG Act, groups are not referenced as ‘private,’ e.g. educational and law enforcement groups. (6)

Department Response: The Department recommends the following revision: strike the current language in (3)(A)(i) and replace it with: “The entity shall select officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.”

Comment: Sec. 5.10 (c)(5)(A)(i) Selection, Composition and Powers of Boards of Eligible Entities. “The board is responsible for abiding by the terms of contracts and shall determine the policies of the agency to assure accountability for public funding.” Replace the word ‘agency’ with ‘organization.’ (6)

Department Response: The Department concurs with the recommendation.

Comment: Sec. 5.10 (c)(5)(A)(iii) “Powers of the Board. Private Nonprofit Entities. In the event of a conflict between the powers and responsibilities required of all nonprofit corporations and those required by the CSBG Act, this rule, and the contract, the latter shall control.” Revise rule to state that conflicts will be resolved in accordance with the CSBG Act. A state contract cannot supersede federal law. When a State accepts a grant governed by federal statute, the State may not impose restrictions inconsistent with federal law. (6)

Department Response: The Department does not recommend any revisions to the referenced rule. All terms and conditions of the CSBG Contract are consistent with the CSBG Act, 42 U.S.C. § 9901 et.seq, OMB Circulars, Uniform Grant Management Standards, and all other applicable Federal and State rules and regulations. The CSBG contract serves as the legal obligation authority between the Department and the CSBG subrecipient organization.

Comment: Sec. 5.10 (c)(5)(B)(i) “Selection, Composition and Powers of Boards of Eligible Entities Public Organizations. The powers, duties, and responsibilities of the board shall be determined by the governing officials of the political subdivision.” Add at the end of the sentence “in accordance with the CSBG Act.” Clarification ensures governing officials must act in accordance with the CSBG Act. (6)

Department Response: The Department recommends the following revision: strike the current language in Sec. 5.10 (a)(5)(B)(i) and replace with “The powers, duties, and responsibilities of the board shall be determined by the governing officials of the political subdivision in accordance with the CSBG Act Sec. 676B.”

Comment: Sec. 5.10 (c)(5)(B)(ii) Selection, Composition and Powers of Boards of Eligible Entities. “The governing officials (of a public organization) may establish: (1) an advisory board, in which case the authority given to the advisory board depends on the powers delegated to it by the governing officials of the political subdivision; or (2) a governing board, empowering the board of directors with substantive decision-making authority and delegating the powers, duties, and responsibilities to carry out its CSBG-supported contract and functions.” Replace ‘advisory’ board with ‘administering’ board, which is consistent with language in the CSBG Act and promotes a more active role. (6)

Department Response: Sec. 676B.(b) of the CSBG Act does not reference the term administering board. The Act states that private nonprofit entities shall administer CSBG through a tripartite board and that public organizations shall administer the grant through a tripartite board or another mechanism specified by the State. Sec. 5.10 (B)(ii) of the proposed CSBG rule prescribes the mechanism specified by the State. The Department recommends that the language to the referenced rule remain as published.

Comment: Sec. 5.12 Monitoring of Eligible Entities. This section makes reference to monitoring reviews, follow-up reviews, and training and technical assistance the Department may request from the Secretary; however no mention is made about the training and technical assistance the Department will provide to the subrecipients, in accordance with the CSBG Act. It is recommended that this section be revised to include training and technical assistance the Department will provide to the CSBG entities. (6)

Department Response: The Department recommends that the language to the referenced rule remain as published. The CSBG Act only requires that the State provide technical assistance to an eligible entity that has failed to comply with the terms of an agreement, or the State plan, or to provide services under the subtitle or to meet appropriate standards, goals, and other requirements established by the State. Additionally, the CSBG contract states that “The Department will provide technical assistance to Subrecipient and will require or suggest changes in the subrecipient’s program implementation or in Subrecipient’s accounting, personnel, procurement, management procedures in order to correct any deficiencies noted.” The Department also provides training and technical assistance to tri-partite boards of eligible entities.

Comment: Sec. 5.12 (b) and (c) apply to the State and should be deleted from rules which apply to subrecipients. (7)

Department Response: Department staff recommends deletion of the referenced sections.

Comment: Sec. 5.15 Program Administration. “Upon Executive approval, CSBG subrecipients shall enter into and execute an agreement for the receipt of CSBG funds. (1) Amendments. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to the CSBG contract.” Revise rule to state that both parties will agree to contracts, agreements and/or amendments, as is the common practice of the Department. (6)

Department Response: The Department recommends that the language to the referenced rule remain as published. While amendments to budgets and performance statements may be requested by the subrecipient and are subject to the Department’s approval, the Department will modify and/or amend the contract without agreement of the subrecipient.

Comment: Sec. 5.15 (2) Program Administration. “The Department reserves the right to deobligate funds.” Move to a new ‘termination’ section and state in accordance with the CSBG Act what will constitute deobligation of funds. (6)

Department Response: Department staff concur and recommends the addition of a new section, Section 5.16 on Termination and Reduction of Funding, resulting from a written comment. The Department adds the following language which is taken directly from Section 678B of the CSBG Act, which reads as follows: “If the State determines, on the basis of a final decision in a review pursuant to section 678B of the CSBG Act, that an eligible entity fails to comply with the terms of an agreement, or the State plan, to provide services under this subtitle or to meet appropriate standards, goals, and other requirements established by the State (including performance objectives), the State shall – (1) inform the entity of the deficiency to be corrected (2) require the entity to correct the deficiency; (3)(A) Offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the Secretary a report describing the training and technical assistance offered; or (B) if the State determines that such training and technical assistance are not appropriate, prepare and submit to the Secretary a report stating the reasons for the determination; (4)(A) at the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the

deficiency), allow the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State, and (B) not later than 30 days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph (A), either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and (5) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce CSBG funding of the eligible entity unless the entity corrects the deficiency.”

Comment: Throughout the rule many references are made regarding termination of the CSBG contract, deobligation of funds and/or sanctions. However, reference is vague in several instances. It is recommended that all references to these topics be consolidated into one section, and that the section address at a minimum and consistent with definitions in the CSBG Act, the causes for termination, training and technical assistance the Department will provide, sanctions the Department may impose and the appeal process available to a CSBG entity. (6)

Department Response: Department staff recommends the addition of a new section, Section 5.16 Termination and Reduction of Funding which addresses the basis and procedures related to the termination and reduction in funding.

Comment: Change the word ‘subrecipient’ to ‘subcontractor.’ The CSBG entities subcontract with the Department and must provide a service, meet performance standards and comply with contractual obligations. The clients of the agencies are recipients. (6)

Department Response: The Department recommends that the language to the referenced rule remain as published. Community Affairs contracts and documents utilize the word subrecipient. For consistency, Department recommends continuing the use of “subrecipient.”

Comment: Commenter spoke in favor of draft rules but was concerned that implementing the rules process could cause delays in getting funding to the agencies. The delays would negatively affect nonprofit organizations’ cash flow and could slow or impede services to clients. As an example, the commenter spoke of the Department’s quick response to Hurricane Katrina and Rita. The commentator urged the Board to retain practices which allow timely response, such as the continued use of the policy issuance system. (8)

Department Response: The Department appreciates the comments and will continue to operate CSBG in a manner which is responsive to the needs of the subrecipient and the persons in need while at the same time allowing public comment for rules which outline the administration and eligibility of the grant.

Comment: Commentator spoke in favor of the draft rules but cautioned the board not to implement anything that could potentially interrupt a subrecipient’s ability to operate any programs for any length of time. Commenter stated that in times of crisis, such as Hurricane Katrina and Rita, when timely responses are needed it is very important that the Department be able to respond in a timely manner. She appreciated the opportunity to provide public comment. Commenter stated that she believes the wisdom of the Board

will find a balance between the two, the need for public comment and the need to meet the urgent needs of low-income persons in a timely manner. (9)

Department Response: The Department appreciates the comments and will continue to operate CSBG in a manner which is responsive to the needs of the subrecipient and the persons in need while at the same time allowing public comment for rules which outline the administration and eligibility of the grant.

Individuals Submitting Public Comment:

Ms. Maria Dominguez, former client of El Paso Community Action Program, Project BRAVO (1)

Ms. Claudia Villa, former client of El Paso Community Action Program, Project BRAVO (2)

Ms. Amelia Lara, former client of El Paso Community Action Program, Project BRAVO (3)

Mr. Juan Manuel Rivas, former client of El Paso Community Action Program, Project BRAVO (4)

Mr. Cylton Ewell, Dallas Urban League (5)

Ms. Stella Rodriguez, Texas Association of Community Action Agencies (6)

Staff Recommendation (7)

Ms. Rhoda Gersch, Combined Community Action, Inc. (8)

Ms. Karen Swenson, Greater East Texas Community Action Program (9)

**TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 5. COMMUNITY SERVICES PROGRAMS
SUBCHAPTER A. COMMUNITY SERVICES BLOCK GRANT (CSBG)
10 TAC §5.1 – §5.15**

~~The Texas Department of Housing and Community Affairs (the Department) proposes new §5.1 – §5.15, concerning the Community Services Block Grant. The new sections are proposed to address the background, purpose, definitions, eligible entities, designation and redesignation of eligible entities in unserved areas, distribution of funds, state application and plan, CSBG needs assessment and community action plan, requirements for board of directors, monitoring, limitations on use of funds, client income guidelines, and program administration.~~

~~Mr. Michael Gerber, Executive Director, has determined that for the first five year period of the sections are in effect there will be no fiscal implications for the state and local government as a result of enforcing or administering the rule.~~

~~Mr. Gerber has also determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be to inform the public of the purpose and application requirements of the Community Services Block Grant. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.~~

~~Public hearings will be held across the state between September 21 and October 18, 2006 to receive input on this proposed new rule. More information on the hearings can be found at <http://www.tdhea.state.tx.us>.~~

~~Comments on the proposal may be submitted to Mr. Jesse Mitchell, Manager, Community Services Section, Texas Department of Housing and Community Affairs, Post Office Box 13941, Austin, Texas 78711-3941, within thirty days of this notice.~~

~~These sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306.~~

~~No other code, articles or statutes are affected by this section.~~

§5.1. Background

(a) The Community Services Block Grant (CSBG) Act (42 USC Sec. 9901 et seq.) was amended by the “Community Services Block Grant Amendments of 1994” and the Coats Human Services Reauthorization Act of 1998 under (42 USC 9901 et seq.). The Secretary of the U.S. Health and Human Services is authorized to establish a community services block grant program and make grants through the program to States to ameliorate the causes of poverty in communities within the States under (42 USC 9904).

(b) The Texas Legislature designated the Texas Department of Housing and Community Affairs (the Department) as the lead agency for administration of the Community Services Block Grant Program pursuant to Texas Government Code, §2306.092 (11).

(c) CSBG funds will be made available to eligible entities to carryout the purposes of the Community Services Block Grant Program.

§5.2. Purposes and Goals

(a) CSBG funds provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)).

(b) These goals may be accomplished by the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions.

(c) The organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

(d) The greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

(e) The maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this subtitle to empower such residents and members to respond to the unique problems and needs within their communities; and

(f) The broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for

(1) private, religious, charitable, and neighborhood-based organizations; and

(2) individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor.

§5.3. Definitions

The following words and terms shall have the following meaning unless the context clearly indicates otherwise.

(1) CSBG Act -- Coats Human Services Reauthorization Act of 1998.

(2) Eligible entity -- A CSBG eligible entity is defined as an entity that was in effect on the day before the date of enactment of the CSBG Act.

(3) Population density -- A formula factor that is an individual quotient of the number of persons residing in a given area of the State.

(4) Poverty Income Guidelines -- The official poverty income guidelines defined by the Office of Management and Budget (OMB).

(5) Private nonprofit organization -- An organization which has the status as a 501(c) tax-exempt entity. Private nonprofit organizations applying for CSBG funds must be established for eleemosynary purposes and whose activities include, but are not limited to, the promotion of

social welfare and the prevention or elimination of homelessness. The entity's net earnings may not inure the benefit of any individual(s).

(6) Secretary -- The Secretary of the U.S. Department of Health and Human Services.

(7) Subcontractor -- An organization with whom CSBG subrecipients contract utilizing CSBG funds.

(8) Subrecipient -- Organizations with whom the Department contracts for CSBG funds.

(9) The State -- Texas Department of Housing and Community Affairs.

(10) Units of general local government -- A unit of local government which has the authority to assess and collect local taxes and to provide general governmental services.

§5.4. Eligible Entities

The Department administers the CSBG program through the existing subrecipients organizations referenced in the CSBG Act as "eligible entities."

§5.5. Designation and Redesignation of Eligible Entities in Unserved Areas

(a) If any geographic area of the State ceases to be served by an eligible entity, the Governor may solicit applications from, and designate as an eligible entity:

(1) A private nonprofit organization (which may include an eligible entity) that is geographically located in the unserved area, that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency, and that meets the requirements of this subtitle;

(2) A private nonprofit eligible entity that is geographically located in an area contiguous to or within reasonable proximity of the unserved area and that is already providing related services in the unserved area; and

(3) In order to serve as the eligible entity for the area, an entity ~~to~~must ensure adequate representation in each of the three required categories.

(b) In designating an eligible entity, the Governor shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of the CSBG Act and may give priority, in granting the designation, to eligible entities that are providing related services in the unserved area, consistent with the needs identified by a community needs assessment.

(c) If no private, nonprofit organization is identified or determined to be qualified to serve the unserved area as an eligible entity, the Governor may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a board or other mechanism as required by the Department.

§5.6. Distribution of CSBG Funds

(a) The CSBG Act requires that no less than 90% of the state's allocation be allocated to eligible entities. The Department utilizes a multi-factor fund distribution formula to equitably provide CSBG funds throughout the State's 254 counties to the CSBG eligible entities. The formula incorporates the 2000 U.S. Census figures at 125% of poverty; a \$50,000 base; a \$150,000 floor (the minimum funding level); a 98% weighted factor for poverty population; and, a 2% weighted factor for the inverse ratio of population density.

- (1) Each eligible entity receives a base amount of \$50,000;
- (2) The weighted factors of poverty population and population density are applied to the funds remaining after the base award funds have been distributed to each eligible entity;
- (3) The Department then determines if any eligible entity is below the \$150,000 floor after the base amount and weighted factors (poverty population and population density) have been applied, then the minimum floor amount is reserved for those entities below \$150,000.
- (4) The remaining funds are distributed to the remaining eligible entities. As was done with the initial run of the formula, each of the remaining eligible entities receives the base amount of \$50,000 and then the weighted factors (poverty population and population density) are applied to determine the allocation amounts for eligible entities funded above the \$150,000.
- (b) The population density factor ensures that additional funds are provided to those organizations with sparsely populated service areas.
- (c) Five percent (5%) of the Department's annual allocation of CSBG funds may be used for activities that may include: services to low-income Migrant and Seasonal Farmworker and Native-American populations; to assist CSBG eligible entities in responding to natural or man-made disasters. The Department also considers proposals that request funding for innovative and demonstration projects that assist CSBG target population groups to overcome at least one of the barriers to attaining self-sufficiency. A portion of these funds are used to confer Performance Awards to eligible entities that transition persons out of poverty.
- (d) Five percent (5%) of the Department's annual CSBG allocation is used to cover state administrative costs including salary and benefits for state CSBG staff, indirect costs, a portion of operating costs (space, telephone, staff travel, etc.), and capital expenditures (furnishings, equipment, etc.).

§5.7. Uses of Funds

CSBG funds distributed to eligible entities for a fiscal year may be available for obligation during that fiscal year and the succeeding fiscal year:

- (1) To remove obstacles and solve problems that block the achievement of self-sufficiency (including self-sufficiency for families and individuals who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act);
- (2) To secure and retain meaningful employment;
- (3) To attain an adequate education, with particular attention toward improving literacy skills of the low-income families in the communities involved, which may include carrying out family literacy initiatives;
- (4) To make better use of available income;
- (5) To obtain and maintain adequate housing and a suitable living environment;
- (6) To obtain emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs; and
- (7) To achieve greater participation in the affairs of the communities involved, including the development of public and private grassroots partnerships with local law enforcement agencies, local housing authorities, private foundations, and other public and private partners.

§5.8. State Application and Plan

- (a) The Department submits an application and State plan to the Secretary.
- (b) The Department will submit a State plan every two years.
- (c) The State plan will be submitted not later than 30 days prior to the beginning of the first fiscal year covered by the plan.
- (d) In conjunction with the development of the State plan, the Department is required to hold public hearings in four locations in different areas of the state to solicit public comment on the intended use of CSBG funds. The Department will provide notice of the public hearings regarding the State Plan not later than the 15th day before the date of the hearing and publish the Draft State Plan on the Department's web site at least 10 days before the first public hearing.
- (e) In order to be eligible to received CSBG funds, the Department must hold at least one legislative hearing every three (3) years in conjunction with the development of the State plan. The Department submits the CSBG budget to the Texas State Legislature every two (2) years as part of the Legislative Appropriations Request (LAR), which meets the legislative hearing requirement.

§5.9. CSBG Needs Assessment and Community Action Plan

- (a) In accordance with the CSBG Act, the Department is required to secure from each CSBG eligible entity a Community Action Plan that includes a community needs assessment. CSBG subrecipients must submit a needs assessment at least every five (5) years.
- (b) Preparation of a periodic community needs assessment enables the local eligible entities and the states to direct CSBG funds toward meeting national goals in accordance with the needs of the communities served.
- (c) The frequency for submission of the CSBG Community Action Plan is annual and is due on October 31 of every year.
- (d) The Community Action Plan shall at a minimum address the CSBG National Goals and National Performance Indicators, identified by the Monitoring and National Assessment Task Force sponsored by the U.S. Department of Health and Human Services, which include the following:
 - (1) Goal 1: Low-Income People Become More Self-Sufficient
 - (A) National Performance Indicator 1.1 – Employment
 - (B) National Performance Indicator 1.2 – Employment Supports
 - (C) National Performance Indicator 1.3 – Economic Asset Enhancement and Utilization
 - (2) Goal 2: The Conditions in Which Low-Income People Live are Improved
 - (A) National Performance Indicator 2.1 – Community Improvement and Revitalization
 - (B) National Performance Indicator 2.2 – Community Quality of Life and Assets
 - (3) Goal 3: Low-Income People Own a Stake in Their Community
 - (A) National Performance Indicator 3.2 – Community Empowerment through Maximum Feasible Participation
 - (4) Goal 4: Partnerships Among Supporters and Providers of Service to Low-Income People are Achieved
 - (A) National Performance Indicator 4.1 – Expanding Opportunities Through Community-Wide Partnerships
 - (5) Goal 5: Agencies Increase Their Capacity to Achieve Results
 - (A) National Performance Indicator 5.1 – Broadening the Resource Base

- (6) Goal 6: Low-Income People, Especially Vulnerable Populations, Achieve Their Potential by Strengthening Family and Other Supportive Systems
 - (A) National Performance Indicator 6.1 – Independent Living
 - (B) National Performance Indicator 6.2 – Emergency Assistance
 - (C) National Performance Indicator 6.3 – Child and Family Development

§5.10. Selection, Composition and Powers of Boards of Eligible Entities

(a) Private Nonprofit Entities.

(1) Board. In order for a private, nonprofit entity to be considered to be an eligible entity, the entity shall administer the community services block grant program through a tripartite board that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities.

(2) Selection and composition of board. The members of the board shall be selected by the entity and the board shall be composed so as to assure that

(A) One-third of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than one-third of the membership on the board of appointive public officials or their representatives may be counted in meeting such one-third requirement;

(B) Not fewer than one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served. Each representative of low-income individuals and families selected to represent a specific neighborhood within a community must reside in the neighborhood represented by the member; and

(C) The remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

(b) Public Organizations. In order for a public organization to be considered to be an eligible entity, the entity shall administer the community services block grant program through:

(1) A tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members:

(A) Are representative of low-income individuals and families in the neighborhood served;

(B) Reside in the neighborhood served; and

(C) Are able to participate actively in the development, planning, implementation, and evaluation of programs funded with CSBG funds; or

(2) A mechanism specified by the Department to assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this subtitle.

(c) Board Membership Requirements.

(1) Public Officials.

(A) Private Nonprofit Entities.

(i) The CSBG eligible entity may select elected public officials or their representatives to serve on the board. In the event that there are not enough elected public officials reasonably available and willing to serve on the board, the entity may select appointed public officials to serve on the board.

(ii) The entity may allow governing officials of the political jurisdiction to select and/or recommend an elected or appointed official to serve on the board.

(B) Public Organizations.

(i) The public organization may select elected public officials to serve on the board. If there are not enough elected public officials reasonably available and willing to serve on the board, the public organization may select appointed public officials to serve on the board.

(C) Elected public officials or appointed public officials selected to serve on the board of either a private nonprofit entity or a public organization shall have either general governmental responsibilities, or responsibilities which require them to deal with poverty-related issues. They may not be officials with only limited, specialized, or administrative responsibilities.

(2) Low Income Representatives.

(A) An essential objective of community action is participation by low-income individuals in the programs which affect their lives; therefore, the CSBG Act and its amendments require representation of low-income individuals on boards or state-specified governing bodies. Low-income representatives need not themselves be poor, but they must be selected in a manner that ensures that they truly represent low-income individuals.

(B) The procedure used to select the low-income representatives must be documented to demonstrate that a democratic selection process was used.

(C) Among the selection processes that may be utilized, either alone or in combination, are:

(i) Nominations and elections, either within neighborhoods or within the community as a whole.

(ii) Selection at a meeting or conference to which all neighborhood residents, and especially those who are poor, are openly invited.

(iii) Selection of representatives to a community-wide board by members of neighborhood or sub-area boards who are themselves selected by neighborhood or area residents.

(iv) Selection, on a small area basis (such as a city block), of representatives who in turn select members for a community-wide board.

(v) Selection of representatives by existing organizations whose membership is predominately composed of poor persons.

(3) Representatives of Private Groups and Interests.

(A) Private Nonprofit Entities.

~~(i) The entity shall select persons representing the private sector to serve on the board or it may select private sector organizations from which representatives of the private sector would be chosen to serve on the board. Law enforcement representatives are included in this group.~~ officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

(B) Public Organizations.

(i) The public organization may select persons representing the private sector to serve on the board or it may select private sector organizations from which representatives of the private sector would be chosen to serve on the board.

(ii) The individuals and/or organizations representing the private sector shall be selected in such a manner as to assure that the board will benefit from broad community involvement.

(iii) The board composition for the private sector shall draw from officials or members of business, industry, labor, religious, education, law enforcement, and other major groups and interests in the community served.

(4) Permanent Representatives and Alternates.

(A) Private Nonprofit Entities.

(i) The public officials selected by a private non profit entity to serve on the board may each choose one permanent representative to serve on the board in either a full-time capacity or in place of a public official whenever the public official is unable to attend a meeting.

(ii) The representative need not be a public official but shall have full authority to act for the public official at meetings of the board.

(iii) Permanent representatives may hold an officer position on the board.

(iv) If a permanent representative is not chosen, then an alternate may be designated by the public official selected to serve on the board.

(v) Alternates may not hold an officer position on the board.

(B) Public Organizations.

(i) The public officials selected by a public organization to serve on the board may each choose one permanent representative to serve on the board (or other governing body) in either a full-time capacity or in place of a public official whenever the public official is unable to attend a meeting.

(ii) The representative need not be a public official but shall have full authority to act for the public official at meetings of the board.

(iii) Permanent representatives may hold an officer position on the board.

(iv) If a permanent representative is not chosen, then an alternate may be designated by the public official selected to serve on the board or by the public organization.

(v) Alternates may not hold an officer position on the board. If the entity or board chooses to allow alternates, alternates for low-income representatives shall be elected at the same time and in the same manner as the board representative is elected to serve on the board.

(vi) Alternates for representatives of private sector organizations may be designated to serve on the board and should be selected at the same time the board representative is selected.

(vii) In the event that the board member or alternate ceases to be a member of the organization represented, he/she shall no longer be eligible to serve on the board.

(viii) Alternates may not hold an officer position on the board.

(5) Powers of the Board.

(A) Private Nonprofit Entities.

(i) The board is responsible for abiding by the terms of contracts and shall determine the policies of the agency-organization to assure accountability for public funding.

(ii) The board shall function as the organization's governing body with the same legal powers and responsibilities as the board of directors of any nonprofit corporation.

(iii) In the event of a conflict between the powers and responsibilities required of all nonprofit corporations and those required by the CSBG Act, this rule, and the contract, the latter shall control.

(B) Public Organizations.

(i) The powers, duties, and responsibilities of the board shall be determined by the governing officials of the political subdivision in accordance with the CSBG Act Sec. 676B.

(ii) The governing officials may establish: (1) an advisory board, in which case the authority given to the advisory board depends on the powers delegated to it by the governing officials of the political subdivision; or (2) a governing board, empowering the board of directors with substantive decision-making authority and delegating the powers, duties, and responsibilities to carry out its CSBG-supported contract and functions.

(6) Residence Requirement.

(A) All board members shall reside within the contractor's CSBG service area designated by the CSBG contract.

(B) Board members should be selected so as to provide representation for all geographic areas within the designated service area; however, greater representation may be given on the board to areas with greater poverty population.

(i) Low-income representatives must reside in the area that they represent.

(7) Limitations of Board Service.

(A) Private Nonprofit Entities.

(i) Public officials, or their representatives, serve at the pleasure of the board as long as the public official remains in office.

(ii) Low-income representatives and representatives of private organizations also serve at the pleasure of the board.

(B) Public Organizations.

(i) Board members serve at the pleasure of the public organization, or at the pleasure of the board if the board is so empowered by the public organization.

(ii) Public officials, or their representatives, may not serve on the board as a public official representative after relinquishing their elective or appointive office.

(iii) The board may petition the designating governmental body for removal of a board member.

(C) Low-income representatives and representatives of private organizations may serve up to five consecutive years but not more than a total of ten years. After five consecutive years, these representatives may not serve on the board in any capacity for one full year, after which they may serve another five consecutive years, for a total of ten years.

(8) Board Size.

(A) The board shall consist of at least fifteen (15) but not more than fifty-one (51) members.

(9) Quorum.

(A) A quorum shall consist of at least fifty (50%) percent of the non-vacant board positions. A motion may be adopted only if it receives the votes of at least a majority of the members present at a properly called meeting where there is a quorum present.

(B) Members represented by proxy (if the articles of incorporation or by-laws allow proxies) may not be counted toward a quorum.

(10) Vacancies.

(A) All board vacancies shall be filled as soon as reasonably possible.

(B) In no event shall the board allow 25% or more of either the public or poverty sector board positions to remain vacant for more than 90 days.

(C) CSBG subrecipients shall report to the Department, on their monthly performance reports, the number of board vacancies by sector.

(D) Compliance with the CSBG Act requirements for board membership is a condition for eligible entities to receive CSBG funding, and there is no provision in the Act for a waiver or exception to these requirements.

(11) Removal of Board Members.

(A) Private Nonprofit Entities.

(i) Public officials, or their representatives, may be removed from the board by the board or by the entity that appointed them to serve on the board.

(ii) Other members of the board may be removed by the board or pursuant to any procedure provided in the entity's articles of incorporation or by-laws.

(B) Public Organizations.

(i) Board members may be removed from the board by the public organization, or by the board if the board is so empowered by the public organization.

(ii) The board may petition the public organization to remove a board member or the public organization may delegate the power of removal to the board.

(12) Compensation.

(A) Board members are not entitled to compensation for their service on the board.

Reimbursement of reasonable and necessary expenses incurred by a board member in carrying out his/her duties is allowed.

(13) Conflict of Interest.

(A) No board member may participate in the selection, award, or administration of a subcontract supported by CSBG funds if:

(i) the board member,

(ii) any member of his/her immediate family (as defined in the CSBG contract),

(iii) the board member's partner, or

(iv) any organization which employs or is about to employ any of the above, has a financial interest in the firm or person selected to perform a subcontract.

(B) No employee of the local CSBG subrecipient nor of the Department may serve on the board.

(14) Improperly Constituted Board.

(A) If the Department determines that a board of an eligible entity is improperly constituted, the Department shall prescribe the necessary remedial action which may include termination of funding.

§5.11. Meeting Requirements of Boards of Eligible Entities

(a) The boards of CSBG eligible entities shall meet at least every ten (10) weeks.

(1) As CSBG eligible entities have been added to the list of covered agencies, meetings and proceedings of the same shall be in compliance with the Texas Open Meetings Act (Texas Government Code, §551.001 et. seq.) and with the Public Information Act (Texas Government Code, §552 et seq.).

(2) In general, meetings of governmental bodies must be open to the public, except for expressly authorized executive sessions, and the public must be given notice of the time, place, and subject matter of such meetings.

(3) The Open Records Act is required by §11 of the CSBG contract.

(4) As of September 1, 2001, it is also required by state law.

(b) Meetings of the Board.

(1) Written notice of the date, time, place, and proposed agenda of any regular, special, or called meeting of the Board shall be given to each board member at least five (5) days in advance of the meeting.

(2) Notice of all meetings shall also be given to the general public through local public postings, which may include written notification in courthouses or other public places or publication in a newspaper.

(3) Notices to the general public shall be posted in readily accessible areas at least 72 hours before the scheduled time of the meeting. Because service areas identified in Texas CSBG-supported contracts are limited to small portions of the state, it is not a requirement for local entities to publicize the board meeting notices in the Texas Register.

(4) Except as specifically provided in paragraph (5) of this subsection, every regular, special, or called meeting of the board shall be open to the public.

(5) Closed or executive sessions of the board may be held for the following purposes:

⊞(A) Consultation between the board and its attorney in those instances in which the board seeks the attorney's advice with respect to pending or contemplated litigation, settlement offers, and other matters where the duty of the attorney to his client requires confidentiality.

- | ☐(B) Discussion with respect to the purchase, exchange, lease, or value of real property, negotiated contracts, and prospective gifts or donations to the organization, when such discussion, if made public, would have a detrimental effect on the negotiating position of the organization.
- | ☐(C) Discussion with respect to matters involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an officer or employee or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public session.
- | ☐(D) Discussion with respect to any matter specifically made confidential by law or regulation.
- (E) Any other exception available by state law.
- (F) Whenever any deliberation or any portion of a meeting is closed to the public as permitted above, no final action, decision, or vote with regard to that matter shall be made except in a meeting open to the public.
- (c) Minutes.
 - (1) The board shall keep written minutes of each open meeting that include a record of the members present by category, items presented to the board for action, and the votes on all motions. Minutes of the previous meeting shall be distributed to board members before the next meeting. The minutes shall be made available to the public upon request in accordance with the Open Records Act.
 - (2) Each CSBG eligible entity shall comply with these provisions. If necessary, the eligible entity's by-laws and articles of incorporation shall be amended to reflect compliance with these requirements described above. Upon the failure of a CSBG eligible entity to comply with these requirements, the Department may take any one or more of the following actions:
 - (A) Deny the eligible entity's requests for advances and place it on a reimbursement payment basis until proof of compliance with these requirements is received by the Department;
 - (B) Withhold all payments from the eligible entity (both reimbursements and advances) until proof of compliance with these requirements is received by the Department;
 - (C) Suspend performance of the CSBG contract until proof of compliance with these requirements is received by the Department; or
 - (D) Terminate the CSBG contract.
- (d) §551.001(3) (J) Government Code, as it relates to compliance with the Open Meetings Act and the Public Information Act, includes a nonprofit corporation that is eligible to receive funds under the CSBG program and is authorized by the Department to serve a geographic area of the state, among its list of defined governmental bodies.

§5.12. Monitoring of Eligible Entities

- (a) The Department will conduct monitoring reviews to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of the CSBG program. The Department will conduct the following reviews of eligible entities:
 - (1) A full onsite review of each such entity at least once during each 3-year period.
 - (2) An onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives funds through the community services block grant program.
 - (3) Follow-up reviews including prompt return visits to eligible entities, and their programs, that fail to meet the goals, standards, and requirements established by the Department.

(4) Other reviews as appropriate, including reviews of entities with programs that have had other Federal, State, or local grants (other than assistance provided under the CSBG Act) terminated for cause.

~~(b) Requests. The Department may request training and technical assistance from the Secretary as needed to comply with the requirements of this section.~~

~~(c) Evaluations by the Secretary. The Secretary shall conduct in several States in each fiscal year evaluations including investigations of the use of CSBG funds.~~

~~(d) The Department may place an eligible entity on a reimbursement method of payment, terminate the contract, or invoke other remedies in the event monitoring or other reliable sources reveal material deficiencies in performance or of the entity fails to correct any deficiency within the time allowed by federal or state law.~~

§5.13. Limitations on Use of Funds

(a) Construction of Facilities.

(1) CSBG funds may not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) or any building or other facility.

(2) Waiver. The Secretary may waive the limitation contained in paragraph (1) of this subsection upon a State request for such a waiver, if the Secretary finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subtitle.

(b) Political Activities.

(1) Treatment as a state or local agency. For purposes of chapter 15 of title 5, United States Code, any entity that assumes responsibility for planning, developing, and coordinating activities under the CSBG Act and receives assistance under CSBG Act shall be deemed to be a State or local agency.

(2) Prohibitions. Programs assisted under the CSBG Act shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel, in a manner supporting or resulting in the identification of such programs with

(A) any partisan or nonpartisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office;

(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(C) any voter registration activity.

§5.14. Client Income Guidelines

(a) The Department has defined eligibility for CSBG assistance at 125% of the poverty income guidelines provided annually by the Secretary, as per the CSBG Act.

(b) The Department will use the following lists of included and excluded income to determine eligibility for the program.

(1) Included Income.

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

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

- (C) Net receipts from non-farm or farm self-employment (receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses),
- (D) Regular payments from social security,
- (E) Railroad retirement,
- (F) Unemployment compensation,
- (G) Strike benefits from union funds,
- (H) Worker's compensation,
- (I) Veteran's payments,
- (J) Training stipends,
- (K) Alimony,
- (L) Military family allotments,
- (M) Private pensions,
- (N) Government employee pensions (including military retirement pay),
- (O) Regular insurance or annuity payments; or
- (P) Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts; and net gambling or lottery winnings.

(2) Excluded Income.

- (A) Social Security Disability Insurance (SSDI) payments,
- (B) Supplemental Security Income (SSI) payments,
- (C) Capital gains; any assets drawn down as withdrawals from a bank,
- (D) The sale of property, a house, or a car,
- (E) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty,
- (F) Tax refunds, gifts, loans, and lump-sum inheritances,
- (G) One-time insurance payments, or compensation for injury,
- (H) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits,
- (I) Food or housing received in lieu of wages,
- (J) The value of food and fuel produced and consumed on farms,
- (K) The imputed value of rent from owner-occupied non-farm or farm housing,
- (L) Federal non-cash benefit programs as Medicare, Medicaid, Food Stamps, and school lunches,
- (M) Housing assistance and combat zone pay to the military,
- (N) College scholarships, Pell and other grant sources, assistantships, fellowships and work study, or
- (O) Child Support Payments.

§5.15. Program Administration

Upon Executive approval, CSBG subrecipients shall enter into and execute an agreement for the receipt of CSBG funds.

- (1) Amendments. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to the CSBG contract.
- (2) The Department reserves the right to deobligate funds.

(3) 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 a full accounting of funds expended under the terms of the contract shall be sufficient reason to terminate the contract and for the Department to deny any future contract to the subrecipient.

§5.16. Termination and Reduction of Funding

If the State determines, on the basis of a final decision in a review pursuant to section 678B of the CSBG Act, that an eligible entity fails to comply with the terms of an agreement, or the State plan, to provide services under this subtitle or to meet appropriate standards, goals, and other requirements established by the State (including performance objectives), the State shall –

(1) inform the entity of the deficiency to be corrected

(2) require the entity to correct the deficiency;

(3)(A) Offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the Secretary a report describing the training and technical assistance offered; or (B) if the State determines that such training and technical assistance are not appropriate, prepare and submit to the Secretary a report stating the reasons for the determination;

(4)(A) at the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State, and (B) not later than 30 days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph (A), either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and

(5) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce CSBG funding of the eligible entity unless the entity corrects the deficiency.

**COMMUNITY AFFAIRS DIVISION
EMERGENCY SHELTER GRANTS PROGRAM**

**BOARD ACTION REQUEST
November 9, 2006**

Action Item

Presentation, discussion, and possible approval for publication in the *Texas Register* of the final rule for the Emergency Shelter Grants Program rules to be codified at 10 Texas Administrative Code, Chapter 5, Subchapter C.

Required Action

Department staff recommends that the Board review and approve the rule for the Emergency Shelter Grants Program (ESGP) 10 Texas Administrative Code, Chapter 5, Subchapter C.

Background

On September 1, 2006, the Department announced in the *Texas Register* that the Department would conduct a series of public hearings to solicit comments on the draft rule for the Emergency Shelter Grants Program, 10 Texas Administrative Code, Chapter 5, Subchapter C. The draft rule was published in the *Texas Register* on September 15, 2006 and a 33 day comment period was allowed for public comment on the rule. The Department did not receive any public comment on the proposed ESGP rules.

Recommendation

Staff recommends Board approval of the draft Emergency Shelter Grants Program rule, 10 Texas Administrative Code, Chapter 5, Subchapter C.

Attachment: ESGP TAC Rules

**EMERGENCY SHELTER GRANTS PROGRAM, PUBLIC COMMENTS –
OCTOBER 2006**

The Department conducted its Consolidated Public Hearings in September and October 2006 at thirteen locations around the state. The thirty-three day public comment period closed on October 18, 2006. The draft rule was available on the Department's internet site beginning September 15, 2006. Public notice of the proposed rule and announcement of the public hearings appeared in the *Texas Register*, September 15, 2006 edition.

The Department did not receive any public comment on the proposed rules for the Emergency Shelter Grants Program.

**TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 5. COMMUNITY SERVICES PROGRAM
SUBCHAPTER C. EMERGENCY SHELTER GRANTS PROGRAM
10TAC Sections 5.200-5.211**

Section 5.200. Purpose

The Emergency Shelter Grants Program (ESGP) is to be utilized for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating expenses and essential services in connection with emergency shelters for the homeless, and for homeless prevention activities. The program is designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as to prevent homelessness. The objectives of the ESGP shall be to:

- (1) Help improve the quality of emergency shelters for the homeless;
- (2) Help meet the costs of operating and maintaining emergency shelters;
- (3) Provide essential services so that homeless individuals have access to the assistance they need to improve their situation; and
- (4) Provide emergency intervention assistance to prevent homelessness.

Section 5.201. Background

ESGP was established by the Homeless Housing Act of 1986 in response to the growing issue of homelessness in the United States. In 1987, the ESG program was incorporated into Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. Section 11371- 11378), now known as the McKinney-Vento Homeless Assistance Act. ESGP funds are federal funds awarded to the State of Texas by the U. S. Department of Housing and Urban Development (HUD). The Texas Legislature designated the Texas Department of Housing and Community Affairs (the Department) to administer this program pursuant to Section 2306.094, Texas Government Code. ESGP funds will be made available to eligible applicants to carry out the purpose of the Emergency Shelter Grants Program based on this statewide competitive application process.

Section 5.202. Definitions

The following words and terms shall have the following meaning unless the context clearly indicates otherwise.

- (1) Homeless or homeless individual -- An individual who:
 - (A) lacks a fixed, regular, and adequate nighttime residence, or
 - (B) has a primary nighttime residence that is:
 - (i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - (ii) an institution that provides a temporary residence for individuals intended to be institutionalized;or,
 - (iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. (Exclusion: The term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.)

(2) Units of general local government -- a unit of local government which has, among other responsibilities, the authority to assess and collect local taxes and to provide general governmental services.

(3) Private nonprofit organization -- an organization which has the status as a 501(c) tax-exempt entity. Private nonprofit organizations applying for ESGP funds must be established for eleemosynary purposes and whose activities include, but are not limited to, the promotion of social welfare and the prevention or elimination of homelessness. The entity's net earnings may not inure the benefit of any individual(s).

(4) Subrecipient -- organization's with whom the Department contracts with and provides ESGP funds.

(5) Subcontractor -- an organization with whom the Department's subrecipient contracts with utilizing ESGP funds.

(6) Collaborative Application -- an application from two or more organizations which will use ESGP funds to provide services to the target population as part of a local continuum of care. If a unit of general local government applies for only one organization, this will not be considered a collaborative application. Partners in the collaborative application must coordinate services and prevent duplication of services.

Section 5.203. Allocation of Funds

The Department shall administer all federal ESGP funds provided to the State under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. Section 11371-11378, now known as the McKinney-Vento Homeless Assistance Act) in accordance with the U.S. Department of Housing and Urban Development's final ESG rule, 24 CFR Part 576 and Chapter 2306, Texas Government Code, and the Department annual Consolidated Plan.

(1) The Department must obligate at least 95% of these funds for ESGP funded applicants.

(2) The Department may retain 5% for administration and will share a portion of its administrative funds with units of general local government (city or county) selected for funding.

(3) The Department will obligate funds within 65 days of receiving the award letter from the U.S. Department of Housing and Urban Development.

Section 5.204. Application Requirements

(a) Eligibility Documentation: The following information must be included in each ESGP application. Failure to provide this documentation will deem the application ineligible for funding:

(1) Documentation of the active participation of a homeless or formerly homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient. Active participation is defined as attendance at a minimum of 75% of the Board or policy making entity meetings during a 12 month period. A copy of the section in the bylaws which authorizes the governing board or equivalent policymaking entity to make policies for the organization must also be included.

(2) All private nonprofit organizations must document their status as a 501(c) tax-exempt entity. The Department prefers that the ruling be on IRS letterhead which is legible and signed by the IRS District Director. Expired advanced rulings from the IRS are not acceptable. Other documentation which may be utilized to document a 501(c) tax-exempt status may be a letter from the State of Texas Comptroller of Public Accounts or a certified legal document showing status. Local nonprofit affiliate of a State or national nonprofit can be submitted if your organization is a subsidiary of a parent organization. In case of the latter, provide a copy of the page listing your organization in the documents filed with the IRS.

(3) Private nonprofit organizations must document that the activities proposed for ESGP funding have received local government approval from the city or county in which the project is located. Such approval is to be documented on Local Government Certification Form for Private Nonprofit Organizations which must be signed by the county judge or mayor, or their official designee (such as city manager, assistant city manager, community development director or human services director) for the locality in which the project is located. In the case of a collaborative application, only the private nonprofit organization which is the lead agency in the collaborative application, must submit the approved Local Government Certification Form. Any partner in the collaborative who fails to provide eligibility documentation will be deemed ineligible for funding. If the application is selected for funding and one of the organization(s) in the collaborative was deemed ineligible, the Department will negotiate the final grant amount only with the organization(s) that met all three eligibility requirements.

(b) Fiscal accountability: An applicant organization that spends more than \$500,000 in federal funds during its fiscal year must have a single audit conducted for that year. The threshold for expenditure of federal funds was increased from \$300,000 to \$500,000 for organizations with fiscal years ending after December 31, 2003. If a single audit is required for your organization, a portion of the audit cost may be included in the proposed ESGP budget. An applicant organization that does not exceed the \$500,000 federal fund expenditure threshold is exempt from the single audit requirements. In this case, audit costs may not be included in the proposed ESGP budget. All applications must include documentation of fiscal accountability, even if this information has been previously submitted to the Department. An applicant organization must include its most recent complete audit report and if applicable, a management letter as part of the financial documentation for this application. If an organization is not required to have a single audit performed, the application must include the end-of-the-year financial statements (balance sheet, income statement, and statement of cash flow). All collaborative applications from non-profits must submit financial documentation for each organization in a collaborative. For collaborative applications from units of general local government, the Department expects that fiscal accountability documentation will be reviewed by the city or county.

(c) All applications must include documentation requested in the ESGP Application issued annually by the Department.

(d) Match Requirements.

(1) ESGP subrecipients must match their award amount with an equal or greater amount of resources other than ESGP funds. Therefore, ESGP applicant organizations must demonstrate access to resources that may be used as match after the date of the grant award. Matching funds used for this ESGP project may not be used to match any other project or grant.

(2) Match resources may include:

(A) Donated Supplies: Donated goods such as clothing, furniture, equipment, etc. Include the source and an estimated value for all donated goods.

(B) Cash Donations or Grants: Private donations or grants from foundations, nonprofits, or local, state, and federal sources. A single grant may serve as the required match.

(C) Value of Donated Building: The fair market value of a donated building in the year that it is donated. The building must be proposed for ESGP-related activities and currently must not be in use for these activities. The narrative should state when the building was donated and for what purpose, the current use of the building, and how long the building has been used for its current purpose. The application must include documentation from a realtor or appraiser as to the fair market value of the property.

(D) Rent or Lease Value of a Building: Rent paid for space currently used to provide services to the homeless. Include the source of funds used to pay rent. The fair market rent or lease value of a building owned by or space that is donated (rent-free) to the applicant organization is also an acceptable match resource. To document fair market value, the application must include a letter from a realtor or

appraiser that specifies the location of building, square footage, value per square foot, and total lease or rent value based on 12-month occupancy.

(E) Salaries: Any staff salary paid with general operating funds or certain grant funds including but not limited to CSBG, CDBG, United Way, and VOCA. The position(s) used as match must be involved in ESGP-related activities and the hours utilized for match must be for hours worked for ESGP related activities. For each position include the title, annual salary, percentage of time dedicated to ESGP activities, source of funds and the dollar amount proposed as match.

(F) Volunteers: Time and services contributed by volunteers, with a value not to exceed federal regulations.

(e) Environmental Review Requirements for Rehabilitation Projects.

(1) The 1988 McKinney Amendment Act revised the environmental review procedures for assistance under Title IV of the Act, including ESGP, by making applicable the provisions of, and regulations and procedures under Section 104(g) of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5304 (f)). The regulations are codified at 24 CFR Part 58. Also, see 24 CFR 576.57e (Release of Funds), and 24 CFR 35 (Lead Based Paint Hazard Reduction).

(2) An application from private nonprofit organizations that request funds for Rehabilitation activities must include a letter documenting that applicant has requested assistance with the environmental review requirements from the Chief Elected Official (or designee) of the city or county in which the project will be located.

(3) Applications including a request for Rehabilitation funds must include a Preliminary Environmental Review Checklist that has been executed by the authorized signatory for the organization or by a local elected official (or designee). An organization that is awarded funds for rehabilitation activities must submit a final Environmental Review Checklist.

(4) No funds may be obligated or expended for rehabilitation activities until the project has been environmentally cleared. For ESGP funds distributed by the State to units of general local government, the unit of general local government must assume the environmental responsibilities, and the State will be responsible for providing a release of funds in accordance with the requirements of 24 CFR Part 58.

(5) For funds distributed by the State to nonprofit organizations, the State must assume the environmental responsibilities, and HUD will provide the release of funds in this instance. In either case, funds may be obligated or expended only after the Request for Release of Funds and Certification of Compliance with Environmental Regulations at 24 CFR Part 58 have been approved in writing.

(6) The Department may accept a previous environmental review if:

(A) the environmental review is not more than 5 years old and no structural changes have occurred;

(B) the certifying entity provides documentation that no environmentally significant changes have occurred since the review was done; and

(C) a copy of the environmental review is submitted as part of the ESGP application.

Section 5.205. Application Limitations

(a) Eligible Applicants: Units of general local government and private nonprofit organizations. The Department will accept collaborative applications. To be considered as a collaborative, the application must include two or more organizations that will use ESGP funds to provide services to the target population as part of a local continuum of care. If a unit of general local government applies for only one organization, this will not be considered a collaborative application. The Department intends for collaborative applications to be an effort among organizations who serve the homeless population to coordinate services and prevent duplication of services.

(b) Award Amounts:

(1) The Department has established a minimum of \$30,000 and a maximum of \$100,000 for ESG program awards per organization not applying as part of a collaborative application.

- (2) An organization can submit only one application either as a single entity or as part of a collaborative effort.
- (3) A collaborative application is limited to a maximum request of \$300,000, with a limit of \$100,000 per organization.
- (4) The Department will not set limitations on the number of organizations that can be part of a collaborative application, but the Department recommends that collaborative applications be limited to no more than 5 organizations.
- (5) Award limitations are based on the amount of ESGP funds estimated to be available to each region and the ESGP funding pattern utilized by the Department. The limitations are not to be interpreted as a commitment by the Department to award these amounts.
- (6) All projects should be planned for a maximum of 12 months.
- (7) Per HUD requirements, the Department will share a portion of the State's administrative funds with units of general local government (cities or counties) selected for ESGP funding. The amount shared will not exceed 4% of the subrecipient's ESGP award.
- (8) The Department reserves the right to negotiate the final grant amounts and local match with successful applicants to ensure judicious use of ESGP funds. The Department may consider the amount of HUD funds awarded to entitlement entities when making funding decisions to applicants that are a unit of general local government. This consideration does not apply to private nonprofit organizations located in ESGP entitlement cities or counties.

(c) Eligible Activities: ESGP funds are designed to address the immediate needs of homeless persons to assist their movement to permanent housing. ESGP funds may be utilized to assist individuals and families who would actually become or remain homeless without ESGP homelessness prevention assistance. ESGP funds cannot be utilized to care for or assist children in State custody. The Department encourages applications that include an innovative approach to providing emergency shelter and/or transitional housing to homeless individuals and families. Transitional housing projects should be designed to provide housing and appropriate essential services to homeless persons in order to facilitate the movement of individuals or families to permanent housing within no more than 24 months. ESGP grant amounts may be used for one or more of the following activities:

(1) Rehabilitation. Rehabilitation is defined as the labor, materials, tools, and other costs of improving buildings. Examples of allowable rehabilitation projects include, but are not limited to, accumulated deferred maintenance (replacing flooring), replacement of principle fixtures and components, improvements to increase energy efficiency (replacing a furnace or air conditioning unit), and structural changes necessary to make the facility accessible for persons with physical disabilities. Rehabilitation projects include deferred repairs for items that are inoperable or broken and in need of replacement prior to the submission of the ESGP application. Rehabilitation does not include non-deferred repairs. All rehabilitation activity funded through ESGP must occur within the existing structure, must not increase the square footage of the structure involved, and must comply with local government safety and sanitation requirements. (Refer to Section 504 of the Rehabilitation Act of 1973, as amended, as provided in 24 CFR 8.23 (a) or (b)). Types of rehabilitation projects include:

(A) Conversion: a change in the use of a building to an emergency shelter or transitional housing where rehabilitation costs exceed 75% of the value of the building after conversion. If selected for funding, the organization must use the facility as a shelter for the homeless for at least 10 years.

(B) Major rehabilitation: rehabilitation or conversion involving costs in excess of 75% of the value of the building prior to the proposed rehabilitation or conversion. If selected for funding, the organization must use the facility as a shelter for the homeless for at least 10 years.

(C) Renovation: rehabilitation that involves costs of 75% or less of the value of the building prior to the proposed rehabilitation. If selected for funding, the organization must use the facility as a shelter for the homeless for at least 3 years.

(2) Essential Services. ESGP legislation limits essential services to 30% of the total State allocation. Therefore, the Department requires ESGP applications to limit requests for Essential Services activities

to 30% of the proposed budget. Essential services activities address the immediate needs of homeless individuals and enable homeless persons to become more independent and/or to secure permanent housing.

(A) Essential services may include direct client services concerned with employment, health, drug abuse prevention, and education, including but not limited to: assistance in obtaining permanent housing; medical and psychological counseling and supervision; employment counseling, job placement, and job training (including tuition and books); nutritional counseling and the salary of food preparers (cooks); substance abuse treatment and counseling; assistance in obtaining other federal, state, and local assistance including mental health benefits, medical assistance, Veteran's benefits, and income support assistance such as Supplemental Security Income, Temporary Assistance for Needy Families, and Food Stamps; other services such as childcare, food vouchers, client clothing, or medical assistance (doctor visits, prescriptions, eye glasses or other prostheses, etc.); transportation costs directly associated with ESGP service delivery, such as bus tokens, bus fare, cab fare, airfare, salary of van driver, etc; and, salary for staff whose sole duty is to work directly with clients to provide the above services. Staff salaries may include wages and fringe benefits as described in the applicant organization's personnel policies. No administrative salaries may be paid with Essential Services funds.

(B) The application must include a job description for any position to be paid in full or in part with ESGP funds under this category.

(C) If the agency received local funds (locally generated tax revenue) from a unit of local government in the past 12 months, and if the ESGP application includes a request for funds to provide essential services, the Project Narrative must describe how the service(s) will be a new service or will result in a quantifiable increase in the level of service that was provided with local funds during the previous 12 months.

(3) Maintenance, operation, and furnishings. ESGP funds may be used for maintenance, operation, furnishings, and equipment costs. The Department will accept applications that include Maintenance, Operation, and Furnishings as a part of the project or as the sole activity of a project.

(A) Maintenance costs include contract services for copier or security system maintenance, pest control, lawn care, contracted janitorial service, etc.

(B) Operation costs include administration, equipment, facility rent, utilities, internet service, and telephone; building maintenance and non-deferred repairs; food for shelter residents; vehicle maintenance, registration, repairs, and fuel; building or equipment insurance; fidelity bond coverage; office and maintenance supplies; contracted security services; single audit expenses (if required), staff mileage reimbursement (for travel relating to ESGP service delivery), and pre-award travel expenses (for successful applicants to attend an orientation workshop). Non-deferred repairs are items that break during the contract period, such as: repairing a window that is broken; repairs due to water damage; or repairing a broken furnace or air conditioning unit. Deferred repairs, classified as rehabilitation activities, are items which are inoperable or broken and in need of replacement prior to the application period. Operation administration may not exceed more than 10% of an applicant's ESGP budget may be requested for administrative salaries (including fringe benefits). Appropriate staff which may be charged as administrative staff are the executive director, program director, supervisors, administrative support staff, etc. Job descriptions for these positions are not required to be included in the ESGP application. Equipment may include computers, printers, software, refrigerator, stove, tools, vehicles, etc. All equipment with a useful life of more than one year and an acquisition cost of \$500 or more must be included in a cumulative inventory report submitted to the Department each contract year. Subrecipients who participate in a local Continuum of Care may use ESGP funds to facilitate the required Homeless Management Information System (HMIS) which may include the purchase of software and/or annual access fees to facilitate data collection and reporting of client-level information.

(C) Furnishings may include beds, mattresses, linens, desks, tables, chairs, etc.

(4) Homelessness Prevention. ESGP legislation limits homelessness prevention to 30% of the total State allocation. Homelessness Prevention funds may be used to assist individuals who are homeless or

at risk of becoming homeless. The Department will accept applications that include Homelessness Prevention as a part of the project or as the sole activity of a project.

(A) Homelessness Prevention funds may be used to provide direct monetary assistance on behalf of individuals whose annual income is at or below the federal poverty guideline when all of the following conditions are met:

(i) The individual or family is unable to make the required payments due to a sudden reduction in income or a sudden increase in expenses;

(ii) The assistance is necessary to avoid the foreclosure, eviction, or termination of utility services (excluding telephone service);

(iii) There is reasonable prospect that the individual or family will be able to resume the payments within a reasonable period of time (determined by the applicant organization and used consistently among all clients); and

(iv) The assistance does not replace funding for pre-existing homelessness prevention activities from any other sources.

(B) Homelessness Prevention funds must be used to assist those individuals and families that would actually become or remain homeless without ESGP homelessness prevention assistance. Homelessness prevention funds may not be used to provide direct payments to individuals. Homelessness prevention assistance may include:

(i) Short-term subsidies to help defray rent and utility arrearages for families that have received a notice of eviction, termination of utility services, or payments to prevent the transfers;

(ii) Security deposits or first month's rent to enable a homeless family (or individuals in emergency/transitional housing) to acquire permanent housing;

(iii) Programs to provide mediation for landlord/tenant disputes;

(iv) Programs to provide legal services for the representation of indigent tenants in eviction proceedings;

(v) Payments to prevent foreclosure on a home; and,

(vi) Other innovative programs and activities designed to prevent the incidence of homelessness.

(vii) The Department may reserve funds from the 95% funds utilized for funding applicants for a special statewide homelessness prevention initiative designed to provide training and technical assistance necessary to prevent the incidence of homelessness. ESGP funds for the Special Initiative for Homelessness Prevention will be limited to two (2) eligible activities: maintenance, operation, furnishings; and homelessness prevention.

Section 5.206. Ineligible Activities

(a) Rehabilitation activities funded through ESGP cannot increase the square footage of the structure involved and must occur within the existing structure. (Refer to Section 504 of the Rehabilitation Act of 1973, as amended, as provided in 24 CFR 8.23 (1) or (b).)

(b) ESGP funds cannot be utilized for conversion, rehabilitation, renovation, or operation of permanent housing; acquisition of real property; new construction; addition of square footage, property clearance or demolition; direct payments to individuals; to support inherently religious activities such as worship, religious instruction, or proselytization; or to rehabilitate or repair buildings such as sanctuaries, chapels, and other rooms that a congregation uses as its principal place of worship.

Section 5.207. Application Process

(a) The Department will publish the ESGP Application annually on the Department's website. Prior to its publication, the Department will send notice to organizations included in the Department's ESGP Interested Parties Mailing List and to the Department's listserv maintained by the Department's Policy and Public Affairs Division. This notice will include information on how to access a current ESGP

application. The Department will provide a hard copy of the application to any organization requesting one and who cannot access the application via the internet.

(b) An applicant must submit a completed application in accordance with application instructions issued annually in the ESGP Application to be considered for funding. Applications containing false information, not received by the deadline, and not meeting eligibility documentation requirements will be disqualified. Applications must be received by the Department by 5:00 p.m. on the date identified in the ESGP Application. The Department will not accept applications prior to the publication of the annual ESGP Application.

Section 5.208. Process for Review of Applications

(a) Each Texas county is part of one of the 13 Uniform State Service Regions. Funds are reserved for each region in direct proportion to the percentage of poverty population which exists in each region according to the decennial U.S. Census.

(b) Applications are grouped by service region. After eligibility screening, applications from one or more service regions are assigned to each review team, depending on the number of applications received from each service region. Applications compete only against other applications from the same service region. The teams utilize a scoring instrument to evaluate and score applications utilizing factors in Section 5.209 of this chapter. The Department will not notify organizations of any deficiencies during the pre-screening and review process. The scores for each application will be averaged to obtain a team score and the score for the review of financial documentation is added to the team score. Then the final adjusted score is determined by adding bonus points and deducting points for unresolved monitoring issues and submission of late reports and failure to expend at least 84% of previous ESGP awards provided by the Department. Applications may be deemed ineligible for lack of response to Department ESGP monitoring report(s) and compliance and audit issues identified by the Department. Once the final adjusted score is established, applications are ranked according to final adjusted score within each region. Applications which receive a score below 70% of the highest score in their service region will not be considered for funding. In the final stage of the review process, prior to making final funding recommendations, the performance of previous ESGP subrecipients is taken into consideration. Performance issues may make an applicant ineligible. As part of this final stage of the review process, Directors and Managers from all Department Divisions review the list of projects proposed for funding. Additionally, monitoring, audit, and compliance issues are considered prior to submitting the recommendations for executive recommendation and board approval. Applicants that have unresolved monitoring and audit findings from any TDHCA funded program will be ineligible for ESGP funding.

(c) The Department will award bonus points for applicants from non-entitlement areas, for organizations requesting homelessness prevention funds, and for single applicant organizations that previously have not received ESGP funds from the Department.

(d) In the event of a tie, the Department reserves the right to determine which application will receive a recommendation for funding. The application from the area with more limited resources for homeless assistance will be given preference, considering all other factors.

(e) Applicants will be notified of the Department's recommendation for funding on or before 65 days after receipt of funding notification from the U.S. Department of Housing and Urban Development. Applicants which are disqualified will receive written notification within 5 working days of the Community Affairs' determination. Applicants not recommended for funding will be notified in writing no later than 30 days from the date that the Department obligates funds.

(f) Applications recommended for funding will be presented to the Board or its designee for approval, pending the availability of ESGP funds.

(g) Applicants not selected to receive ESGP funds may request a review of their application no later than 30 days after the date of the written funding notification from the Department as per Texas Administrative Code Section 1.7.

Section 5.209. Application Scoring

(a) Standard Applications - The application content, tables, and narrative will be scored for each eligible application. The Department will also take into consideration information in Section 5.208 of this title and the score resulting from the scoring instrument will be adjusted based on the review of information in Section 5.208 of this title.

(b) Sections of Scoring Instrument for Standard Applications:

(1) APPLICATION CONTENT (15 POINTS)

1 Point will be awarded for the submission of each required item contained in the application packet:

- (A) ESGP Application Form completed;
- (B) Table of Contents includes page numbers;
- (C) Project Narrative formatted with one-inch margins and with minimum 11 pt. type font;
- (D) Project Narrative does not exceed 10 pages (2 additional pages per collaborator not to exceed 20 pages);
- (E) Photographs, including at least two different views of the facility (one from the interior and one from the exterior) where assistance is to be provided. Collaborative applications must include two views of each collaborator's facility;
- (F) Attachment A - (Standard Form 424) must include signature;
- (G) Attachment C – (Board of Directors Roster) was completed thoroughly and homeless or formerly homeless representative was identified under the occupation column. Collaborative applications must include one form for each partner;
- (H) Attachment D – (Attendance Roster) was completed and homeless or formerly homeless individual was identified. Collaborative applications must include one form for each partner;
- (I) Copy of Bylaws and Articles of Incorporation – Copy of bylaws must include how the organization authorizes the governing board or policymaking entity to make policies and decisions. This document is required for each partner in a collaborative and Articles must describe mission and goals for which the organization was formed.
- (J) Attachment I - Homeless Management Information System (HMIS) Reporting form is completed and signed;
- (K) Attachment J – Previous ESGP Funding Form is completed correctly or indicates NA if not applicable;
- (L) Attachment K – ESGP Applicant Certification form is signed;
- (M) Attachment L – Certification Regarding Lobbying is signed;
- (N) Attachment M – Audit Certification Form
- (O) Fidelity Bond or a letter of commitment to obtain one prior to the execution of an ESGP contract is included.
- (P) For Applicants Requesting Rehabilitation Funds: (1 point deducted from sub-total for each of the following omissions)
 - (i) Attachment N (Preliminary Environmental Review Checklist);
 - (ii) Property Appraisal or reasonable method for determining property value;
 - (iii) Flood Plain Map, identifying the project;

- (iv) Letter from the Texas Historical Commission regarding the historical significance of the facility (or a letter requesting a response);
- (v) Photographs of area(s) to be renovated;
- (vi) Request for city or county assistance with environmental review requirements (nonprofit applicants only).

(2) COMPLETION OF TABLES (30 POINTS)

(A) Budget Table – Attachment F (12 pts)

- (i) Are budget items categorized in the appropriate budget category? Total points: Max. (2 pts)
- (ii) Does the budget contain a brief description of each item? Total points: Max. (2 pts)
- (iii) Does the budget contain the method of calculation for each category? Total points: Max. (2 pts)
- (iv) Does the budget contain the basis of cost for each category? Total points: Max. (2 pts)
- (v) Is the “Line Item Totals” column added correctly? Total points: Max. (2 pts)
- (vi) Is the “Total Funds by Category” column added correctly? Total points: Max. (2 pts)
- (vii) Possible deductions only:
 - (I) If requesting funds under Operations Administration did they exceed 10 % of total funds requested? Yes (-2 pts)
 - (II) Is applicant requesting funds under Essential Services Category? If yes, does the amount requested exceed 30%? (-2 pts)
 - (III) Are job descriptions included for all positions under Essential Services? No (-2 pts)
- (viii) For collaborative applications:
 - (I) Did the application include one budget table for each organization in the collaborative? No (-2 pts)
 - (II) Did the application include a comprehensive budget which includes all activities proposed by the collaborative effort? No (-2 pts)

(B) Match Table - Attachment G (8 pts)

- (i) Does the total dollar value for match funds equal the total funds requested in budget table? Total points: Total points: Max. (2 pts)
- (ii) Is the “Dollar Value” column added correctly? Total points: Max. (2 pts)
- (iii) Does the match table include a brief description of the source of match for all resources included? Total points: Max. (2 pts)
- (iv) Does the match table contain the method of calculation for all resources included? Total points: Max. (2 pts)

(v) Possible deductions only: Does the proposal include documentation of match resources related to the value of a building, rent, or lease on the building? (i.e. letter from a realtor or appraiser as to the fair market value of the property) No (-2 pts)

(C) Resource Documentation Table - Attachment H (10 pts)

(i) Submission of a Resource Documentation Table for each county served? Total points: Max. (3 pts)

(ii) Brief, concise, and complete description of the unmet needs or gaps in services for the homeless population in the service area? Total points: Max. (4 pts)

(iii) Completeness of Resource Documentation Table and inclusion of appropriate data sources? Total points: Max. (3 pts)

(3) NARRATIVE (50 POINTS)

(A) Description of Applicant Organization

(i) Organization and Services Provided (20 pts)

(I) How well the applicant describe the organization(s) history, mission, staff size, educational background and experiences of key staff. Total points: Max. (3 pts)

(II) Information regarding Board of Directors: Total points: Max. (4 pts)

(-a-) Describe information on regularity of board meetings;

(-b-) List all subcommittees;

(-c-) How Board utilized recommendation from homeless representative to change policies, practices, and services.

(III) Indicate the following: Total points: Max. (3 pts)

(-a-) Type of service provided;

(-b-) Total number of persons served annually and target group(s) served;

(-c-) Cities and/or counties to be served and shelter capacity (bed space).

(IV) Does it describe services which have a long-term impact/outcome on the homeless individuals served? Total points: Max. (5 pts)

(V) Does it describe case management services provided to homeless individuals? Total points: Max. (5 pts)

(VI) Does it include inappropriate or discriminatory service restrictions?
If yes, please describe.

(ii) Coordination Efforts (10 pts)

(I) Describe how and for what types of services the organization coordinates with other service providers to meet the various needs of the homeless clients or clients who may become homeless.
Total points: Max. (5 pts)

(II) For Collaborative Applications (possible deduction only): Did the application provide information on how and which services will be coordinated among the organizations included in the application?
No (-5 pts)

(III) Describe the organization's participation in any local homeless coalition, social services coordination council development of the HUD required Consolidated Plan or similar document, and/or development of a "Continuum of Care" plan for the community in which the proposed services will be delivered? Total points: Max. (5 pts)

(iii) Previous ESGP Funding—If applicable (possible deduction only)

(I) How well does the narrative describe how ESGP funds improved or increased services? Max. (-2 pts)

(II) Does the narrative describe new sources of funds acquired during previous ESGP grants, including recent efforts made to develop other funding sources during the past 5 years and new funding received? Max. (-2 pts)

(B) Unmet Need: Identifying Unmet Need (10 pts)

(i) Does the narrative describe the unmet needs or gaps in services for the homeless population in the service area based on the data provided in the Resource Documentation Table? Total points: Max. (5 pts)

(ii) Does the narrative provide a description of the specific unmet need and/or gaps in services that the organization will meet based on the data provided in the Resource Documentation Table?
Total points: Max. (5 pts)

(C) Proposed Use of ESGP funds: Detailed Description of the Project (10 pts)

(i) Does the narrative describe the customers? Total points: Max. (2 pts)

(I) Demographics

(II) Provides no demographics

(ii) Does the narrative state how many customers the organization plans to assist with ESGP services?
Total points: Max. (1 pts)

(I) Numbers provided

(II) No numbers given or numbers not clear

(iii) For Essential Services Requests (possible deduction only):

(I) Does the narrative describe the essential services to be provided? No (-2 pts)

(II) Provide the name and title of the Essential Services staff whose salary will be paid in whole or in part with ESGP funds? No (-2 pts)

(III) Does the narrative state that the organization receives local funding?
(funds generated by taxes levied by city or county)

(IV) If yes, does the narrative describe how the service(s) will be a new service and/or increase in the level of services to be provided? No (-2 pts)

(iv) For Maintenance, Operations, and Furnishings Requests (possible deduction only): Describe how the items funded with ESGP funds will benefit the organization's ability to deliver services? No (-2 pts)

(v) For Homelessness Prevention Requests (possible deduction only):

(I) A description of the Homeless Prevention to be provided with ESGP funds? No (-2 pts)

(II) Does the narrative include the staff member responsible for providing the homelessness prevention activities? No (-2 pts)

(III) Did the narrative include the criteria used to determine eligibility to receive assistance? No (-2 pts)

(IV) Did the narrative include the method for determining if the applicants meet conditions outlined under Eligible Activities? No (-2 pts)

(vi) For Rehabilitation Requests (possible deduction only):

(I) Include a description of the Rehabilitation activities to be funded with ESGP. No (-2 pts)

(II) Has the applicant included documentation of the facility's original construction date and is that date referenced in the narrative? Max. (-2 pts)

(III) If facility construction date is prior to 1978, has the applicant included a discussion of lead and/or asbestos abatement? No (-1 pts)

(IV) For non-profit applications, is documentation included which states that the city or county agrees to assist with environmental requirements? No (-2 pts)

(vii) Subcontractors (possible deductions only):

(I) Did the application include the names of subcontractors they will use to deliver services? No (-2 pts)

(II) Did the application provide a description of the services subcontractors will deliver? No (-2 pts)

(viii) Does the narrative describe how it plans to measure the effectiveness of the services provided to clients? Total points: Max. (5 pts)

(ix) Does the narrative provide a description of how the applicant will involve homeless individuals in rehabilitating, maintaining, operating, and/or providing services? Total points: Max. (2 pts)

(4) CONCLUSION (5 POINTS):

(A) How well does the conclusion state the significant and beneficial impact(s) of the proposed project on the homeless population in the service area and describe the results or benefits to be achieved by carrying out the proposed activities? Total points: Max. (2 pts)

(B) Level of provision and description of outcome related services which have a long-term impact on the persons lives or if not currently providing such, description of plans to do so? Total points: Max. (3 pts)

Special Initiative for Homelessness Prevention: The application content, tables, and narrative will be scored for each eligible application for Special Initiative for Homelessness Prevention. The Department will also take into consideration information in Section 5.208 of this title and the score resulting from the scoring instrument will be adjusted based on the review of information in Section 5.208 of this title.

Sections of Scoring Instrument for Special Initiative for Homelessness Prevention Applications:

(1) APPLICATION CONTENT (15 POINTS)

Check each item contained in the application packet (1 pt each).

1 Point for the submission of each item contained in the application packet.

(A) ESGP Application Form completed;

(B) Table of Contents includes page numbers;

(C) Project Narrative formatted with one-inch margins and with minimum 11 pt. type font;

(D) Project Narrative does not exceed 10 pages (2 additional pages per collaborator not to exceed 20 pages);

(E) Photographs, including at least two different views of the facility (one from the interior and one from the exterior) where assistance is to be provided. Collaborative applications must include two views of each collaborator's facility;

(F) Attachment A - (Standard Form 424) must include signature;

(G) Attachment C – (Board of Directors Roster) was completed thoroughly and homeless or formerly homeless representative was identified under the occupation column. Collaborative applications must include one form for each partner;

(H) Attachment D – (Attendance Roster) was completed and homeless or formerly homeless individual was identified. Collaborative applications must include one form for each partner;

(I) Copy of Bylaws and Articles of Incorporation – Copy of bylaws must include how the organization authorizes the governing board or policymaking entity to make policies and decisions. This document is required for each partner in a collaborative and Articles must describe mission and goals for which the organization was formed.

(J) Attachment I - Homeless Management Information System (HMIS) Reporting form is completed and signed;

(K) Attachment J – Previous ESGP Funding Form is completed correctly or indicates NA if not applicable;

(L) Attachment K – ESGP Applicant Certification form is signed;

(M) Attachment L – Certification Regarding Lobbying is signed;

(N) Attachment M – Audit Certification Form

(O) Fidelity Bond or a letter of commitment to obtain one prior to the execution of an ESGP contract is included.

(2) COMPLETION OF TABLES (30 POINTS)

(A) Budget Table – Attachment F (12 pts)

(i) Are budget items categorized in the appropriate budget category? Total points: Max. (2 pts)

(ii) Does the budget contain a brief description of each item? Total points: Max. (2 pts)

(iii) Does the budget contain the method of calculation for each category? Total points: Max. (2 pts)

(iv) Does the budget contain the basis of cost for each category? Total points: Max. (2 pts)

(v) Is the “Line Item Totals” column added correctly? Total points: Max. (2 pts)

(vi) Is the “Total Funds by Category” column added correctly? Total points: Max. (2 pts)

(vii) Possible deductions only:

(I) If requesting funds under Operations Administration did they exceed 10 % of total funds requested. Max. (-2 pts)

(II) Is applicant requesting funds under Essential Services Category?

(-a-) If yes, does the amount requested exceed 30%. Max. (-2 pts)

(III) Are job descriptions included for all positions under Essential Services? Max. (-2 pts)

(IV) For collaborative applications:

(-a-) Did the application include one budget table for each organization in the collaborative? Max. (-2 pts)

(-b-) Did the application include a comprehensive budget which includes all activities proposed by the collaborative effort? Max. (-2 pts)

(B) Match Table - Attachment G (8 pts)

(i) Does the total dollar value for match funds equal the total funds requested in budget table? Total points: Max. (2 pts)

(ii) Is the “Dollar Value” column added correctly? Total points: Max. (2 pts)

(iii) Does the match table include a brief description of the source of match for all resources included? Total points: Max. (2 pts)

(iv) Does the match table contain the method of calculation for all resources included? Total points: Max. (2 pts)

(v) Possible deductions only: Does the proposal include documentation of match resources related to the value of a building, rent, or lease on the building? (i.e. letter from a realtor or appraiser as to the fair market value of the property) Max. (-2 pts)

(C) Resource Documentation Table - Attachment H (10 pts)

(i) Is there a table for each county served? Total points: Max. (3 pts)

(ii) Is the data provided presented briefly and concisely and is a summary of the homeless and poverty population in the counties? Total points: Max. (4 pts)

(iii) Are the tables complete and do they include appropriate data sources? Total points: Max. (3 pts)

(3) NARRATIVE (60 POINTS) Special Initiative Narrative (60 pts)

(A) Describe the organization's history and mission: Total points: Max. (6 pts)

(B) Involvement with homeless issues statewide: Total points: Max. (6 pts)

(C) Information regarding Board of Directors: Total points: Max. (4 pts)

(i) yes, (4 pts) does reflect a statewide presence and includes a homeless or formerly homeless representative.

(ii) no, (-4 pts) does not reflect a statewide presence and/or does not include a homeless or formerly homeless representative.

(D) Describe the organization's experience in providing statewide training and technical assistance (t/ta) to Continuum of Care (CoC). Total points: Max. (6 pts)

(E) Describe the organization's efforts at providing training and technical assistance to CoC applicants which resulted in awarding of grant funds: Total points: Max. (6 pts)

(F) Describe the organization's statewide experience with local coalition building: Total points: Max. (8 pts)

(G) Describe the organization's experience working with HUD programs: Total points: Max. (6 pts)

(H) Describes the proposed use of ESGP funds by category and subcategory: Total points: Max. (4 pts)

(I) Describe the proposed services/technical assistance or training to be delivered with ESGP funds: Total points: Max. (4 pts)

(J) Provides estimates on the number of t/ta sessions to be provided and information on whether subcontractors will be utilized: Total points: Max. (4 pts)

(K) Describes how the organization plans to measure the effectiveness of the services provided: Total points: Max. (6 pts)

Section 5.210. Funds Distribution

(a) Reserved ESGP funds will be distributed within each of the 13 Uniform State Service Regions with the highest ranking application being funded first and so forth until the funding reserved to the region is exhausted.

(b) The Department will determine the number of applications which can be funded within each region based on the amount of funds available for distribution in each region. ESGP funds reserved for a particular region will be obligated to eligible applicant organizations within that region. If the region does not have enough responsive applications which meet the funding threshold, funds will be redistributed to regions with reserved funding below \$250,000.

Section 5.211. Program Administration

Upon approval by the Board, Applicants receiving ESGP funds shall enter into and execute an agreement for the receipt of ESGP funds.

(1) Amendments. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to the ESGP contract.

(2) The Department reserves the right to deobligate funds.

(3) Faith-based subrecipients, as with all subrecipients funded under HUD-funded programs, must serve all eligible beneficiaries without regard to religion.

(4) Accounting Requirements. Within 90 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 a full accounting of funds expended under the terms of the contract shall be sufficient reason to terminate the contract and for the Department to deny any future contract to the recipient.

PORTFOLIO MANAGEMENT AND COMPLIANCE

BOARD ACTION REQUEST

November 9, 2006

Action Item

Final Compliance Monitoring Rules

Required Action

Approval of Final Amendments to Title 10, Part 1, Chapter 60, Subchapter A and adoption of repeal of Title 10, Part 1, Subchapter A, Sections 1.11, .113, and 1.14.

Background and Recommendations

At the August 30, 2006 Board Meeting, the Board approved the repeal of Sections 1.11, 1.13 and 1.14, 10 TAC General Policies and Procedures, and proposed adoption of the amendments of 10 TAC, Chapter 60 for public comment. The proposals were published in the *Texas Register* for the public to provide comment. In order to receive additional comment on all proposed rules, the Texas Department of Housing and Community Affairs held public hearings in Amarillo, Brownwood, Dallas, Tyler, Beaumont, Houston, Austin, Bryan, San Antonio, Corpus Christ, Harlingen, Midland and El Paso.

There were no comments on the proposed repeals. Comments received on the amendments to Chapter 60 are described below. Black line reflects only new changes made. All original changes were integrated.

Reasoned Response to Public Comment on the Draft amendments to the Compliance Monitoring Rules

Portfolio Management and Compliance received comments at the Public Hearing in San Antonio, from one management company representative via email and from one developer.

**General
Comment:**

State Representative Jose Menendez commented on the recent increase in crime on a particular Housing Tax Credit development in his district and was interested in investigating that property's adherence to program rules. (1)

Staff Response:

The Department has communicated directly with the State Representative's office regarding this matter and his concerns are being addressed.

§ 60.6 Section 8 Voucher Holders and Tenant Selection

Comment:

Comment was received suggesting that screening criteria relating to the minimum income for households receiving Section 8 assistance being limited to \$2,500 annually regardless of the amount of rent paid by the household does not treat all applicants fairly. A minimum income, if utilized at all, must be applied equally. (2)

Staff Response:

Staff agrees with the comment. To ensure equitable treatment in the screening criteria, §60.6(c)(2) will read that housing sponsors are prohibited from...

“using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than 2.5 times the individual's or family's share of the total monthly rent payable to the owner of the Development. A household participating in the voucher program or receiving any other type of rental assistance may not be required to have a minimum income exceeding \$2,500 per year”.

§ 60.7 Monitoring for Compliance

Comment:

Comment was received that the language prohibiting eviction or non renewal of a lease for other than good cause was too vague. (2)

Staff Response:

Staff concurs with this comment and recommends the following language:

§60.7(b)(14) The owner shall not terminate the lease or evict the resident or refuse to renew the lease except for material noncompliance with the lease or other good cause.”

Comment:

Comment was received that the Department’s policy regarding designation of households at recertification causes an undue hardship on very low income residents in tax credit properties beyond the requirements of Section 42. Under TDHCA policy, if a household at 30%, 40% or 50% recertifies with an income over the published limit, they must be re-designated according to their current income. Comment suggested that these households are being forced to move if a unit at the higher income limit is not available. (3)

Staff Response:

The Department does not intend for these households to have to vacate. Staff believes that as household income increases, their ability to pay increased rent should be recognized. A household that moved in at the 30% level and recertifies at the 50% level should pay the higher rent once another unit on the property is leased to a household with an income and rent under the 30% limit. Staff does not recommend any change to the rules.

§ 60.13 Inspection Standard

Comment:

Comment was received that management companies are experiencing difficulty in obtaining copies of TDHCA notices of upcoming inspections and in obtaining the results of physical inspections from owners. They requested that notices of inspections and copies of reports be provided, not only to the owner, but the property management company as well. (2)

Staff Response:

Treasury Regulations require the Department to send notices of upcoming reviews and results of inspections to owners, not management companies. Because of the cost of copying and mailing an additional report and because management companies frequently change, staff is not recommending that the Compliance Monitoring Rules be changed to require a courtesy copy be sent to the management company. It is incumbent on the owners to work closely with their managers.

PMC will change our policy and send a copy of the cover letter that accompanies a final inspection report to the management company on record. A copy of the full report can be obtained either from the owner or from the Department through our open records process.

PUBLIC COMMENT REFERENCES

Reference	Name:	Affiliation:
1	Representative Jose Menendez	Texas House of Representatives, District 124
2	Dana Hoover, Vice President	Hamilton Valley Management, Inc. Burnet, Texas
3	Dan Allgeier	NuRock Development, Coppell, Texas

TITLE 10 COMMUNITY DEVELOPMENT
PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 60. COMPLIANCE MONITORING RULES

§60.2. Definitions.

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

(1)Affordability Period—the affordability period commences as specified in the Land Use Restriction Agreement (LURA), or federal regulation or commences on the first day of the compliance period as defined by §42(i)(1) of the Internal Revenue Code (IRC) and continues through the appropriate program’s affordability requirements or termination of the LURA, whichever is later. The term of the affordability period shall be imposed by LURA or other deed restriction and may be terminated upon foreclosure. During this period the Department shall monitor to ensure compliance with programmatic rules, regulations and application representations.

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

(3) Board—the governing board of the Texas Department of Housing and Community Affairs.

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

(5)Department—the Texas Department of Housing and Community Affairs, an official and public agency of the State of Texas pursuant to Chapter 2306, Texas Government Code.

(6)Development—a property or work or a project, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the Department and that is financed under the provisions of Chapter 2306, Texas Government Code.

(7) Housing sponsor:

(A) an individual, including an individual or family of low and very low income or family of moderate income, joint venture, partnership, limited partnership, trust, firm, corporation, or cooperative that is approved by the department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing

Development, subject to the regulatory powers of the department and other laws; or

(B) in an economically depressed or blighted area, or in a federally assisted new

community located within a home-rule municipality, the term may include an individual or family whose income exceeds the moderate income level if at least 90 percent of the total mortgage amount available under a mortgage revenue bond issue is designed for individuals and families of low income or families of moderate income.

(8) HTC Development—A Development using Housing Tax Credits allocated by the Department.

(9) Low Income Unit—a unit that is intended for occupancy by an income eligible household, as defined by the Department or the Code.

(10) Land Use Restriction Agreement (LURA) —an agreement between the Department and the Development Owner which is a binding covenant upon the Development Owner's successors in interest, that encumbers the Development with respect to the requirements of this chapter, Chapter 2306, Texas Government Code; the Code; and the requirements of the various programs administered or funded by the Department.

(11) Material Noncompliance:

(A) A Housing Tax Credit Development located within the state of Texas will be classified by the Department as being in material noncompliance status if the noncompliance score for such Development is equal to or exceeds a threshold of 30 points in accordance with the material noncompliance provisions, methodology, and point system of this title.

(B) Non HTC Developments monitored by the Department with 1 to 50 low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds a threshold of 30 points. Non HTC Developments monitored by the Department with 51 to 200 low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds a threshold of 120 points. Non HTC Developments monitored by the Department with 201 or more low income units will be classified as being in material noncompliance status if the noncompliance score is equal to or exceeds a threshold of 150 points.

(C) For all programs, a Development will be in material noncompliance if the noncompliance is stated in §60.18 of this chapter to be material noncompliance.

(12) Non HTC—any Development not utilizing Housing Tax Credits.

(13) Unit—any residential rental unit in a Development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.

§60.3. Development Inspections.

The Department shall conduct or may contract for inspections during the construction and rehabilitation process and at final construction completion to monitor for compliance with all program requirements, including construction threshold criteria and application Development characteristics associated with any Development funded or administered by the Department. Development inspections will be conducted by the Department or by an independent third party inspector acceptable to the Department and will include a construction quality evaluation. (§2306.081, Texas Government Code)

(1) Inspection procedures for HTC Developments include:

(A) A review of the evidence of commencement of substantial construction. The minimum activity necessary to meet the requirement of substantial construction for new Developments will be defined as having expended 10% of the construction contract amount for the Development, adjusted for any change orders, and as documented by both the most recent Application and Certification for Payment (or equivalent) and the inspecting architect. The minimum activity necessary to meet the requirement of substantial construction for rehabilitation Developments will be defined as having expended 10% of the construction budget as documented by the inspecting architect. Evidence of such activity shall be provided in a format prescribed by the Department.

(B) An initial Development inspection to be conducted between 45 to 90 days after the earlier of the submittal or the due date of commencement of substantial construction..

(C) A final Development inspection performed at construction completion. Evidence of construction completion must be submitted within thirty days of completion and shall be provided in a format prescribed by the Department.

(2) Development inspection procedures for non-HTC multifamily Developments include:

(A) An initial Development inspection to be conducted between 45 to 90 days from issuance of notice to proceed. .

(B) A final Development inspection performed at construction completion. Evidence of completion must be submitted within thirty days of completion and shall be provided in a format prescribed by the Department. The inspection is required by the Department in order to release retainage.

(3) The Department may require a copy of all reports from all construction inspections performed on behalf of the Applicant as needed. Those reports must indicate that the Department may rely on the information provided in the reports and the inspector is properly credentialed.

(4) Additional inspections may be conducted by the Department or by an independent third party Inspector acceptable to the Department during the construction process, if necessary, based on the level of risk associated with the Development, as determined by the Department. The Department identifies HTC Developments to be at high risk

if inspections identify issues with construction threshold criteria, Development characteristics identified at application or past performance problems. The Department identifies non-HTC Developments to be at high risk if inspections conducted during the construction process identify issues with program requirements or Development characteristics identified at application.

(5) Applicable Laws. An applicant may not receive funds or other assistance from the Department until the Department receives a properly completed certification from the applicant that the housing development is, or will be upon completion of construction, in compliance with the following housing laws:

(A) state and federal fair housing laws, including Chapter 301, Property Code, the Texas Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601, et seq.), and the Fair Housing Amendments of 1988 (42 U.S.C. Section 3601, et seq.);

(B) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a, et seq.);

(C) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.); and

(D) Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 701, et seq.). (§2306.257)

§60.4. Monitoring During the Affordability Period.

(a) The Department will monitor for compliance with representations made by the Development Owner in the Application and in the LURA, whether required by the applicable program rules, regulations, including HOME Final Rule, the Code, §, the U. S. Department of Housing and Urban Development (HUD) Community Planning and Development (CPD) Notices, the Texas Government Code §2306.001 et. Seq., or Chapters 51 and 53 of this title.

(b) The Department periodically monitors Developments for compliance with the fair housing requirements specified in Section 60.3(5) of this Chapter. Monitoring may occur during construction or during the affordability period.

(1) The monitoring level for each housing Development is based on the amount of risk of noncompliance with the requirements specified in Section 60.3(a)(6) of this Chapter associated with the Development.

(2) The Department shall notify the recipient in writing of an apparent violation of fair housing laws and shall afford the recipient a reasonable amount of time, as determined by the Department, to correct the identified violation, if possible, prior to the imposition of any sanction.

(3) The Department shall notify the Texas Workforce Commission, Civil Rights Division as required in the Texas Government Code §2306.257(d), with a copy to the Development owner in the event:

(A) no response to the Department's notice of apparent violation is received during the response period;

(B) the owner concurs with the Department's assessment and indicates they are unable or unwilling to correct the violation(s); or

(C) the owner and the Department are unable to agree if the identified issue is a violation.

(4) If fair housing violations are identified prior to the issuance of forms 8609 (For HTC Developments) or release of final retainage, no forms 8609 will be issued or retainage will not be released until the violations are corrected to the Department's satisfaction.

(c) Sanctions. The Department may impose one or more of the following sanctions depending on the severity of the violation of a law specified in Section 60.3(6) of this Chapter, and as further described in §60.4(b) and §60.4(c), by a recipient of housing tax credits, housing funds or other assistance from the Department:

(1) termination of assistance,

(2) deobligation of funds, if available, and

(3) a bar on future eligibility for assistance through a housing program administered by the Department. A bar shall be in place for at least one calendar year from the date of imposition by the Department and may not last for more than three calendar years from the date of correction.

§60.6. Section 8 Voucher Holders and Tenant Selection.

(a) The Department will monitor to ensure Development owners comply with §2306.269 and §2306.6728, Texas Government Code regarding residents receiving rental assistance under Section 8, United States Housing Act of 1937 (42 U.S.C. §1437F).

(b) Applicability. The policies, standards, and sanctions established by this section apply only to:

(1) multifamily housing Developments that receive the following assistance from the Department on or after January 1, 2002: (§2306.185)

(A) a loan or grant in an amount greater than 33 percent of the market value of the Development on the date the recipient took legal possession of the Development; or
(B) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the Development on the date the recipient took legal title to the Development;

(2) multifamily rental housing Developments that applied for and were awarded housing tax credits after 1992.

(3) housing Developments that benefit from the incentive program under §2306.805 of the Texas Government Code.

(c) Housing sponsors of multifamily rental housing Developments described in subsection (a) of this section are prohibited from:

(1) excluding an individual or family from admission to the Development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f); and

(2) using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than 2.5 times the individual's or family's share of the total monthly rent payable to the owner of the Development. A household participating in the voucher program or receiving any other type of rental assistance may not be required to have a minimum income exceeding \$2,500 per year. However, if an individual or family participating in the voucher program is required to pay only minimal rent (\$0-\$25), a reasonable minimum income, not to exceed \$2500 per year, may be required.

(d) To demonstrate compliance with §60.6 of this chapter housing sponsors shall:

(1) State in their leasing criteria that Section 8 voucher or certificate holders are welcome to apply and will be provided the same consideration for occupancy as any other prospective tenant;

(2) State in their leasing criteria that the Development will comply with state and federal fair housing and antidiscrimination laws;

(3) Apply all other screening criteria, including employment policies or procedures and other leasing criteria (such as rental history, credit history, criminal history, etc.) uniformly and in a manner consistent with the Texas and Federal Fair Housing Acts, program guidelines, and the Department's rules;

(4) Approve and distribute an Affirmative Marketing Plan. The Affirmative Marketing plan must be provided to the property management and onsite staff. Housing Sponsors are encouraged to use HUD form 935.2 or successors as applicable. The Affirmative Marketing Plan must identify methods to market the property to persons with disabilities. Additionally, the Affirmative Marketing plan must be displayed in the leasing office and available to the public on request.

§60.7. Monitoring for Compliance.

(a) Monitoring after the Compliance Period: Housing Tax Credit properties allocated credit in 1990 and after are required under the Code (§42(h)(6)) to record an Extended Use Agreement as part of the LURA restricting the property for 30 years. Section 42(i)(1) defines the Compliance Period as the first 15 years of the extended use period. Various sections of the Code specify monitoring rules State Housing Finance Agencies must implement during the Compliance Period.

(b) After the first 15 years of the extended use period, the Department will continue to monitor Housing Tax Credit Developments using the rules detailed in paragraphs 1-15 of this subsection.

- (1) On site monitoring visits will continue to be conducted approximately every three years, unless the Department determines that a more frequent schedule is necessary;
- (2) In general, the Department will review 10% of the low-income files. No less than 5 files and no more than 20 files will be reviewed;
- (3) A minimum of five units will be inspected. Additional units may be inspected if warranted by conditions discovered in the initial units inspected;
- (4) A physical inspection of each unit shall be conducted by the owner each year using criteria set forth in the Department of Housing and Urban Development's Housing Quality Standards (HQS). Any deficiencies must be corrected and copies of the inspections and verification of repairs shall be maintained in the unit file;
- (5) An inspection of all common spaces, grounds, building exteriors and building systems will be performed annually using HUD's HQS. Deficiencies must be corrected and records of the corrections must be maintained for review by Department staff;
- (6) Each Development shall submit an annual report in the format prescribed by the Department;
- (7) Reports to the Department must be submitted electronically as required in §60.9 of this Chapter;
- (8) Compliance monitoring fees will continue to be submitted to the Department annually in the amount stated in the LURA;
- (9) All households must be income qualified upon initial occupancy of any low-income unit. Proper verifications of income are required, and the Department's Income Certification form must be completed unless the Development participates in the Rural Rental Housing Program or a project based HUD program;
- (10) Rents will remain restricted for all low-income units. The tenant paid portion of the rent plus the applicable utility allowance must not exceed the applicable limit.
- (11) Owners and managers must continue to screen households for income, assets and household size on an annual basis. In addition, an Income Certification form must be completed on an annual basis;
- (12) All additional income and rent restrictions defined in the LURA remain in effect.
- (13) Other requirements defined in the LURA, such as the provision of social services or serving special needs households, will remain in effect unless specifically waived by the Department; and
- (14) The owner shall not terminate the lease or evict the resident or refuse to renew the lease except for material noncompliance with the lease or other good cause. No tenant may be evicted nor be refused the opportunity to renew a lease except for good cause.

(15) The total number of required low income units must be maintained Development wide.

(c) After the first 15 years of the extended use period, certain requirements will not be monitored as detailed in paragraphs 1-5 of this subsection.

(1) At recertification verification of income and assets will not be required.

(2) The student restrictions found in §42(i)(3)(D). An income qualified household consisting entirely of full time students may occupy a low-income unit;

(3) The requirement to treat transfers from building to building as a new move in. Transfers within the Development will not require household requalification;

(4) The Available Unit Rule found in Treasury Regulation §1.42-15; and

(5) The building applicable fraction found in the Development's Cost Certification and/or the LURA. Low income occupancy requirements will be monitored Development wide, not building by building;

(d) Unless specifically noted in this Section, all requirements of this Chapter 60 and Section 42 of the Internal Revenue Code remain in effect for the Extended Use Period. These Post Year 15 Monitoring Rules apply only to the Housing Tax Credit Developments administered by the Department. Participation in other programs administered by the Department may require additional monitoring to ensure compliance with the requirements of those programs.

(e) The Department may contract with an independent third party to monitor a Development during construction or rehabilitation and during operation for compliance with any conditions imposed by the Department in connection with funding or other Department oversight and appropriate state and federal laws, as required by other state law or by the Board. (§2306.6719, Texas Government Code).

§60.8. Recordkeeping.

All Development Owners must comply with program recordkeeping requirements. Records must include sufficient information to comply with the Reporting requirements of §60.9 of this Chapter and any additional programmatic requirements. Records must be kept for each qualified low income rental unit and building in the Development, commencing with lease up activities and continuing on a monthly basis until the end of the affordability period. Housing Tax Credit owners should refer to Treasury Regulation 1.42-5 for more information about record keeping requirements.

§60.9. Reporting.

(a) Each Development shall submit reports as required by the Department. Each Development that receives financial assistance or is administered by the Department, including the FDIC's Affordable Housing Program (AHP), shall submit the information required under this Section which describes the Annual Owner's

Compliance Report (AOCR) required by §2306.0724, Texas Government Code. The Department requires this information be submitted electronically and in the format prescribed by the Department. Section 60.10 of this title contains rules regarding filing and penalties for failure to file reports. The first AOCR is due the year following award.

(b) Part A, the “Owner’s Certification of Program Compliance”; Part B, the “Unit Status Report”; and Part C, “Tenant Services Provided Report” of the AOCR, must be provided to the Department no later than March 1st of each year, reporting data current as of December 31 of the previous year (the reporting year). Part D, “Owner’s Financial Certification”, which includes the current audited financial statements and income and expenses of the Development for the prior year, shall be delivered to the Department no later than the last day in April each year. A full description of the AOCR is contained in §60.10 of this chapter.

(c) The Department maintains the information reported by the AOCR pursuant to §2306.0724(c), Texas Government Code in electronic and hard-copy formats available at no charge to the public.

(d) Rental Developments funded or administered by the Department, including HOME, Housing Trust Fund (HTF), the FDIC’s AHP, and any other rental programs funded or administered through the Department shall provide tenant information provided on Part B, “Unit Status Report,” at least quarterly during lease up and until occupancy requirements are achieved. Once the Department has determined that all occupancy requirements are satisfied, the Development shall submit the Unit Status Report at least annually and as required by this section.

(e) Developments financed by tax exempt bonds issued by the Department shall report quarterly throughout the Qualified Project Period unless notified by the Department of a change in the reporting frequency.

(f) Information regarding housing for persons with disabilities: Owners of state or federally assisted housing Developments with 20 or more housing units must report information regarding housing units designed for persons with disabilities pursuant to §2306.078, Texas Government Code. This information will be reported on the Department’s website and will include the following:

- (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 units 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.

(g) The Department requires all Owners of properties administered by the Department to submit the Unit Status Report in the electronic format developed by the Department. The Electronic Compliance Reporting Filing Agreement and the Owner's Designation of Administrator of Accounts forms must be filed no later than January 31st of the year following the award. The Department will provide general instruction regarding the electronic transfer of data. The Department may, at its discretion, waive the online reporting requirements. In the absence of a written waiver, all Developments are required to submit Reports online.

(h) Data submitted to the Department by the owner of a Development that contains relevant information pursuant to §2306.072(c)(6) and §2306.0724 of the Texas Government Code shall at a minimum include:

- (1) the street address and municipality or county in which the property is located;
- (2) the telephone number of the property management or leasing agent;
- (3) the total number of units, reported by bedroom size;
- (4) the move in and move out date for each residential rental unit in the Development;
- (5) the number of occupants in each low income unit;
- (6) the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually;
- (7) the rent for each type of rental unit, reported by bedroom size;
- (8) the race or ethnic makeup of the residents of each project;
- (9) the number of units occupied by individuals receiving government-supported housing assistance and the type of assistance received;
- (10) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income, reported as 30, 40, 50, 60 or 80 percent of the area median income;
- (11) a statement as to whether the property has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Civil Rights Division of the Texas Workforce Commission, or the United States Department of Justice;
- (12) a statement as to whether the Development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the

normal monitoring activities that include meeting occupancy requirements or rent restrictions imposed by deed restriction or finance agreements; and

(13) the annual number of low income unit vacancies and information that shows when and to whom available units were rented.

§60.10. Annual Owner’s Compliance Report Certification and Review.

(a) On or before February 1st of each year of the Affordability Period, the Department will send a reminder that the Report required by §2306.0724 of the Texas Government Code (to be titled the Annual Owner’s Compliance Report--AOCR) must be completed by the Owner and submitted to the Department on or before the applicable deadline. This reminder may be sent via email or by posting on the Department’s website. The AOCR shall consist of:

- (1) Part A, “Owner’s Certification of Program Compliance”;
- (2) Part B, “Unit Status Report”;
- (3) Part C, “Tenant Services Provided Report”; and
- (4) Part D, “Owner’s Financial Certification”.

(b) Any Development for which the AOCR, Part A, “Owner Certification of Program Compliance,” is not received or is received past the due date will be considered not in compliance with these rules. If Part A is incomplete, improperly completed or not signed by the Development Owner, it will be considered not received and not in compliance with these rules. The Department will report to the IRS via form 8823, Low-Income Housing Credit Agencies Report of noncompliance or Building Disposition, any HTC Development that fails to comply with this section. The AOCR Part A shall include at a minimum the following statements by the Development Owner:

- (1) the Development met the minimum set aside test which was applicable to the Development;
- (2) there was no change in the Applicable Fraction or low income set aside of any building, or if there was such a change, the actual Applicable Fraction is reported to the Department (HTC only);
- (3) the Development Owner has received an annual income certification from each low income resident and documentation to support that certification, in the manner and form required by the Department’s Compliance Manual(s), as may be amended from time to time;
- (4) documentation is maintained to support each low income tenant’s income certification, consistent with the determination of annual income and verification procedures under Section 8 of the United States Housing Act of 1937 (Section 8), notwithstanding any rules to the contrary for the determination of gross income for federal income tax purposes. In the case of a tenant receiving housing assistance

payments under Section 8, the documentation requirement is satisfied if the public housing authority provides a statement to the Development Owner declaring that the tenant's income does not exceed the applicable income limit under §42(g) of the IRC as described in the Compliance Manual(s);

(5) each low income unit in the Development was rent-restricted under the LURA and applicable program regulations, including §42(g)(2) of the IRC, or 24 CFR Part 92, and the owner maintained documentation to support the utility allowance applicable to such unit;

(6) all low income units in the Development are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under §42(i)(3)(B)(iii)) of the IRC (HTC and BOND only);

(7) no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for this Development. A finding of discrimination includes an adverse final decision by the Secretary of HUD, 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court;

(8) each unit or building in the Development is, and has been, suitable for occupancy, taking into account Uniform Physical Condition Standards (UPCS) (24 CFR 5.703) or local health, safety, and building codes, and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the Development during this reporting period. If a violation report or notice was issued by the governmental unit during this reporting period, the Development Owner must provide the Department with a copy of the violation report or notice. In addition, the Development Owner must state whether the violation has been corrected;

(9) each unit has been inspected annually and each unit meets conditions set by HUD Housing Quality Standards (HOME only);

(10) there has been no change in the Eligible Basis (as defined by the Code) for any building in the Development since the last certification or, if change(s), the nature of the change (HTC only);

(11) all tenant facilities included in the original application, such as swimming pools, other recreational facilities, washer/dryer hook ups, appliances and parking areas, were provided on a comparable basis to any tenants in the Development;

(12) Residents have not been charged for the use of any nonresidential portion of the building that was included in the building's Eligible Basis under the Code (HTC only);

(13) if a low income unit in the Development became vacant during the year, reasonable attempts were made, or are made, to rent that unit or the next available unit of comparable or smaller size to a qualifying low income household before any other

units in the Development were, or will be, rented to non low income households (HTC and BOND only);

(14) if the income of tenants of a low income unit in the Development increased above the appropriate limit allowed, the next available unit of comparable or smaller size was, or will be, rented to residents having a qualifying income;

(15) a LURA including an Extended Low Income Housing Commitment as described in §42(h)(6) of the Code 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 Code, that a Development Owner cannot refuse to lease a unit in the Development to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f (for buildings subject to §1314c(b)(4) of the Omnibus Budget Reconciliation Act of 1993, 107 Stat. 312, 438 - 439) (HTC only);

(16) the Development Owner has not been notified by the IRS that the Development is no longer “a qualified low income housing Development” within the meaning of the Code (HTC only);

(17) if the Development Owner is required to be a Qualified Nonprofit Organization under §42(h)(5) of the Code, that a Qualified Nonprofit Organization owned an interest in and materially participated in the operation of the Development within the meaning under §469(h) of the Code (HTC only);

(18) no low income units in the Development were occupied by ineligible full time student households (HTC and BOND only);

(19) no change in the ownership of the Development has occurred during the reporting period or changes and transfers were or are reported;

(20) the Development met all representations of the Development Owner in the Application and complied with all terms and conditions which were recorded in the LURA;

(21) the Development has made all required lender deposits, including annual reserve deposits;

(22) the street address and municipality or county in which the Development is located;

(23) the name, address, contact person, and telephone number of the property management or leasing agent;

(24) that no tenants in low-income units were evicted or had their tenancies terminated, including non-renewal of a lease, other than for good cause and that no tenants had an increase in the gross rent with respect to a low-income unit not otherwise permitted under the Code (HTC and HOME only);

(25) The name and mailing address of the syndicator and lender (HTC only);

(26) any additional information as required by the Department.

(c) Review. Department staff will review Part A of the AOCR for compliance with the requirements of the appropriate program including the Code.

(d) Sanctions.

(1) If the report is not received on or before March 1, a notice of noncompliance will be sent to the owner specifying a reasonable amount of time, as determined by the Department, to submit the report prior to the imposition of any sanction.(2) If the report is not received on or before the corrective action deadline the Department shall:

(A) For all HTC properties, issue form 8823 notifying the Internal Revenue Service of the violation

(B) For all properties, score the noncompliance in accordance with Section 60.18 of this Chapter.

(3) In addition, in accordance with the provisions of §2306.0724 of the Texas Government Code, the Executive Director of the Department may assess and enforce the following sanctions against a housing sponsor who fails to submit the AOCR on or before March 1 of each year. These sanctions will only be assessed for multiple, consistent and/or repeated violations of failure to submit the AOCR by March 1 of each year.

(A) Impose a late processing fee in an amount equal to \$1,000;

(B) Subject the Housing Sponsor to 10 TAC §1.13; or

(C) A HTC Development that three years in a row fails to submit required information to the Department may be reported to the Internal Revenue Service as no longer in compliance and never expected to comply.

§60.11. Record Retention Provisions.

(a) Each Development that is administered by the Department including the FDIC's AHP is required to retain the records as required by the specific funding program rules and regulations. In general, retention schedules include but are not limited to the provision of subsections (a)(d) of this section.

(b) HTC records, as described in §60.8 of this chapter, must be retained for at least six years after the due date (with extensions) for filing the federal income tax return for that year; however, the records for the first year of the Credit Period must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the Compliance Period of the building.

(c) 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.

(d) Housing Trust Fund (HTF) rental Developments must retain tenant files for at least three years beyond the date the tenant moves from the Development. Records pertinent to the funding of the award, including but not limited to the application, development costs and documentation, must be retained for at least five years after the affordability period terminates.

(e) Other rental Developments funded or administered in whole or in part by the Department must comply with record retention requirements as required by rule or deed restriction.

§60.12. Inspection Provision.

(a) The Department retains the right to perform an on-site inspection of any low income Development, and review and photocopy all documents and records supporting compliance with Departmental programs through the end of the Compliance Period or the end of the period covered by any Extended Low Income Housing Commitment, whichever is later.

(b) The Department will perform on-site inspections and file reviews of each low income Development. The Department will conduct the first review of HTC Developments by the end of the second calendar year following the year the last building in the Development is placed in service. The Department will schedule the first review of all other Developments as leasing commences. Subsequent reviews will occur at least once every three years during the Affordability Period. The Department will monitor a sampling of the low income resident files in each Development, and review the income certifications, the documentation the Development Owner has received to support the certifications, the rent records and any additional information that the Department deems necessary. The Department will also conduct a physical inspection of the Development including the exterior of the Development, development amenities, and an interior inspection of a sample of units.

(c) The Department may, at the time and in the form designated by the Department, require the Development Owners to submit information on tenant income and rent for each low income unit and may require a Development Owner to submit copies of the tenant files, including copies of the income certification, the documentation the Development Owner has received to support that certification, and the rent record for any low income tenant.

(d) The Department will select the low income units and tenant records that are to be inspected and reviewed. Original records are required for review. The Department will not give Development Owners advance notice that a particular unit, tenant records or a particular year will be inspected or reviewed. However, the Department will give reasonable notice to the Development Owner that an on-site inspection or a tenant record review will occur so the Development Owner may notify tenants of the inspection or assemble original tenant records for review.

(e) The Department will conduct a limited inspection for compliance with accessibility requirements under the Fair Housing Act or Section 504 of the Rehabilitation Act of 1973. If determined necessary the Department may make

referrals to appropriate federal and state agencies or order third-party inspections to be paid for by the Development owner.

(f) Exception: The Department may, at its discretion, enter into a Memorandum of Understanding with the TX-USDA-RHS, whereby the TX-USDA-RHS agrees to provide to the Department information concerning the income and rent of the tenants in buildings financed under its Section 515 program. Owners of such buildings may be exempted from the inspection provisions; however, if the information provided by TX-USDA-RHS is not sufficient for the Department to make a determination that the income limitation and rent restrictions are met, the Development Owner must provide the Department with additional information or the Department will inspect according to the provisions contained herein. TX-USDA-RHS Developments satisfy the definition of Qualified Elderly Development if they meet the definition for elderly used by TX-USDA-RHS, which includes persons with disabilities.

§60.13. Inspection Standard.

(a) Developments must be maintained to be decent, safe, sanitary and in good repair throughout the affordability period. For all programs, the Department will use HUD's Uniform Physical Condition Standards (UPCS) to determine compliance with property condition. In addition, Developments must comply with all local health, safety and building codes. The Department may contract with a third party to complete UPCS inspections. HTC Developments that fail to comply with local codes or UPCS must be reported to the IRS.

To determine compliance with property condition standards the Department shall review any local health, safety, or building code violation reports, or notices in the absence of local health, safety and building code violation reports. If deemed necessary by the Department, inspections by third-party inspectors may be requested and will be relied upon to determine compliance with property condition standards. In addition to the review of any local health, safety or building code violation reports, the Department may conduct inspections of the units using HUD's Housing Quality Standards or UPCS and may use those standards to determine compliance with property condition standards. Developments must be maintained to be decent, safe, sanitary and in good repair throughout the affordability period. HTC Developments that fail to comply with local codes or UPCS must be reported to the IRS.

(b) The Department will evaluate UPCS reports in the following manner:

(1) A finding of Major Violations will be assessed if:

- (A) Any life threatening health, safety, or fire safety hazards are reported on the Notification of Exigent and Fire Safety Hazards Observed form in any building exterior, building system, common area, site, or dwelling unit; or
- (B) 25% or more of buildings or dwelling units inspected have the same reported health or safety deficiencies

(2) A finding of Minor Violations will be assessed if:

- (A) The same deficiency (not a health or safety deficiency) is listed for 25% or more of the buildings or dwelling units inspected; or
- (B) An overall UPCS score of less than 60% (59% or below) is reported.

(3) Findings of both Major and Minor Violations may be assessed if deficiencies reported meet the criteria for both.

(4) Property representatives will have an opportunity to correct deficiencies while the inspector is on site. Such corrected items will not be assessed a finding unless there is a pattern of the same violation (25% or more of dwelling units or buildings inspected with the same deficiency).

(5) Acceptable evidence of correction of deficiencies is a certification from an appropriate licensed professional that the item now complies with the inspection standard or other documentation that the violation has been corrected.

(6) For Developments with no findings of Major or Minor Violations, the review letter will state that the owner is responsible for correcting any items noted in the report. However, the letter will not require the owner to report back that the items have been cured.

§60.17. Utility Allowances.

(a) The Department will monitor to determine if HTC and BOND properties comply with published rent limits, which include an allowance for utilities. If residents are responsible for some or all utilities, Development owners must use a Utility Allowance that complies with §1.42-10 of the IRC.

(b) Properties within the operational area of a municipal housing authority must use the allowance issued by municipal housing authority if they select the PHA method for establishing a utility allowance. (See Local Government Code Chapter 392)

(c) The Department will monitor to determine if HOME and HTF Developments comply with published rent limits, which include an allowance for utilities. Unless otherwise approved by the Department, HOME and HTF Developments must use the utility allowance established by the applicable housing authority. Changes in utility allowances must be implemented on the published effective date.

§60.18. Material Noncompliance.

(a) For all programs, a Development will be in material noncompliance if the noncompliance is stated in this section to be material noncompliance. Developments with more than one program administered by the Department will be scored by program. The Development will be considered in material noncompliance if the score for any single program exceeds the noncompliance limit for that program. The Department may take into consideration the representations of the Applicant regarding compliance violations; however, the records of the Department are controlling.

(b) Each Development that is funded or administered by the Department will be scored according to the type and number of noncompliance events as it relates to the HTC program or other Department programs. All Developments, regardless of status, that are or have been administered, funded, or monitored by the Department are scored even if the Development no longer actively participates in the program. Unless otherwise specified below, under the HTC program, noncompliance events issued on Form 8823 are assigned point values. For other programs administered by the

Department, unless otherwise specified below, noncompliance events identified during on-site monitoring reviews are assigned point values.

(c) Uncorrected noncompliance, if applicable to the Development, will carry the maximum number of points until the noncompliance event has been reported corrected by the Department. Once reported corrected by the Department, the score will be reduced to the “corrected value”. Corrected noncompliance will no longer be included in the Development score three years after the date the noncompliance was reported corrected by the Department.

- (1) Under the HTC program, noncompliance events that occurred and were identified by the Department through the issuance of the IRS Form 8823 prior to January 1, 1998, are assigned corrected point values to each noncompliance event. The score for these events will no longer be included in the Development’s score.
- (2) The score in effect on May 1st of the year the HTC program application is submitted, during final application for Developments applying for participation in the BOND program, HOME program or HTF program, or during application review of any other program funded or administered by the Department will determine if any Development disclosed on previous participation forms is in material noncompliance.
- (3) The Department will not execute a Carryover Allocation Agreement with any Owner in Material Noncompliance on October 1, 2007.
- (4) Any corrective action documentation affecting the compliance status score must be received by the Department thirty days prior to the application deadline for HTC applications, thirty days prior to the submission of Volume I of the application for a BOND Development, or thirty days before the submission of an application for any other program funded or administered by the Department.

(d) Events of noncompliance are categorized as either “development events” or “unit/building events”. Development events of noncompliance affect some or all the buildings in the Development; however, the Development will receive only one score for the event rather than a score for each building. Other types of noncompliance are identified individually by unit. This type of noncompliance will receive the appropriate score for each unit cited with an event. The unit scores and the Development scores accumulate towards the total score of the Development. Violations under the HTC program are identified by unit; however, the building is scored rather than the unit and the building will receive the noncompliance score if one or more of the units are in noncompliance.

(e) Each type of noncompliance is assigned a point value. The point value for noncompliance is reduced upon correction of the noncompliance. The scoring point system and values are as described in subsections (f) and (g) of this section. The point system weighs certain types of noncompliance more heavily than others; therefore certain noncompliance events automatically place the Development in Material Noncompliance. However, other types of noncompliance by themselves do not warrant the classification of Material Noncompliance. Multiple occurrences of these

types of noncompliance events may produce enough points to cause the Development to be in Material Noncompliance.

(f) Development Noncompliance items are identified in paragraphs (1) - (27) of this subsection subparagraph.

(1) Major property condition violations. The property condition does not meet Uniform Physical Condition Standards as described in Section 60.13 of this chapter or displays major violations of health, safety and building codes. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a)(10) of this chapter. Corrected is 10 points.

(2) Owner refused to lease to a holder of rental assistance certificate/voucher because of the status of the prospective tenant as such a holder. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a)(10) of this chapter. Corrected is 10 points.

(3) Development is not available to general public. The IRS will be notified of HTC Developments reported to the Department, according to the Memorandum of Understanding among the U.S. Department of Treasury, the Department of Housing and Urban Development, and the Department of Justice, to be under investigation of possible violations of the Fair Housing Act. No points are imposed.

(4) Determination of a violation under the Fair Housing Act. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a)(10) of this chapter. Corrected is 10 points.

(5) Development is out of compliance and never expected to comply. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a)(10) of this chapter. No correction is possible; no corrected score assigned.

(6) Owner failed to pay fees or allow on-site monitoring review. Points will be assigned to this event after written notification to the Development owner. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a)(10) of this chapter. Corrected is 5 points.

(7) LURA not in effect. The LURA was not executed within the required time period. Uncorrected, this is material noncompliance. This event will be assigned points upon written notification to the owner. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a)(10) of this chapter. Corrected is 5 points.

(8) Developments awarded HTC January 1, 2004, or later, that are foreclosed by a lender, or the General Partner is removed by a syndicator due to reasons other than market conditions. Points associated with a foreclosure will be assigned at the time the 8823 is sent to the IRS. Points associated with the removal of the General Partner will be assigned upon written notification to the former General Partner. 25 points. No correction is possible; no corrected score assigned.

- (9) Development failed to meet minimum low-income occupancy levels. Development failed to meet required minimum low-income occupancy levels of 20/50 (20% of the units occupied by tenants with household incomes of less than or equal to 50% of Area Median Gross Income) or 40/60. Uncorrected is 20 points. Corrected is 10 points. (HTC and BOND only)
- (10) No evidence of, or failure to certify to, non-profit material participation for an Owner having received an allocation from the Nonprofit Set-Aside. Uncorrected is 10 points. Corrected is 3 points.
- (11) The Development failed to meet additional State required rent and occupancy restrictions. The LURA requires the Development to lease units to low income households at multiple income and rent tiers. This event refers to the condition when the lower tiers are not satisfied. Uncorrected is 10 points. Corrected is 3 points.
- (12) The Development failed to provide required supportive services as promised at Application. Uncorrected is 10 points. Corrected is 3 points.
- (13) The Development failed to provide housing to the elderly as promised at Application. Uncorrected is 10 points. Corrected is 3 points.
- (14) 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.
- (15) Changes in Eligible Basis. Changes occur when common areas become commercial, fees are charged for facilities, etc. Uncorrected is 10 points. Corrected is 3 points. (HTC only)
- (16) Failure to submit part or all of the AOCR or failure to submit any other annual, monthly, or quarterly report required by the Department. Uncorrected is 10 points. Corrected is 3 points.
- (17) Owner failed to approve and distribute an Affirmative Marketing Plan as required under §60.6 of this title Uncorrected is 3 points. Corrected is 1 point.
- (18) Pattern of minor property condition violations. Development does not meet Uniform Physical Condition Standards as described in Section 60.13 of this chapter or displays a pattern of property violations; however, those violations do not impair essential services and safeguards for tenants. Uncorrected is 10 points. Corrected is 5 points.
- (19) Development failed to comply with requirements limiting minimum income standards for Section 8 residents. Complaints verified by the Department regarding violations of the income standard which cause exclusion from admission of Section 8 resident(s) results in a violation. Uncorrected score 10 points. Corrected 3 points.
- (20) Owner defaults on payments of Department loans for a period exceeding 90 days. Uncorrected, this is material noncompliance. Points will be assigned under this

event after written notice to the Development Owner. Uncorrected is equal to the material noncompliance status threshold score as defined in §60.2(a)(10) of this chapter. Corrected is 10 points.

(21) Utility Allowance not calculated properly. Uncorrected 3 points. Corrected 1 point.

(22) Failure to comply with the Next Available Qualifying Unit Rule. Uncorrected 3 points. Corrected 1 point.

(23) Owner failed to execute required lease provisions or exclude prohibited lease language. Uncorrected 3 points. Corrected 1 point (All programs except HTC)

(24) Failure to provide annual Housing Quality Standards inspection. Uncorrected 10 points. Corrected 3 points. (HOME and post compliance period HTC properties Only)

(25) Development has failed to establish and maintain a reserve account in accordance with §1.37 of this title. Points will be assigned under this event after written notice to the Development Owner. Uncorrected, this is material noncompliance. Uncorrected is equal to the material noncompliance status threshold score as defined in section § 60.2(a)(10) of this chapter. Corrected is 10 points.

(26) Development substantially changed the scope of services as presented at initial application without prior department approval. Uncorrected 4 points. Corrected 0 points.

(27) Change in ownership or General Partner without proper notification to and approval of Department. Uncorrected 4 points, corrected 0 points.

(g) Unit Noncompliance items are identified in paragraphs (1)- (12) of this subsection

(1) Unit not leased to Low Income Household. Development has units that are leased to households whose income was above the income limit upon initial occupancy. Uncorrected is 5~~3~~ points. Corrected is 1 point.

(2) Low-income units occupied by nonqualified full-time students. Uncorrected is 3 points. Corrected is 1 point. (HTC Developments during the Compliance Period and BOND only)

(3) Low income units used on transient basis. Uncorrected is 3 points. Corrected is 1 point. (HTC and BOND only)

(4) Household income increased above the re-certification limit and an available Unit was rented to a market tenant. (HTC Developments during the Compliance Period) Uncorrected is 3 points. Corrected is 1 point.

(5) Gross rent exceeds the highest rent allowed under the LURA or other deed restriction. Uncorrected is 5 points. Corrected is 1 point.

(6) Failure to maintain or provide tenant income certification and documentation. Uncorrected is 3 points. Corrected is 1 point.

(7) Casualty loss. Units not available for occupancy due to natural disaster or hazard due to no fault of the Owner. This carries no point value. Casualty losses are reported to the IRS on HTC Developments.

(8) When a low income Unit became vacant, owner failed to lease (or make reasonable efforts to lease) to a low income household before any units were rented to tenants not having a qualifying income. Uncorrected is 3 points. Corrected is 1 point.

(9) Unit not available for rent. Unit is used for nonresidential purposes excluding unavailable Units due to casualty and manager-occupied Units. Uncorrected is 3 points. Corrected is 1 point.

(10) Qualifying unit designation removed from household. Uncorrected is 3 points. Corrected is 1 point. (FDIC's AHP only)

(11) Development evicted or terminated the tenancy of a low income tenant for other than good cause. Uncorrected is 10 points. Corrected is 3 points. (HTC and HOME only)

(12) Household income increased above 80% at recertification and owner failed to properly determine rent. (HOME only) Uncorrected 3 points. Corrected 1 point.

Texas Administrative Code

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1 ADMINISTRATION

SUBCHAPTER A GENERAL POLICIES AND PROCEDURES

RULE §1.11 Fair Housing Sponsor Report

(a) Purpose. The purpose of this section is to establish procedures for filing the Fair Housing Sponsor report with the Texas Department of Housing and Community Affairs (the "Department"), pursuant to §2306.0724 of the Texas Government Code (the "Code").

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

—(1) Fair Housing Sponsor Report—Data submitted to the Department by the owner of a housing development with 20 or more living units that contains relevant information pursuant to §2306.072(c)(6) of the Code including:

—(A) the street address and municipality or county in which the property is located;

—(B) the telephone number of the property management or leasing agent;

—(C) the total number of units, reported by bedroom size;

—(D) 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;

—(E) the rent for each type of rental unit, reported by bedroom size;

—(F) the race or ethnic makeup of each project;

—(G) the number of units occupied by individuals receiving government supported housing assistance and the type of assistance received;

—(H) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income;

—(I) a statement as to whether the property has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Commission on Human Rights, or the United States Department of Justice; and

—(J) a statement as to whether the development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the normal monitoring activities and procedures that include meeting occupancy requirements or rent restrictions imposed by deed restriction or finance agreements.

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

—(3) Financial assistance—Multifamily and single family rental developments that receive financial assistance or administration from the Department including loans, grants, bonds or tax credits.

—(4) Property—A housing development that received financial assistance from the Department.

—(5) Reporting Year—The 12 month period in which the submission of the Fair Housing Sponsor Report is due.

(c) Procedures. The Department shall require the owner of each housing development

~~that receives financial assistance and that contains 20 or more living units to submit an annual fair housing sponsor report in a department approved format, available electronically on the Department's website at www.tdhea.state.tx.us, or by hard copy if electronic means are not available to an owner.~~

~~—(1) Hard copies of the forms are available upon request by phone or mail.~~

~~—(2) The Department shall maintain the reports in electronic and hard copy formats readily available to the public at no cost.~~

~~—(3) The report shall use data collected for the previous year current as of and including December 31 of that year, and must be submitted to the Department no later than March 1 of the Reporting Year. The data must be postmarked on or before March 1, or the following business day if March 1st falls on a Sunday or legal holiday. The Department will compile and maintain a list of owners failing to report timely. The Department, not later than March 31st of each year, will mail a late or missing report notification to owners.~~

~~(d) Sanctions. In accordance with the provisions of §2306.0724 of the Code, the Executive Director of the Texas Department of Housing and Community Affairs may assess and enforce penalties and sanctions against a person who fails to submit the Fair Housing Sponsor Report on or before March 1 of each year.~~

~~—(1) Effective January 1, 2003, the Executive Director may:~~

~~—(A) Issue to the person a written reprimand that specifies the violation;~~

~~—(B) Assess an administrative penalty in an amount equal to \$1,000 for each violation in lieu of, or in addition to, any other sanction; and~~

~~—(C) Deny future requests for departmental funding or other assistance.~~

~~—(2) Denial of future requests for departmental funding may be assessed only for multiple, consistent and/or repeated violations of failure to submit the annual Fair Housing Sponsor Report by March 1 of each year. For first time violations, the Department will issue a written reprimand.~~

~~—(3) If, after investigation of a possible violation and the facts surrounding the possible violation, the Executive Director determines that a violation has occurred, the Executive Director shall issue a written notice or reprimand of violations not later than the 14th day after the date on which the notice of late or missing report was issued to owner. A written notice or reprimand of violations shall specify in detail the late or missing report and shall include any of the following:~~

~~—(A) recommendation that the owner charged be barred from any future requests for departmental funding and assistance;~~

~~—(B) recommendation that an administrative penalty under this section be imposed on the owner charged and indication of the penalty amount; or~~

~~—(C) recommendation that no penalty be assessed if this is the owner's first violation.~~

~~—(4) Not later than the 20th day after the date on which the notice or reprimand is received, the owner charged may accept the determination of the Executive Director made under this subsection, including the recommended penalty, or make a written request for a hearing on the determination.~~

~~—(5) If the owner charged with the violation accepts the determination of the Executive Director, the Executive Director shall issue an order approving the determination and ordering that the owner pay the recommended penalty.~~

~~—(6) If the owner charged requests a hearing, the Executive Director shall set a hearing and give written notice of the hearing to the owner. The respondent in an administrative hearing shall be entitled to due process and a hearing under the provisions of Code, Chapter 2001 and Chapter 2306. The respondent and the director~~

~~may enter into a compromise settlement agreement in any contested matter prior to signing of the final order.~~

~~—(7) Not later than the 30th day after the date on which the order was issued and/or the decision is final, the owner charged shall:~~

~~—(A) pay the penalty in full; or~~

~~—(B) file a petition for judicial review contesting the fact of the violation.~~

~~—(8) If the owner charged does not pay the penalty and does not pursue judicial review, the Executive Director or the attorney general may bring an action for the collection of the penalty.~~

~~—(9) An owner that has been denied departmental funding or other assistance for failure to submit the fair housing sponsor report timely may be removed from the denial list after reporting timely for at least two consecutive Reporting Years.~~

Texas Administrative Code

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1 ADMINISTRATION

SUBCHAPTER A GENERAL POLICIES AND PROCEDURES

RULE §1.13 Applicant Compliance with State and Federal Laws Prohibiting Discrimination

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

~~–(1) Applicant—A person who submits, or is preparing to submit, to the Department an application for housing funds or other housing assistance from the Department.~~

~~–(2) Application—The written request for Department housing program funds or other assistance in the format required by the Department including any exhibits or other supporting material.~~

~~–(3) Board—The board of directors of the Texas Department of Housing and Community Affairs.~~

~~–(4) Department—The Texas Department of Housing and Community Affairs.~~

~~–(5) Executive Director—The executive director of the Department.~~

~~–(6) Housing development—means 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 this chapter 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; and~~

~~—(B) single and multifamily dwellings in rural and urban areas.~~

~~–(7) Recipient—The individual or entity that has received funds or other assistance from the Department pursuant to its application.~~

(b) Applicable Laws. An applicant may not receive funds or other assistance from the Department until the Department receives a properly completed certification from the applicant that it is in compliance with the following housing laws:

~~–(1) state and federal fair housing laws, including Chapter 301, the Property Code, the Texas Fair Housing Act, Title IV of the Civil Rights Act of 1968 (42 U.S.C. Section 3601, et seq.), and the Fair Housing Amendments of 1988 (42 U.S.C. Section 3601, et seq.);~~

~~–(2) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a, et seq.);~~

~~–(3) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.); and~~

~~–(4) the Rehabilitation Act of 1973 (29 U.S.C. Section 701, et seq.).~~

~~(c) Monitoring. The Department periodically monitors for compliance with the requirements specified in subsection (b) of this section during the construction phase of a housing development that has received funds or other assistance from the Department. The monitoring level for each housing development is based on the amount of risk of noncompliance with the requirements specified in subsection (b) of this section associated with the housing development. The Department shall notify the recipient in writing of an apparent violation and shall afford the recipient a reasonable amount of time, as determined by the Department, to correct the identified violation, if possible, prior to the imposition of a sanction. The Department shall notify the Texas Commission on Human Rights at the same time notification is sent to the recipient.~~

~~(d) Sanctions. The Department may impose one or more of the following sanctions depending on the severity of the violation of a law specified in subsection (b) of this section by a recipient of housing funds or other assistance from the Department:~~

~~–(1) a reprimand posted on the Department's website,~~

~~–(2) termination of assistance, or~~

~~–(3) a bar on future eligibility for assistance through a housing program administered by the Department. A bar shall be in place for at least one calendar year from the date of imposition by the Department and may not last for more than ten calendar years from the date of imposition.~~

Texas Administrative Code

TITLE 10 **COMMUNITY DEVELOPMENT**

PART 1 **TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

CHAPTER 1 **ADMINISTRATION**

SUBCHAPTER A **GENERAL POLICIES AND PROCEDURES**

RULE §1.14 **Housing Sponsor: Tenant and Management
Selection**

(a) Purpose. The purpose of this section is to set standards for tenant and management selection by a housing sponsor and to prohibit a housing development funded or administered by the Department, including a development supported with a housing tax credit allocation, from:

- (1) excluding an individual or family from admission to the development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42U.S.C. Section 1437f); and
- (2) using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than 2.5 times the individual or family's share of the total monthly rent payable to the owner of the development.

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

- (1) Department—The Texas Department of Housing and Community Affairs.
- (2) Housing development—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 of the 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:
 - (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 nonhousing facilities, such as administrative, community, and recreational facilities the Department determines to be necessary, convenient, or desirable appurtenances; and
 - (B) multifamily dwellings in rural and urban areas.
- (3) Housing sponsor—means:
 - (A) an individual, including an individual or family of low and very low income or family of moderate income, joint venture, partnership, limited partnership, trust, firm, corporation, or cooperative that is approved by the department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development, subject to the regulatory powers of the department and other laws; or
 - (B) in an economically depressed or blighted area, or in a federally assisted new community located within a home rule municipality, the term may include an

individual or family whose income exceeds the moderate income level if at least 90 percent of the total mortgage amount available under a mortgage revenue bond issue is designed for individuals and families of low income or families of moderate income.

~~-(4) Management plan—A written plan clearly stating the following objectives:~~

~~—(A) prospective applicants who hold Section 8 vouchers or certificates are welcome to apply and will be provided the same consideration for occupancy as any other prospective tenant;~~

~~—(B) any minimum income requirements for Section 8 voucher and certificate holders will only be applied to the portion of the rent the prospective tenant would pay, provided, however, that if Section 8 pays 100% of the rent for the unit, the housing sponsor may establish other reasonable minimum income requirements to establish other reasonable minimum income requirements to ensure that the tenant has the financial resources to meet daily living expenses. Minimum income requirements for Section 8 voucher and certificate holders will not exceed 2.5 times the portion of rent the tenant pays; and~~

~~—(C) all other screening criteria, including employment policies or procedures and other leasing criteria (such as rental history, credit history, criminal history, etc.) must be applied to prospective tenants uniformly and in a manner consistent with the Texas and Federal Fair Housing Acts and with Department requirements.~~

~~-(5) Non-compliance score—The scoring and methodology used to determine the compliance status of applicants applying for Departmental funding.~~

~~(e) Applicability. The policies, standards, and sanctions established by these rules apply only to:~~

~~-(1) multifamily housing developments that receive the following assistance from the Department on or after January 1, 2002:~~

~~—(A) a loan or grant in an amount greater than 33 percent of the market value of the development on the date the recipient took legal possession of the development; or~~

~~—(B) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the development on the date the recipient took legal title to the development;~~

~~or~~

~~-(2) multifamily rental housing developments funded or administered by the Department as low income tax credit property whose application for an allocation of low income housing tax credits for that housing development is received by the Department on or after August 10, 1993.~~

~~-(3) A housing development that benefits from the incentive program under §2306.805 of the Texas Government Code is subject to the policies, standards, and sanctions established by these rules.~~

~~(d) Procedures. The following procedures apply to the selection of tenants and management by all housing sponsors.~~

~~-(1) Tenants must be income eligible under the rules and regulations of the program or activity funded.~~

~~-(2) Housing Sponsors must apply all other screening criteria, including employment policies or procedures and other leasing criteria (such as rental history, credit history, criminal history, etc.) uniformly and in a manner consistent with the Texas and Federal Fair Housing Acts, program guidelines, and the Department rules.~~

~~-(3) Income determination must be made in a manner consistent with Section 8, of the United States Housing Act of 1937 (42 U.S.C. Section 1437f) and the guidelines established in Handbook 4350.3, as amended and promulgated by the U. S. Department of Housing and Urban Development (HUD).~~

~~–(4) The Housing Sponsor shall not exclude an individual or family from admission to the development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).~~

~~–(5) The Housing Sponsor shall not use a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income that exceeds 2.5 times the individual or family's share of the total monthly rent payable to the owner of the development.~~

~~–(6) The Housing Sponsor must maintain a written management plan that is available for review upon request and states the intention of the development owner to comply with state and federal fair housing and antidiscrimination laws.~~

~~–(7) The Housing Sponsor must ensure that management posts Fair Housing logos and a Fair Housing poster in the leasing office.~~

~~–(8) The Housing Sponsor must approve and distribute a written affirmative marketing plan to the property management and on-site staff.~~

~~–(9) The department shall require a land use restriction agreement providing for enforcement of the restrictions by the department, tenants of the development, or by a private party that includes the right to recover reasonable attorney's fees if the party seeking enforcements of the restrictions is successful.~~

~~–(10) The Housing Sponsor must communicate annually during the first quarter of each year with the administrator of each Section 8 program, which has jurisdiction within the geographic area where the development is located. Such communication will include information on the unit characteristics and rents, will advise the administrating agency that the property accepts Section 8 vouchers and certificates, and will treat referrals in a fair and equal manner. Copies of such correspondence must be available during on-site reviews conducted by the Department.~~

~~–(11) A prospective tenant participating in the voucher program shall report to the administrator of the Section 8 program that provided the certificate or voucher an exclusion from admission to a housing development based on a financial or minimum income standard requiring the tenant to have a monthly income of more than 2.5 times the tenant or tenant's family share of the total monthly rent payable to the owner of the development. The administrator shall promptly report such exclusion to the Department.~~

~~(e) Sanctions. A Housing Sponsor of a multifamily rental housing development that fails to comply with the procedures pursuant to subsection (d) of this section is subject to the following sanctions:~~

~~–(1) Failure to lease to a prospective tenant due to the applicant's status as a recipient of a federal rental assistance voucher or certificate will result in a material non-compliance score, and~~

~~–(2) A complaint of exclusion from admission as described in subsection (d)(11) of this section, that has been verified by the Department, shall result in a non-compliance score for a period of one year from the date of the Department's verification of the complaint.~~

~~(f) These rules, policies, standards, and sanctions are enforceable by the Department, tenants of the development, or by private parties against the initial owner or any subsequent owners.~~

LEGAL SERVICES DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Items

Presentation, Discussion and Possible Approval for publication in the Texas Register of the Final Rule for Action by Department if Outstanding Balance Exists, to be codified at 10 Texas Administrative Code §1.13.

Required Action

Approve, reject or approve with modifications the final rule for publication in the Texas Register the rules governing the payment of non-current fees to be codified at Title 10 Texas Administrative Code §1.13.

Background

The board approved a draft version of this rule for publication and comment on August 30, 2006. No comments were received regarding this rule during the public comment period. This new rule will replace an unrelated rule expected to be repealed by the Board at this meeting. If the Board does not authorize the repeal of the prior §1.13, the rule number would change. The purpose of this rule is to put into place a policy to limit the actions taken by the Department when outstanding, non-current fees are due the Department. This rule would not impact ongoing compliance issues or any non-voluntary procedure by the Department.

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

Recommendation

Staff recommends the Board approve the final rule regarding payment of non-current fees under §1.13 for publication in the Texas Register.

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

Rule §1.13 ACTION BY DEPARTMENT IF OUTSTANDING BALANCES EXIST

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REAL ESTATE ANALYSIS

BOARD ACTION REQUEST

November 9, 2006

Action Items

Final 2007 Real Estate Analysis (REA) Rules:

- §1.31 General Provisions
- §1.32 Underwriting Rules and Guidelines
- §1.33 Market Analysis Rules and Guidelines
- §1.34 Appraisal Rules and Guidelines
- §1.35 Environmental Site Assessment Rules and Guidelines
- §1.36 Property Condition Assessment Guidelines
- §1.37 Reserve for Replacement Rules and Guidelines

Required Action

1. Adoption of Repeal of Title 10 Texas Administrative Code, Part 1, Sections 1.31 – 1.37, REA Rules
2. Adoption of New Title 10 Texas Administrative Code, Part 1, Sections 1.31 – 1.37, REA Rules

Background

On September 15, 2006 the Draft 2005 Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, and Reserve for Replacement Rules and Guidelines were published in the *Texas Register*. Upon publication a public comment period commenced, ending on October 18, 2006. In addition to publishing the document in the *Texas Register*, a copy was published on the Department's web site and made available to the public upon request. The Department held public hearings in Houston, El Paso, Dallas, San Antonio, Midland, Tyler, Amarillo, Beaumont, Bryan, Corpus Christi, Harlingen, Brownwood and Austin. In addition to comments received at the public hearings, the Department received written comments.

During the course of the year, the Department heard many comments regarding soft Texas markets, the financing structure of transactions being too tight, and the need for the Department's rules to conform more to industry standards. Staff proposed, and the Board approved for draft consideration, revisions to the Real Estate Analysis Rules that were intended to incorporate these concerns. Based upon the comments on a few items it would appear that some of the proposed changes may need to be considered in more of a phased approach. This is particularly true for changes to the Market Analysis Rules and the implication of their enhanced requirements to the feasibility of the development. Given the uncertainty in the amount of additional demand that can be proven up in the form of demand from secondary markets, and as yet to be defined household formation, it may be prudent to limit the contraction of the rural and elderly capture rate to 75%

this year and reevaluate this in the upcoming year with more data to reflect upon. Similarly, staff believes it may be prudent to evaluate the results of the new measurement requirements for capture rate by unit type prior to setting absolute feasibility maximums.

In other areas of the proposed Real Estate Analysis Rules staff has attempted to provide a reasoned response to the comments and concerns that have been consolidated by staff. Staff is very concerned about how integrated the rules have become and how small changes in one area have implications in other areas. For example the request to reduce the proforma requirements from 30 years to 20 or 15 years is a reasonable request since the proforma for a new construction transaction is only an estimate of the future based on an estimate of the near future performance. However, State statute in 2306.185 of the Texas Government Code requires that the Department assess and consider the proposed affordability and economic viability for a minimum period which is most typically 30 years. Staff has endeavored to include an analysis of this 30 year requirement while still responding to the concerns raised by the commentators.

Reasoned Response to Public Comment on the 2007 Draft Real Estate Analysis (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. Comment and responses are presented in the order they appear in the REA Rules. 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. Copies of the exact comment letters provided are available on the Department's website.

The comments and responses are divided into the following two sections:

- I. Substantive comments on the REA Rules and Departmental response. Comment and responses are presented in the order they appear in the REA Rules. The numbers presented in parenthesis refer to the name and organization of the commenter.
- II. Administrative clarifications and corrections. These include administrative changes made to the REA Rules by staff.

Language deleted from the 2006 REA Rules is shown with single strikethrough (i.e., ~~1.10~~) and new language proposed for the 2007 Draft REA Rules is shown with single underline (i.e., 1.15). Language proposed for deletion from the 2007 Draft REA Rules approved on August 30, 2006 is shown with double strikethrough (i.e., ~~~~1.30~~~~) and new language proposed is shown with double underline (i.e., 1.35).

I. Substantive comments on the REA RULES AND DEPARTMENTAL RESPONSE

§§1.31 – 1.37 – REA Rules – (4)

Comment:

“The proposed rules for 2007 make changes which negatively impact the ability of TDHCA to effectively put affordable housing on the ground. The TDHCA Board should re-adopt the 2006 REA rules, which while imperfect, do not destroy the viability of the LIHTC Program.”

Department Response:

While reverting to the 2006 rules *in their entirety* is an option to consider, significant comment by the public and TDHCA Board during the course of the year suggest that many of the areas addressed in the draft 2007 rules need to be considered. Staff does not recommend reverting to the 2006 REA rules, but recommends adoption of the 2007 as proposed herein with changes based on comment presented below.

§§1.31 – 1.37 – REA Rules - (4, 62)

Comment:

Allow for more credits per deal at application and during the underwriting process, resulting in more tax credit equity and less debt, thereby ensuring the long-term health of the Department's portfolio. Michigan allows a development to automatically apply for up to 5% additional credits in the year of cost certification.

Department Response:

Essentially, the current rules do allow for “more credits per deal” at application. The draft 2007 rules including the QAP propose an increase in the spread in the applicable percentage used at underwriting in order to provide a cushion of tax credits for unforeseeable costs. Moreover, the Department rules already include contingency, 5% leeway in total development cost, and the

maximum contractor and developer fees contemplated by the National Council of State Housing Agency's best practices. The current rules as proposed do not prohibit requests for additional 4% tax credits at cost certification. However, due to the high demand for competitive 9% tax credits, the Department is unable to "hold out" 5% of credits for future cost overruns. Competitive developments in need of additional credits may submit a full application and compete for the pool of 9% tax credits available in any given year. Staff does not recommend a change.

§1.32(d)(2)(I) - Reserves – (4, 61, 62, 63, 64, 54)

line 410

Comment:

The annual reserve account in §1.32(d)(2)(I) doesn't conform to statute. It needs to be readjusted back to \$125 and \$200 per unit because the statutes intent does not allow department discretion to adjust those amounts. Increasing the annual replacement reserve from \$200 to \$250 for new construction lowers the amount of debt by lowering the net operating income available for debt service.

Department Response:

The TDHCA Governing Statute §2306.186 establishes a minimum reserve requirement for instances where the Department holds a first lien position. This legislation was passed in 2003. More current industry practice reflects higher reserves. The increase from \$200 per unit to \$250 per unit in annual replacement reserves deposits for new construction developments is based on two factors: (1) The National Council of State Housing Agencies' (NCSHA) Working Group on Housing Credit Allocation and Underwriting Recommended Practices as adopted by NCSHA's Board of Directors on December 2, 2003 – The Working Group included participants from 15 State Housing Agencies including TDHCA as well as 20 industry participants comprised of lenders, equity providers, accounting firms, and other affordable housing organizations; and (2) Minimum replacement reserve requirements indicated in commitments from lenders and syndicators submitted at application. Staff recommends no change.

§1.32(d)(3) - Net Operating Income – (4, 62)

line 463

Comment:

If within 5% of the Underwriter's Net Operating Income (NOI) estimate, the Applicant's NOI conclusion should be used to determine debt coverage ratio and size the debt regardless of the difference in effective gross income and total annual operating expense figures. This could save staff time and would be in line with the real world.

Department Response:

Often significant debt service capacity differences exist as a result of differences in estimates of achievable rent due to lower market study conclusions, miscalculated utility allowances, unjustified secondary income, or vacancy and collection loss estimates. Moreover, large differences in gross income or total expenses could be identified but offset each other which calls into question the reliability of the Applicant's NOI calculation. Staff recommends no change.

§1.32(d)(4)(D) – Acceptable Debt Coverage Ratio Range – (6, 63, 64, 31)

line 500

Comment:

Increasing the debt coverage ratio minimum from 1.10 to 1.15 lowers the amount of debt available to the project. Also, the maximum debt coverage ratio should increase from 1.30 to 1.35 or 1.40 to allow for the possibility that income will not keep pace with expenses.

Department Response:

Staff does not recommend a change to the proposed minimum debt coverage ratio. The minimum debt coverage ratio increase from 1.10 to 1.15 is based on three factors: (1) The National Council of State Housing Agencies' (NCSHA) Working Group on Housing Credit Allocation and Underwriting Recommended Practices as adopted by NCSHA's Board of Directors on December 2, 2003; (2) Minimum debt coverage ratio requirements indicated in commitments from lenders and syndicators submitted at application; and (3) research on minimum debt coverage ratios utilized by the majority of other State Housing Agencies. These three sources indicate that a minimum debt coverage ratio of 1.15 is a healthy standard.

However, staff does recommend an increase in the maximum debt coverage ratio to 1.35 based on public comment and research into other State Housing Agency practices. The following language is proposed:

§1.32(d)(4)(D)

(D) Acceptable Debt Coverage Ratio Range. The ~~initial~~ acceptable Year 1 DCR range for all priority or foreclosable lien financing plus the Department's proposed financing falls between a minimum of ~~1.151-10~~ to a maximum of ~~1.351-30~~. HOPE VI and USDA Rural Development transactions may underwrite to a DCR less than ~~1.151-10~~ based upon documentation of acceptance from the lender.

§1.32(d)(5) - Long Term Proforma – (4, 62, 63, 26)

lines 534 & 871

Comment:

Some comment commended the change from a 30-year proforma to a 20-year proforma, but requested that the Department further reduce the term for the proforma from 20 years to 15 years.

Department Response:

Staff recognizes the proposal to reduce the proforma requirement in the application to 15 or 20 years; however, the reference language in the proposed rule point to a requirement only of the underwriting staff to create a proforma. Staff recommends returning to a 30-year proforma created by the Underwriter to address the timeframes for affordability in the TDHCA Governing Statute as follows:

§2306.185. LONG-TERM AFFORDABILITY AND SAFETY OF MULTIFAMILY RENTAL HOUSING DEVELOPMENTS. (a) The department shall adopt policies and procedures to ensure that, for a multifamily rental housing development funded through loans, grants, or tax credits under this chapter, the owner of the development:

(1) keeps the rents affordable for low income tenants for the longest period that is economically feasible; and

(2) provides regular maintenance to keep the development sanitary, decent, and safe and otherwise complies with the requirements of Section 2306.186.

(b) In implementing Subsection (a)(1) and **in developing underwriting standards** and application scoring criteria for the award of loans, grants, or tax credits to multifamily developments, **the department shall ensure that the economic benefits of longer affordability terms** and below market rate rents are accurately assessed and considered.

(c) The department shall require that a recipient of funding maintains the affordability of the multifamily housing development for households of extremely low, very low, low, and moderate incomes **for the greater of a 30-year period** from the date the recipient takes legal possession of the housing or the remaining term of the existing federal government assistance.

Although statute does not specifically address a proforma as the underwriting standard, the proforma is the fundamental financial planning tool for assessing the estimated long term financial

capacity of the development. Staff proposes the continuation of the 30-year proforma review as part of the underwriting analysis. However, to address public comment staff proposes language change to reflect feasibility based on a minimum debt coverage ratio and positive cashflow limited to the first 15 years. In the absence of the 30-year proforma test to meet the intent of §2306.185, staff proposed the initial feasibility language in §1.32(i)(4).

§1.32(d)

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

§1.32(i)

~~(5)(4)~~ Long Term Feasibility. Any year in the first 15 years of the Long Term Proforma, as defined in subsection (d)(5) of this section, reflects
(A) negative Cash Flow; or
(B) a Debt Coverage Ratio below 1.15.

§1.32(d)(5)(A) – Base Year Projection – (4, 62)

line 539

Comment:

Change to read “The base year projection utilized is the NOI determined under Provision 1.32(d)(3).” Change for consistency with changes proposed for §1.32(d)(3).

Department Response:

Because staff recommended no change to §1.32(d)(3), staff recommends no change here. The current language is consistent with staff’s earlier recommendation. If consistency with staff recommendation for §1.32(d)(3) above is not approved, this section of the rule would need to be readdressed.

§1.32(d)(5)(A)-(C) - Long Term Proforma – (4, 62, 31)

line 543

Comment:

A 3% growth of income and 4% growth of expenses is not justified. In reality, income is decreasing while expenses are increasing. “For example, in Houston, the HUD maximum rents for all affordable unit levels has remained unchanged for three years. And, on top of that, the utility allowances have increased over the same time period. So, the true *effective* rents have actually *decreased* by 3%.”

One commenter supports the objective criteria listed in this paragraph to allow for deviations from the numbers drawn from TDHCA databases to estimate costs.

Department Response:

Research on income and expense trending rates used by other State Housing Agencies indicates a minimum spread of 1% with expenses increasing at a greater rate than income. This spread provides a generally conservative long-term underwriting criteria, though in the short term this spread can be larger or smaller. In addition, staff believes language in §1.32(d)(5)(C) provides greater flexibility in making adjustments to expense line-items over the proforma period while maintaining consistency. Staff recommends no change.

§1.32(d)(5)(D) - Long Term Proforma – (31)

lines 563 & 856

Comment:

Commenter disagrees with the striking of language requiring a development to pay back deferred developer fee within 15 years.

Department Response:

Staff did not intend to delete this requirement when such items were moved to §1.32(i) feasibility conclusion. Staff concurs with the commenter and recommends the following change:

§1.32(i)

(2) Deferred Developer Fee. Development requesting an allocation of tax credits cannot repay the estimated deferred developer fee, based on the Underwriter's recommended financing structure, from cashflow within the first 15 years of the long term proforma as described in subsection (d)(5) of this section.

§1.32(e)(3) - Site Work Costs – (4, 62, 1)

line 624

Comment:

The maximum limit per unit (without additional substantiation by a third party) should be raised to \$9,000 to \$10,000 per unit to account for an average inflation of 5% to 6% for the last five years and because there are costs associated with the engineer or architect support documentation.

Department Response:

Sitework costs specifically identified and recently claimed at cost certification for 41 new construction developments that placed in service in 2004 and 2005 indicate a mean of \$6,200 and a median of \$6,400 per unit. These figures indicate \$7,500 per unit is still a good benchmark for requiring additional third party documentation. It should be emphasized that this is merely a standard for submitting more substantiation. It is not a ceiling. Staff recommends no change.

§1.32(e)(7) – Developer Fee – (26, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53)

line 683

Comment:

Language referring to limiting eligible deferred developer fee must be eliminated as it is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

Department Response:

The language codifies Department underwriting practices that have been consistently applied, including: developer fee included in eligible basis for calculation of the 9% tax credit limited to 15% of rehabilitation or new construction eligible basis (less the developer fee), and no developer fee is included in acquisition eligible basis for identity of interest transactions. Of 18 applications submitted for 9% tax credits and forwarded for full underwriting in 2006, 17 claimed acquisition eligible basis. Of the 17 claiming acquisition eligible basis only six (35%) represented identity of interest transactions with no acquisition developer fee included in calculation of the development's eligible tax credits. As of September 2006, acquisition/rehabilitation developments requesting 4% tax credits in conjunction with a multifamily bond reservation do not include identity of interest transactions. In addition, the number of preservation and at-risk developments continues to rise even with this practice in place. Staff does not recommend a change.

§1.32(e)(7)(B)(ii) – Developer Fee, identity of interest acquisition basis – (13, 27) *line 694*

Comment:

Verified acquisition overhead and expenses should be included in eligible basis for identity of interest transactions. In particular, Rural Development transactions that transfer to related parties are just as difficult to work out as those transferred to third parties.

Replace the existing language that prohibits Developer Fees on Identity of Interest transactions with this: “Developer expenses directly related to acquisition activities are allowable in Eligible Basis.”

Department Response:

The rule as it exists prevents an owner from profiting from the reacquisition of a property they already own or control. Developer fee for the construction/rehabilitation and new financing is allowed. Staff does not recommend a change.

§1.32(g)(3) – Supportive Housing – (54) *line 779*

Comment:

Allow Single Room Occupancy developments (SROs) to keep replacement reserves at \$200 per unit, because they just don't have the cash flow to make those reserves whole at the end of the year. SROs also should be inserted into the same category as rural developments where the management fee can be higher than the typical 5 percent; currently, they are anywhere between 6 and 8 percent.

Department Response:

Staff does not recommend a change with regard to minimum replacement reserve requirements for supportive housing as there is as much, if not more, need for such reserves due to turnover and wear. Moreover, syndicators of such transactions have not indicated a reduced standard for these types of units. With regard to management fees, staff concurs and recommends the following change:

§1.32(g)(3)

(B) Operating Expenses. A Supportive Housing Development may have significantly higher expenses for payroll, management fee, 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.

§1.32(i)(1) – Inclusive Capture Rate – (4, 54, 62, 66, 63, 64, 67, 40, 1, 61) *line 833*

Comment:

The proposed rule changes lowering the capture rate for rural and senior developments from 100% to 50% would be detrimental to the affordable housing program; would lower the number of developments qualifying for HTC; and negate the statutory set-asides. The rule changes will increase the amount of work required to complete a market study and will increase the cost of the market study.

The demand from other sources that is allowed under current rules is not flexible enough to allow for these different types of demand. Based on research, a fraction of the demand comes from the primary market area, a fraction from the secondary market area, and another fraction from a larger area, sometimes outside of the state. Demand also originates from homeowners transitioning to

rental and from households living within other households. Rule changes should be made that allow demand from these other sources before the capture rate is lowered. (67)

There are successful developments that would not have been approved under the proposed rules. Comment states that the current rule works quite well in rural areas and there are high-occupancy developments with an approximate 100% capture rate at application. Comment suggests a 100% capture rate for rural deals and a lower capture rate for urban senior developments.

Comment suggests a separate capture rate for urban and exurban developments. Current methodology for calculating demand includes a large percentage from renter turnover and rapidly growing exurban areas have a limited number of renter households. Comment suggests a 50% capture rate based solely on household growth without renter turnover.

Comment also supports a reduction in the inclusive capture limit from 100% to 50% for developments serving elderly residents. (54)

Staff rationale for the proposed rule is that demand varies by unit type; however occupancy analysis shows all unit types and income restrictions are in demand. The Ineligible Building Types rule in the QAP does not allow developers to match demand by unit type and therefore the proposed rule is in conflict with the QAP.

Department Response:

Staff agrees that the rule change may require more evaluation of the true sources of demand and believes the lease audits recently conducted by Darrell Jack of ApartmentMarket Data are a good first step in identifying true demand (see discussion below on secondary market §1.32(d)(7)). Most market analysts currently rely on turnover for the normal movement of households from one development to another for 90% to 95% of the anticipated demand. A capture rate at 100% for rural developments and developments targeting seniors suggests that every potential household that moves must come to the subject and any other new unstabilized units in order for them to fill. This premise suggests that the developments these tenants are leaving will have a high vacancy rate and be financially stressed. The premise for reducing the maximum inclusive capture rate from 100% to 50% was to provide some relief for these existing developments, a sentiment raised regularly to the Board by impacted properties providing testimony Mr. Jack's review of 2006 applications suggests that 12 developments would not have been funded if this proposed rule was in place last year. However, the same review suggests that only three would not have been funded if the maximum inclusive capture rate had been reduced to 75%. Staff further evaluated the details of the developments and found that all but two developments would likely still have been funded under the proposed rules if larger acceptable primary market areas were chosen by the Market Analyst or if demand from secondary market had been identified. Staff also received concern with regard to the per unit capture rate within market study requirements §1.33(d)(9) & (10) (discussed later) and agrees that a feasibility test on a per unit basis may be premature. Staff recommends the following change to a 75% capture rate in these areas and recommends removing the per unit capture rate for determination of feasibility.

§1.32(i)

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

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

~~(i) above 50%75% for the total proposed units; or~~

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

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

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

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

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

(i) Replacement Housing. The Development is comprised of Affordable Housing which replaces previously existing substandard Affordable Housing within the Primary Market Area as defined in §1.33 of this title on a Unit for Unit basis, and gives the displaced tenants of the previously existing substandard Affordable Housing a leasing preference.

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

§1.32(i)(2) - Restricted Market Rent – (4, 62, 24, 26, 66, 63, 1)

line 860

Comment:

Just because you elect 60% AMI and are charging 40% AMI rents does not in and of itself make a deal unfeasible. Also, in many rural communities, it is impossible for properties to obtain full low-income housing tax credit rents. This provision needs to be deleted. (24)

The proposed rule would be detrimental to the affordable housing program, especially for applications from the Austin region. In the Austin area, no individual unit type by income level is less than 91.9% occupied and this indicates that the market is not oversupplied.

The rule change will have wide ranging effects, including driving affordable housing into higher income areas. The proposed changes will exclude outlying areas from future development. Area Median Income is set for the entire MSA and outer areas have lower incomes and rental rates compared to the central areas.

Department Response:

Staff agrees that other restrictions on a development such as USDA rent restrictions or local funding restrictions could limit rents below the tax credit rent. However, it is a basic principal of supply and demand that if the market price for comparable high quality units is less than a set affordability level, say 60% of AMI, then there is not an unmet need for units at 60% of AMI. Since, however, true comparability can be hard to measure, staff suggest that the proposed rule be modified to establish a lack of demand/infeasibility test where the comparable 60% restricted rent in the market is less than the maximum potential rent for households earning 50% of the median income. In this example, the application should reflect unit affordability set-asides at or below 50% of AMGI rather than 60%. This infeasibility criterion is not intended to disallow developments in areas with market rents below the 60% tax credit limit. The criteria's intent is to encourage developers to correctly structure transactions based on affordability levels at application. The following language is proposed:

§1.32(i)

~~(3)(2) Restricted Market Rent. The Restricted Market Rent for units with rents restricted at 60% of AMGI is (A) less than both the net Program Rent and Market Rent for units with income and rents restricted at or below 50% of AMGI unless the development proposes all restricted units with rents restricted at or below the 50% of AMGI level. or (B) more than 10% below the lesser of the net Program Rent or Market Rent for units with income and rents restricted at or below 60% of AMGI, but above 50% of AMGI.~~

§1.32(i)(3) - Initial Feasibility – (4, 62, 26, 1)

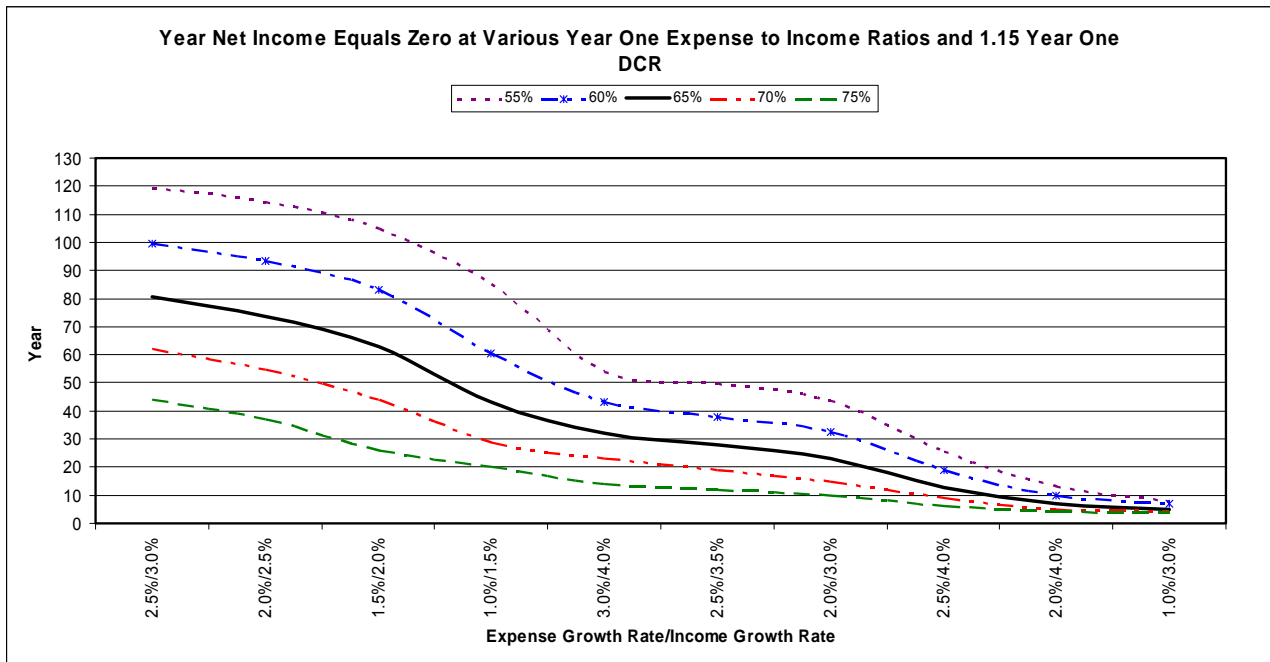
line 869

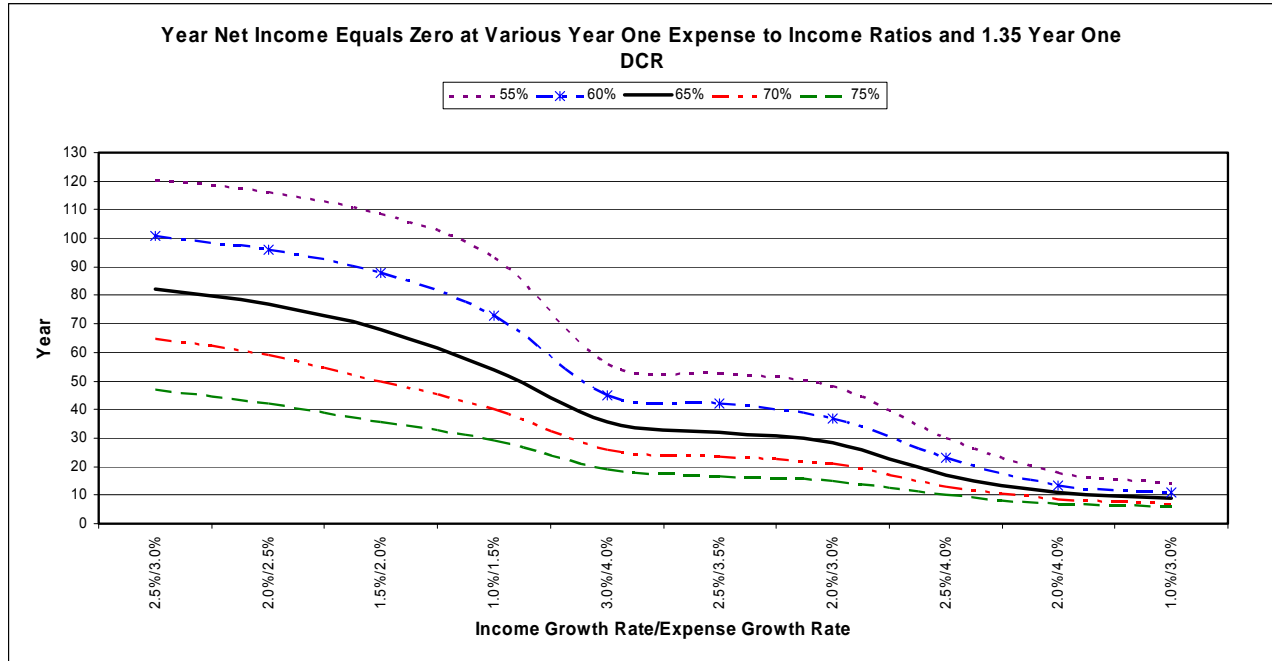
Comment:

Just because the projected operating expenses are greater than 65% of income does not in and of itself make a deal unfeasible. In some instances, the financing structure will allow a deal with a 65% expense to income ratio to be feasible. The deals that are most affordable will be deemed infeasible. The Department should think through what it's trying to do. This provision needs to be eliminated.

Department Response:

Lenders, syndicators and the state have typically focused on the debt coverage ratio as the key to determining if there is sufficient margin of income after expenses to cover annual debt service. This measure is typically adequate for an unrestricted development or where there is not a significant amount of extremely low rent targeting. When developments target deeper rents, their expense to income ratios generally rise (expenses remain the same but income goes down so this ratio goes up). The following graphs reflect the long term feasibility (year in which expenses plus debt service overwhelms income) for different expense to income ratios (reflected as lines) based upon different growth assumptions for expenses and income identified at the bottom.





The graphs indicate that when the growth rates for expenses and income are close to each other the point at which the expenses plus debt service surpasses income (the point where the transaction is projected to be no longer feasible) is more than 40 years in the future, well beyond normal amortization term of the principal loan. It is typical for financing participants to test the ongoing viability of a transaction by using a growth rate for expenses that is faster than the growth rate for income and most typically the spread between the two growth rates in the test is 1% or more. The Department has historically used a 4% growth rate for expenses and a 3% growth rate for income and the chart shows that with a 65% initial expense to income ratio and an initial DCR of 1.15, expenses plus debt service will overwhelm income in 32 years (the second chart shows the impact will be 35 years when the initial DCR is 1.35) Many lenders have indicated common use of a slightly more conservative 3% growth of expenses and 2% growth of income which cause the point of infeasibility for the same 65% expense to income ratio to be year 23 for a DCR starting at 1.15 and year 28 for a DCR starting at 1.35.

The 65% expense to income ratio is a new Department underwriting standard that has been developed to ensure the benefits of affordability for 30 years. If the 30 year positive cash flow requirement is removed as proposed in TAC §1.32(d)(5) above, the new 65% test would be the only measure attempting to address the underwriting direction expressed in Texas statute §2306.185. Comment provided no alternative income to expense ratio or specific language changes other than to have this removed in its entirety. Staff recommends no change.

§1.32(i)(5) - Exceptions – (4, 62)

line 875

Comment:

“...this provision needs to be eliminated. First, you don’t need (A) if you remove Provision 1.32(i)(2). Second, (B) through (E) favor PHA and RD developments over conventionally financed developments and the Texas statute states that the rules are to be written so that no one type of Applicant shall be favored over another type of Applicant.”

Department Response:

Staff agrees that §1.32(i)(5)(A) should be deleted based on the proposed change to §1.32(i)(2) Restricted Market Rent. Staff does not agree that the remaining exceptions, §1.32(i)(5)(B) – (E), should be eliminated. Developments receiving project-based rental assistance or operating subsidies should be treated differently because of the capacity of the subsidies to offset increases in operating expenses. Not providing these exceptions would cause these developments to be characterized as infeasible based on the rule when with the documented subsidy, they would be feasible. It should be noted that no Applicant is being favored in these cases, but rather feasibility is evaluated based on the objective status of rental assistance on a property. Staff recommends the following change:

§1.32(i)

~~(6)(5)~~ Exceptions. Developments meeting the requirements of one or more of paragraphs (3)(2) – (5)(4) of this subsection may be re-characterized as feasible if one or more of subparagraphs (A) – (C)(D) of this paragraph and subparagraph (D)(E) of this paragraph apply.

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

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

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

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

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

§1.33(d)(7) – Secondary Market Area – (66)

line 986

Comment:

A Secondary Market Area (SMA) with a population limited to 250,000 for Urban/Exurban Family projects should be allowed. This recommendation is based on two lease audits conducted by Apartment MarketData for two income restricted projects – Eagle Ridge and Willow Bend. The audits show that only 50-55% of tenants previously resided within the PMA.

Department Response:

While no specific language was proposed, staff agrees with the comments and appreciates the lease audit analysis conducted thus far by ApartmentMarket Data. The audit suggests that over 50% of tenants in two properties come from the immediate area (estimated primary market area) and that areas immediately surrounding the primary market area accounted for roughly 25% of tenants. The remainder came from other parts of the MSA, State and country. Thus a limit on demand from the secondary market is proposed in the revised language. Staff also notes and strongly encourages consideration of other demand sources. To be responsive to public comment, staff recommends the following change:

§1.33(d)

~~(7)(8)~~ Secondary Market Area. All of the Market Analyst’s conclusions specific to the subject Development must be based on only one Secondary Market Area definition. The entire PMA, as described in paragraph (8)(9) of this

subsection, must be contained within the Secondary Market boundaries. ~~Secondary Market Demand will be considered for only Qualified Elderly Developments or Developments targeting special needs populations.~~ The Market Analyst must adhere to the methodology described in this paragraph when determining the secondary market area (§2306.67055).

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

(i) size based on a base year population of no more than 250,000 people for Developments targeting families, and

(ii) boundaries based on

(I)~~(i)~~ major roads,

(II)~~(ii)~~ political boundaries, and

(III)~~(iii)~~ natural boundaries.

(IV)~~(iv)~~ A radius is prohibited as a boundary definition.

§1.33(d)(9)(E)

(iv) Demand from Secondary Market Area.

(I) Apply the turnover rate as described in subparagraph (D) of this paragraph to the target, income-eligible, size-appropriate and tenure-appropriate households in the Secondary Market Area projected at the proposed placed in service date.

(II) Only 25% of the demand calculated in subclause (I) of this clause may be included in the calculation of demand as described in paragraph(10)(D) of this subsection and for use in calculation of inclusive capture rate as described in paragraph (10)(E) of this subsection.

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

§1.33(d)(10)

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

§1.33(d)(9) & (10) – Demand and Capture Rate by Unit Type and Demand from Turnover and Population Growth - - (64, 61, 66, 63, 62, 40, 68, 1, 4) *lines 1030 & 1108*

Comment:

The proposed rule would be detrimental to the affordable housing program. Comment identifies the impact of the rule change as reducing the number of developments qualifying for the HTC program. Comment states that Department staff has not sufficiently modeled the impact of the change. Analysis by commenter shows 5 out of 6 developments approved by the Board would not have been recommended for funding under the new proposed rule. One specific development that, according to the commenter, would not have been recommended leased up much more quickly than anticipated. Further investigation revealed that 53% of the development's demand originated from renter households and 40% of the demand originated from households living with another household. Comment suggests reverting to the demand capture rate found significant in the 2006 rules.

Staff rationale for the proposed rule is that demand varies by unit type; however occupancy analysis shows all unit types and income restrictions are in demand. The Ineligible Building Types rule in the QAP does not allow developers to match demand by unit type and therefore the proposed rule is in conflict with the QAP.

One individual suggested rule changes will increase the amount of work required to complete a market study and will increase the cost of the market study. It is difficult to get this type of information by unit type. Comment state that market analysts currently evaluate the proposed unit mix.

Comment suggests a separate capture rate for urban and exurban developments. The current methodology for calculating demand includes a large percentage from renter turnover and rapidly growing exurban areas have a limited number of renter households. Comment suggests a 50% capture rate based solely on household growth without renter turnover.

Department Response:

The infeasibility criteria in §1.32(i)(1) has been adjusted to no longer include capture rate by unit type and income set-aside. However, the proposed language in §1.33(d)(9) & (10) provides a mechanism for market analysts to fulfill the requirement from §1.33(d)(10)(A) to provide a *best possible unit mix conclusion by occupancy and demand*. The best possible unit mix requirement was added to the 2005 REA Rules; however, Market Analysts have failed to provide sufficient support for their conclusions. Staff recommends no change.

Regarding an exurban capture rate, the current rule and proposed changes allow sufficient flexibility for demand from other sources.

§1.33(f) – (4, 62)

line 1205

Comment:

Comment suggests the following wording: “Absent compelling written or other physical evidence to the contrary, the Department shall be bound by the opinion of the Market Analyst.” Comment states that compelling, documented evidence that contradicts the market study should be included in the underwriting report. This also ignores the statutory mandate in Section 2306.6710, Government Code, requiring that the Department evaluate financial feasibility on the basis of the third-party pro-forma provided with the application.

Department Response:

It is the responsibility of the Department to review and evaluate market information received regarding proposed developments. Staff utilizes the information presented in the market study to generate independent conclusions supported by additional information as available. Further the statutory mandate in 2306.6710 is clearly limited to allocation of points, not the underwriting analysis. Staff recommends no change.

§1.36(a) – Property Condition Assessment – (4, 26, 1)

line 1619

Comment:

The minimum term for the Expected Repair and Replacement Over Time analysis is 30 years. This should be reduced to 15 years. PCA requirements should either be eliminated for rehabilitation developments or required for both rehabilitation developments and new construction. Commenter

recommends in descending order of preference: (1) complete removal of PCA requirement; (2) require a PCA with estimated costs of repairs over 15 years; or (3) impose PCA requirements on both rehab and new construction if a 30-year period is retained.

Department Response:

Staff will adjust the minimum term for Expected Repair and Replacement Over Time analysis to be consistent with the approved long term proforma period. Staff does not recommend doing away with the PCA requirement for rehabilitation developments or adding the requirement for new construction developments. The PCA comprises not only a reserve for replacement analysis, but also a third party verification of planned rehabilitation construction costs. Staff suggests the question of requiring a reserve for replacement analysis for new construction developments be addressed in the 2008 rules.

§1.36(d) – Property Condition Assessment – (26)

line 1704

Comment:

The date of the PCA should not be changed to no more than 3 months prior to the date of application. The date should remain at no more than 6 months prior to the date of application.

Department Response:

Staff concurs and recommends the following:

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

II. ADMINISTRATIVE CLARIFICATIONS AND CORRECTIONS

Staff requests the Board's approval to make administrative changes as needed for consistency within the REA Rules as well as with other Department Rules. These changes would include, but are not limited to correcting references to other rules such as specific sections of the QAP, capitalization of defined terms, correcting typographical mistakes, providing consistency with final developer fee limits (QAP §49.9(d)(6)(B)(ii)), replacement reserve analysis term for consistency with long term proforma (REA Rules §1.36(a)), etc.

Comment Source Reference

Tab #	Organization
1	Texas Affiliation of Affordable Housing Providers (TAAHP), Diana McIver
4	Texas United Independent Developers Association, Eric Opiela
5	Tekoa Partners, Ltd, William J Lee
13	Winston Sullivan, Individual
19	Gary Kersch, Individual
24	Solutions Plus, Mike Sugrue
26	Patrick Barbolla, Individual
27	Dennis Hoover, Individual
31	Tropicana Properties, Bobby Bowling
38	Youngs Company, Don Youngs
40	O'Connor and Associates, Craig Young
42	Donna Housing Finance Corporation, Liz Hernandez and Bob Gonzales
43	McAllen Housing Authority, Jose A Saenz
44	Odyssey Residential Holdings, LP, Bill Fisher
45	Edinburg Housing Authority, Estella L. Trevino
46	Corpus Christi Housing Authority, Eva Shults
47	Pharr Housing Authority, Roy Navarro
48	Weslaco Housing Authority, Ruben Sepulveda
49	Beaumont Housing Authority, Robert L. Reyna
50	Pharr Housing Development Corporation, Fernando Lopez
51	Flores Residential, Apolonio Flores
52	Community Development Corporation of South Texas, Robert A Calvillo
53	Texarkana Housing Authority, Richard Herrington, Jr
54	Texas Association of Community Development Corporations (TACDC), Matt Hull
61	Jose Menendez, State Representative, District 124
62	Michael Hartman, Individual
63	Akanai Investments, Inc, Uwe Nahuina
64	Hogan Real Estate, Inc, Michael Hogan
66	Apartment Market Data, Darrell Jack
67	Ed Ipser, Individual
68	Jeff Spicer, Individual

1 §1.31 General Provisions

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

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

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

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

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

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

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

52 (5) Comparable Unit--A Unit, when compared to the subject Unit, similar in
53 overall condition, unit amenities, utility structure, and common amenities, and
54 (A) for purposes of calculating the inclusive capture rate targets the same
55 population and is likely to draw from the same demand pool;

56 (B) for purposes of estimating the Restricted Market Rent ~~subsidized Unit rent~~
57 targets the same population and is similar in net rentable square footage and
58 number of bedrooms; or
59 (C) for purposes of estimating the subject Unit market rent does not have any
60 income or rent restrictions and is similar in net rentable square footage and
61 number of bedrooms.
62 (6) Contract Rent--Maximum Rent Limits based upon current and executed rental
63 assistance contract(s), typically with a federal, state or local governmental
64 agency.
65 (7) DCR--Debt Coverage Ratio. Sometimes referred to as the "Debt Coverage" or
66 "Debt Service Coverage." A measure of the number of times loan principal and
67 interest are covered by Net Operating Income.
68 (8) Development--Sometimes referred to as the "Subject Development." Multi-unit
69 residential housing that meets the affordability requirements for and requests
70 or has received funds from one or more of the Department's sources of funds.
71 (9) EGI--Effective Gross Income. The sum total of all sources of anticipated or
72 actual income for a rental Development less vacancy and collection loss,
73 leasing concessions, and rental income from employee-occupied units that is not
74 anticipated to be charged or collected.
75 (10) ESA--Environmental Site Assessment. An environmental report that conforms
76 with the Standard Practice for Environmental Site Assessments: Phase I
77 Assessment Process (ASTM Standard Designation: E 1527) and conducted in
78 accordance with the Department's Environmental Site Assessment Rules and
79 Guidelines in §1.35 of this subchapter as it relates to a specific Development.
80 (11) First Lien Lender--A lender whose lien has first priority.
81 (12) Gross Program Rent--Sometimes called the "Program Rents." Maximum Rent
82 Limits based upon the tables promulgated by the Department's division
83 responsible for compliance by program and by county or Metropolitan Statistical
84 Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA").
85 (13) Market Analysis--Sometimes referred to as "Market Study." An evaluation of
86 the economic conditions of supply, demand and rental rates or pricing conducted
87 in accordance with the Department's Market Analysis Rules and Guidelines in
88 §1.33 of this subchapter as it relates to a specific Development.
89 (14) Market Rent--The unrestricted rent concluded by the Market Analyst for a
90 particular unit type and size after adjustments are made to rents charged by
91 owners of Comparable Units.
92 (15) NOI--Net Operating Income. The income remaining after all operating
93 expenses, including replacement reserves and taxes have been paid.
94 (16) Primary Market--Sometimes referred to as "Primary Market Area" or
95 "Submarket" or "PMA". The area defined by the Qualified Market Analyst as
96 described in §1.33(d) ~~(8)~~~~(9)~~ of this title from which a proposed or existing
97 Development is most likely to draw the majority of its prospective tenants or
98 homebuyers.
99 (17) PCA--Property Condition Assessment. Sometimes referred to as "Physical
100 Needs Assessment," "Project Capital Needs Assessments," "Property Condition
101 Report," or "Property Work Write-Up." An evaluation of the physical condition
102 of the existing property and evaluation of the cost of rehabilitation conducted
103 in accordance with the Department's Property Condition Assessment Rules and
104 Guidelines in §1.36 of this title as it relates to a specific Development.
105 (18) Rent Over-Burdened Households--Non-elderly households paying more than 35%
106 of gross income towards total housing expenses (unit rent plus utilities) and
107 elderly households paying more than 40% of gross income towards total housing
108 expenses.
109 (19) Reserve Account--An individual account:
110 (A) Created to fund any necessary repairs for a multifamily rental housing
111 development; and
112 (B) Maintained by a First Lien Lender or Bank Trustee.

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

117 (21) Secondary Market--Sometimes referred to as "Secondary Market Area". The
118 area defined by the Qualified Market Analyst as described in §1.33(d)(7) of
119 this title.

120 ~~(21)~~(22) Supportive Housing--Sometimes referred to as "Transitional Housing."
121 Rental housing intended solely for occupancy by individuals or households
122 transitioning from homelessness or abusive situations to permanent housing and
123 typically consisting primarily of efficiency units.

124 ~~(22)~~(23) Sustaining Occupancy--The occupancy level at which rental income plus
125 secondary income is equal to all operating expenses and mandatory debt service
126 requirements for a Development.

127 ~~(23)~~(24) TDHCA Operating Expense Database--Sometimes referred to as "TDHCA
128 Database." A consolidation of recent actual operating expense information
129 collected through the Department's Annual Owner Financial Certification process
130 and published on the Department's web site.

131 ~~(24)~~(25) Underwriter--The author(s), as evidenced by signature, of the Credit
132 Underwriting Analysis Report.

133 ~~(25)~~(26) Unstabilized Development-- A Development with Comparable Units that
134 has been approved for funding by the TDHCA Board or is currently under
135 construction or has not maintained a 90% occupancy level for at least 12
136 consecutive months following construction completion.

137 ~~(26)~~(27) Utility Allowance--The estimate of tenant-paid utilities, based either
138 on the most current HUD Form 52667, "Section 8, Existing Housing Allowance for
139 Tenant-Furnished Utilities and Other Services," provided by the local entity
140 responsible for administering the HUD Section 8 program with most direct
141 jurisdiction over the majority of the buildings existing or a documented
142 estimate from the utility provider proposed in the Application. Documentation
143 from the local utility provider to support an alternative calculation can be
144 used to justify alternative Utility Allowance conclusions but must be specific
145 to the Subject Development and consistent with the building plans provided.

146 ~~(27)~~(28) Work Out Development--A financially distressed Development seeking a
147 change in the terms of Department funding or program restrictions based upon
148 market changes.

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

154 §1.32 Underwriting Rules and Guidelines

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

169 warrant the actual performance, feasibility, or viability of the Development by
170 the Department.

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

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

176 ~~(1) Identification of the Applicant and any Principals of the Applicant;~~
177 ~~(2) Identification of the funding type and amount requested by the~~
178 ~~Applicant;~~

179 ~~(3) The Underwriter's funding recommendations and any conditions of such~~
180 ~~recommendations;~~

181 ~~(4) Review and analysis of the Applicant's operating proforma;~~

182 ~~(5) Analysis of the Development's debt service capacity;~~

183 ~~(6) Review and analysis of the Applicant's development budget;~~

184 ~~(7) Evaluation of the commitment for additional sources of financing for~~
185 ~~the Development;~~

186 ~~(8) Identification of related interests among the members of the~~
187 ~~Development Team, Third Party service providers and/or the seller of the~~
188 ~~property;~~

189 ~~(9) Analysis of the Applicant's and Principals' financial statements and~~
190 ~~creditworthiness;~~

191 ~~(10) Review of the proposed Development plan and evaluation of the~~
192 ~~proposed improvements;~~

193 ~~(11) Review of the Applicant's evidence of site control and any potential~~
194 ~~title issues that may affect site control;~~

195 ~~(12) Identification of the site which includes review of the independent~~
196 ~~site inspection report;~~

197 ~~(13) Review of the Phase I Environmental Site Assessment in conformance~~
198 ~~with the Department's Environmental Site Assessment Rules and Guidelines in~~
199 ~~§1.35 of this subchapter or soils and hazardous material reports as required;~~

200 ~~(14) Review of market data and Market Study information and any valuation~~
201 ~~information available for the property in conformance with the Department's~~
202 ~~Market Analysis Rules and Guidelines in §1.33 of this subchapter;~~

203 ~~(15) Review of the appraisal, if required, for conformance with the~~
204 ~~Department's Appraisal Rules and Guidelines in §1.34 of this subchapter; and,~~

205 ~~(16) Review of the Property Condition Assessment, if required, for~~
206 ~~conformance with the Department's Property Condition Assessment Rules and~~
207 ~~Guidelines in §1.36 of this subchapter.~~

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

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

221 (2) Gap/DCR Method. This method evaluates the amount of funds needed to fill
222 the gap created by total development cost less total non-Department-sourced
223 funds or Tax Credits. In making this determination, the Underwriter resizes any
224 anticipated deferred developer fee down to zero before reducing the amount of

225 Department funds or Tax Credits. In the case of Housing Tax Credits, the
226 syndication proceeds needed to fill the gap in permanent funds are divided by
227 the syndication rate to determine the amount of Tax Credits. In making this
228 determination, the Department adjusts the permanent loan amount and/or any
229 Department-sourced loans, as necessary, such that it conforms to the DCR
230 standards described in this section.

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

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

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

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

258 (i) Market Rents. The Underwriter reviews the attribute adjustment matrix
259 ~~Attribute Adjustment Matrix~~ of Comparable Units by unit size provided by the
260 Market Analyst and determines if the adjustments and conclusions made are
261 reasoned and well documented. The Underwriter uses the Market Analyst's
262 conclusion of adjusted Market Rent by unit, as long as the proposed Market Rent
263 is reasonably justified and does not exceed the highest existing unadjusted
264 market comparable rent. Random checks of the validity of the Market Rents may
265 include direct contact with the comparable properties. The Market Analyst's
266 attribute adjustment matrix should include, at a minimum, adjustments for
267 location, size, amenities, and concessions as more fully described in §1.33 of
268 this title.

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

280 (iii) Program Rents less Utility Allowance. The Underwriter reviews the
281 Applicant's proposed rent schedule and determines if it is consistent with the

282 representations made in the remainder of the application. The Underwriter uses
283 the Program Rents as promulgated by the Department's division responsible for
284 compliance for the year that is most current at the time the underwriting
285 begins. When underwriting for a simultaneously funded competitive round, all of
286 the applications are underwritten with the rents promulgated for the same year.
287 Program Rents are reduced by the Utility Allowance. The Utility Allowance
288 figures used are determined based upon what is identified in the application by
289 the Applicant as being a utility cost paid by the tenant and upon other
290 consistent documentation provided in the application.

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

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

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

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

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

308 (B) Miscellaneous Income. All ancillary fees and miscellaneous secondary
309 income, including but not limited to late fees, storage fees, laundry income,
310 interest on deposits, carport rent, washer and dryer rent, telecommunications
311 fees, and other miscellaneous income, are anticipated to be included in a \$5 to
312 \$15 per unit per month range. Exceptions may be made at the discretion of the
313 Underwriter for garage income, pass-through utility payments, pass-through
314 water, sewer and trash payments, cable fees, congregate care/assisted
315 living/elderly facilities, and child care facilities.

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

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

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

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

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

332 (C) Vacancy and Collection Loss. The Underwriter uses a vacancy rate of 7.5%
333 (5% vacancy plus 2.5% for collection loss) unless the Market Analysis reflects
334 a higher or lower established vacancy rate for the area. Elderly and 100%
335 project-based rental subsidy Developments and other well documented cases may
336 be underwritten at a combined 5% at the discretion of the Underwriter if the
337 historical performance reflected in the Market Analysis is consistently higher
338 than a 95% occupancy rate.

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

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

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

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

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

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

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

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

394 (G) Insurance Expense. Insurance Expense includes any insurance for the
395 buildings, contents, and liability but not health or workman's compensation
396 insurance. The underwriting tolerance level for this line item is 30%.
397 (H) Property Tax. Property Tax includes all real and personal property taxes
398 but not payroll taxes. The underwriting tolerance level for this line item is
399 10%.
400 (i) The per unit assessed value will be calculated based on the capitalization
401 rate published on the county taxing authority's website. If the county taxing
402 authority does not publish a capitalization rate on the internet, a
403 capitalization rate of 10% will be used or comparable assessed values may be
404 used in evaluating this line item expense.
405 (ii) Property tax exemptions or proposed payment in lieu of tax agreement
406 (PILOT) must be documented as being reasonably achievable if they are to be
407 considered by the Underwriter. At the discretion of the Underwriter, a property
408 tax exemption that meets known federal, state and local laws may be applied
409 based on the tax-exempt status of the Development Owner and its Affiliates.
410 (I) Reserves. Reserves include annual reserve for replacements of future
411 capitalizable expenses as well as any ongoing additional operating reserve
412 requirements. The Underwriter includes minimum reserves of ~~\$250~~~~\$200~~ per unit
413 for new construction and \$300 per unit for all other Developments. The
414 Underwriter may require an amount above \$300 for Developments other than new
415 construction based on information provided in the PCA. Higher levels of
416 reserves also may be used if they are documented in the financing commitment
417 letters.
418 (J) Other Expenses. The Underwriter will include other reasonable and
419 documented expenses, not including depreciation, interest expense, lender or
420 syndicator's asset management fees, or other ongoing partnership fees. Lender
421 or syndicator's asset management fees or other ongoing partnership fees also
422 are not considered in the Department's calculation of debt coverage. The most
423 common other expenses are described in more detail in clauses (i) - (iv) of
424 this subparagraph.
425 (i) Supportive Services Expense. Supportive Services Expense includes the
426 documented cost to the owner of any non-traditional tenant benefit such as
427 payroll for instruction or activities personnel. The Underwriter will not
428 evaluate any selection points for this item. The Underwriter's verification
429 will be limited to assuring any anticipated costs are included. For all
430 transactions supportive services expenses are considered in calculating the
431 Debt Coverage Ratio.
432 (ii) Security Expense. Security Expense includes contract or direct payroll
433 expense for policing the premises of the Development. The Applicant's amount is
434 typically accepted as provided. The Underwriter will require documentation of
435 the need for security expenses that exceed 50% of the anticipated payroll
436 expense estimate discussed in subparagraph (C) of this paragraph.
437 (iii) Compliance Fees. Compliance fees include only compliance fees charged by
438 TDHCA. The Department's charge for a specific program may vary over time;
439 however, the Underwriter uses the current charge per unit per year at the time
440 of underwriting. For all transactions compliance fees are considered in
441 calculating the Debt Coverage Ratio.
442 (iv) Cable Television Expense. Cable Television Expense includes fees charged
443 directly to the owner of the Development to provide cable services to all
444 units. The expense will be considered only if a contract for such services with
445 terms is provided and income derived from cable television fees is included in
446 the projected EGI. Cost of providing cable television in only the community
447 building should be included in General and Administrative Expense as described
448 in subparagraph (A) of this paragraph.
449 (K) The Department will communicate with and allow for clarification by the
450 Applicant when the overall expense estimate is over 5% greater or less than the

451 Underwriter's estimate. In such a case, the Underwriter will inform the
452 Applicant of the line items that exceed the tolerance levels indicated in this
453 paragraph, but may request additional documentation supporting some, none or
454 all expense line items. If an acceptable rationale for the difference is not
455 provided, the discrepancy is documented in the Report and the justification
456 provided by the Applicant and the countervailing evidence supporting the
457 Underwriter's determination is noted. If the Applicant's total expense estimate
458 is within 5% of the final total expense figure calculated by the Underwriter,
459 the Applicant's figure is characterized as reasonable in the Report; however,
460 for purposes of calculating DCR the Underwriter will maintain and use its
461 independent calculation unless the Applicant's Year 1 proforma meets the
462 requirements of paragraph (3) of this subsection.

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

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

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

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

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

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

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

500 (D) Acceptable Debt Coverage Ratio Range. The ~~initial~~-acceptable Year 1 DCR
501 range for all priority or foreclosable lien financing plus the Department's
502 proposed financing falls between a minimum of 1.151-10 to a maximum of
503 1.351-30. HOPE VI and USDA Rural Development transactions may underwrite to a
504 DCR less than 1.151-10 based upon documentation of acceptance from the lender.

505 (i) For Developments other than HOPE VI and USDA Rural Development
506 transactions, if the DCR is less than the minimum, the recommendations of the
507 Report are conditioned upon a reduced debt service and the Underwriter will

508 make adjustments to the assumed financing structure in the order presented in
509 subclauses (I) - (III) of this clause.
510 (I) A reduction of the interest rate or an increase in the amortization period
511 for TDHCA funded loans;
512 (II) A reclassification of TDHCA funded loans to reflect grants, if permitted
513 by program rules;
514 (III) A reduction in the permanent loan amount for non-TDHCA funded loans based
515 upon the rates and terms in the permanent loan commitment letter as long as
516 they are within the ranges in subparagraphs (A) and (B) of this paragraph.
517 (ii) If the DCR is greater than the maximum, the recommendations of the Report
518 are conditioned upon an increase in the debt service and the Underwriter will
519 make adjustments to the assumed financing structure in the order presented in
520 subclauses (I) - (III) of this clause.
521 (I) A reclassification of TDHCA funded grants to reflect loans, if permitted by
522 program rules;
523 (II) An increase in the interest rate or a decrease in the amortization period
524 for TDHCA funded loans;
525 (III) An increase in the permanent loan amount for non-TDHCA funded loans based
526 upon the rates and terms in the permanent loan commitment letter as long as
527 they are within the ranges in subparagraphs (A) and (B) of this paragraph.
528 (iii) For Housing Tax Credit Developments, a reduction in the recommended Tax
529 Credit allocation may be made based on the gap/DCR method described in
530 subsection (c)(2) of this section.
531 (iv) Although adjustments in Debt Service may become a condition of the Report,
532 future changes in income, expenses, and financing terms could allow for an
533 acceptable DCR.
534 (5) Long Term ~~Proforma-Feasibility~~. The Underwriter will ~~evaluate the long term~~
535 ~~feasibility of the Development by creating~~create a ~~30-year20-year~~30-year
536 operating proforma.
537 ~~(A) A 3% annual growth factor is utilized for income and a 4% annual growth~~
538 ~~factor is utilized for expenses.~~
539 ~~(A)(B)~~ The base year projection utilized is the Underwriter's Year 1 EGI, Year
540 1 operating expenses, and Year 1 NOI unless the Applicant's Year 1 EGI, Year 1
541 total operating expenses, and Year 1 NOI are each within 5% of the
542 Underwriter's estimates.
543 ~~(B)In general,~~a 3% annual growth factor is utilized for income and a 4% annual
544 growth factor is utilized for expenses.
545 (C) Adjustments may be made to the Long Term Proforma if sufficient support
546 documentation is provided by the Applicant. Support may include
547 (i) documentation with terms for Project-based Rental Assistance or Operating
548 Subsidy;
549 (ii) a fully executed management contract with clear terms;
550 (iii) documentation prepared and signed by the Central Appraisal District (CAD)
551 with jurisdiction over the Development indicating the appraisal methodology
552 consistently employed by the CAD and a ten-year history, beginning with the
553 Application year, of tax rates for each taxing district with jurisdiction over
554 the Development; and
555 (iv) required reserve for replacement schedule prepared and signed by the
556 proposed permanent lender or equity provider. In no instance will the reserve
557 for replacement figure included in the Long Term Proforma be less than the
558 minimum requirements as described in §1.37 of this title.
559 ~~(C) The DCR should remain above a 1.10 and a continued positive Cash Flow~~
560 ~~should be projected for the initial 30 year period in order for the Development~~
561 ~~to be characterized as feasible for the long term. DCR will be calculated based~~
562 ~~on the guidelines stated in subsection (d)(4) of this section.~~
563 ~~(D) Any Development with a 30-year proforma, used in the underwriting analysis,~~
564 ~~reflecting cumulative Cash Flow over the first fifteen years as insufficient to~~

565 ~~repay the projected amount of deferred developer fee, amortized in irregular~~
566 ~~payments at 0% interest, is characterized as infeasible. An infeasible~~
567 ~~Development will not be recommended for funding unless the Underwriter can~~
568 ~~determine a plausible alternative feasible financing structure and conditions~~
569 ~~the recommendation(s) in the Report accordingly.~~

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

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

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

592 (B) Identity of Interest Acquisitions.

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

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

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

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

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

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

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

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

620 (2) Off-Site Costs. Off-Site costs are costs of development up to the site
621 itself such as the cost of roads, water, sewer and other utilities to provide

622 the site with access. All off-site costs must be well documented and certified
623 by a Third Party engineer on the required application form.

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

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

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

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

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

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

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

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

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

672 (6) Contractor Fee ~~Limits~~. Contractor fees are limited at a total of 14% to 6%
673 for general requirements, 2% for contractor overhead, and 6% for contractor
674 profit. The percentage is percentages are applied to the sum of the direct
675 construction costs plus site work costs. For tax credit Developments, the
676 percentages are applied to the sum of the eligible direct construction costs
677 plus eligible site work costs in calculating the eligible contractor fees.
678 Minor reallocations to make these fees fit within these limits may be made at

679 ~~the discretion of the Underwriter.~~ For Developments also receiving financing
680 from TX-USDA-RHS, the combination of builder's general requirements, builder's
681 overhead, and builder's profit should not exceed the lower of TDHCA or TX-USDA-
682 RHS requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

772 ~~(C) The Development is comprised of Affordable Housing which replaces~~
773 ~~previously existing substandard Affordable Housing within the same Primary~~
774 ~~Market Area on a Unit for Unit basis, and which gives the displaced tenants of~~
775 ~~the previously existing Affordable Housing a leasing preference, in which case~~
776 ~~an inclusive capture rate is not applicable.~~(3) The Underwriter will identify

777 in the report any Developments funded or known and anticipated to be eligible
778 for funding within one linear mile of the subject.

779 ~~(3)(4)~~ Supportive Housing. The unique development and operating characteristics
780 of Supportive Housing Developments may require special consideration in the
781 following areas:

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

789 (B) Operating Expenses. A Supportive Housing Development may have significantly
790 higher expenses for payroll, management fee, security, resident support
791 services, or other items than typical Affordable Housing Developments. The

792 Underwriter will rely heavily upon the historical operating expenses of other
793 Supportive Housing Developments provided by the Applicant or otherwise
794 available to the Underwriter.

795 (C) DCR and Long Term Feasibility. Supportive Housing Developments may be
796 exempted from the DCR requirements of subsection (d)(4)(D) of this section if
797 the Development is anticipated to operate without conventional debt. Applicants
798 must provide evidence of sufficient financial resources to offset any projected
799 ~~15-year~~~~20-year~~~~30-year~~ cumulative negative cash flows. Such evidence will be
800 evaluated by the Underwriter on a case-by-case basis to satisfy the
801 Department's long term feasibility requirements and may take the form of one or
802 a combination of the following: executed subsidy commitment(s), set-aside of
803 Applicant's financial resources, to be substantiated by an audited financial
804 statement evidencing sufficient resources, and/or proof of annual fundraising
805 success sufficient to fill anticipated operating losses. If either a set aside
806 of financial resources or annual fundraising are used to evidence the long term
807 feasibility of a Supportive Housing Development, a resolution from the
808 Applicant's governing board must be provided confirming their irrevocable
809 commitment to the provision of these funds and activities.

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

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

824 (i) Feasibility Conclusion. An infeasible Development will not be recommended
825 for funding or allocation unless the Underwriter can determine a plausible
826 alternative feasible financing structure and conditions the recommendations of
827 the report upon receipt of documentation supporting the alternative feasible
828 financing structure. A development will be characterized as infeasible if
829 paragraph (1) or (2) of this subsection applies. The Development will be
830 characterized as infeasible if one or more of paragraphs (3)~~(2)~~ - (5)~~(4)~~ of
831 this subsection applies unless paragraph (6)~~(5)~~ of this subsection also
832 applies.

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

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

837 ~~(i)~~ above 50%75% for the total proposed units; or

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

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

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

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

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

848 (i) Replacement Housing. The Development is comprised of Affordable Housing
849 which replaces previously existing substandard Affordable Housing within the
850 Primary Market Area as defined in §1.33 of this title on a Unit for Unit basis,
851 and gives the displaced tenants of the previously existing substandard
852 Affordable Housing a leasing preference.
853 (ii) Existing Housing. The Development is comprised of existing Affordable
854 Housing which is at least 80% occupied and gives displaced existing tenants a
855 leasing preference as stated in the submitted relocation plan.
856 (2) ~~Deferred Developer Fee.~~ Development requesting an allocation of tax credits
857 cannot repay the estimated deferred developer fee, based on the Underwriter's
858 recommended financing structure, from cashflow within the first 15 years of the
859 long term proforma as described in subsection (d)(5) of this section.
860 (3)~~(2)~~ Restricted Market Rent. The Restricted Market Rent for units with rents
861 restricted at 60% of AMGI is
862 ~~(A) less than both the net Program Rent and Market Rent for units with income~~
863 ~~and rents restricted at or below 50% of AMGI unless the development proposes~~
864 ~~all restricted units with rents restricted at or below the 50% of AMGI level.†~~
865 ~~or~~
866 ~~(B) more than 10% below the lesser of the net Program Rent or Market Rent for~~
867 ~~units with income and rents restricted at or below 60% of AMGI, but above 50%~~
868 ~~of AMGI.~~
869 (4)~~(3)~~ Initial Feasibility. The Year 1 annual total operating expense divided
870 by the Year 1 Effective Gross Income is greater than 65%.
871 (5)~~(4)~~ Long Term Feasibility. Any year in the first 15 years of the Long Term
872 Proforma, as defined in subsection (d)(5) of this section, reflects
873 (A) negative Cash Flow; or
874 (B) a Debt Coverage Ratio below 1.15.
875 (6)~~(5)~~ Exceptions. Developments meeting the requirements of one or more of
876 paragraphs ~~(3)(2)~~ - ~~(5)(4)~~ of this subsection may be re-characterized as
877 feasible if one or more of subparagraphs (A) - ~~(C)(D)~~ of this paragraph and
878 subparagraph ~~(D)(E)~~ of this paragraph apply.
879 ~~(A) The Development LURA reflects rents restricted at or below that affordable~~
880 ~~to the annualized income level calculated by dividing the Restricted Market~~
881 ~~Rent by 30%, rounded to the next lowest 10%.~~
882 ~~(D)~~ The Development will receive Project-based Section 8 Rental Assistance and
883 a firm commitment with terms including contract rent and number of units is
884 submitted at application.
885 ~~(B) ~~(C)~~~~ The Development will receive rental assistance in association with USDA-
886 RD-RHS financing.
887 ~~(C)~~(D)~~~~ The Development will be characterized as public housing as defined by
888 HUD.
889 ~~(D)~~(E)~~~~ The units not receiving Project-based Section 8 Rental Assistance or
890 rental assistance in association with USDA-RD-RHS financing, or not
891 characterized as public housing do not propose rents that are less than the
892 Project-based Section 8, USDA-RD-RHS financing, or public housing units.

893
894 §1.33 Market Analysis Rules and Guidelines

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

901 (b) Self-Contained. A Market Analysis prepared for the Department must allow
902 the reader to understand the market data presented, the analysis of the data,
903 and the conclusions derived from such data. All data presented should reflect
904 the most current information available and the report must provide a

905 parenthetical (in-text) citation or footnote describing the data source. The
906 analysis must clearly lead the reader to the same or similar conclusions
907 reached by the Market Analyst. All steps leading to a calculated figure must
908 be presented in the body of the report.

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

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

921 (A) Documentation of good standing in the State of Texas.
922 (B) A current organization chart or list reflecting all members of the firm who
923 may author or sign the Market Analysis.
924 (C) Resumes for all members of the firm or subcontractors who may author or
925 sign the Market Analysis.
926 (D) General information regarding the firm's experience including references,
927 the number of previous similar assignments and time frames in which previous
928 assignments were completed.
929 (E) Certification from an authorized representative of the firm that the
930 services to be provided will conform to the Department's Market Analysis Rules
931 and Guidelines, as described in this section, in effect for the application
932 round in which each Market Analysis is submitted.
933 (F) A sample Market Analysis that conforms to the Department's Market Analysis
934 Rules and Guidelines, as described in this section, in effect for the year in
935 which the sample Market Analysis is submitted.

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

946 (A) In and of itself, removal from the list of approved Market Analysts will
947 not invalidate a Market Analysis commissioned prior to the removal date and at
948 least 90 days prior to the first day of the applicable Application Acceptance
949 Period.
950 (B) To be reinstated as an approved Qualified Market Analyst, the Market
951 Analyst must amend the previous report to remove all discrepancies or submit a
952 new sample Market Analysis that conforms to the Department's Market Analysis
953 Rules and Guidelines, as described in this section, in effect for the year in
954 which the updated or new sample Market Analysis is submitted.

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

958 (d) Market Analysis Contents. A Market Analysis for a rental Development
959 prepared for the Department must be organized in a format that follows a
960 logical progression and must include, at minimum, items addressed in paragraphs
961 (1) - (12) of this subsection.

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

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

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

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

978 ~~(4)(5)~~ Assumptions and Limiting Conditions. Include a description of all
979 assumptions, both general and specific, made by the Market Analyst concerning
980 the Property.

981 ~~(5)(6)~~ Identification of the Property. Provide a statement to acquaint the
982 reader with the Development. Such information includes street address, tax
983 assessor's parcel number(s), and Development characteristics.

984 ~~(6)(7)~~ Statement of Ownership. Disclose the current owners of record and
985 provide a three year history of ownership for the subject Property.

986 ~~(7)(8)~~ Secondary Market Area. All of the Market Analyst's conclusions specific
987 to the subject Development must be based on only one Secondary Market Area
988 definition. The entire PMA, as described in paragraph ~~(8)(9)~~ of this
989 subsection, must be contained within the Secondary Market boundaries.
990 ~~Secondary Market Demand will be considered for only Qualified Elderly~~
991 ~~Developments or Developments targeting special needs populations.~~ The Market
992 Analyst must adhere to the methodology described in this paragraph when
993 determining the secondary market area (§2306.67055).

994 (A) The Secondary Market Area will be defined by the Market Analyst with
995 ~~boundaries based on (in descending order of TDHCA preference)~~
996 (i) size based on a base year population of no more than 250,000 people for
997 Developments targeting families, and
998 (ii) boundaries based on
999 (I)(i) major roads,
1000 (II)(ii) political boundaries, and
1001 (III)(iii) natural boundaries.
1002 (IV)(iv) A radius is prohibited as a boundary definition.

1003 (B) The Market Analyst's definition of the Secondary Market Area must be
1004 supported with a detailed description of the methodology used to determine the
1005 boundaries. If applicable, the Market Analyst must place special emphasis on
1006 data used to determine an irregular shape for the Secondary Market.

1007 (C) A scaled distance map indicating the Secondary Market Area boundaries that
1008 clearly identifies the location of the subject Property must be included.

1009 ~~(8)(9)~~ Primary Market Area. All of the Market Analyst's conclusions specific to
1010 the subject Development must be based on only one Primary Market Area
1011 definition. The Market Analyst must adhere to the methodology described in
1012 this paragraph when determining the market area (§2306.67055).

1013 (A) The Primary Market Area will be defined by the Market Analyst with
1014 (i) size based on a base year population of no more than
1015 (I) 100,000 people for Developments targeting the general population, and
1016 (II) 250,000 people for Qualified Elderly Developments or Developments
1017 targeting special needs populations,
1018 (ii) boundaries based on ~~(in descending order of TDHCA preference)~~

1019 (I) major roads,
1020 (II) political boundaries, and
1021 (III) natural boundaries.
1022 (IV) A radius is prohibited as a boundary definition.
1023 (B) The Market Analyst's definition of the Primary Market Area must be
1024 supported with a detailed description of the methodology used to determine the
1025 boundaries. If applicable, the Market Analyst must place special emphasis on
1026 data used to determine an irregular shape for the PMA.
1027 (C) A scaled distance map indicating the Primary Market Area boundaries that
1028 clearly identifies the location of the subject Property and the location of all
1029 Local Amenities must be included.
1030 ~~(9)~~(10) Market Information.
1031 (A) For each of the defined market areas, identify the number of units for each
1032 of the categories in clauses (i) - (vi) of this subparagraph; the data must be
1033 clearly labeled as relating to either the PMA or the Secondary Market, if
1034 applicable
1035 (i) total housing,
1036 (ii) rental developments,
1037 (iii) Affordable Housing,
1038 (iv) Comparable Units,
1039 (v) Unstabilized Comparable Units, and
1040 (vi) proposed Comparable Units.
1041 (B) Occupancy. The occupancy rate indicated in the Market Analysis may be used
1042 to support both the overall demand conclusion for the proposed Development and
1043 the vacancy rate assumption used in underwriting the Development
1044 (§1.32(d)(1)(C)). State the overall physical occupancy rate for the proposed
1045 housing tenure (renter or owner) within the defined market areas by
1046 (i) number of Bedrooms,
1047 (ii) quality of construction (class),
1048 (iii) Targeted Population, and
1049 (iv) Comparable Units.
1050 (C) Absorption. State the absorption trends by quality of construction (class)
1051 and absorption rates for Comparable Units.
1052 (D) Turnover. The turnover rate should be specific to the Targeted Population.
1053 The data supporting the turnover rate must originate from documented turnover
1054 rates from at least one of the following ~~(in descending order of TDHCA~~
1055 ~~preference)~~
1056 (i) Comparable Units,
1057 (ii) the defined PMA,
1058 (iii) the defined Secondary Market, and
1059 (iv) a Third Party data collection agency or demographer.
1060 (E) Demand. Provide a comprehensive evaluation of the need for the proposed
1061 housing for each Unit type by number of Bedrooms proposed and rent restriction
1062 category within the defined market areas using the most current census and
1063 demographic data available.
1064 (i) Demographics.
1065 (I) Population. Provide population and household figures, supported by actual
1066 demographics, for a five-year period with the year of application as the base
1067 year.
1068 (II) Target. If applicable, adjust the household projections for the Qualified
1069 Elderly or special needs population targeted by the proposed Development.
1070 State the target adjustment rate.
1071 (III) Household Size-Appropriate. Adjust the household projections or target
1072 household projections, as applicable, for the appropriate household size for
1073 the proposed Unit type by number of Bedrooms proposed and rent restriction
1074 category ~~Development~~ based on 1.5 persons per Bedroom ~~bedroom~~ (round up). State
1075 the Household Size-Appropriate adjustment rate.

1076 (IV) Income Eligible. Adjust the household size appropriate projections for
1077 income eligibility based on the income bands for the proposed Unit type by
1078 number of Bedrooms proposed and rent restriction categoryDevelopment with
1079 (-a-) the lower end of each income band calculated based on the lowest gross
1080 rent proposed divided by 35% for the general population and 40% for Qualified
1081 Elderly households, and
1082 (-b-) the upper end of each income band equal to the applicable gross median
1083 income limit for the largest appropriate household size based on 1.5 persons
1084 per ~~Bedroom~~bedroom (round up).
1085 (-c-) State the Income Eligible adjustment rate.
1086 (V) Tenure-Appropriate. Adjust the income-eligible household projections for
1087 tenure (renter or owner). State the Tenure-Appropriate adjustment rate.
1088 (ii) Demand from Turnover. Apply the turnover rate as described in subparagraph
1089 (D) of this paragraph to the target, income-eligible, size-appropriate and
1090 tenure-appropriate households in the PMA projected at ~~twelve months prior to~~
1091 the proposed placed in service date.
1092 (iii) Demand from Population Growth. Calculate the target, income-eligible,
1093 size-appropriate and tenure-appropriate household growth in the PMA for the
1094 twelve month period ~~following prior to~~ the proposed placed in service date.
1095 (iv) Demand from Secondary Market Area.
1096 (I) Apply the turnover rate as described in subparagraph (D) of this paragraph
1097 to the target, income-eligible, size-appropriate and tenure-appropriate
1098 households in the Secondary Market Area projected at the proposed placed in
1099 service date.
1100 (II) Only 25% of the demand calculated in subclause (I) of this clause may be
1101 included in the calculation of demand as described in paragraph(10)(D) of this
1102 subsection and for use in calculation of inclusive capture rate as described in
1103 paragraph (10)(E) of this subsection.
1104 (v) Demand from Other Sources. The source of additional demand and the
1105 methodology used to calculate the additional demand must be clearly stated.
1106 Calculation of additional demand must factor in the adjustments described in
1107 clause (i) of this subparagraph.
1108 ~~(10)(11)~~ Conclusions. Include a comprehensive evaluation of the subject
1109 Property, separately addressing each housing type and specific population to be
1110 served by the Development in terms of items in subparagraphs (A) - (G) of this
1111 paragraph. All conclusions must be consistent with the data and analysis
1112 presented throughout the Market Analysis.
1113 (A) Unit Mix. Provide a best possible unit mix conclusion based on the
1114 occupancy rates by ~~Bedroom~~bedroom type within the PMA and target, income-
1115 eligible, size-appropriate and tenure-appropriate household demand within the
1116 PMA.
1117 (B) Rents. Provide a separate market rent and Restricted Market Rents~~subsidized~~
1118 ~~rent~~ conclusion for each proposed Unit~~unit~~ type by ~~number of Bedrooms~~~~bedrooms~~
1119 ~~or net rentable square footage~~ and rent restriction category. Conclusions of
1120 Market Rents~~Market Rents~~ or Restricted Market Rents~~subsidized rent~~ below the
1121 maximum net Program Rent~~program rent~~ limit must be well documented as the
1122 conclusions may impact the feasibility of the Development under §1.32(i) of
1123 this title.
1124 (i) Comparable Units. Identify developments in the PMA with Comparable Units.
1125 In Primary Market Areas lacking sufficient rent comparables, it may be
1126 necessary for the Market Analyst to collect data from markets with similar
1127 characteristics and make quantifiable location adjustments. Provide a data
1128 sheet for each development consisting of
1129 (I) Development name,
1130 (II) address,
1131 (III) year of construction and year of rehabilitation, if applicable,
1132 (IV) property condition,

1133 (V) population target,
1134 (VI) unit mix specifying number of Bedrooms~~bedrooms~~, number of baths, net
1135 rentable square footage and
1136 (-a-) monthly rent, or
1137 (-b-) sales price with terms, marketing period and date of sale,
1138 (VII) description of concessions,
1139 (VIII) list of unit amenities,
1140 (IX) utility structure,
1141 (X) list of common amenities, and
1142 (XI) for rental developments only
1143 (-a-) occupancy, and
1144 (-b-) turnover.
1145 (ii) Provide a scaled distance map indicating the Primary Market Area
1146 boundaries that clearly identifies the location of the subject Property and the
1147 location of the identified developments with Comparable Units.
1148 (iii) Rent Adjustments. In support of the Market Rent~~market rent~~ and
1149 Restricted Market Rents~~subsidized rent~~ conclusions, provide a separate attribute
1150 adjustment matrix for each proposed unit type by ~~(number of Bedrooms~~~~bedrooms or~~
1151 ~~net rentable square footage)~~ and rental restriction category.
1152 (I) The Department recommends use of HUD Form 92273.
1153 (II) A minimum of three developments must be represented on each attribute
1154 adjustment matrix.
1155 (III) Adjustments for concessions must be included, if applicable.
1156 (IV) Total adjustments in excess of 15% must be supported with additional
1157 narrative.
1158 (V) Total adjustments in excess of 25% indicate the Units are not comparable
1159 for the purposes of determining Market Rent and Restricted Market Rent
1160 conclusions~~suggests a weak comparable~~.
1161 (C) Effective Gross Income. Provide rental income, secondary income, and
1162 vacancy and collection loss projections for the subject derived independent of
1163 the Applicant's estimates.
1164 (D) Demand. State the target, income-eligible, size-appropriate and tenure-
1165 appropriate household demand by Unit type by number of Bedrooms proposed and
1166 rent restriction category (e.g. one-Bedroom units restricted at 50% of AMFI;
1167 two-Bedroom units restricted at 60% of AMFI) by summing the demand components
1168 applicable to the subject Development discussed in paragraph (9)(E)(ii) -
1169 (iv)(v) of this subsection. State the total target, income-eligible, size-
1170 appropriate and tenure-appropriate household demand by summing the demand
1171 components applicable to the subject Development discussed in paragraph
1172 (9)(E)(ii) - ~~(iv)(v)~~ of this subsection.
1173 (E) Inclusive Capture Rate. The Market Analyst must calculate inclusive capture
1174 rates for the subject Development's proposed Unit types by number of Bedrooms
1175 and rent restriction categories~~program Units~~, market rate Units, if applicable,
1176 and total Units. The Underwriter will adjust the inclusive capture rates to
1177 take into account any errors or omissions. To calculate an inclusive capture
1178 rate
1179 (i) total
1180 (I) the proposed subject Units,
1181 (II) Comparable Units with priority, as defined in ~~§50.9(e)(2)~~49.9(d)(2) of
1182 this title, over the subject that have made application to TDHCA and have not
1183 been presented to the TDHCA Board for decision and
1184 (III) ~~previously approved but Unstabilized~~ Comparable Units in previously
1185 approved but Unstabilized Developments, and
1186 (ii) divide by the total target, income-eligible, size-appropriate and tenure-
1187 appropriate household demand stated in subparagraph (D) of this paragraph.
1188 (iii) Refer to §1.32(i) for feasibility criteria.

1189 (F) Absorption. Project an absorption period for the subject Development to
1190 achieve Sustaining Occupancy. State the absorption rate.

1191 (G) Market Impact. Provide an assessment of the impact the subject Development,
1192 as completed, will have on existing program Developments in the Primary Market
1193 (§2306.67055).

1194 ~~(11)(12)~~ Photographs. Provide labeled color photographs of the subject
1195 Property, the neighborhood, street scenes, and comparables. An aerial
1196 photograph is desirable but not mandatory.

1197 ~~(12)(13)~~ Appendices. Any Third Party reports including demographics relied upon
1198 by the Market Analyst must be provided in appendix form. A list of works cited
1199 including personal communications also must be provided, and the Modern
1200 Language Association (MLA) format is suggested.

1201 (e) The Department reserves the right to require the Market Analyst to address
1202 such other issues as may be relevant to the Department's evaluation of the need
1203 for the subject Development and the provisions of the particular program
1204 guidelines.

1205 (f) All Applicants shall acknowledge, by virtue of filing an application, that
1206 the Department shall not be bound by any such opinion or Market Analysis, and
1207 may substitute its own analysis and underwriting conclusions for those
1208 submitted by the Market Analyst.

1209
1210 §1.34 Appraisal Rules and Guidelines

1211 (a) General Provisions. ~~Appraisals.~~ An appraisal prepared for the Department
1212 must conform to the Uniform Standards of Professional Appraisal Practice
1213 (USPAP) as adopted by the Appraisal Standards Board of the Appraisal
1214 Foundation. ~~Self-contained reports must~~

1215 (b) Self-Contained. An appraisal prepared for the Department must describe
1216 sufficient and adequate data and analyses to support the final opinion of
1217 value. The final value(s) must be reasonable, based on the information
1218 included. Any Third Party reports relied upon by the appraiser must be verified
1219 by the appraiser as to the validity of the data and the conclusions. ~~The report~~
1220 ~~must contain sufficient data, included in the appendix when possible, and~~
1221 ~~analysis to allow the reader to understand the property being appraised, the~~
1222 ~~market data presented, analysis of the data, and the appraiser's value~~
1223 ~~conclusion. The complexity of this requirement will vary in direct proportion~~
1224 ~~with the complexity of the real estate and real estate interest being~~
1225 ~~appraised. The report should lead the reader to the same or similar~~
1226 ~~conclusion(s) reached by the appraiser.~~

1227 ~~(b) Upon completion of the report, an electronic copy should be transmitted to~~
1228 ~~TDHCA, and an original hard copy must be submitted.~~

1229
1230 ~~(c) Value Estimates.~~

1231 ~~(1) All appraisals shall contain a separate estimate of the "as vacant" market~~
1232 ~~value of the underlying land, based upon current sales comparables.~~

1233 ~~(2) Appraisal assignments for new construction are required to provide an "as~~
1234 ~~completed" value of the proposed structures. These reports shall provide an "as~~
1235 ~~restricted with favorable financing" value as well as an "unrestricted market"~~
1236 ~~value.~~

1237 ~~(3) Reports on Properties to be rehabilitated shall address the "as restricted~~
1238 ~~with favorable financing" value as well as both an "as is" value and an "as~~
1239 ~~completed" value.~~

1240 ~~(4) If required the appraiser must include a separate assessment of personal~~
1241 ~~property, furniture, fixtures, and equipment (FF&E) and/or intangible items.~~
1242 ~~This separate assessment may be required because their economic life may be~~
1243 ~~shorter than the real estate improvements and may require different lending or~~
1244 ~~underwriting considerations. If personal property, FF&E, or intangible items~~

1245 ~~are not part of the transaction or value estimate, a statement to such effect~~
1246 ~~should be included.~~

1247 ~~(d) Date of Appraisal. The appraisal report must be dated and signed by the~~
1248 ~~appraiser who inspected the property. The date of valuation should not be more~~
1249 ~~than six months prior to the date of application to the Department unless the~~
1250 ~~Department's program rules indicate otherwise.~~

1251 ~~(e) Appraiser Qualifications. The qualifications of each appraiser are~~
1252 ~~determined and approved on a case-by-case basis by the Director of Real Estate~~
1253 ~~Analysis or review appraiser, based upon the quality of the report itself and~~
1254 ~~the experience and educational background of the appraiser, as set forth in the~~
1255 ~~Statement of Qualifications appended to the appraisal. At minimum, a qualified~~
1256 ~~appraiser must be appropriately certified or licensed for the type of appraisal~~
1257 ~~being performed by the Texas Appraiser Licensing and Certification Board.~~

1258 ~~(f)(d) Appraisal Contents. An appraisal prepared for the Department must be~~
1259 ~~organized in a format that follows a logical progression and. In addition to~~
1260 ~~the contents described in USPAP Standards Rule 2, the appraisal must include,~~
1261 ~~at minimum, items addressed in paragraphs (1) through (18- (12) of this~~
1262 ~~subsection.~~

1263 ~~(1) Title Page. Include identification as to the type of appraisal submitted~~
1264 ~~(e.g., type of process complete or limited, type of report self contained,~~
1265 ~~summary or restricted), property address and/or location, housing type, a~~
1266 ~~statement identifying the Department addressed as the client or acknowledgement~~
1267 ~~that THDCA, acknowledging that the Department is granted full authority to~~
1268 ~~rely on the findings of the report, effective date of value estimate(s), date~~
1269 ~~of report, and name and address of person authorizing report, and name and~~
1270 ~~address of appraiser(s).~~

1271 ~~.~~

1272 ~~(2) Letter of Transmittal. Include date of letter, property address and/or~~
1273 ~~location, description of property type, extraordinary/special assumptions or~~
1274 ~~limiting conditions that were approved by person authorizing the assignment,~~
1275 ~~statement as to function of the report, statement of property interest being~~
1276 ~~appraised, statement as to appraisal process (complete or limited), statement~~
1277 ~~as to reporting option (self contained, summary or restricted), reference to~~
1278 ~~accompanying appraisal report, reference to all person(s) that provided~~
1279 ~~significant assistance in the preparation of the report, date of report,~~
1280 ~~effective date of appraisal, date of property inspection, name of person(s)~~
1281 ~~inspecting the property, identification tax assessor's parcel number(s) of~~
1282 ~~type(s) of value(s) estimated (e.g., market value, leased fee value, as-~~
1283 ~~financed value, etc.) the site, estimate of marketing period, and signatures of~~
1284 ~~all appraisers authorized to work on the assignment-~~
1285 ~~including the appraiser who inspected the property. Include a statement~~
1286 ~~indicating the report preparer has read and understood the requirements of this~~
1287 ~~section.~~

1288 ~~(3) Table of Contents. Number the exhibits included with the report for easy~~
1289 ~~reference.~~

1290 ~~(4) Assumptions and Limiting Conditions. Include a summary of all assumptions,~~
1291 ~~both general and specific, made by the appraiser(s) concerning the property~~
1292 ~~being appraised. Statements may be similar to those recommended by the~~
1293 ~~Appraisal Institute.~~

1294 ~~(5) Certificate of Value. This section may be combined with the letter of~~
1295 ~~transmittal and/or final value estimate. Include statements similar to those~~
1296 ~~contained in Standard Rule 2-3 of USPAP.~~

1297 ~~(6) Disclosure of Competency. Include appraiser's qualifications, detailing~~
1298 ~~education and experience, as discussed in subsection (c) of this section.~~

1299 ~~(7) Identification of the Property. Provide a statement to acquaint the reader~~
1300 ~~with the property. Real estate being appraised must be fully identified and~~
1301 ~~described by street address, tax assessor's parcel number(s), and Development~~

1302 ~~characteristics. Include a full, complete, legible, and concise legal~~
1303 ~~description.~~
1304 ~~(8).~~
1305 (5) Statement of Ownership of the Subject Property. Discuss all prior sales of
1306 the subject property which occurred within the past three years. Any pending
1307 agreements of sale, options to buy, or listing of the subject property must be
1308 disclosed in the appraisal report.
1309 ~~(9) Purpose and Function of the Appraisal. Provide a brief comment stating the~~
1310 ~~purpose of the appraisal and a statement citing the function of the report.~~
1311 (A)(6) Property Rights Appraised. Include a statement as to the property rights
1312 (e.g., fee simple interest, leased fee interest, leasehold, etc.) being
1313 considered. The appropriate interest must be defined in terms of current
1314 appraisal terminology with the source cited.
1315 ~~(B) Definition of Value Premise. One or more types of value (e.g., "as is," "as~~
1316 ~~if," "prospective market value") may be required. Definitions corresponding to~~
1317 ~~the appropriate value must be included with the source cited.~~
1318 ~~(10) Scope of the Appraisal. Address and summarize the methods and sources used~~
1319 ~~in the valuation process. Describes the process of collecting, confirming, and~~
1320 ~~reporting the data used in the assignment.~~
1321 ~~(11) Regional Area Data. Provide a general description of the geographic~~
1322 ~~location and demographic data and analysis of the regional area. A map of the~~
1323 ~~regional area with the subject identified is requested, but not required.~~
1324 ~~(12) Neighborhood Data. Provide a specific description of the subject's~~
1325 ~~geographical location and specific demographic data and an analysis of the~~
1326 ~~neighborhood. A summary of the neighborhood trends, future Development, and~~
1327 ~~economic viability of the specific area should be addressed. A map with the~~
1328 ~~neighborhood boundaries and the subject identified must be included.~~
1329 ~~(13)(7) Site/Improvement Description. Discuss the site characteristics including~~
1330 ~~subparagraphs (A) through (F) (E) of this paragraph.~~
1331 (A) Physical Site Characteristics. Describe dimensions, size (square footage,
1332 acreage, etc.), shape, topography, corner influence, frontage, access, ingress-
1333 egress, etc. associated with the site. Include a plat map and/or survey.
1334 (B) Floodplain. Discuss floodplain (including flood map panel number) and
1335 include a floodplain map with the subject clearly identified.
1336 (C) Zoning. Report the current zoning and description of the zoning
1337 restrictions and/or deed restrictions, where applicable, and type of
1338 Development permitted. Any probability of change in zoning should be discussed.
1339 A statement as to whether or not the improvements conform to the current zoning
1340 should be included. A statement addressing whether or not the improvements
1341 could be rebuilt if damaged or destroyed, should be included. If current zoning
1342 is not consistent with the Highest and Best Use~~highest and best use~~, and zoning
1343 changes are reasonable to expect, time and expense associated with the proposed
1344 zoning change should be considered and documented. A zoning map should be
1345 included.
1346 (D) Description of Improvements. Provide a thorough description and analysis of
1347 the improvements including size (net rentable area, gross building area, etc.),
1348 number of stories, number of buildings, type/quality of construction,
1349 condition, actual age, effective age, exterior and interior amenities, items of
1350 deferred maintenance, etc. All applicable forms of depreciation should be
1351 addressed along with the remaining economic life.
1352 ~~(E) Fair Housing.~~~~(E) Environmental Hazards.~~ It is recognized appraisers are not
1353 ~~an expert~~~~experts~~ in such matters ~~and the impact of such deficiencies may not be~~
1354 ~~quantified;~~ however, ~~the report should disclose any potential violations of the~~
1355 ~~Fair Housing Act of 1988, Section 504 of the Rehabilitation Act of 1973, and~~
1356 ~~the Americans with Disabilities Act of 1990 and/or report any accommodations~~
1357 ~~(e.g., wheelchair ramps, handicap parking spaces, etc.) which have been~~
1358 ~~performed to the property or may need to be performed.~~

1359 ~~(F) Environmental Hazards. It is recognized appraisers are not an expert in~~
1360 ~~such matters and the impact of such deficiencies may not be quantified;~~
1361 ~~however;~~ the report should disclose any potential environmental hazards (e.g.,
1362 discolored vegetation, oil residue, asbestos-containing materials, lead-based
1363 paint etc.) noted during the inspection.

1364 ~~(14(8))~~ Highest and Best Use. Market Analysis and feasibility study is required
1365 as part of the highest and best use. The highest and best use analysis should
1366 consider paragraph ~~(137)~~(A) ~~through (F- (E))~~ of this subsection as well as a
1367 supply and demand analysis.

1368 (A) The appraisal must inform the reader of any positive or negative market
1369 trends which could influence the value of the appraised property. Detailed data
1370 must be included to support the appraiser's estimate of stabilized income,
1371 absorption, and occupancy.

1372 (B) The highest and best use section must contain a separate analysis "as if
1373 vacant" and "as improved" (or "as proposed to be improved/renovated"). All four
1374 elements ~~in appropriate order as outlined in the Appraisal of Real Estate~~
1375 (legally permissible, physically possible, feasible, and maximally productive)
1376 must be ~~sequentially~~ considered.

1377 ~~(15(9))~~ Appraisal Process. ~~The~~It is mandatory that all three approaches, Cost
1378 Approach, Sales Comparison Approach and Income Approach, are ~~three recognized~~
1379 ~~appraisal approaches to considered in~~ valuing most properties. It is mandatory
1380 ~~that all three approaches are considered in valuing the property unless~~
1381 ~~specifically instructed by the Department to ignore one or more of the~~
1382 ~~approaches; or unless reasonable appraisers would agree that use of an approach~~
1383 ~~is not applicable.~~ If an approach is not applicable to a particular property,
1384 ~~then omission of such approach must be fully and adequately explained.~~
1385 ~~an adequate explanation must be provided. A land value estimate must be~~
1386 ~~provided if the cost approach is not applicable.~~

1387 (A) Cost Approach. This approach should give a clear and concise estimate of
1388 the cost to construct the subject improvements. The ~~type of cost (reproduction~~
1389 ~~or replacement) and~~ source(s) of the cost data should be reported.

1390 (i) Cost comparables are desirable; however, alternative cost information may
1391 be obtained from Marshall & Swift Valuation Service or similar publications.
1392 The section, class, page, etc. should be referenced. All soft costs and
1393 entrepreneurial profit must be addressed and documented.

1394 (ii) All applicable forms of depreciation must be discussed and analyzed. Such
1395 discussion must be consistent with the description of the improvements
1396 ~~analysis.~~

1397 ~~.~~

1398 (iii) The land value estimate should include a sufficient number of sales which
1399 are current, comparable, and similar to the subject in terms of highest and
1400 best use. Comparable sales information should include address, legal
1401 description, tax assessor's parcel number(s), sales price, date of sale,
1402 grantor, grantee, three year sales history, and adequate description of
1403 property transferred. The final value estimate should fall within the adjusted
1404 and unadjusted value ranges. Consideration and appropriate cash equivalent
1405 adjustments to the comparable sales price for subclauses (I) ~~though~~ (VII) of
1406 this clause should be made when applicable.

1407 (I) Property rights conveyed.
1408 (II) Financing terms.
1409 (III) Conditions of sale.
1410 (IV) Location.
1411 (V) Highest and best use.
1412 (VI) Physical characteristics (e.g., topography, size, shape, etc.).
1413 (VII) Other characteristics (e.g., existing/proposed entitlements, special
1414 assessments, etc.).

1415 (B) Sales Comparison Approach. This section should contain an adequate number
1416 of sales to provide the reader with a description of the current market
1417 conditions concerning this property type. Sales data should be recent and
1418 specific for the property type being appraised. The sales must be confirmed
1419 with buyer, seller, or an individual knowledgeable of the transaction.

1420 (i) ~~Minimum content of the sales~~ Sales information should include address,
1421 legal description, tax assessor's parcel number(s), ~~sale~~ sales price, financing
1422 considerations, and adjustment for cash equivalency, date of sale, recordation
1423 of the instrument, parties to the transaction, three year sale history,
1424 complete description of the property and property rights conveyed, and
1425 discussion of marketing time. A scaled distance map clearly identifying the
1426 subject and the comparable sales must be included.

1427 (ii) ~~Several methods may be utilized in the Sale Comparison Approach.~~ The
1428 method(s) used in the Sales Comparison Approach must be reflective of actual
1429 market activity and market participants.

1430 (I) Sale Price/Unit of Comparison. The analysis of the sale comparables must
1431 identify, relate, and evaluate the individual adjustments applicable for
1432 property rights, terms of sale, conditions of sale, market conditions, and
1433 physical features. Sufficient narrative ~~analysis~~ must be included to permit the
1434 reader to understand the direction and magnitude of the individual adjustments,
1435 as well as a unit of comparison value indicator for each comparable.

1436 (II) Net Operating Income/Unit of Comparison. The ~~appraiser(s) reasoning and~~
1437 ~~thought process must be explained.~~

1438 ~~(II) Potential Gross Income/Effective Gross Income Analysis. If used in the~~
1439 ~~report, this method of analysis must clearly indicate the income statistics for~~
1440 ~~the comparables. Consistency in the method for which such economically~~
1441 ~~statistical data was derived should be applied throughout the analysis. At~~
1442 ~~least one other method should accompany this method of analysis.~~

1443 ~~(III) NOI/Unit of Comparison. If used in the report, the net~~ net operating
1444 income statistics for the comparables must be calculated in the same manner ~~and~~
1445 ~~disclosed as such.~~ It should be disclosed if reserves for replacement have
1446 been included in this method of analysis. At least one other method should
1447 accompany this method of analysis.

1448 (C) Income Approach. This section ~~is to~~ must contain an analysis of both the
1449 actual historical and projected income and expense aspects of the subject
1450 property.

1451 (i) Market Rent Estimate/Comparable Rental Analysis. This section of the report
1452 should include an adequate number of actual market transactions to inform the
1453 reader of current market conditions concerning rental units. The comparables
1454 must indicate current research for this specific property type. The rental
1455 comparables must be confirmed with the landlord, tenant or agent and individual
1456 data sheets must be included. The ~~minimum content of the~~ individual data sheets
1457 should include property address, lease terms, description of the property
1458 (e.g., unit type, unit size, unit mix, interior amenities, exterior amenities,
1459 etc.), physical characteristics of the property, and location of the
1460 comparables. Analysis of the Market Rents should be sufficiently detailed to
1461 permit the reader to understand the appraiser's logic and rationale. Adjustment
1462 for lease rights, condition of the lease, location, physical characteristics of
1463 the property, etc. must be considered.

1464 (ii) Comparison of Market Rent to Contract Rent. Actual income for the subject
1465 along with the owner's current budget projections must be reported, summarized,
1466 and analyzed. If such data is unavailable, a statement to this effect is
1467 required and appropriate assumptions and limiting conditions should be made.
1468 The contract rents should be compared to the market-derived rents. A
1469 determination should be made as to whether the contract rents are below, equal
1470 to, or in excess of market rates. If there is a difference, its impact on value
1471 must be qualified.

1472 (iii) Vacancy/Collection Loss. Historical occupancy data and current occupancy
1473 level for the subject should be reported and compared to occupancy data from
1474 the rental ~~comparable-comparables~~ and overall occupancy data for the subject's
1475 Primary Market.

1476 (iv) Expense Analysis. Actual expenses for the subject, along with the owner's
1477 projected budget, must be reported, summarized, and analyzed. If such data is
1478 unavailable, a statement to this effect is required and appropriate assumptions
1479 and limiting conditions should be made. Historical expenses should be compared
1480 to comparables expenses of similar property types or published survey data
1481 (e.g., IREM, BOMA, etc.). Any expense differences should be reconciled.
1482 ~~Historical~~Include historical data regarding the subject's assessment and tax
1483 rates ~~should be included. And a~~ statement as to whether or not any delinquent
1484 taxes exist ~~should be included.~~

1485 .

1486 (v) Capitalization. ~~Several~~The appraiser should present the capitalization
1487 methods ~~may be utilized in the Income Approach. The appraiser should present~~
1488 ~~the method~~(s) reflective of the subject market and explain the omission of any
1489 method not considered in the report.

1490 (I) Direct Capitalization. The primary method of deriving an overall rate (OAR)
1491 is through market extraction. If a band of investment or mortgage equity
1492 technique is utilized, the assumptions must be fully disclosed and discussed.

1493 (II) Yield Capitalization (Discounted Cash Flow Analysis). This method of
1494 analysis should include a detailed and supportive discussion of the projected
1495 holding/investment period, income and income growth projections, occupancy
1496 projections, expense and expense growth projections, reversionary value and
1497 support for the discount rate.

1498 ~~(16)(10) Value Estimates. Reconciliation and Final Value Estimate. This section~~
1499 ~~of the report should summarize the approaches and values that were utilized in~~
1500 ~~the appraisal. An explanation should be included for any approach which was not~~
1501 ~~included. Such explanations should lead the reader to the same or similar~~
1502 ~~conclusion of value. Although the values for each approach may not "agree", the~~
1503 ~~differences in values should be analyzed and discussed. Other values or~~
1504 ~~interests appraised should be clearly labeled and segregated. Such values may~~
1505 ~~include FF&E, leasehold interest, excess land, etc. In addition, rent~~
1506 ~~restrictions, subsidies and incentives should be explained in the appraisal~~
1507 ~~report and their impact, if any, needs to be reported in conformity with the~~
1508 ~~Comment section of USPAP Standards Rule 1-2(e), which states, "Separation of~~
1509 ~~such items is required when they are significant to the overall value." In the~~
1510 ~~appraisal of subsidized housing, value conclusions that include the intangibles~~
1511 ~~arising from the programs will also have to be analyzed under a scenario~~
1512 ~~without the intangibles in order to measure their influence on value.~~
1513 ~~(17)final value estimate is required.~~

1514 (A) All appraisals shall contain a separate estimate of the "as vacant" market
1515 value of the underlying land, based upon current sales comparables. The
1516 appraiser should consider the fee simple or leased fee interest as appropriate.

1517 (B) Appraisal assignments for new construction are required to provide an "as
1518 completed" value of the proposed structures. These reports shall provide an "as
1519 restricted with favorable financing" value as well as an "unrestricted market"
1520 value.

1521 (C) Reports on Properties to be rehabilitated shall address the "as restricted
1522 with favorable financing" value as well as both an "as is" value and an "as
1523 completed" value. The appraiser should consider the fee simple or leased fee
1524 interest as appropriate.

1525 (D) If required the appraiser must include a separate assessment of personal
1526 property, furniture, fixtures, and equipment (FF&E) and/or intangible items. If
1527 personal property, FF&E, or intangible items are not part of the transaction or
1528 value estimate, a statement to such effect should be included.

1529 (11) Marketing ~~Period-Time~~. Given property characteristics and current market
1530 conditions, the appraiser(s) should employ a reasonable marketing period. The
1531 report should detail existing market conditions and assumptions considered
1532 relevant.

1533 ~~(12)~~ Photographs. Provide good quality color photographs of the subject
1534 property (front, rear, and side elevations, on-site amenities, interior of
1535 typical units if available). Photographs should be properly labeled.
1536 Photographs of the neighborhood, street scenes, and comparables should be
1537 included. An aerial photograph is desirable but not mandatory.

1538 ~~(g)~~
1539 (e) Additional Appraisal Concerns. The appraiser(s) must ~~recognize and~~ be aware
1540 of ~~the particular TDHCA Department~~ program rules and guidelines and ~~their~~
1541 ~~relationship~~ the appraisal must include analysis of any impact to the subject's
1542 value. ~~Due to the various programs offered by the Department, various~~
1543 ~~conditions may be placed on the subject which would impact value. Furthermore,~~
1544 ~~each program may require that the appraiser apply a different set of specific~~
1545 ~~definitions for the conclusions of value to be provided. Consequently, as a~~
1546 ~~result of such criteria, the appraiser(s) should be aware of such conditions~~
1547 ~~and definitions and clearly identify them in the report.~~

1548
1549 §1.35 Environmental Site Assessment Rules and Guidelines

1550 (a) General Provisions. The Environmental Site Assessments (ESA) prepared for
1551 the Department should be conducted and reported in conformity with the
1552 standards of the American Society for Testing and Materials. The initial report
1553 should conform with the Standard Practice for Environmental Site Assessments:
1554 Phase I Assessment Process (ASTM Standard Designation: ~~E 1527~~, E1527-05). Any
1555 subsequent reports should also conform to ASTM standards and such other
1556 recognized industry standards as a reasonable person would deem relevant in
1557 view of the Property's anticipated use for human habitation. The environmental
1558 assessment shall be conducted by a Third Party environmental professional at
1559 the expense of the Applicant, and addressed to TDHCA as a User of the report
1560 (as defined by ASTM standards). Copies of reports provided to TDHCA which were
1561 commissioned by other financial institutions should address TDHCA as a co-
1562 recipient of the report, or letters from both the provider and the recipient of
1563 the report should be submitted extending reliance on the report to TDHCA. The
1564 ESA report should also include a statement that the person or company preparing
1565 the ESA report will not materially benefit from the Development in any other
1566 way than receiving a fee for performing the Environmental Site Assessment, and
1567 that the fee is in no way contingent upon the outcome of the assessment—

1568 . The ESA report must contain a statement indicating the report preparer has
1569 read and understood the requirements of this section.

1570 (b) In addition to ASTM requirements, the report must

1571 (1) State if a noise study is recommended for a property in accordance with
1572 current HUD guidelines and identify its proximity to industrial zones, major
1573 highways, active rail lines, civil and military airfields, or other potential
1574 sources of excessive noise;

1575 (2) Provide a copy of a current survey, if available, or other drawing of the
1576 site reflecting the boundaries and adjacent streets, all improvements on the
1577 site, and any items of concern described in the body of the environmental site
1578 assessment or identified during the physical inspection;

1579 (3) Provide a copy of the current FEMA Flood Insurance Rate Map showing the
1580 panel number and encompassing the site with the site boundaries precisely
1581 identified and superimposed on the map.

1582 ~~(4) Provide a narrative determination of the flood risk for the proposed~~
1583 ~~Development described in the narrative of the report includes a discussion of~~
1584 ~~the impact of the 100-year floodplain on the proposed Development based upon a~~
1585 ~~review of the current site plan;~~

1586 ~~(5) State~~(4) If the subject site includes any improvements or debris from pre-
1587 existing improvements, state if testing for asbestos containing materials
1588 (ACMs) would be required pursuant to local, state, and federal laws, or
1589 recommended due to any other consideration;
1590 ~~(6) State~~(5) If the subject site includes any improvements or debris from pre-
1591 existing improvements, state if testing for Lead Based Paint would be required
1592 pursuant to local, state, and federal laws, or recommended due to any other
1593 consideration;
1594 ~~(7)(6)~~ State if testing for lead in the drinking water would be required
1595 pursuant to local, state, and federal laws, or recommended due to any other
1596 consideration+ such as the age of pipes and
1597 ~~(8)solder in existing improvements; and~~
1598 (7) Assess the potential for the presence of Radon on the property, and
1599 recommend specific testing if necessary.
1600 (c) If the report recommends further studies or establishes that environmental
1601 hazards currently exist on the Property, or are originating off-site but would
1602 nonetheless affect the Property, the Development Owner must act on such a
1603 recommendation or provide a plan for either the abatement or elimination of the
1604 hazard. Evidence of action or a plan for the abatement or elimination of the
1605 hazard must be presented upon Application submittal.
1606 ~~(d) For Developments which have had a Phase II Environmental Assessment~~
1607 ~~performed and hazards identified, the Development Owner is required to maintain~~
1608 ~~a copy of said assessment on site available for review by all persons which~~
1609 ~~either occupy the Development or are applying for tenancy.~~
1610 ~~(e)~~ For Developments in programs that allow a waiver of the Phase I ESA such as
1611 a TX-USDA-RHS funded Development, the Development Owners are hereby notified
1612 that it is their responsibility to ensure that the Development is maintained in
1613 compliance with all state and federal environmental hazard requirements.
1614 ~~(f)(e)~~ Those Developments which have or are to receive first lien financing from
1615 HUD may submit HUD's environmental assessment report, provided that it conforms
1616 ~~with~~to the requirements of this subsection.
1617
1618 §1.36 Property Condition Assessment Guidelines
1619 (a) General Provisions. The objective of the Property Condition Assessment (the
1620 PCA) is to provide cost estimates for repairs, replacements, or new
1621 construction which are: immediately necessary; proposed by the developer; and
1622 expected to be required throughout the term of the regulatory period- and not
1623 less than 30 years. The PCA prepared for the Department should be conducted and
1624 reported in conformity with the American Society for Testing and Materials
1625 "Standard Guide for Property Condition Assessments: Baseline Property Condition
1626 Assessment Process (ASTM Standard Designation: E 2018)" except as provided for
1627 in subsections (b) and (c) of this section. The PCA must include discussion and
1628 analysis of the following:
1629 (1) Useful Life Estimates. For each system and component of the property the
1630 PCA should assess the condition of the system or component, and estimate its
1631 remaining useful life, citing the basis or the source from which such estimate
1632 is derived.
1633 (2) Code Compliance. The PCA should review and document any known violations of
1634 any applicable federal, state, or local codes. In developing the cost estimates
1635 specified herein, it is the responsibility of the Housing Sponsor or Applicant
1636 to ensure that the PCA adequately considers any and all applicable federal,
1637 state, and local laws and regulations which may govern any work performed to
1638 the subject property.
1639 (3) Program Rules. The PCA should assess the extent to which any systems or
1640 components must be modified, repaired, or replaced in order to comply with any
1641 specific requirements of the housing program under which the Development is
1642 proposed to be financed, particular consideration being given to accessibility

1643 requirements, the Department's Housing Quality Standards, and any scoring
1644 criteria for which the Applicant may claim points.

1645 (4) Cost Estimates for Repair and Replacement. It is the responsibility of the
1646 Housing Sponsor or Applicant to ensure that the PCA provider is apprised of all
1647 development activities associated with the proposed transaction and consistency
1648 of the total immediately necessary and proposed repair and replacement cost
1649 estimates with the development cost schedule submitted as an exhibit of the
1650 Application.

1651 (A) Immediately Necessary Repairs and Replacement. Systems or components which
1652 are expected to have a remaining useful life of less than one year, which are
1653 found to be in violation of any applicable codes, which must be modified,
1654 repaired or replaced in order to satisfy program rules, or which are otherwise
1655 in a state of deferred maintenance or pose health and safety hazards should be
1656 considered immediately necessary repair and replacement. The PCA must provide a
1657 separate estimate of the costs associated with the repair, replacement, or
1658 maintenance of each system or component which is identified as being an
1659 immediate need, citing the basis or the source from which such cost estimate is
1660 derived.

1661 (B) Proposed Repair, Replacement, or New Construction. If the development plan
1662 calls for additional repair, replacement, or new construction above and beyond
1663 the immediate repair and replacement described in subparagraph (A) of this
1664 paragraph, such items must be identified and the nature or source of
1665 obsolescence or improvement to the operations of the Property discussed. The
1666 PCA must provide a separate estimate of the costs associated with the repair,
1667 replacement, or new construction which is identified as being above and beyond
1668 the immediate need, citing the basis or the source from which such cost
1669 estimate is derived.

1670 (C) Expected Repair and Replacement Over Time. The term during which the PCA
1671 should estimate the cost of expected repair and replacement over time must
1672 equal the longest term of any land use or regulatory restrictions which are, or
1673 will be, associated with the provision of housing on the property. The PCA must
1674 estimate the periodic costs which are expected to arise for repairing or
1675 replacing each system or component or the property, based on the estimated
1676 remaining useful life of such system or component as described in paragraph (1)
1677 of this subsection adjusted for completion of repair and replacement
1678 immediately necessary and proposed as described in subparagraphs (A) and (B) of
1679 this paragraph. The PCA must include a separate table of the estimated long
1680 term costs which identifies in each line the individual component of the
1681 property being examined, and in each column the year during the term in which
1682 the costs are estimated to be incurred- and no less than 30 years. The
1683 estimated costs for future years should be given in both present dollar values
1684 and anticipated future dollar values assuming a reasonable inflation factor of
1685 not less than 2.5% per annum.

1686 (b) If a copy of such standards or a sample report have been provided for the
1687 Department's review, if such standards are widely used, and if all other
1688 criteria and requirements described in this section are satisfied, the
1689 Department will also accept copies of reports commissioned or required by the
1690 primary lender for a proposed transaction, which have been prepared in
1691 accordance with:

1692 (1) Fannie Mae's criteria for Physical Needs Assessments,
1693 (2) Federal Housing Administration's criteria for Project Capital Needs
1694 Assessments,
1695 (3) Freddie Mac's guidelines for Engineering and Property Condition Reports,
1696 (4) TX-USDA-RHS guidelines for Capital Needs Assessment, or
1697 (5) Standard and Poor's Property Condition Assessment Criteria: Guidelines for
1698 Conducting Property Condition Assessments, Multifamily Buildings.

1699 (c) The Department may consider for acceptance reports prepared according to
1700 other standards which are not specifically named above in subsection (b) of
1701 this section, if a copy of such standards or a sample report have been provided
1702 for the Department's review, if such standards are widely used, and if all
1703 other criteria and requirements described in this section are satisfied.
1704 (d) The PCA shall be conducted by a Third Party at the expense of the
1705 Applicant, and addressed to TDHCA as the client. Copies of reports provided to
1706 TDHCA which were commissioned by other financial institutions should address
1707 TDHCA as a co-recipient of the report, or letters from both the provider and
1708 the recipient of the report should be submitted extending reliance on the
1709 report to TDHCA. The PCA report should also include a statement that the person
1710 or company preparing the PCA report will not materially benefit from the
1711 Development in any other way than receiving a fee for performing the PCA. The
1712 PCA report must contain a statement indicating the report preparer has read and
1713 understood the requirements of this section. The PCA should be signed and dated
1714 by the Third Party report provider not more than ~~six~~six~~three~~ months prior to
1715 the date of the application.

1716
1717 §1.37 Reserve for Replacement Rules and Guidelines

1718 (a) General Provisions. The Department will require Developments to provide
1719 regular maintenance to keep housing sanitary, safe and decent by maintaining a
1720 reserve for replacement in accordance with §2306.186. The reserve must be
1721 established for each unit in a Development of 25 or more rental units,
1722 regardless of the amount of rent charged for the unit. The Department shall,
1723 through cooperation of its divisions responsible for asset management and
1724 compliance, ensure compliance with this section.

1725 (b) The First Lien Lender shall maintain the reserve account through an escrow
1726 agent acceptable to the First Lien Lender to hold reserve funds in accordance
1727 with an executed escrow agreement and the rules set forth in this section and
1728 §2306.186.

1729 (1) Where there is a First Lien Lender other than the Department or a Bank
1730 Trustee as a result of a bond indenture or tax credit syndication, the
1731 Department shall

1732 (A) Be a required signatory party in all escrow agreements for the maintenance
1733 of reserve funds;

1734 (B) Be given notice of any asset management findings or reports, transfer of
1735 money in reserve accounts to fund necessary repairs, and any financial data and
1736 other information pursuant to the oversight of the Reserve Account within 30
1737 days of any receipt or determination thereof;

1738 (C) subordinate its rights and responsibilities under the escrow agreement,
1739 including those described in this subsection, to the First Lien Lender or Bank
1740 Trustee through a subordination agreement subject to its ability to do so under
1741 the law and normal and customary limitations for fraud and other conditions
1742 contained in the Department's standard subordination clause agreements as
1743 modified from time to time, to include subsection (c) of this section.

1744 (2) The escrow agreement and subordination agreement, if applicable, shall
1745 further specify the time and circumstances under which the Department can
1746 exercise its rights under the escrow agreement in order to fulfill its
1747 obligations under §2306.186 and as described in this section.

1748 (3) Where the Department is the First Lien Lender and there is no Bank Trustee
1749 as a result of a bond indenture or tax credit syndication or where there is no
1750 First Lien Lender but the allocation of funds by the Department and §2306.186
1751 requires that the Department oversee a Reserve Account, the Owner shall provide
1752 at their sole expense for appointment of an escrow agent acceptable to the
1753 Department to act as Bank Trustee as necessary under this section. The
1754 Department shall retain the right to replace the escrow agent with another Bank
1755 Trustee or act as escrow agent at a cost plus fee payable by the Owner due to

1756 breach of the escrow agent's responsibilities or otherwise with 30 days prior
1757 notice of all parties to the escrow agreement.

1758 (c) If the Department is not the First Lien Lender with respect to the
1759 Development, each Owner receiving Department assistance for multifamily rental
1760 housing shall submit on an annual basis within the Department's required
1761 Owner's Financial Certification packet a signed certification by the First Lien
1762 Lender including:

1763 (1) Reserve for replacement requirements under the first lien loan agreement;
1764 (2) Monitoring standards established by the First Lien Lender to ensure
1765 compliance with the established reserve for replacement requirements; and
1766 (3) A statement by the First Lien Lender

1767 (A) That the Development has met all established reserve for replacement
1768 requirements; or
1769 (B) Of the plan of action to bring the Development in compliance with all
1770 established reserve for replacement requirements, if necessary.

1771 (d) If the Development meets the minimum unit size described in subsection (a)
1772 of this section and the establishment of a Reserve Account for repairs has not
1773 been required by the First Lien Lender or Bank Trustee, each Owner receiving
1774 Department assistance for multifamily rental housing shall set aside the repair
1775 reserve amount as described in subsection (e)(1) ~~through~~ (3) of this section
1776 through the date described in subsection (f)(2) of this section through the
1777 appointment of an escrow agent as further described in subsection (b)(3) of
1778 this section.

1779 (e) If the Department is the First Lien Lender with respect to the Development,
1780 each Owner receiving Department assistance for multifamily rental housing shall
1781 deposit annually into a Reserve Account through the date described in
1782 subsection (f)(2) of this section:

1783 (1) For new construction Developments:
1784 (A) Not less than \$150 per unit per year for units one to five years old; and
1785 (B) Not less than \$200 per unit per year for units six or more years old.

1786 (2) For rehabilitation Developments:
1787 (A) An amount per unit per year established by the Department's division
1788 responsible for credit underwriting based on the information presented in a
1789 Property Condition Assessment in conformance with §1.36 of this
1790 subchapter title; and
1791 (B) Not less than \$300 per unit per year.

1792 (3) For either new construction or rehabilitation Developments, the Owner of a
1793 multifamily rental housing Development shall contract for a third-party
1794 Property Condition Assessment meeting the requirements of §1.36 of this
1795 subchapter title and the Department will reanalyze the annual reserve
1796 requirement based on the findings and other support documentation.

1797 (A) A Property Condition Assessment will be conducted:
1798 (i) At appropriate intervals that are consistent with requirements of the First
1799 Lien Lender, other than the Department; or
1800 (ii) At least once during each five-year period beginning with the 11th year
1801 after the awarding of any financial assistance for the Development by the
1802 Department, if the Department is the First Lien Lender or the First Lien Lender
1803 does not require a third-party Property Condition Assessment.

1804 (B) Submission by the Owner to the Department will occur within 30 days of
1805 completion of the Property Condition Assessment and must include:
1806 (i) The complete Property Condition Assessment;
1807 (ii) First Lien Lender and/or Owner response to the findings of the Property
1808 Condition Assessment;
1809 (iii) Documentation of repairs made as a result of the Property Condition
1810 Assessment; and
1811 (iv) Documentation of adjustments to the amounts held in the replacement
1812 Reserve Account based upon the Property Condition Assessment.

1813 (f) A Land Use Restriction Agreement or restrictive covenant between the Owner
1814 and the Department must require:
1815 (1) The Owner to begin making annual deposits to the reserve account on the
1816 later of:
1817 (A) The date that occupancy of the Development stabilizes as defined by the
1818 First Lien Lender or in the absence of a First Lien Lender other than the
1819 Department, the date the property is at least 90% occupied; or
1820 (B) The date that permanent financing for the Development is completely in
1821 place as defined by the First Lien Lender or in the absence of a First Lien
1822 Lender other than the Department, the date when the permanent loan is executed
1823 and funded.
1824 (2) The Owner to continue making deposits until the earliest of the following
1825 dates:
1826 (A) The date on which the Owner suffers a total casualty loss with respect to
1827 the Development;
1828 (B) The date on which the Development becomes functionally obsolete, if the
1829 Development cannot be or is not restored;
1830 (C) The date on which the Development is demolished;
1831 (D) The date on which the Development ceases to be used as a multifamily rental
1832 property; or
1833 (E) The later of
1834 (i) The end of the affordability period specified by the Land Use Restriction
1835 Agreement or restrictive covenant; or
1836 (ii) The end of the repayment period of the first lien loan.
1837 (g) The duties of the Owner of a multifamily rental housing Development under
1838 this section cease on the date of a change in ownership of the Development;
1839 however, the subsequent Owner of the Development is subject to the requirements
1840 of this section.
1841 (h) If the Department is the First Lien Lender with respect to the Development
1842 or the First Lien Lender does not require establishment of a Reserve Account,
1843 the Owner receiving Department assistance for multifamily rental housing shall
1844 submit on an annual basis within the Department's required Owner's Financial
1845 Certification packet:
1846 (1) Financial statements, audited if available, with clear identification of
1847 the replacement Reserve Account balance and all capital improvements to the
1848 Development within the fiscal year;
1849 (2) Identification of costs other than capital improvements funded by the
1850 replacement Reserve Account; and
1851 (3) Signed statement of cause for:
1852 (A) Use of replacement Reserve Account for expenses other than necessary
1853 repairs, including property taxes or insurance;
1854 (B) Deposits to the replacement Reserve Account below the Department's or First
1855 Lien Lender's mandatory levels as defined in subsections (c), (d) and (e) of
1856 this section; and
1857 (C) Failure to make a required deposit.
1858 (i) If a request for extension or waiver is not approved by the Department,
1859 Department action, including a penalty of up to \$200 per dwelling unit in the
1860 Development and/or characterization of the Development as Materially Non-
1861 Compliant, as defined in §60.1 of this title, may be taken when:
1862 (1) A Reserve Account, as described in this section, has not been established
1863 for the Development;
1864 (2) The Department is not a party to the escrow agreement for the Reserve
1865 Account;
1866 (3) Money in the Reserve Account
1867 (A) Is used for expenses other than necessary repairs, including property taxes
1868 or insurance; or
1869 (B) Falls below mandatory deposit levels;

1870 (4) Owner fails to make a required deposit;
1871 (5) Owner fails to contract for the third party Property Condition Assessment
1872 as required under subsection (e)(3) of this section; or
1873 (6) Owner fails to make necessary repairs, as defined in subsection (k) of this
1874 section.
1875 (j) On a case by case basis, the Department may determine that the money in the
1876 Reserve Account may:
1877 (1) Be used for expenses other than necessary repairs, including property taxes
1878 or insurance, if:
1879 (A) Development income before payment of return to Owner or deferred developer
1880 fee is insufficient to meet operating expense and debt service requirements;
1881 and
1882 (B) The funds withdrawn from the Reserve Account are replaced as cashflow after
1883 payment of expenses, but before payment of return to Owner or developer fee is
1884 available.
1885 (2) Fall below mandatory deposit levels without resulting in Department action,
1886 if:
1887 (A) Development income after payment of operating expenses, but before payment
1888 of return to Owner or deferred developer fee is insufficient to fund the
1889 mandatory deposit levels; and
1890 (B) Subsequent deposits to the Reserve Account exceed mandatory deposit levels
1891 as cashflow after payment of operating expenses, but before payment of return
1892 to Owner or deferred developer fee is available until the Reserve Account has
1893 been replenished to the mandatory deposit level less capital expenses to date.
1894 (k) The Department or its agent may make repairs to the Development if the
1895 Owner fails to complete necessary repairs indicated in the submitted Property
1896 Condition Assessment or identified by physical inspection. Repairs may be
1897 deemed necessary if the Development is notified of the Owner's failure to
1898 comply with federal, state and/or local health, safety, or building code.
1899 (1) Payment for necessary repairs must be made directly by the Owner or through
1900 a replacement Reserve Account established for the Development under this
1901 section.
1902 (2) The Department or its agent will produce a Request for Bids to hire a
1903 contractor to complete and oversee necessary repairs.
1904 (l) This section does not apply to a Development for which the Owner is
1905 required to maintain a Reserve Account under any other provision of federal or
1906 state law.

Comment Source Reference

Tab #	Organization
1	Texas Affiliation of Affordable Housing Providers (TAAHP), Diana McIver
4	Texas United Independent Developers Association, Eric Opiela
5	Tekoa Partners, Ltd, William J Lee
13	Winston Sullivan, Individual
19	Gary Kersch, Individual
24	Solutions Plus, Mike Sugrue
26	Patrick Barbolla, Individual
27	Dennis Hoover, Individual
31	Tropicana Properties, Bobby Bowling
38	Youngs Company, Don Youngs
40	O'Connor and Associates, Craig Young
42	Donna Housing Finance Corporation, Liz Hernandez and Bob Gonzales
43	McAllen Housing Authority, Jose A Saenz
44	Odyssey Residential Holdings, LP, Bill Fisher
45	Edinburg Housing Authority, Estella L. Trevino
46	Corpus Christi Housing Authority, Eva Shults
47	Pharr Housing Authority, Roy Navarro
48	Weslaco Housing Authority, Ruben Sepulveda
49	Beaumont Housing Authority, Robert L. Reyna
50	Pharr Housing Development Corporation, Fernando Lopez
51	Flores Residential, Apolonio Flores
52	Community Development Corporation of South Texas, Robert A Calvillo
53	Texarkana Housing Authority, Richard Herrington, Jr
54	Texas Association of Community Development Corporations (TACDC), Matt Hull
61	Jose Menendez, State Representative, District 124
62	Michael Hartman, Individual
63	Akanai Investments, Inc, Uwe Nahuina
64	Hogan Real Estate, Inc, Michael Hogan
66	Apartment Market Data, Darrell Jack
67	Ed Ipser, Individual
68	Jeff Spicer, Individual

**TDHCA 2007 DRAFT REAL ESTATE ANALYSIS RULES
SUMMARY OF CONSENSUS COMMENTS OF TAAHP MEMBERSHIP**

At TAAHP's membership meeting discussing the 2007 Real Estate Rules, it was the consensus of those participating that TDHCA should revert to the 2006 Rules. The proposed rules for 2007 make changes which negatively impact the ability of TDHCA to effectively put affordable housing on the ground. The TDHCA Board should re-adopt the 2006 REA rules, which while not perfect, do not destroy the viability of the LIHTC Program. If TDHCA reverts to the 2006 rules, only one change is recommended, as follows:

Section 1.32 Underwriting

(e)(3) Site Work Costs. If the Applicant's site work costs exceed \$7,500 per unit, then the Applicant has to pay an engineer or architect to provide detail to support these costs and pay an accountant to attest as to which of those should be in eligible basis. This \$7,500 per unit threshold was first put in place with the 2003 Real Estate rules. Site costs have increased dramatically and it is time to raise this limit. TAAHP requests \$10,000 per unit, as a more appropriate number.

If TDHCA continues forward with the 2007 Draft REA Guidelines, TAAHP requests the following changes, in addition to the Site Work Cost recommendation above:

Section 1.32 Underwriting

(i)(1)(A)(ii) and (B)(ii) – the QAP mandates that certain maximum percentages apply to each unit type. Therefore, we cannot always fit our unit mix to match demand by unit type. Therefore, if the rule on Ineligible Building Types is not changed, then these provisions need to be eliminated, as the two rules are in conflict. Further, it has been proven that Applicants with all 3 bedroom and/or a mix of 3 and 4 bedroom units works and has actually rented up and been very feasible. None of these would be built under this new rule. Reducing Inclusive Capture Rates for Rural and Elderly from 100% to 50% will negatively impact the ability of projects to be built in these categories, effectively negating the statutory set-asides.

(i)(2), Restricted Market Rent – as explained at the 2007 QAP roundtable, the overall election of 40% of the units being at 60% or less of AMI has nothing to do with actual rents. This election is to ensure that the units will qualify for tax credits, and every deal in the country elects 40/60 no matter what the actual rents are. You underwrite the development at the lesser of (i) the maximum tax credit rents, or (ii) 90% of the market rents. Just because you elect 60% AMI and are charging 40% AMI rents does not in and of itself make a deal unfeasible. This provision needs to be deleted. This change will make virtually every application in the Austin region infeasible.

(i)(3), Initial Feasibility – this rule is not supported by fact. Just because the projected operating expenses are greater than 65% of income does not in and of itself make a deal unfeasible. This provision needs to be eliminated.

Section 1.33 Market Analysis.

Inclusive Capture Rate. In Provision 1.33, delete all references to demand and capture rate by unit type (1.33(d)(9)(E), (10)(D) and (10)(E)) and revert to the language for demand and capture rate found in the 2006 rule. This is to be consistent with the elimination of Provisions 1.32(i)(1)(A)(ii) and (B)(ii).

Section 1.36 Property Condition Assessment Guidelines.

Section (4)(C) adds language which increases the minimum term that PCAs are required to 30 years. PCAs are not only an additional unfunded cost burden on applicants, but are additionally only required of rehab deals. PCAs are of little use to the Department as is, and extending the term to 30 years makes them even less helpful. If the PCA would be limited to the anticipated repairs for the next 15 years, then one could justify the distinction between rehab and new construction.

The following is a list of all electronic "signatures" in support of the
TAAHP 2007 Real Estate Analysis Consensus Document.

Robert H. (Bob) Sherman
SBG Development Services, L. P.

Michael Hartman
1370 Taurus Court

BRENT STEWART
Trammell Crow Residential

Dan Markson,
The NRP Group, San Antonio, TX

Jeffrey S. Spicer

State Street Housing Advisors, L.P.

Bert Magill
San Jacinto Realty Services, LLC

Joe Chamy
Chamy Investments

Bill Encinas
The Encinas Group

Barry Palmer

COATS | ROSE
A Professional Corporation

Sarah Anderson

S. Anderson Consulting

Ike J. Monty
Investment Builders, Inc.

Jim Johnson

Director of Downtown Development / TIF District

Downtown Fort Worth, Inc.

Naomi C. Walker
Executive Director
Georgetown Housing Authority

Philip A. Melton

Director

Collateral Real Estate Capital, LLC

Diana McIver, President
DMA Development Company, LLC

Sandra J. Williams

Executive Director

Alamo Area Mutual Housing Assoc.

Jerry Wright
Capmark Securities Inc.

Sally Gaskin
SGI Ventures

Edwina Carrington
Reznick Group

Mike Clark
Alpha-Barnes Real Estate Services

Tom Scott
Coach Realty

Granger MacDonald
MacDonald Companies

The following is a list of all electronic "signatures" in support of the
TAAHP 2007 Real Estate Analysis Consensus Document.

Page 2

Diana McIver, President
DMA Development Company, LLC

Jerry Wright
Capmark Securities Inc.

Dick Kilday
Kilday Realty

Lisa Vecchietti

From: Robbye Meyer [robbye.meyer@tdhca.state.tx.us]
Sent: Tuesday, October 03, 2006 8:08 AM
To: 'Jennifer Joyce'; Audrey Martin; 'Steve Schottman'; Tom Gouris; 'Brenda Hull'; 'Lisa Vecchietti'
Subject: FW: QAP discussion document

Here is some written comment for the QAP, RAF and REA rules

Robbye G. Meyer
Director of Multifamily Finance
(512) 475-2213 (voice)
(512) 475-0764 (fax)

-----Original Message-----

From: Eric Opiela [mailto:eopiela@ericopiela.com]
Sent: Monday, September 25, 2006 1:15 PM
To: ashaw@taahp.org
Subject: QAP discussion document

Andrea, Just in case you didn't have it, I'd like to submit the attached to be included in the discussion documents for Friday's roundtable.

Eric

hold units open for special needs from 12 to 24 months. This decreases financial feasibility by mandating two years of vacant units which could otherwise be filled, and the 2006 12 month hold-time language should be restored.

Proposed 2007 Real Estate Analysis Rules

1. **Adopt the 2006 REA Rules.** The proposed rules for 2007 make changes which negatively impact the ability of TDHCA to effectively put affordable housing on the ground. The TDHCA Board should re-adopt the 2006 REA rules, which while imperfect, do not destroy the viability of the LIHTC Program. Barring this, the following changes must be made at a minimum:
2. **REA Rules Should Better Ensure Long-Term Viability.** Provision 1.31(a) states that the Department wants to “ensure the most efficient allocation of resources while promoting and preserving the public interest in ensuring the long-term health of the Department’s portfolio.” The Department should remember that we are faced with uncertainty on many fronts in developing affordable housing today: rapidly rising construction costs, utility costs, and operating expenses (such as the tripling of insurance rates in coastal counties). In times such as these, the Department should concentrate on the latter part of that quote by building more contingency in to its numbers and allowing for more credits per deal, which would generate more tax credit equity and require less debt, thereby ensuring the long-term health of the Department’s portfolio. I would recommend that the Department adopt a rule similar to Michigan which allows a development to automatically apply for up to 5% additional credits in the year of cost certification. For instance, if a development is awarded \$600,000 of tax credits by Michigan in 2006, Michigan will allow that development to automatically apply for an additional \$30,000 of credits in 2008 if justified by the cost certification and the gap calculation.
3. **Provision 1.32(d)(2)(I), Reserves** – The annual reserve account for new construction should be adjusted to conform to statute, which mandates specific amounts for reserve accounts, and does not allow Department discretion to adjust those amounts. Moreover, this decreases financial feasibility by lowering the NOI available for debt service.
4. **Provision 1.32(d)(3), Net Operating Income** – change to read “If the Year 1 NOI figure...the Applicant’s figure is characterized as reasonable and will be used in the Report. If the Year 1 NOI figure provided by the Applicant is not within 5%, then the NOI figure calculated by the Underwriter will be used in the Report.” NOI is the bottom line figure used by lenders to size the debt; the components may be different, but if the two NOI figures are within 5%, then the Applicant’s NOI should be used.

5. **Provision 1.32(d)(5), Long Term Proforma** – change to read “The Underwriter will create a 15-year operating proforma.” This time period is the industry standard used by syndicators and lenders, and all references in the Real Estate Analysis rules to the time period covered by a proforma or projection should be 15 years. The changed rule also mandates a 3% growth of income, and 4% growth of expenses without any justification for these figures. In reality, income is decreasing while expenses are increasing. For example, in Houston, the HUD maximum rents for all affordable unit levels has remained unchanged for three years. And, on top of that, the utility allowances have increased over the same time period. So, the true *effective* rents have actually *decreased* by 3%.
6. **Provision 1.32(d)(5)(A)** – change to read “The base year projection utilized is the NOI determined under Provision 1.32(d)(3).” Change for consistency.
7. **Provision 1.32(e)(3), Site Work Costs** – the \$7,500 figure has not been raised in years and should be raised to \$10,000 per unit to account for an average 6% inflation for the last five years. As it now stands, everybody puts \$7,500 per unit in the site work line item on the TDHCA development cost breakdown and puts the remainder in the construction costs. The syndicators, lenders and tax attorneys are given the real numbers, which average around \$9,500 to \$10,500 per unit, and they have no problem signing off on those numbers at construction loan and equity closing. However, no one wants to spend the extra money at application time to get the opinions required by TDHCA, so everybody lowers the number to \$7,500 per unit. It’s a silly game, and it needs to end by TDHCA raising the bar.
8. **Provision 1.32(i)(1)(A)(ii) and (B)(ii)** – the QAP mandates that certain maximum percentages apply to each unit type. Therefore, we cannot always fit our unit mix to match demand by unit type. Therefore, if the rule on Ineligible Building Types is not changed, then these provisions need to be eliminated, as the two rules are in conflict. Further, it has been proven that Applicants with all 3 bedroom and/or a mix of 3 and 4 bedroom units works and has actually rented up and been very feasible. None of these would be built under this new rule. Reducing Inclusive Capture Rates for Rural and Elderly from 100% to 50% will negatively impact the ability of projects to be built in these categories, effectively negating the statutory set-asides. The capture rate changes have the potential to make virtually any project infeasible when you apply the Conine Rule (Max. % of each unit type by number of bedrooms). In addition, these calculations are going to require a significant amount of time to compile, and the cost of the market study will go up significantly. The inclusive capture rate as presently constituted has worked well, so why change a rule that is not broke?
9. **Provision 1.32(i)(2), Restricted Market Rent** – as explained at the 2007 QAP roundtable, the overall election of 40% of the units being at 60% or less of AMI has nothing to do with actual rents. This election is to ensure that the units will qualify for tax credits, and every deal in the country elects 40/60 no matter what the actual rents are. You underwrite the development at the lesser of (i) the maximum tax credit rents, or (ii) 90% of the market rents. Just because you elect 60% AMI and are charging

40% AMI rents does not in and of itself make a deal unfeasible. This provision needs to be deleted. This change will make virtually every application in the Austin region infeasible.

10. **Provision 1.32(i)(3), Initial Feasibility** – this rule is arbitrary and capricious. Just because the projected operating expenses are greater than 65% of income does not in and of itself make a deal unfeasible. This provision needs to be eliminated.
11. **Provision 1.32(i)(5), Exceptions** – this provision needs to be eliminated. First, you don't need (A) if you remove Provision 1.32(i)(2). Second, (B) through (E) favor PHA and RD developments over conventionally financed developments and the Texas statute states that the rules are to be written so that no one type of Applicant shall be favored over another type of Applicant.
12. **Inclusive Capture Rate.** In Provision 1.33, delete all references to demand and capture rate by unit type (1.33(d)(9)(E), (10)(D) and (10)(E)) and revert to the language for demand and capture rate found in the 2006 rule. This is to be consistent with the elimination of Provisions 1.32(i)(1)(A)(ii) and (B)(ii).
13. **Provision 1.33(f)** – change to read “Absent compelling written or other physical evidence to the contrary, the Department shall be bound by the opinion of the Market Analyst.” Why are we required to spend \$7,000 for a market analysis if the Department can ignore it in their sole and absolute discretion? If there is compelling, documented contradictory evidence (not hearsay), then put the evidence in the Report. This also ignores the statutory mandate in Section 2306.6710, Government Code, requiring that the Department evaluate financial feasibility on the basis of the third-party pro-forma provided with the application.
14. **Property Condition Assessment** – Section 1.36 REA Guidelines adds language which increases the minimum term that PCAs are required to 30 years. PCAs are not only an additional unfunded cost burden on applicants, but are additionally only required of rehab deals. PCAs are of little use to the Department as is, and extending the term to 30 years makes them even less helpful. If the PCA would be limited to the anticipated repairs for the next 15 years, then one could justify the distinction between rehab and new construction. However, if the Department wants a 30 year PCA, then a PCA should also be required for new construction as well. Thus, we recommend in descending order of preference: (1) complete removal of the PCA requirement, (2) require a PCA with estimated costs of repairs over 15 years, or (3) impose PCA requirements on both rehab and new construction if a 30 year period is retained.

October 18, 2006

Jennifer Joyce
Texas Department of Housing and Community Affairs
Austin, Texas

Re: COMMENTS ON DRAFT 2007 QUALIFIED ALLOCATION PLAN (QAP)

Dear Ms. Joyce:

1. **§49.3(75) Section 49.3 [Page 9 of 68]** *Reconstruction – The demolition of an existing Residential Development and the re-construction of the units on the Development Site. Developments proposing adaptive re-use or proposing to increase the number of units in the Existing Residential Development are not considered Reconstruction.*

Recommended Change: The second sentence of this definition needs to be revised so that it reads: Multifamily housing developments proposing adaptive re-use or proposing to increase the number of units in the Existing Residential Development are considered Reconstruction. HUD mixed financed housing developments proposing to increase the number of units are considered Reconstruction.

Justification: Reconstruction should not be limited to replacing the exact number of units on or off site. This definition destroys the ability of applicants, particularly nonprofits and Housing Authorities, to qualify for some of the scoring items under the Selection Criteria and their ability to effectively utilize their land that can support additional units in compliance with local building codes. For instance, total demolition of a 100 unit development with a mix of two and three-bedroom units, is going to increase in number of units when one-bedroom units are added to the unit mix.

Obsolete Public Housing that is demolished is replaced with HUD mixed finance housing developments on sites that are underutilized with very low density developments. Housing Authorities and the very low income residents they serve should not be penalized by excluding a mixed finance development proposing to increase the number of demolished units from the definition of Reconstruction as well as their eligibility for QCP scoring.

2. §49.5(a)(8) [Page 12 of 68]- The 3 year rule should apply only to New Construction because it adds units. It should not apply to Reconstruction or Rehabilitation because are replacement or upgrading of existing units.

3. §49.6(e)(4) [Page 15 of 68]- *Limitations on the Size of Developments for those Development which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is Reconstruction of an Existing Residential Development being constructed*

to provide replacement of previously existing affordable multifamily units on its site (in a number not to exceed the original units being replaced) or that were originally located within a one mile radius from the proposed Development, unless the first phase has been completed and has attained Sustaining Occupancy (as defined in §1.31 of this title) for a least six months.

Recommended Change: This provision should be revised to read “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” “For at least six months” should be deleted.

Justification: This item prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. Basically, this means that a Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles. This is not an efficient use of land.

Many of these communities are located in areas that are already drastically underserved. A one for one replacement policy does not make sense. The number of units should be governed by the demand proven by the market study.

4. §49.8(d)(3)(A)(1) [Page 18 of 68] – The date for submission of requests for neighborhood organizations should be changed from December 8, 2006, to the same date as the pre-application date.

5) §49.9(d)(4) [Page 22 of 68] *Administrative Deficiencies*

Recommended Change: The time to correct Administrative Deficiencies should remain at five (5) days.

Justification: Reducing the period to remedy Administration Deficiencies from five to three days is severe. It does not provide adequate time to respond to the deficiency. Support for keeping the response period at five days can be found in §49.9(e)(2) [Page 24 of 68] That establishes the response period for Tax Exempt Bond Developments at five days.

6. §49.9(d)(6)(B)(ii) [Page 23 of 68] – *For acquisition/Rehabilitation Developments that are eligible for acquisition credits, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, and will be limited to Tax-Exempt Bond Developments. The Rehabilitation portion of the developer fee cannot exceed 15% of the total Rehabilitation basis, less developer fee, and will be limited to the Competitive Housing Tax Credit Developments.*

Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This goes against the overall preference for preserving or rehabilitating existing complexes in Texas, including at-risk developments.

7. §49.9(h)(4)(A)(ii)(XI) [Page 27 of 68] – *(XII) Equipped and functioning Business Center (computer and fax machine) or Equipped Computer Learning Center with 1 computer and 1 fax machine for every 25 Units proposed in the Application, and 1 printer for every 2 computers (2 points).*

Recommended Change: Revise to 1 computer for every 25 units, 1 fax machine for every 75 units and 1 printer for every 3 computers.

Justification: It is unlikely that there would be a need for this many machines.

8. §49.9(h)(12) - QCP [Page 36 of 68] – Third Party Legal Opinion for Applicants for Acquisition Credits

Recommended Change: Delete this requirement.

Justification: Attorneys are not willing to a hypothetical opinion based on future events.

9. §49.9(i)(2)(A)(iv) - QCP [Page 39 of 68] *Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site. Points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. (§2306.6710(b)(1)(B); §2306.6725(a)(2)).*

Recommended Change: “. . . Neighborhood organizations include homeowners associations, property owners associations, and residents councils (in which the council is commenting on the Rehabilitation, Reconstruction, or New Construction of the Development within the boundaries of their council). . . .”

Also, the definition of Reconstruction in §49.3(75) [Page 9 of 68] must be allowed to include HUD mixed finance housing developments exceeding the number of units demolished. Resident Councils letters of support should be allowed to be scored for New Construction too.

Justification: The 2007 QAP unjustly continues to limit the input of Public Housing Resident Councils by restricting their QCP to Rehabilitation and

Reconstruction of the Development occupied by the residents. The proposed limitation on Resident Councils is not consistent with state statutes. The TDHCA Board and staff have been presented with Fair Housing arguments on the likely unconstitutionality of this limitation. If TDHCA does not correct this unjust and obvious noncompliance with the state statutes and the Fair Housing Act, TDHCA risks a possible request for an opinion from the Texas Attorney General as well as the filing of a fair housing violation complaint with HUD.

The injustice to the low income members of a Resident Council is compounded in the proposed definition of Reconstruction in §49.3(75) [Page 9 of 68] in that a Resident Council letter of support will not be considered if a proposed development exceeds the number of units that were demolished.

10. § 49.9(i)(2)(A)(viii) - QCP [Page 40 of 68] (ixviii) *The boundaries in effect for the organization on March 1, 2006, will be those boundaries utilized for the purposes of evaluating these letters and determining eligibility. The organization must accurately certify that the boundaries in effect December 1, 2006 are those identified in the letter and that annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization to satisfy eligibility for this item; a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site.*

Recommended Change: This provision has a typo when it states that the organization must certify the boundaries in effect on Dec. 1 are those identified in the letter because the draft QAP does not require the boundaries to be identified.

Justification: The draft of the QAP does not require the letter to state the exact boundaries of the Neighborhood Organization; all that the draft requires is that the Neighborhood Organization state the development is within their boundaries.

11. § 49.9(i)(5) – [Page 42 of 68] *The Commitment of Development Funding by Local Political Subdivisions. Applications may qualify to receive up to 18 points for qualifying under this paragraph. An Applicant may only submit one several sources to substantiate points*

Recommended Change: The draft QAP appears to only allow one source to be considered. This should be revised to allow multiple sources like it did in 2006. Additionally, the dollar amounts for point scoring purposes should be changed back to those amounts used in 2006 because it will be extremely difficult to maximize points under this category if the current QAP levels are used.

Justification: Local Political Subdivisions are not providing financing at the proposed levels and will have a very difficult time in being able to contribute at the proposed levels. This section continues to have serious flaws which allow a

developer to receive the same amount of points for a “48-hour loan” as for a permanent grant or donation. The proposed levels favor the very large cities. Also, the draft does not address what will happen if the THDC increase and results in the percentages being reduced.

12. § 49.9(i)(10) – [Page 44 of 68] **Rehabilitation or Reconstruction.** *Applications may qualify to receive 7 points. Applications proposing to build solely Rehabilitation (excluding New Construction of non-residential buildings), or solely Reconstruction (excluding New Construction of non-residential buildings) qualify for points.*

Justification: Provides fairness by allowing Reconstruction projects receive 7 points.

13. § 49.9(i)(12) – [Page 45 of 68] *Development Includes the Use of Existing Housing as part of a Community Revitalization Plan.*

Recommended Change: Once again, the definition of Reconstruction in §49.3(75) [Page 9 of 68] must be revised to include HUD mixed finance developments.

Justification: Without a change to the definition of Reconstruction, applicants will not be able to fully utilize their site in accordance with the density allowed by the local building code

14. § 49.9(i)(16) – [Page 46 of 68] **Demonstration of Community Support other than Quantifiable Community Participation:** *If an Applicant correctly certifies to the Department that there are no neighborhood organizations that meet the Department’s definition of Neighborhood Organization pursuant to paragraph (2) of this subsection and 12 points were awarded under paragraph (2) of this subsection, then that Applicant may receive two points for each letter of support submitted from a community or civic organization that serves the community in which the site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. The community or civic organization must provide some documentation of its existence in the community to include, but not be limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that are not active in the area that includes the location of the Development will not be counted. For purposes of this item, community and civic organizations do not include neighborhood organizations, governmental entities, taxing entities or educational activities. Letters of support received after March 1, 2007, will not be accepted for this item. Two points will be awarded for each letter of support, not to exceed 7 points. Should an Applicant elect this option and the Application receives letters in opposition, then two points will be subtracted from the score for each letter in opposition, provided that the letter is from an*

organization serving the community. At no time will the Application, however, receive a score lower than zero for this item.

Recommended Change: The way this new provision is drafted prevents the applicant from being able to earn these points if a neighborhood organization submits a letter of support but is determined by TDHCA to not count for some reason. Applicants should be able to submit both QCP letters and these types of letters but only the QCP letters will count if they can be scored. If the QCP letters do not count, then an applicant should be able to earn these points.

Justification: Applicants should not have to gamble on which route to go in terms of deciding whether to go with a neighborhood organization that may or may not be able to submit a scoring letter.

15. § 49.9(j)(1)(A) – [Page 42 of 68] *Tie Breaker Factors (1) In the event that two or more Applications receive the same number of points in any given Set-Aside category, Rural Regional Allocation or Urban/Exurban Regional Allocation, or Uniform State Service Region, and are both practicable and economically feasible, the Department will utilize the factors in this paragraph, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit commitment. (A) Applications involving any Rehabilitation of existing Units will win this first tier tiebreaker over Applications involving solely New Construction.*

Justification: Provides fairness

16. §49.9(i)(3) [Page 41 of 68] – *The Income Levels of Tenants of the Development. Applications may qualify to receive up to 22points for qualifying under only one of subparagraphs (A) - (F) of this paragraph. To qualify for these points, the household tenant incomes must not be higher than permitted by the AMGI level. Households receiving any Section 8 voucher rental subsidies, Tenant Based Rental Assistance (TBRA), or similar rental assistance may not occupy the Units designated for points under this section (excluding 100% Project Based Section 8.) The Development Owner, upon making selections for this exhibit, will set aside Units at the levels of AMGI and will maintain the percentage of such Units occupied by households who do not receive Section 8 voucher rental subsidies, TBRA, or similar rental assistance continuously over the compliance and extended use period as specified in the LURA. These income levels require corresponding rent levels that do not exceed 30% of the income limitation in accordance with §42(g), Internal Revenue Code.*

Recommended Change: Delete “Households receiving any Section 8 voucher rental subsidies, Tenant Based Rental Assistance (TBRA), or similar rental assistance may not occupy the Units designed for points under this section (excluding 100% project based Section 8.) *The Development Owner, upon making selections for this exhibit, will set aside Units at the levels of AMGI and will maintain the percentage of such Units occupied by households who do not receive Section 8 voucher rental subsidies, TBRA, or similar rental assistance continuously over the compliance and extended use period as specified in the LURA*”.

Justification: Violates Fair Housing laws by discriminating against renters with vouchers and other rental assistance. The proposed exclusion excludes very low income renters from access to quality affordable housing and send them to lesser quality housing in impacted neighborhood. May also violate Section 42 of the IRC by denying occupancy to voucher holders and renters with other rental assistance. This ill advised provision also prohibits Public Housing Operating Subsidy from the units. It is not only ill advised and a violation of Fair Housing laws and the IRC, it is highly offensive.

17. §49.9(i)(15) [Page 46 of 68] – Exurban Developments

Recommended Change: Reinstate the provision from the 2006 QAP.

Justification: Allows Housing Authorities to meet the Federal requirement to leverage their Capital Fund. Reinstates fairness.

18. §49.9(i)(25) [Page 49 of 68] - Leveraging of Private, State, and Federal Resources

Recommended Change: Revise to show “. . . including HOPE VI and Capital Fund. . . .” and provide an exception for funds being provided y a Housing Authority that may also be the applicant.

Justification: HOPE VI funding is very limited and very few Housing Authorities have HOPE VI Programs. The Capital Fund is the main source of capital financing for Housing Authorities.

For Tekoa Partners, Ltd.

William J. Lee
Vice President of General Partner.

DRAFT COMMENTS 2007 OAP

1. Permit related party entities who are qualified developer/owners to receive acquisition credits and developer fees in the same amount as non-related parties for low income housing preservation transfers and rehabilitation of existing eligible USDA Texas RD financed properties.

Qualified Developer/Owners would be required to be in compliance with TDHCA regulations, and would have adequate experience in the development and management of housing tax credit properties.

2. Allow 7 points for eligible Rural Set Aside Properties located in cities whose population is less than 5000 (2000 census) and are not located within an MSA or SMSA.

3. Allow 7 points for eligible Rural Set Aside properties located in cities who have not received a tax credit award in at least 10 years.

-----Original Message-----

From: Dennis Hoover [mailto:DennisHoover@hamiltonvalley.com]
Sent: Wednesday, October 18, 2006 11:17 AM
To: Jennifer Joyce; Tom Gouris
Cc: RRHA of Texas; njohnson@hot.rr.com; Pat Barbolla; Mike Sugrue
Subject: FW: Sullivan QAP comments related parties and rural issues

Jenn,

This attachment is from Winston Sullivan. I agree with all three of Winston's comments.

The first comment is in regard to acquisition developer fees in related party transactions. There are about 700 existing multi-family properties in the RD portfolio. Probably 50% of these need a transfer/rehab to an interested owner/manager. Many of these properties are 20 years old, owned by "mom & pop" small town owners/builders that are at retirement age now. Almost all of these RD properties are in towns that badly need this housing. These properties are hard to work out. I'm doing three now that I've been working on constantly since late 2004 and we've only got one to close and start rehab. The deals are difficult to do, having to deal with RD, TDHCA-HOME, and the existing syndicator limited partners. I'm doing two that are 3rd party acquisitions and one that is a related party Identity of Interest. There is very little difference between a related party to a non-related party in the amount of work involved on the acquisition. These deals are so small and difficult to do that they need any help they can get. This is evidenced by the fact that in the regular 2007 application cycle there was only one application (from Joe Chamy) to do one of these acquisition/rehabs. **TDHCA should, on related party transactions, allowing verified acquisition overhead and expenses into basis.**

From: WINSTON SULLIVAN [mailto:winsullivan@msn.com]
Sent: Monday, October 16, 2006 5:00 PM
To: Dennis Hoover; Jim Fieser; Gary Kersch; Patrick Barbolla
Subject: Sullivan QAP comments related parties and rural issues

Gentlemen,

Let me have your comments/criticism of the attached. This does not have to be a part of the rrha official comments unless you guys agree that they should.

**CITY OF HOUSTON
CONCENTRATION POLICY
FOR AFFORDABLE MULTI-FAMILY HOUSING**

Background:

The City of Houston ("City") acknowledges the need to establish standards designed to limit or mitigate the concentration of new multi-family units it finances or sponsors within its borders. It is recognized that over concentration has a damaging and costly effect on neighborhoods and the City as a whole. At the same time the City recognizes the need for increasing the stock of affordable housing for its low to moderate income citizens.

Policy Objective:

The primary objectives of the City's Concentration Policy are to 1) encourage site selection of new or planned projects away from areas of existing concentration, 2) encourage renovation of older or substandard projects and the rebuilding and revitalizing of distressed neighborhoods and communities, 3) protect economic viability of all affordable multi-family housing in the City, and 4) incorporate the policy objectives in the City's Consolidated Plan.

Policy Provisions:

Applications for financing through a City or City related entity for proposed new developments are subject to review. Applications will be evaluated according to threshold criteria for concentration as listed below:

- 1) Compliance with applicable TDHCA concentration and site requirements (tax credit applications only).
- 2) The number of existing multi-family units (regardless of how financed) within a 1 mile radius of the proposed site shall not exceed 4,500 units.
- 3) The proximity to the closest, non-stabilized tax credit or Federally Subsidized Rent Regulated (FSRR) may not be less than 1,500 feet.
- 4) The average physical occupancy of the "B" product or better in the sub-market of the proposed project may not be less than 87%.
- 5) The density of the proposed project may not exceed 25 units per acre for garden style projects of 3 stories or less. Projects greater than 3 stories will be evaluated on a case by case basis.
- 6) Neighborhood input will be solicited.

Administration

The mayor of the City of Houston will designate a committee to be responsible for implementation and decisions for all matters relating to this policy. Approval of compliance with this policy shall be a pre-requisite of any of the following actions potentially considered by the City's Housing and Community Development Department, the Houston Housing Authority, Victory Street Public Facility Corporation, the Houston Housing Finance Corporation or any of the above entities' affiliates as they relate to multi-family applications.

- 1) Approval or issuance of letters of consistency with the City's Consolidated Plan;
- 2) Bond inducement resolutions;
- 3) Conditional commitment letters;
- 4) Loan or grant commitments;
- 5) Letters of project support or opposition.

The designated committee shall be authorized to consider waivers to this policy at its discretion based on mitigating conditions.

The designated committee shall be responsible for establishing its procedures and process, and for communicating the policy to the affordable housing industry, relevant community groups and all other interested parties.

Jen,

Please consider these comments for the QAP you are working on

1. I propose the following change to section 49.7(a) Regional Allocation Formula--(page 16 of 68). This change would make clear that any type of additional financing of a rehab or acquisition rehab of an existing 515, if it retains the 515 loan and restrictions, is eligible for the 515 set-aside. My proposed change is in **bold**.

"New Construction Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will not be considered under this set-aside. **Any rehab or acquisition/rehab of an existing 515 development that retain the 515 loan and restrictions, regardless of the source or nature of additional financing, will be considered under this set-aside."**

2. Section 49.9(d)(6)(B)(ii)----- (page 23 of 68) We were told by TDHCA staff in the Corpus Christi public meeting that the language in this paragraph limiting acquisition developer fees only to Tax Exempt Bond Developments and Rehab developer fees limited only to Competitive Housing Tax Credit Developments, is incorrect, was not intended by the Department and will be changed to allow developer fees. If this assumption is incorrect, then our comment is to restore these developer fees.

Comments on the Proposed 2007 REA Rules:

Section 1.32 Underwriting Rules and Guidelines, paragraph (e)(7) Developer Fee.(B)9(ii) Replace the existing language that prohibits Developer Fees with this: **"Developer expenses directly related to acquisition activities are allowable in Eligible Basis."**

In His service,

Gary L. Kersch <*(())><

garyk@doublekaye.com

(512) 331-5173x3 wk

Austin, TX.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CONSOLIDATED PUBLIC HEARING

900 North Shoreline Blvd.
Corpus Christi, Texas

September 21, 2006
3:50 p.m.

BEFORE:

ERIN FERRIS, TDHCA Housing Specialist

ALSO PRESENT:

DAVID B. BROWN, ORCA Representative

KATHERINE CLOSMANN, TSAHC,

Executive Vice President

ROBBYE MEYER, TDHCA Director of Multi-Family

Finance

PATRICIA MURPHY

LISA VECCHIETTI

different regions -- whether you're talking about the lower Rio Grande Valley or Central or North Texas. So we'll have to learn to adjust these things a little bit but we do need some method of being able to include people from outside the immediate, primary, and secondary market area, from home ownership, and from living with family.

And home ownership and living with family also go from the immediate area to the out-of-state and beyond the secondary market area. So we need some way for the definitions to be open to include that in the demand analysis.

MS. FERRIS: Thank you very much for your comments. Is there further comment on this? Mr. Sugrue?

MR. SUGRUE: Thank you so much. You are calling me by my name. I want to make comment about the feasibility of properties that cannot obtain full low-income housing tax credit rents.

In many rural communities, that's impossible. That means you're red-lining these communities. Can't be done and also, since they didn't address it, the capture rate, 50 percent in rural communities, is a little too low as well. We need to find some happy medium in there also. Thank you.

MS. FERRIS: Thank you for your comments. Mr.

Jen,

Please see below as my comment. If RRHA has formal comments, other than supporting TAAHP's comments, we will forward them in the AM.

Mike Sugrue
Solutions Plus, Inc.
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903.887.4344
903.887.4355-Fax
903.340.1766-Mobile

From: msugrue@hotmail.com
To: office@rrhatx.com
Subject: QAP Comment
Date: Tue, 17 Oct 2006 10:36:27 -0500

I think that the RRHA Board should take a position opposing Section 49.9(i)(17). This is new for this year's QAP and will make many rural applications non competitive, after the rural set aside is filled. **Rural deals will not be able to compete with non-rural deals.** Many rural towns have only one census tract and many others only two. If the census tract containing the bulk of the population has **ever** had a tax credit deal, (which could include 515 w/ credits), the potential deal would need to be moved to another census tract, if available, even if the tract only includes ranches, farms, cows and horses. Just because we build it, they may not come.

A suggested solution would be a 3, 5 or 10 year limitation for previous developments. While we do not want to hurt existing properties' occupancy, the market study should determine if there is sufficient demand for another property, not the fact that a property exists already.

This has legislative roots, so we will have to change this in the up coming session, however, I don't think the intent is to force deals to other census tracts regardless of demand. I believe that the Agency has some flexibility here.

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903.340.1766-Mobile

Jen,

I support Dennis's comments and will forward another.

Mike Sugrue
Solutions Plus, Inc.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CONSOLIDATED PUBLIC HEARING

900 North Shoreline Blvd.
Corpus Christi, Texas

September 21, 2006
3:50 p.m.

BEFORE:

ERIN FERRIS, TDHCA Housing Specialist

ALSO PRESENT:

DAVID B. BROWN, ORCA Representative

KATHERINE CLOSMANN, TSAHC,

Executive Vice President

ROBBYE MEYER, TDHCA Director of Multi-Family
Finance

PATRICIA MURPHY

LISA VECCHIETTI

that cannot be obtained. If we can't obtain it, we can't submit the application. We'll be in deficiency and our application will be terminated.

There's a couple of other little things that would also have a problem. Property condition assessment, on Page 37, that states a property condition assessment for a rehab property must be dated within 90 days of submitting the application. It previously was six months.

On this regard, I think we should go back to the six month date because if not, we're going to have to get two property condition assessments, one when we start analyzing the proposed acquisition and then redo it again within the 90 day limit. That's not going to be very helpful and it's just impossible. It's running up the cost for no good purpose. I guess the final two points within my three minutes, I'd like to address your--

MS. FERRIS: You're at two.

MR. BARBOLLA: Okay. Page 41, the scoring on points for low-income units. I agree that points should be given for having units that are income-level qualified.

But to say that someone that really has worked hard and have gone out and have obtained rental assistance for those units, they can't score. They're barred. It seems like the most logical thing if someone's saying, "I'm

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Barbolla?

MR. BARBOLLA: Yes. My name is Patrick

Barbolla, Fort Worth, Texas. I have four comments on the Real Estate Analysis rules.

First, I think the Department for changing the requirement of doing a -- changing the requirement for a 30-year pro forma down to a 20-year. It would be better to go to a 15 but that's some improvement.

Again, I have a concern on Page 10 about the developer fee for properties. It's again not allowing a developer fee on acquisition credit.

I also have a problem on the definition of initial feasibility. It's on Pages 12 and 13 of the rules and it's Section 1.32(I). There is a requirement in there that if you read through it that it appears that a property would be deemed automatically infeasible if the operating expenses were greater than 65 percent of the adjusted -- net operating income.

That may seem a good idea until you realize, what if someone goes out and acquires grants, low-interest loans to do the development and uses equity proceeds so that they are able to lower their rents?

For example, they can -- if you went to the market under normal deal and borrowed money, say \$1

million at 30 years at 5 percent interest, your rents would have to \$400 a month. If someone would go out and do substantial equity in grants, where they would say only need to borrow \$1 million at 1 percent interest, then you put that in there and lower your rents so that you're not making an exorbitant profits.

It's very possible that the net operating income -- the operating expenses will exceed 65 percent of your adjusted net operating income, which would deem that you're automatically infeasible.

I think that needs to be really -- for the Department to think it through about what you're trying to do. If we're trying to make affordable housing, you should actually encourage people to have lower rents so that we can effectively have marketable units to people that need it the most.

But what you're doing is making it not feasible automatically. So the ones that are most affordable are not going to be deemed feasible by the Department. I have a serious problem with that.

The next one is property condition assessment. Again, it states that it must be property condition assessment to determine the needs of rehab of the property over the next 30 years. Well, first, you're only looking

at a pro forma for 20 years, and we all know that over 30 years even a new construction is going to have a substantial amount of repair need.

Why are we doing this just we rehab and not new construction? If you're using it to determine the reserve amount, surely you would do it for new construction also because within 30 --

MS. FERRIS: Thirty seconds.

MR. BARBOLLA: Okay. Within 30 years, all the appliances, all mechanical systems, definitely the roof, are going to need to be replaced. I think it's discriminatory towards rehab construction and we should be treating them both the same. And thank you for your time.

MS. FERRIS: Thank you very much.

AUDIENCE: [indiscernible]

MS. FERRIS: Thank you for your participation.

Is there further comment on that item?

(No response.)

MS. FERRIS: The next item that we will discuss is the Energy Assistance Program rules. I believe that I'm going to put these together and then we can comment on any of the ones that fall under neath it. There are two separate programs, so overall these rules cover activities under the Comprehensive Energy Assistance Program and the

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that you may want and see if they will accept it. Then you wouldn't need to amend and go into regulation form something that is lending agencies away from each other instead of working jointly together to better housing in Texas. Thank you for your time.

MS. FERRIS: Thank you very much for your comments on this item again. Is there further comment on this particular issue? Great.

MR. HOOVER: My name is Dennis Hoover and on Page 23, the developer fee issue of an acquisition development fee is being denied. I think that for our properties -- being the rural development properties that need acquisition and rehab that's one more nail in the coffin for these little properties.

The smallest of the deal dictates that we need everything that we can -- every item that we can get our hands on to use to make these deals doable. I agree that if it's a \$10 or \$15 million deal that those fees probably should be reduced some how but when we're looking at some of these five or \$600,000 acquisitions, that is a tool that we need.

Nobody's doing these deals anyway. Only one was done this year out of -- there's probably 400 in the state, maybe 500, that need to be done. Only one was

done. They're very difficult to do and very expensive and we need every tool that we can get our hands on to do it.

MS. FERRIS: Thank you very much for your comments.

MR. JOHNSON: Can I comment again? Sox Johnson with Rural Rental Housing. On this issue that Pat brought up about the inspections of the property, I don't know how to do that. Of course, there's additional cost. If it goes through TDHCA, they're going to have to pay fees with that. With USDA, they may or may not have been paying depending on USDA. They used to do the inspections themselves but they may be going out.

I know there have been some discussions between some of the leadership between the two agencies, so I'm simply suggesting at this time you consider leaving it like it is until you can pursue your deals and decide what you're going to do. Some of our people I know would much prefer it go to TDHCA to do it. Some of it would prefer that it stay with USDA and a lot of that has to do with personalities. I know that so I'm suggesting in view of that don't change something until you've gotten a little farther down the pike.

MS. FERRIS: Thank you for your comments.
Further comment on this issue?

Jenn,

These are comments I will propose to RRHA, so right now they're just my comments. Call if you have any questions. Thanks.

Comments on the QAP:

1. I propose the following change to section 49.7(a) Regional Allocation Formula--(page 16 of 68). This change would make clear that any type of additional financing of a rehab or acquisition rehab of an existing 515, if it retains the 515 loan and restrictions, is eligible for the 515 set-aside. My proposed change is in **bold**.

"New Construction Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will not be considered under this set-aside. **Any rehab or acquisition/rehab of an existing 515 development that retain the 515 loan and restrictions, regardless of the source or nature of additional financing, will be considered under this set-aside."**

2. Section 49.9(d)(6)(B)(ii)----- (page 23 of 68) We were told by TDHCA staff in the Corpus Christi public meeting that the language in this paragraph limiting acquisition developer fees only to Tax Exempt Bond Developments and Rehab developer fees limited only to Competitive Housing Tax Credit Developments, is incorrect, was not intended by the Department and will be changed to allow developer fees. If this assumption is incorrect, then our comment is to restore these developer fees.

Comments on the Proposed 2007 REA Rules:

Section 1.32 Underwriting Rules and Guidelines, paragraph (e)(7) Developer Fee.(B)9(ii) Replace the existing language that prohibits Developer Fees on Identity of Interest developments with this: **"Developer expenses directly related to acquisition activities are allowable in Eligible Basis."**

Dennis Hoover
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From: Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]
Sent: Tuesday, October 17, 2006 1:16 PM
To: Dennis Hoover
Subject: RE:

TROPICANA BUILDING CORPORATION

4655 COHEN AVE • 915-821-3550 • EL PASO, TEXAS 79924

October 18, 2006

Jennifer Joyce
TDHCA
VIA e-mail

**RE: COMMENTS ON PROPOSED 2007 QAP AND PROPOSED 2007
UNDERWRITNG RULES**

Dear Jen,

Following are our comments on the Draft 2007 QAP:

1. 49.3(5)(A): The words "*the greater of*" were crossed out, however I believe this is a typo. It stands to reason that the APR would be the greater of the 2 options listed.
2. 49.3(30): The word "exceed" was deleted unintentionally I believe.
3. 49.3(52)(E) and (G): This language is very confusing regarding 4 bedroom units. We suggest that another item be added to the list in Paragraph G that clarifies that up to 5% of the units may be 4 bedrooms, if this is still the intent of the language in this section.
4. 49.9(d)(5)(C): We strongly support the change in this paragraph, allowing unused funds in a sub-region to stay within its same region first, before being re-allocated to another region. We believe that this language is more in line with the intent of the original language of the Regional Allocation Formula Bill authored by Senator Shapleigh from El Paso. We believe a support letter from him regarding this language change will be forthcoming.
5. 49.9(h)(4)(A)(ii)(VI): We think the requirement of 911 telephones is an excellent change from the requirement of public telephones. We have found that the public telephones on our existing sites are often used for drug-related activities and wish we could replace them with 911 phones.
6. 49.9(h)(4)(F): We disagree with striking the language in this paragraph that summarizes the UFAS standards. We appreciated having the summary notes in the paragraph as a reminder to what our obligations are.

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7. 49.9(h)(4)(M): We are opposed to the requirement of requiring criminal background checks on all tenants. We believe that this creates a huge liability for property owners and property managers, especially when the Department is not telling us what types of convicted criminals are prevented from living in our units. If the Department wishes to make individuals convicted of certain crimes ineligible as tenants in the program, then the rule should state that. We currently have a policy of running sex offender checks on prospective tenants and rejecting any convicted sex offenders from our properties. We suggest a similar rule if there is pressure on the Department to pass a rule addressing convicted criminals.
8. 49.9(i)(3): We do not support the added language in this paragraph. It is often very difficult to qualify tenants for the 30% income levels, because often in El Paso people who claim this amount of income have insufficient documentation. Often the families who legitimately do make less than 30% AMFI also have Section 8 assistance. The local PHA is also very educated on how the unit mixes work, and seeks 30% units for their assisted tenants. If the Department goes forward with this rule to encourage developers to exclude Section 8 families from living in deep targeted units we implore the Department to bring all the PHAs in the state in for an educational seminar on this new rule. We worry that our PHA may not understand this rule and seek to file Fair Housing Act complaints against us for enforcing this new rule.
9. 49.9(i)(4)(B)(xvii): The department has always allowed a comparable item in this paragraph for evaporative coolers in dry climates. For the first time last year, evaporative coolers were excluded, and we failed to notice and bring it to the Department's attention during the public comment period. We believe that evaporative coolers in dry climates should be placed back in this paragraph. The Federal Government recognizes and encourages the use of evaporative coolers as an energy saving device, and specifically allows it under President Bush's new energy tax credit program for new housing units. Evaporative coolers use far less electricity than 14 SEER HVAC coolers and emit no greenhouse gases as they do not use Freon like refrigerated air conditioners. If the department is looking for an objective criterion to establish a definition of "dry climate" we suggest areas of the state with average annual rainfall of less than 10 inches fall under that definition.
10. 49.9(i)(8): We agree with the raising of allowable costs per square foot in this paragraph. We have seen a huge increase in construction costs due to the expansion of facilities and homes at Ft. Bliss in anticipation of the additional 20,000 troops that are scheduled to come to El Paso in the next 5 years. We expect this condition to continue to put pressure on local construction labor and material.
11. 49.9(i)(16): We believe that an objective definition for "*community or civic organization*" needs to be added if this paragraph is going to become a selection

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criteria in the rules. The Department has done a good job over the years of eliminating subjective interpretation in the rules, and we advocate for that to be done here too.

This concludes our comments on the proposed 2007 Draft QAP.

We also submit the following comments on the proposed 2007 Draft Real Estate Analysis Rules and Guidelines:

1. 1.32(c)(4)(D): We feel the maximum DCR for Year 1 evaluation should be raised from 1.30 to 1.35 for the same reasons that the Department feels the minimum DCR should be raised from 1.10 to 1.15. We agree that long-term financial feasibility on LIHTC deals is coming into question with HUD using methodology (which we believe to be incorrect) that is keeping income levels stagnant, while operating costs continue to rise. Allowing a higher maximum DCR will provide the same safeguards to this problem as raising the minimum DCR.
2. 1.32(c)(5): We strongly support the notion of evaluating projects based on a 20-year proforma as opposed to a 30-year proforma. This change makes the evaluation of long term feasibility much more realistic, and allows for developers to target lower income levels such as the 30% and 40% families along the border who desperately need quality affordable housing. (See the 2006 Mission Palms application that we submitted for an excellent example of this point.)
3. 1.32(c)(5)(C): We support the objective criteria listed in this paragraph to allow for deviations from the numbers drawn from TDHCA databases used to estimate costs.
4. 1.32(c)(5)(D): We disagree with the striking of the language requiring a development to pay back deferred developer fee within 15 years. We believe the current policy requiring this payback is an objective and reasonable policy that keeps inexperienced developers from attempting to "pick up points" by submitting applications that are not feasible in the long run. We also oppose the elimination of this policy because we believe it will give PHAs an unfair advantage in competing with private companies. Governmental entities, such as PHAs, do not have to make a profit on projects because they ultimately have the power to tax in order to cover up any foolish decisions they make, however private companies must make a profit or they do not survive. We feel strongly that the success of the LIHTC program over the years has been due to the success of the private developers who have participated, much more so than

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the participation of PHAs. This policy change would unfairly penalize those private developers who are the core of this successful program.

This concludes our comments for the 2007 draft rules regarding the LIHTC program. Thank you in advance for considering our comments.

Sincerely,



R. L. "Bobby" Bowling IV
President

The Youngs Company

38

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October 17, 2006

TO: Ms. Robbye Meyer – Director, Multifamily Programs – TDHCA
FROM: Don Youngs – Texas Affordable Housing Consultant
RE: Comments Regarding Proposed Changes to 2007 Real Estate Analysis Rules
ATCH: Survey of Rural Elderly Developments... "Where do tenants come from?"

Via Fax to (512) 475-0764
8 PAGES

Following are my public comments regarding proposed changes to the 2007 QAP.

I concur with both the TAAHP Consensus Comments of its membership concerning the Draft 2007 Real Estate Analysis Rules and the Draft 2007 QAP. Since I am not a member of TAAHP, I have attached and signed the organization's points and have removed the name of the organization.

#####

Additionally, I am including the results of a survey done by The Youngs Company under the auspices of the RRHA of Texas. It was a quick email survey, sent 10 days ago to RRHA members who owned and/or managed elderly tax credit developments in rural communities. The questionnaire had 3 questions: (1) How many bedrooms; (2) Living Arrangements; and (3) Where the tenants were living just before they moved into the tax credit development where they are currently living.

Information for 341 units was returned within 5 days. A copy of the tabulated results is attached. My comments are as follows:

Reducing Inclusive Capture Rates for Rural and Elderly from 100% to 50% will have the unintended consequence of effectively wiping out the feasibility of rural, elderly developments in a majority of communities with populations between 5,000 – 15,000.

A survey of rural, elderly developments in communities with populations between 5-15,000 (see attached) capture more than half of their tenants from communities that are not included in the community's PMA, and/or do not come from the rental pool of elderly persons in Census 2000. It is my understanding that these results corroborate findings of similar studies done by Messrs. Jack, Ipser and Young.

Recommendation:

I believe a more prudent approach would be to delay making any change (including an alternative plan to reduce the capture rate to 75%) to the capture rate of elderly, rural tenants until a much broader study of "where elderly tenants come from" is conducted. This study shows that over 50% of the tenants came from locations that are not currently being counted by REA, e.g., "sold their homes," "lived with family members," "came from out of state," and "came from in-state, but out-of-town"


Don Youngs

**Results of Survey of 12
Rural, Elderly Developments to answer the question:
"Where did the tenants come from?"**

<u>Number of Bedrooms</u>		
	#	%
1 Bedroom	219	64.2
2 Bedroom	122	35.8
Total	<u>341</u>	<u>100%</u>

<u>Living Arrangements</u>		
	#	%
Single Female, Living Alone	254	74.4
Single Male, Living Alone	48	14.1
Married Couple, Living Together	32	9.4
Single Caregiver With Children	4	1.2
Married Person, Living Alone	1	0.3
Married Couple, With Children	0	0.0
No Response	2	0.6
	<u>(341)</u>	<u>100%</u>

<u>Where Tenants Came From Before Moving Into This Development</u>			
	#	%	(1)%
In-Town, From another Rental Development	121	35.5	
In-State, From Out of Town	112	32.8	32.8
Sold Their Home and Moved Here	25	7.3	7.3
In-Town, From Public Housing Development	23	6.7	
In-Town, Living With Their Children	18	5.3	5.3
Came from Out-Of-State	14	4.1	4.1
In-Town, From a Market Rate Development	12	3.5	
In-Town, Living With Other Relatives	7	2.1	2.1
In-Town, From a Nursing Home	6	1.8	
In-Town, From Another HTC Development	6	1.8	
In-Town, From an Assisted Living Facility	0	0	
	<u>(341)</u>	<u>(2)100.9%</u>	<u>51.6%</u>

(2) Result is >100% due to multiple answers, e.g., In-State, from out of town ... widow-sold my home to move into something more manageable.

(1) % of respondents not included in TDHCA Real Estate Analysis

Source: Original survey conducted by The Youngs Company through RRHA of Texas

Section 49.3: Definitions

(52) Ineligible Building Type. Remove the restrictions on minimum percentages of unit types and let the market dictate the unit mix.

Justification: Although it is desirable to offer a variety of unit types, it is more important to address the needs in a particular market.

(75) Reconstruction. The current draft QAP does not allow for an increase in number of units under the definition of Reconstruction. We believe that Reconstruction should not be limited to replacing the exact number of units.

Justification: For instance, total demolition of a 100 unit building with a mix of two and three-bedroom units, is going to increase in number of units, when smaller one-bedroom units are added to the unit mix.

Section 49.5: Ineligibility

(b)(10). The Applicant, Development Owner, Developer, Guarantor, or any Affiliate of such entity whose pre-development award from the department had not been repaid for the Development at the time of **commitment** or Bond closing. TAAHP requests that this repayment be tied to a construction loan closing instead of the Tax Credit Commitment Letter.

Justification: Should not be tied to Commitment Letter, but rather to the closing on the construction loan, when funds for repayment will be available.

Section 49.6. Site and Development Restrictions.

(g) Limitations of Development to Certain Census Tracts. TAAHP is supportive of this attempt to get more geographical dispersion of units. However, we believe it should be tried first in the major metropolitan areas, where the problem seems more pervasive. Additionally, we believe that where a City or County already has a Concentration Policy (such as Houston and Harris County), then the local policy should preempt the need for a resolution. We suggest:


(1) in an area whose population is less than 100,000 – recommend changing this to population less than 1,000,000

(3) *Modify to read:* Submits to the Department an approval of the Development referencing this rule in the form of a resolution from the governing body of the appropriate municipality or county containing the Development, *or alternatively, a copy of the municipality's Concentration Policy which permits the development in the specified Census Tract.*

49.8. Preapplications

(d)(3)(A)(i) Change date for submission of request for neighborhood organizations from December 8, 2006, to the same date as the pre-application date.

Justification. This is too early for notification and will create unnecessary notifications for projects without site control. The pre-app date is sufficient for the developer's ability to notify and work with neighborhood organizations prior to the application.



49.9. Application; Submission, et al

(c) Adherence to Obligations. The last sentence of this paragraph is unclear. We recommend it read:

"if a Development Owner does not produce the Development as represented in the Application and in any amendments approved by the Department subsequent to the Application, ~~(unless granted an extension by the Department)~~; or does not provide the necessary evidence for any points requested by the Development Owner and awarded unconditionally by the Department, by the required deadline, ~~(unless granted an extension by the Department)~~;

(d)(4) Administrative Deficiencies. Need to restore to 5 business days from 3 days and to 7 business days from 5 for deficiency submissions. Many times, the requests relate to need for information from third party sources and it is difficult to get these documents in the requested time frames.

(d)(5)(C) Methodology for Allocations. As worded, this section would penalize rural regions where the top scoring application exceeds credits, and credits might go to urban area instead. TAAHP requests that this Section be stricken.

(d)(6)(B)(II) Developer Fees. This section prohibits the paying of a developer's fee on the acquisition portion of an acquisition/rehab. This goes against the overall preference for preserving or rehabilitating existing complexes in Texas. This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

(e)(2) Evaluation Process for Tax Exempt Bond Development Applications – Administrative Deficiencies. TAAHP opposes the daily penalty fee of \$500 and requests its removal.

(h)(4)(A)(ii)(XI). Threshold Design Criteria. Equipped and functioning business center or equipped computer learning center with 1 computer and 1 fax machine for every 25 units proposed in the Application and 1 printer for every 2 computers (2 points). TAAHP requests that this be changed to: *Equipped and functioning business center or equipped computer learning center with 1 computer for every 50 units and 1 printer/fax machine for the entire business center.* This request is based on the experience of TAAHP owners and property managers in the operations of business centers. Further, more and more residents have personal computers.

(h)(4)(B)(i). This section needs to be amended to keep up with changing technology, including wireless networks.

(h)(6)(G) Site Work Costs. If the Applicant's site work costs exceed \$7,500 per unit, then the Applicant has to pay an engineer or architect to provide detail to support these costs and pay an accountant to attest as to which of those should be in eligible basis. This \$7,500 per unit threshold was first put in place with the 2003 Real Estate rules. Site costs have increased dramatically and it is time to raise this limit. TAAHP requests \$10,000 per unit, as a more appropriate number.

(h)(12) Applicants Applying for Acquisition Credits.

This section requires as part of threshold requirements a legal opinion that the proposed acquisition meets the requirements of Section 42. First, one can not obtain a hypothetical legal opinion based upon future events. No attorney will issue an opinion in February that a transaction to be closed many months later complies with Section 42 of the Code. There were three attorneys present in the TAAHP QAP meeting and all three indicated that they would not issue such an opinion.

49.9 (f) Selection Criteria

(1) Financial Feasibility.

(A) Require a 15 year proforma rather than a 30 year proforma. This conforms with the industry standards in the underwriting of tax credit transactions.

(2) Quantifiable Community Participation. While we applaud the addition of QAP Section 49.9(i)(16), which grants up to 7 points for applications in areas that have no organizations meeting the definition of "neighborhood organization" in the QAP, it does not go far enough in leveling the playing field between applications that have neighborhood organizations and applications that do not. Assuming an applicant meets the requirements of 49.9(i)(16), they would receive a maximum of 19 points (12 plus 7), while an application with a neighborhood organization would receive 24 points. While the incentive for fraud in neighborhood organization creation and the disincentive for developing in rural areas without "neighborhood organizations" may decrease, it will not be totally eliminated. In creating 2306.6711(b)(2), the Legislature did not intend to penalize applications from areas without neighborhood organizations, rather it sought to penalize applications with neighborhood opposition. There is no statutory mandate that scoring for an item must start at zero points and rise upward; scoring can start at 24 and reduce downward with opposition and still meet the requirements of 2306.6711(b)(2). To fulfill legislative intent and avoid discrimination against certain geographic areas, TDHCA should eliminate 49.9(i)(16) and amend 49.9(i)(2)(iii) to read as follows:

"In general, letters that meet the requirements of this paragraph and:

- (I) ~~establish three or more reasons~~ at least one reason for support ~~or opposition~~ will be scored ~~the maximum points for either support (+24 points) or opposition (zero)~~;
- (II) ~~establish two reasons for support or at least one reason for opposition~~ will be scored zero +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;
- (III~~V~~) that do not establish a reason for support or opposition or that are unclear will be considered ineligible and not scored as neutral (+12 points).
- (iv) Applications for which there are multiple eligible letters received, and average score will be applied to the Application.
- (iv) Applications for which no letters from neighborhood organizations are scored will receive a neutral score of +1224 points.

Additionally, we request the date for submission of these letters be April 2, 2007, rather than March 1, 2007, to allow a period of time after the application has been finalized to meet with any organizations.

(i)(3) The Income Levels of Tenants. Language was inserted "Households receiving any Section 8 voucher rental subsidies, Tenant Based Rental Assistance (TBRA), or similar rental assistance may not occupy the Units designed for points under this section (excluding 100% project based Section 8.)" This is clearly going to raise some "fair housing" eyebrows, since in certain situations, applications would have 80% of their units ineligible for any type of voucher. Further this prohibition applies throughout the extended use period. TAAHP strongly opposes this and requests its removal.

(i)(5) Funding by Local Political Jurisdictions

This section continues to have serious flaws which allow a developer to receive the same amount of points for a 48-hour loan, as for a permanent grant or donation, discourages applications in small cities and rural communities, and the new formula for awarding points far exceeds previous standards and will result in greater pressure on the limited resources of the smaller cities.

1) Allowable number of funding sources:

This year's language limits the developer to only ONE source of funding. This is particularly unfair to smaller communities where a developer may have to cobble together a donation of land from the city, an infrastructure grant from a county and funds from a Housing Finance Agency. Even though this section has been modified to allow substitution of the source, we still need to be able to get these funds from several sources.

2) *Types of Funding:*

Continue to allow TDHCA's HOME Funds to count for these points in communities that do not have HOME allocations, i.e. Non Participating Jurisdictions, as was allowed in the 2005 and 2006 QAPs. If HOME funds (which come from HUD regardless of whether they go to the City for allocation or to the State for Allocation) are considered local when distributed by a City, they should be considered "local" when they are distributed by TDHCA.

3) *Amounts of funding to qualify for points:*

TAAHP recommends reverting to last year's point system for this category. If we are moving to a percentage of cost system (rather than dollar per unit), then the total development costs will have to remain fixed at the application stage for purpose of these points. Further, the percentages need to be reduced from 4%, 8%, and 12% to percentages equivalent to last year's; e.g., .5%, 1% and 3.5%). If loans are going to be acceptable, then we need to have a minimum term and a maximum interest rate of a value that can be proven to benefit the project.

Justification: The impact of this change is very significant, as demonstrated in the example below, which compares 2006 to 2007 on a 72-unit project with a total development cost of \$7,490,000:

	2006	2007	2007 (as \$ per unit)
6 points	\$36,000	\$299,602	\$4,161
12 points	\$72,072	\$599,205	\$8,322
18 points	\$252,072	\$898,808	\$12,483

(i)(8) Cost of Development by Square Foot. The Department has identified a 14% increase in Marshall Swift, but only passed on roughly one half of this increase in establishing the cost limits. These need to be increased to the following:


- Elderly: \$90
- Elderly (Tier 1): \$92
- Family: \$80
- Family (Tier 1): \$82

For the purposes of this subparagraph only, if the proposed Development is a high-rise building of 4 or more stories, the NRA may include elevator served interior corridors. Change to read, *if the proposed Development is an elevator building serving seniors or a high rise building serving any population, the NRA may include elevator served interior corridors.*

Justification: Increase in costs needs to match Marshall Swift increases. Further, the definition of Net Rentable Area needs to include two and three story senior facilities which are required to have elevators.

(i)(10) Rehabilitation or Reconstruction. Amend sentence to read: Applications proposing to build ~~solely~~ Rehabilitation (excluding New Construction of non-residential buildings), *and/or solely* Reconstruction (excluding New Construction of non-residential buildings) qualify for points.

Justification: Provides greater clarity.



(i)(11) **Housing Needs Characteristics.** This Section contains a minor language change which could result in uncertainty over the score for Applicants. The old language stated that "Each application *will* receive a score," which is changed to "Each application *may* receive a score." The previous language should be restored.

(i)(14) **Development Location.** Item (C) was stricken because of possible duplication with the points for projects in QCTs with revitalization plans. However, it also deletes TIFs and Downtown Revitalization Districts Important for Urban projects. This should be reinstated.

Justification: Allows Cities to be involved in directing the placement of affordable housing where it is most needed.

(i)(18) **Tenant Population w/Special Housing Needs.** This needs to be switched from a "hold open" period of 24 months back to the 2006 QAP standard of 12 months.

Justification: This issue was visited several years ago when a similar provision was in place in the QAP and the advocates for housing for persons with disabilities joined with TAAHP to ask that the "hold open" period be shortened. The shorter period is supported by the advocates as they want to encourage (rather than discourage) the setting aside of units for persons with disabilities and more developers can accommodate a shorter period as a long "hold" open period is discouraged by investors.

(i)(20)(B) **Negative Site Features.** This needs to be updated to be more "user friendly" to downtown/urban developments and more predictable for rural areas. For instance, some cities have "active railroad tracks" but have noise reduction features. Also, there are varying degrees of high voltage transmission power lines and definitions are hard to locate. We recommend:

- (ii) Developments located adjacent to or within 300 feet of active railroad tracks will have one point deducted from their score, unless the applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail.
- (v) Developments *where the buildings are located within the "fall line" of high voltage transmission power lines* will have 1 point deducted from their score.

(i)(21) **Development Size.** The Development consists of not more than 36 units ~~and is not a part of, or contiguous to a larger existing tax credit Development (3 points).~~

Justification: TAAHP members believed that Phase 2 developments, particularly in rural areas, should be encouraged, as these tend to improve operating feasibility through the ability to achieve greater economies of scale.


Section 49.9 (j) Tie Breaker Factors.

(1)(A) Applications involving any Rehabilitation *and/or Reconstruction* of existing Units will win this first tier tie breaker over Applications involving solely New Construction.

Section 49.13. Commitment and Determination Notices

(a)(1)(B) This allows a recipient of a tax credit award to extend until December 31 of the year and without requiring Board Approval. This needs to have a deadline such that funds can be awarded to the waiting list AND require Board approval. We recommend that no extension be granted past November 1, and that Board Action be required for any extension approval.

(a)(6) This Section eliminates the 10 day time period for acceptance of the commitment notice and allows the department staff to specify the due date. This has the potential to create inequities among Development Owners with staff setting different dates for each and can also



submitted with the commitment notice. It should be changed to read "The executed Commitment of Determination Notice must be returned to the Department on the date specified in the Commitment Notice, which shall be no earlier than ten days of the effective date of the Notice."

Section 49.15. LURA, Cost Certification.

(a) TAAHP recommends amending this paragraph to add the following line: "The LURA prepared by the department shall not contain any provision which requires underwritten or application rents to be lowered, either for changes in AMI, utility rates, or any other reason, except in accordance with IRC Section 42." This change is required to maintain the long-term financial feasibility of new developments, a priority established by the legislature in Senate Bill 264 (2003).

(b)(4) A new section was added in the 2007 Draft QAP which requires TDHCA to look for noncompliance at the cost certification stage. This is opposed by TAAHP and the investors in the program, because if TDHCA does not award the credits, then the development will be foreclosed upon by the lender/investor and the affordable units and the credits will be lost.

Justification. This makes investors very nervous and will affect credit prices negatively. The time to penalize an Applicant is up front before awarding credits, not after the units are building a being filled with qualified residents.

Section 49.16. Housing Credit Allocations

(g) Reinstate and amend the deleted sentence: For properties receiving financing through TX-USA-RHS or FHA, the Department may accept the inspections performed by TX-USDA-RHS or FHA in lieu of having other Third party inspections.

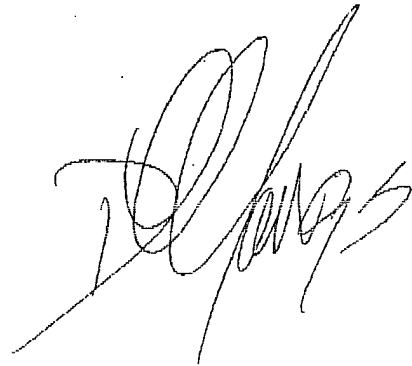
Section 49.17. Board Reevaluation, Appeals Process.

The proposed suggested revisions to the rules governing the board appeals process under 10 TAC Section 1.8 open the floodgates for board appeals by allowing *virtually anyone* to appeal following board action. Instead of adopting the definition of "Appealing Party" from 10 TAC Section 1.7, this section should provide a definition as follows: "Appealing Party—The Administrator, Affiliated Party, or Applicant who files, intends to file, or has filed on their behalf, an Appeal of a Board decision."

Section 49.20 Program Fees

(f) Commitment or Determination Notice Fee. Add Sentence: If a Development Owner has paid a Commitment Fee and returns the credits in a suitable time frame that they can be allocated to a development(s) on the Waiting List, the Development Owner will receive a refund of 50% of the Commitment Fee.

Justification: This would provide an incentive to Developers to give back credits in time for reallocation to a project on the waiting list.





October 18, 2006

Ms. Jennifer Joyce
Interim Manager of Multifamily Finance Production Division
Texas Department of Housing and Community Affairs

Re: Public comment on proposed 2007 QAP and REA Guidelines

Dear Ms. Joyce:

Thank you in advance for the opportunity to provide public comment regarding the proposed 2007 QAP and REA guidelines. I will address three specific areas of concern.

Proposed Capture Rate Decrease for Elderly, Rural, and Special-Needs Projects

It has been proposed to reduce the capture rate for elderly, rural, and special-needs projects from 100% to 50%. Research over the past few weeks indicates that projects targeted for these tenants can be successful despite having a capture rate higher than 50%. Specifically, examples have been found of projects which leased up rapidly in the market despite the fact that the capture rate was higher than the maximum amount proposed for 2007. These projects are currently providing quality rental housing that would not have been possible under this new proposed guideline.

It has been suggested that the proposed decrease in the capture rate could be offset by the fact that a market analyst will have broader discretion to utilize "demand from other sources" in the calculation of potential renters in the area. Unfortunately, at this point those of us who have been working with the Real Estate Analysis Division of the TDHCA have yet to formulate enough information to thoroughly address what is appropriate to include in these sources of demand. Preliminary data gathered within the past few weeks indicates that a significant number of potential renters are coming from areas which are not included in the traditional demographics that a market analyst typically uses for making these calculations. With respect to elderly properties, examples of these non-traditional sources of demand include individuals or couples who desire to move out of single-family homes to apartments (as a result of the rising costs of home ownership or in the case of an individual who has recently lost a spouse), children who would like to move their parents closer to them from other areas of the state, or elderly folks that are currently living with their children because adequate rental housing is not available in the area.

A solution would be for the 2007 QAP and REA guidelines to remain the same as the 2006 documents in this regard. Prior to next year, those of us in the industry can then work together with the TDHCA to gather the data necessary to determine an appropriate and reasonable model for determining demand from other sources for these projects moving forward.

Ms. Jennifer Joyce

Page 2

Calculation of Demand and Capture Rate by Unit Type

As proposed, the 2007 REA guidelines will require market analysts to calculate a capture rate by unit type. The effect of this proposed change on the HTC program has not been fully analyzed by those of us in the industry nor the TDHCA. Preliminary research indicates that some projects that have been constructed under the HTC program have subsequently leased up at a rapid pace, despite the fact that they would have failed a capture rate test by unit type. Under the current guidelines, market analysts are charged with reviewing the unit mix as proposed by the developer. This includes comparing the proposed unit mix to other projects in the market and testing it for reasonableness.

Also worth noting is the fact that the data necessary to accurately perform a capture rate by unit type can be very difficult to obtain. It has been our experience that property managers of nearby comparable properties in many cases are not willing to reveal occupancy rates by bedroom type for the previous 12 months. Additionally, if this requirement remains the cost of a market study will undoubtedly increase significantly to include the time necessary to perform this level of analysis (increase could be between 20-40%).

A solution to this issue would be to remove this requirement from the 2007 QAP and REA guidelines and allow the market analysts, lenders, syndicators, and/or other industry participants to be responsible for analyzing the unit mixes for reasonableness.

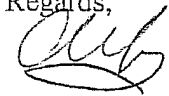
Infeasibility of a Project Based on Rents Being Less Than Program Maximums

Based on my understanding of the proposed QAP, a project would be deemed "infeasible" if the rents are less than the maximums allowed by the program and market rents. There are concerns that this rule could result in projects being located exclusively in areas of higher incomes and higher market rental rates. Conversely, areas with lower median incomes (and potentially higher demand) may be overlooked by developers because the market rents are too low when compared to program maximums, which are established on entire MSA's rather than specific market areas.

A solution to this issue would be to remove this requirement from the 2007 QAP and allow the lending and syndication participants in the affordable housing industry to determine if a property is feasible or not based on the significant amount of due diligence which is required.

In closing, I would like to thank you for the opportunity to make public comment on the 2007 QAP and REA guidelines. Additionally, I look forward to continuing working with the TDHCA to bring quality affordable housing to the residents of Texas.

Regards,



Craig Young

Market Analyst/Appraiser

O'Connor & Associates

42

THE DONNA AFFORDABLE HOUSING CORPORATION
705 SILVER AVE.
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FAX COVER SHEET

FROM:

Liz Hernandez
Public Housing Manager
ehernandez@donnaha.com

No. of Pages:
Cover Sheet Included

Date: October 18, 2006

TO:

ATTN: Jennifer Joyce

Fax No 512-475-0764

RE: 2007 QAP Comments

XX

Urgent For Review Please Comment Please Reply

XX

COMMENTS:

CONFIDENTIAL NOTE

The documents accompanying this fax transmission may contain information from the Housing Authority of the City of Donna, which is confidential or privileged. The information is intended recipient, be aware that any disclosure, copying, distribution, or use of the fax information is prohibited. If you have received this fax in error, please do not read and disseminate it immediately.



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Recommended Change: Revise to . . . (i) a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevent adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

4. §49.8(d)(3)(A)(1) [Page 18 of 68] – The date for submission of requests for neighborhood organizations should be changed from December 8, 2006, to the same date as the pre-application date.

5. §49.9(d)(4) [Page 22 of 68] *Administrative Deficiencies*

Recommended Change: The time to correct Administrative Deficiencies should remain at five (5) days.

Justification: Reducing the period to remedy Administration Deficiencies from five to three days is severe. It does not provide adequate time to respond to the deficiency. Support for keeping the response period at five days can be found in §49.9(e)(2) [Page 24 of 68] That establishes the response period for Tax Exempt Bond Developments at five days.

6. §49.9(d)(6)(B)(ii) [Page 23 of 68] *For acquisition/Rehabilitation Developments that are eligible for acquisition credits, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, and will be limited to the Competitive Housing Tax Credit Developments. The Rehabilitation portion of the developer fee cannot exceed 15% of the total and will be limited to the Competitive Housing Tax Credit Developments.*

Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

Jennifer Joyce

From: Bob Gonzalez [txdha@sbcglobal.net]
Sent: Wednesday, October 18, 2006 1:51 PM
To: jennifer.joyce@tdhca.state.tx.us
Subject: 2007 QAP Comments

COMMENTS ON DRAFT 2007 QUALIFIED ALLOCATION PLAN (QAP)

1. **§49.3(75) Section 49.3 [Page 9 of 68] Reconstruction** – *The demolition of an existing Residential Development and the re-construction of the units on the Development Site. Developments proposing adaptive re-use or proposing to increase the number of units in the Existing Residential Development are not considered Reconstruction.*

Recommended Change: The second sentence of this definition needs to be revised so that it reads: **Multifamily housing developments proposing adaptive re-use or proposing to increase the number of units in the existing multifamily housing development are considered Reconstruction. HUD mixed financed housing developments proposing to increase the number of units are considered Reconstruction.**

Justification: Reconstruction should not be limited to replacing the exact number of units on or off site. This definition penalizes some applicants, particularly nonprofits and Housing Authorities, because they will not qualify for some of the scoring items under the Selection Criteria and their ability to effectively utilize their sites that can support additional units in compliance with local building codes. An example is total demolition of a 100 unit development with a mix of two, three and four bedroom units, is going to increase in number of units when one-bedroom units are added.

Obsolete Public Housing that is demolished is replaced with HUD mixed finance housing developments on sites that are underutilized with very low density developments. Housing Authorities and the very low income residents they serve should not be penalized by excluding a mixed finance development proposing to increase the number of demolished units from the definition of Reconstruction as well as their eligibility for QCP scoring.

2. §49.5(a)(8) [Page 12 of 68]- The 3 year rule should apply only to New Construction because it adds units. It should not apply to Reconstruction or Rehabilitation because are replacement or upgrading of existing units.

3. §49.6(e)(4) [Page 15 of 68]- *Limitations on the Size of Developments for those Development which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is Reconstruction of an Existing Residential Development being constructed to provide replacement of previously existing affordable multifamily units on its site (in a number not to exceed the original units being replaced) or that were originally located within a one mile radius from the proposed Development, unless the first phase has been completed and has attained Sustaining Occupancy (as defined in §1.31 of this title) for a least six months.*

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” Delete “For at lease six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the

number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

4. §49.8(d)(3)(A)(1) [Page 18 of 68] – The date for submission of requests for neighborhood organizations should be changed from December 8, 2006, to the same date as the pre-application date.

5. §49.9(d)(4) [Page 22 of 68] *Administrative Deficiencies*

Recommended Change: The time to correct Administrative Deficiencies should remain at five (5) days.

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6. **§49.9(d)(6)(B)(ii) [Page 23 of 68]** – *For acquisition/Rehabilitation Developments that are eligible for acquisition credits, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, and will be limited to Tax-Exempt Bond Developments. The Rehabilitation portion of the developer fee cannot exceed 15% of the total Rehabilitation basis, less developer fee, and will be limited to the Competitive Housing Tax Credit Developments.*

Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

7. **§49.9(h)(4)(A)(ii)(XI) [Page 27 of 68]** – *(XII) Equipped and functioning Business Center (computer and fax machine) or Equipped Computer Learning Center with 1 computer and 1 fax machine for every 25 Units proposed in the Application, and 1 printer for every 2 computers (2 points).*

Recommended Change: Revise to 1 computer for every 25 units, 1 fax machine for every 75 units and 1 printer for every 3 computers.

Justification: There likely will not be a need for this many machines.

8. §49.9(h)(12) - QCP [Page 36 of 68] – Third Party Legal Opinion for Applicants for Acquisition Credits

Recommended Change: Delete this requirement.

Justification: Attorneys are not willing to provide a hypothetical opinion based on future events.

9. §49.9(i)(2)(A)(iv) - QCP [Page 39 of 68] ***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*

43



McAllen Housing Authority

2301 JASMINE AVENUE
McALLEN, TEXAS 78501

JOE SAENZ
EXECUTIVE DIRECTOR

October 18, 2006

TDHCA
Division of Public Policy and Affairs
P.O. Box 13941
Austin, Texas 78711-3941

To Whom It May Concern:

Please find attached comments on the draft 2007 Qualified Allocation Plan (QAP) for your review and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "JAS", written over the typed name and title.

Jose A. Saenz
Executive Director



Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units) . . .” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

4. §49.8(d)(3)(A)(1) [Page 18 of 68] – The date for submission of requests for neighborhood organizations should be changed from December 8, 2006, to the same date as the pre-application date.

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6. §49.9(d)(6)(B)(ii) [Page 23 of 68] – *For acquisition/Rehabilitation Developments that are eligible for acquisition credits, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, and will be limited to Tax-Exempt Bond Developments. The Rehabilitation portion of the developer fee cannot exceed 15% of the total Rehabilitation basis, less developer fee, and will be limited to the Competitive Housing Tax Credit Developments.*

Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

ODYSSEY RESIDENTIAL HOLDINGS, LP

5420 LBJ Freeway, Suite 1235

DALLAS, TX 75240

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(972) 701-5562 FAX

44

facsimile transmittal

To: Brooke Boston, TDHCA Fax: 512-469-9606
From: Bill Fisher Date: October 18, 2006
Re: QAP Comments for 2007 draft Pages: 9 with this cover
CC: Mike Gerber, Executive Director

Urgent For Review Please Comment Please Reply Please Recycle

Odyssey's public comments for 2007 draft QAP. Call me if you have questions or need clarifications.

Thanks,

Saleem Jafar and Bill Fisher

972-701-5551
972-701-5562 FAX
214-755-2539 cell

ATTN:
John
Saleem Jafar

Sustaining Occupancy (as defined in §1.31 of this title) for a least six months.

Recommended Change: This provision should be revised to read “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” “For at least six months” should be deleted.

Justification: This item prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. Basically, this means that a Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles. This is not an efficient use of land or our development dollars. Incremental increases of number of living units are the most cost effect units in any development budget because site work, land costs and other development related costs to the overall number of units can now be spread to these incremental units added to the development.

4. §49.8(d)(3)(A)(1) [Page 18 of 68] – The date for submission of requests for neighborhood organizations should be changed from December 8, 2006, to the same date as the pre-application date. It puts small and new developers at a disadvantage by putting more pressure for earlier site control which is costly.

5) §49.9(d)(4) [Page 22 of 68] *Administrative Deficiencies*

Recommended Change: The time to correct Administrative Deficiencies should remain at five (5) days.

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Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e) (7) must be eliminated.

Jennifer Joyce

45

From: EHARGV@aol.com
Sent: Wednesday, October 18, 2006 4:44 PM
To: Jennifer.joyce@tdhca.state.tx.us
Subject: Comments on 2007 QAP

Edinburg Housing Authority
P.O. Box 295
Edinburg, Texas 78540

These comments are being submitted by the Edinburg Housing Authority. Should you have any questions, please do not hesitate to call me at (956) 383-3839

Thank You,

Estella L. Treviño
Executive Director
Edinburg Housing Authority

10/18/2006

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

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Justification: Reducing the period to remedy Administration Deficiencies from five to three days is severe. It does not provide adequate time to respond to the deficiency. Support for keeping the response period at five days can be found in §49.9(e)(2) [Page 24 of 68] That establishes the response period for Tax Exempt Bond Developments at five days.

6. **§49.9(d)(6)(B)(ii) [Page 23 of 68]** – *For acquisition/Rehabilitation Developments that are eligible for acquisition credits, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, and will be limited to Tax-Exempt Bond Developments. The Rehabilitation portion of the developer fee cannot exceed 15% of the total Rehabilitation basis, less developer fee, and will be limited to the Competitive Housing Tax Credit Developments.*

Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

Jennifer Joyce

From: Eva Shults [Eva_Shults@hacc.org]
Sent: Wednesday, October 18, 2006 5:37 PM
To: Jennifer.joyce@tdhca.state.tx.us
Subject: Comments on 2007 QAP



2007 QAP
COMMENTS.doc (64 K)

Jennifer,

On behalf of Richard Franco, President of Texas NAHRO, I'm submitting our comments to the 2007 QAP.

Thank You. Should you have any difficulty with attachment respond by email and I will resubmit.

Eva Shults
Executive Assistant
Corpus Christi Housing Authority
3701 Ayers Street
Corpus Christi, Texas 78415
(361) 889-3350
(361) 889-3326 (fax)
website: HACC.ORG

I am using the free version of SPAMfighter for private users.
It has removed 6129 spam emails to date.
Paying users do not have this message in their emails.
Get the free SPAMfighter here: <http://www.spamfighter.com/en>

Recommended Change: This provision should be revised to read “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” “For at least six months” should be deleted.

Justification: This item prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. Basically, this means that a Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles. This is not an efficient use of land.

4. §49.8(d)(3)(A)(1) [Page 18 of 68] – The date for submission of requests for neighborhood organizations should be changed from December 8, 2006, to the same date as the preapplication date.

5) §49.9(d)(4) [Page 22 of 68] *Administrative Deficiencies*

Recommended Change: The time to correct Administrative Deficiencies should remain at five (5) days.

Justification: Reducing the period to remedy Administration Deficiencies from five to three days is severe. It does not provide adequate time to respond to the deficiency. Support for keeping the response period at five days can be found in §49.9(e)(2) [Page 24 of 68] That establishes the response period for Tax Exempt Bond Developments at five days.

6. **§49.9(d)(6)(B)(ii) [Page 23 of 68]** – *For acquisition/Rehabilitation Developments that are eligible for acquisition credits, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, and will be limited to Tax-Exempt Bond Developments. The Rehabilitation portion of the developer fee cannot exceed 15% of the total Rehabilitation basis, less developer fee, and will be limited to the Competitive Housing Tax Credit Developments.*

Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This goes against the overall preference for preserving or rehabilitating existing complexes in Texas, including at-risk developments.

Jennifer Joyce

47

From: Janie [janie@pharrha.com]
Sent: Wednesday, October 18, 2006 4:17 PM
To: jennifer.joyce@tdhca.state.tx.us
Subject: 2007 QAP Comments

Attached are comments from the Pharr Housing Authority on the 2007 QAP for your review. The comments as shown are detrimental to Housing Authorities.

Please call me with any questions at (956) 783-1316.

Sincerely,

Roy Navarro
Executive Director

10/18/2006

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

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Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

48

Jennifer Joyce

From: Ruben Sepulveda [rsepulveda@weslaco.com]
Sent: Wednesday, October 18, 2006 3:42 PM
To: jennifer.joyce@tdhca.state.tx.us
Cc: NORMA GUERRERO
Subject: 2007 QAP Comments
Importance: High

MY NAME IS RUBEN SEPULVEDA. I AM THE EXECUTIVE DIRECTOR FOR THE HOUSING AUTHORITY OF THE CITY WESLACO, P.O. BOX 95 - 303 WEST SIXTH STREET, WESLACO, TEXAS 78599-0095. THE ATTACHED COMMENTS WITH RECOMMENDED CORRECTIONS ARE BEING SUBMITTED BY ME ON BEHALF OF THE HOUSING AUTHORITY OF THE CITY OF WESLACO AND ITS BOARD OF COMMISSIONERS.

RUBEN SEPULVEDA
EXECUTIVE DIRECTOR
HOUSING AUTHORITY OF THE CITY OF WESLACO
956.969.1538
RSEPULVEDA@WESLACOHA.COM

10/18/2006

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units) . . .” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

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Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.



HOUSING AUTHORITY

of the City of Beaumont, Texas

October 18, 2006

Ms. Jennifer Joyce
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Ms. Joyce,

Please accept the attached 6 pages of comments as BHA's comments on the proposed 20067 QAP.

Should you have any questions or need additional information, please do not hesitate to contact me at 409-951-7200.

Thank you in advance.

Robert L. Reyna
Executive Director
Housing Authority of the City of Beaumont, Texas

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

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Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

Pharr Housing Development Corporation

104 W. POLK, PHARR, TEXAS 78577 • Ph.: (956) 787-1822

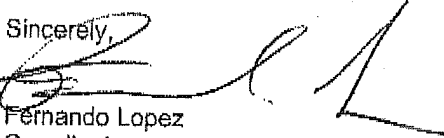
October 18, 2006

Dear Ms. Joyce:

Attached are comments from the Pharr Housing Development Corporation on the 2007 QAP for your review. The comments as shown are detrimental to our agency.

If you have any questions, please call me at (956) 787-9501.

Sincerely,


Fernando Lopez
Coordinator

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units) . . .” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

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Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

APOLONIO (Nono) FLORES
FLORES RESIDENTIAL, L.C.
201 Cueva Lane, San Antonio, Texas 78232-1137
Telephone 210-494-7944 210-494-5948
Cell Telephone 210-289-5952
Facsimile 210-494-0853
e-mail: nono62@swbell.net

October 18, 2006

both

Ms. Jennifer Joyce
Texas Department of Housing
And Community Affairs
VIA Fax No. 512-475- 0764

Re: Comments on Draft 2007 QAP

Dear Ms. Joyce:

Enclosed are seven (7) pages containing my comments on the draft 2007 QAP. Please let me know of any questions or if you want to discuss any of the comments.

Sincerely,

Apolonio Flores
Apolonio Flores

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

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Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

(52)

**COMMUNITY DEVELOPMENT CORPORATION
OF SOUTH TEXAS, INC.**

October 18, 2006

Ms. Jennifer Joyce
Texas Department of Housing
And Community Affairs

VIA FAX 512-475-0764
And regular mail

Dear Ms. Joyce:

On behalf of the Community Development Corporation of South Texas, Inc., we respectfully submit and support the following recommended changes (see attached) to the Qualified Allocation Plan as proposed.

Please feel free to contact me should you have any questions.

Sincerely,



Robert A. Calvillo
Executive Director

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units)” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. Also, the proposed draft does not appropriately consider the Market Study.

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Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

53

Jennifer Joyce

From: Richard Herrington [rherrington@texarkanaha.org]
Sent: Wednesday, October 18, 2006 4:58 PM
To: jennifer.joyce@tdhca.state.tx.us
Subject: 2007 QAP

Dear Ms. Joyce,

Attached for your review and consideration are my comments regarding the 2007 QAP. I appreciate your time in reviewing and considering them in your review process.

Richard Herrington, Jr.
Executive Director
Housing Authority of City of Texarkana, Texas
1611 N. Robison Rd.
Texarkana, TX 75501

Recommended Change: Revise to “. . . (in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units) . . .” Delete “For at least six months.”

Justification: The proposed draft prevents a second phase or adjacent project from exceeding the number of units demolished in a Reconstruction project unless the first phase is completed and stabilized for six months. A Reconstruction project adjacent to an existing one cannot exceed the number of units demolished for at least two tax credit cycles, and prevents adequate utilization of the site. In addition, the proposed draft does not appropriately consider the Market Study Analysis.

4. §49.8(d)(3)(A)(1) [Page 18 of 68] – The date for submission of requests for neighborhood organizations should be changed from December 8, 2006, to the same date as the pre-application date.

5. §49.9(d)(4) [Page 22 of 68] *Administrative Deficiencies*

Recommended Change: The time to correct Administrative Deficiencies should remain at five (5) days.

Justification: Reducing the period to remedy Administration Deficiencies from five to three days is severe. It does not provide adequate time to respond to the deficiency on all those who need to respond since most notices are sent to applicants late in the evening or on Fridays. Support for keeping the response period at five days can be found in §49.9(e)(2) [Page 24 of 68] that establishes the response period for Tax Exempt Bond Developments at five days.

6. §49.9(d)(6)(B)(ii) [Page 23 of 68] – *For acquisition/Rehabilitation Developments that are eligible for acquisition credits, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, and will be limited to Tax-Exempt Bond Developments. The Rehabilitation portion of the developer fee cannot exceed 15% of the total Rehabilitation basis, less developer fee, and will be limited to the Competitive Housing Tax Credit Developments.*

Recommended Change: This new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7) must be eliminated.

Justification: This is against the preference for preserving or rehabilitating existing properties, including at-risk developments.

October 18, 2006

Mr. Michael Gerber
 Executive Director
 Texas Department of Housing and Community Affairs
 P.O. Box 13941
 Austin, Texas 78711-3941

Re: 2007 QAP and Real Estate Analysis Rules

Dear Mr. Gerber:

Please accept the Texas Association of Community Development Corporation's comments on TDHCA's Draft 2007 Qualified Allocation Plan and Real Estate Analysis rules. Please contact Matt Hull at (512) 916-0508 or matt@tacdc.org if you have any questions.

Qualified Allocation Plan Comments

General Policy Related to QAP

TACDC members are very interested in augmenting the Housing Tax Credit program to allow for and encourage a variety of development types targeted to many different income levels, not just traditional multifamily rental. Given the unique design of the program and inherent complications in administering the program, we understand there will be challenges to achieve this goal.

Section 49.5 (b)(10) Ineligibility p. 13.

Language was inserted relating to timely repayments of predevelopment loans by an applicant at the time of commitment. TACDC members oppose using the commitment or bond closing as the point of repayment and suggest extending the period to the closing of construction financing.

Suggested Change: Repayment of TDHCA pre-development loans should be required at the closing of the construction loan, not upon receiving a letter of commitment or bond closing.

Section 49.6 (g) and (h) Limitation of Development in Certain Census Tracts p. 16

TACDC is in support of the proposed rule as an effort to promote a wider distribution of housing tax credit units across the state.

Section 49.9 (d)(4) Administrative Deficiencies. p. 22.

TACDC recognizes the demands on department staff during the application review cycle to process all applications and further recognizes that delays in correcting administrative deficiencies delays the review and underwriting process, however TACDC opposes reducing the timeframe for correcting administrative deficiencies from five days to three days.

Suggested Change: Revert to the standard from the 2006 QAP.

Real Estate Analysis Rules Comments

General Policy Statement:

TACDC members support efforts by the department to encourage deconcentration of tax credit properties across the state, including those designed or set-aside for elderly or in rural areas. In TACDC's 2006 QAP draft comments, we recommended increasing the one-mile three year concentration rule to 3 miles three years for seniors developments due to an increasing concentration of seniors developments in urban areas, particularly Houston. TACDC therefore supports reducing the capture rate for rural, elderly, and special needs from 100% to 50%.

Section 1.32 Underwriting Rules and Guidelines

1.32 (D)(2)(b) Management Fee

p. 6

TACDC recommends inserting SROs in with rural developments in that it is common to have a management fee higher than 5% of effective gross income due to the populations served at SROs and the relatively low rents compared to other tax credit developments.

Suggested Change: Insert language allowing for SROs to have higher management fees.

1.32 (D)(2)(i) Reserves

p. 7

TACDC understands the reasoning for increasing general operating reserve requirements from \$200 to \$250 per unit for most developments. However, SRO developments have different purposes than family developments, do not have the same unit amenities by design as family developments, and have more shared amenities for residents than family units. At the same time, SROs typically have a broader funding structure with each funder having their own reserve requirements. Therefore, TACDC suggest leaving the reserve requirements for SROs at \$200 per unit

Suggested Change: Insert language allowing underwriting of SRO developments at \$200 per unit.

1.32 (I) Feasibility Conclusion

p. 12

TACDC shares many of the same concerns as others in the development community over the provisions of this section. However, one area where TACDC probably differs is in our support for reducing the inclusive capture rate from 100% to 50% for developments serving elderly residents. The political environment in some areas, particularly Houston, has led developers to eschew family developments in favor of elderly developments leading to a relatively greater supply of elderly developments making it difficult for developers to reach and maintain a stabilized occupancy.

TEXAS HOUSE OF REPRESENTATIVES

61

□ CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0634
FAX: (512) 463-7668
E-mail: jose.menendez@house.state.tx.us



✓ DISTRICT OFFICE:
WESTGATE SHOPPING CENTER
7121 US HWY 90 W SUITE 240
SAN ANTONIO, TEXAS 78227
(210) 673-3579
FAX: (210) 673-3816

JOSÉ MENÉNDEZ
STATE REPRESENTATIVE
DISTRICT 124

RECEIVED
OCT 13 2006
EXECUTIVE

Mr. Michael Gerber
Executive Director
Texas Dept. of Housing & Community Affairs
PO Box 13941
Austin, Texas 78711-3941

Dear Mr. Gerber,

A handwritten signature in cursive script that reads "Michael".

October 9, 2006

I would like to express my appreciation for your consideration and initiatives regarding the market need study issue. As you know, there was a great deal of legislative and public concern about the direction the department was originally proposing and you have responded to those concerns in a very positive manner.

I have reviewed the TDHCA legislative allocation request for the next biennium and am pleased to note the exceptional items request for funding to implement a contractual needs study and public information program as established by statute in 2003. I look forward to working with you to ensure the EIR is favorably considered next session, as well as in developing the program throughout the state.

I am also pleased that the department is increasing efforts to consider public input on the many issues that affect our affordable housing programs in Texas and hope this will carry over to the revision of the underwriting rules, Regional Allocation Formula, QAP and other rules currently being finalized for 2007. I am confident that with this sort of cooperative effort by the department, the legislature, local communities and industry we will continue to develop policies that maximize the resources applied to providing high quality affordable housing to thousands more Texas families.

Again, thank you for your efforts in this regard and let me know what I can do to facilitate these initiatives.

Sincerely yours,

A handwritten signature in cursive script that reads "José Menéndez".
José Menéndez

cc: Senator Royce West, Chairman Intergovernmental Relations
Robert Talton, Chairman Urban Affairs
Elizabeth Anderson, Chair, TDHCA Board of Directors

TEXAS HOUSE OF REPRESENTATIVES

□ CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0634
FAX: (512) 463-7668
E-mail: jose.menendez@house.state.tx.us



□ DISTRICT OFFICE:
WESTGATE SHOPPING CENTER
7121 US HWY 90 W SUITE 240
SAN ANTONIO, TEXAS 78227
(210) 673-3579
FAX: (210) 673-3816

JOSÉ MENÉNDEZ

STATE REPRESENTATIVE
DISTRICT 124

Mr. Michael Gerber
Executive Director
Texas Dept. of Housing & Community Affairs
PO Box 13941
Austin, Texas 78711-3941

Dear Mr. Gerber,

A handwritten signature in cursive that reads "Mike".

September 21, 2006

As you are aware, I am keenly interested in the various actions and initiatives the TDHCA is undertaking that impact on the success of the department's affordable housing programs. I am continuing my review of the proposed 2006 rules for underwriting criteria and the QAP because I believe the drafts posed by the staff are significantly flawed.

I will provide detailed specifics prior to the October board meeting but for the purpose of the public hearing in San Antonio on September 22, 2006, I strongly urge you to consider the concerns expressed by Michael Hogan in his September 18 letter to the board. The points raised by Mr. Hogan addressing financial feasibility and capture rates are quite valid and must be heeded. In addition there are several others in the affordable housing industry who have expressed their concerns with these changes and their input must be addressed as well.

There have been too many instances in the past few years where the department has adopted rules that are either not in compliance with statutory requirements or have been misinterpreted based on legislative intent as evidenced by Attorney General opinions and other actions necessary to remedy procedural errors. I believe the recent Bexar County delegation letter of concern illustrates the point that the Legislature is taking a careful look at future initiatives and will continue to do so in order to ensure that the programs serving our low-income families are in fact best accomplishing the mission of TDHCA.

I look forward to continuing to work with you to meet these goals and develop the best possible procedures for providing affordable housing opportunities throughout Texas. I appreciate your consideration and efforts.

Sincerely yours,

A handwritten signature in cursive that reads "José Menéndez".

José Menéndez
cc: Chairman Robert Talton

incl; Hogan Letter Sept. 18, 2006

COMMITTEES: APPROPRIATIONS, HOUSE ADMINISTRATION, URBAN AFFAIRS (CBO)

September 18, 2006

HOGAN
Real
Estate
Services

Ms. Elizabeth Anderson
3612 Asbury
Dallas, Texas 75205
214-521-4305 Fax

Mr. Shadrick Bogany
TDHCA
P.O. Box 13941
Austin, Texas 78711
512-472-8526 Fax

Mr. C. Kent Conine, President
Conine Residential Group
5300 Town & Country Blvd.
Ste. 190
Frisco, Texas 75034
972-668-6700 Fax

Mr. Vidal Gonzalez, SVP
Lincoln Heights Branch
120 East Basse Road, Suite
100
San Antonio, TX 78209
210-824-3111 Fax

Mr. Norberto Salinas, Mayor
City of Mission
900 Doherty
Mission, Texas 78572
956-580-8669 Fax

Mr. Dionicio Vidal Flores
PEC Corporation
1710 Telephone Road
Houston, TX 77023
713-926-6366 Fax

RE: Written Comments requested by Chairman in Follow-Up to August 30th
Board meeting verbal speech given during the Public Comment Period regarding
Draft Changes to the Real Estate Analysis Rules and Guidelines for 2007.

USPS CERTIFIED MAIL RECEIPT RETURN 7004 0750 0004 4309 6823

Dear Madam Chairman:

At your request, I am following up my public remarks at the August 30 board meeting with specific examples to illustrate my concern that three of the proposed changes in the Financial Underwriting Criteria used for feasibility determination are punitive and serve to create additional BARRIERS to Affordable Housing Development. These criteria are as follows:

Proposed Major underwriting changes for Public Comment:

A-Proposed §1.32(d)(2)(I) Replacement Reserves:

Increase the Annual Replacement Reserve from \$200/Unit to \$250/Unit

UNDERWRITING IMPACT- this lowers the amount of Debt by lowering the NOI (Net Operating Income) available debt service.

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

Increase the Debit Service Coverage Minimum from 1.10 to 1.15.

UNDERWRITING IMPACT- this lowers the amount of Debt available to the project

C-Proposed §1.32(i) Feasibility Conclusion and §1.33(d)(9)(E) and (10)(D) and (10)(E) Demand and Capture Rate by Unit Type

Decreasing the Capture Rate for 100% to 50%

UNDERWRITING IMPACT- this could be *FATAL* to most projects and thus greatly lowering the number of qualifying projects for the LIHTC program.

In my opening remarks, I wanted to emphasize that my belief was that TDHCA had as part of its mission the responsibility to "Encourage the development and expansion of affordable housing in Texas". That being so, I was puzzled why TDHCA would increase the barriers that are already facing Affordable Housing in this state.

In reading through the 226-page document I find very few changes that would continue to "Encourage Affordable Housing". In fact it is just the opposite.

First, I want to give four (4) examples on the cumulative impact on underwriting of both **(A)-Increased Replacement Reserves** and **(B)-Increase in the Debt Service Coverage** (DSC) Ratio as proposed in the Rule changes.

In the following four (4) examples, I have assumed that the Project Construction Costs and the Operating costs are generally the same all over Texas and have used the TDHCA minimum thresholds. I am **ONLY** trying to measure the impact of the two issues at hand. What will change in these examples are the promulgated rents based on four declining area medium income averages.

The result is not favorable to the affordable housing development. The impact is a minimum reduction of debt amounts ranging from \$737,000 to \$990,000 for a typical 250-unit project. The higher medium incomes project will have its debt amount reduced by 5.20 % over current underwriting standards. The lower medium income projects will loose even a greater percentage of debt in the range of almost 5.60% less debt than under current underwriting standards. (SEE Example 1-4 attached)

This means that these underwriting criteria changes will only serve to **INCREASE** the infeasible rate by increasing the amount of deferred development fee inside the underwriting, and making the project less able to pay those deferral amounts back in the 10 yr or 15 yr. period underwriting selects, thus the project is **more likely** to be infeasible under TDHCA underwriting thus the project is dead!

To what end are these changes designed to protect? Designed to encourage? Designed to discourage?

Second, I want to comment in general to the remarks made by Mr. Darrell Jack regarding the proposed change of the current Capture Rate.

During the public comment section of the September board meeting, Mr. Darrell Jack of Apartment MarketData supplied the board with an analysis that showed 5 out of 6 successful projects reviewed by there company would not have been approved by the TDHCA underwriting department using the proposed 2007 capture rate rules. One of the five projects they studied was Willow Bend Apartments (San Antonio) and was developed by our company for Commonwealth Housing Corporation. This project leased even faster than I expected, completing its lease-up six months after we opened the first building.

Given this short lease-up period, there was demand in the market not accounted for by either the market analyst or the TDHCA underwriting department. Since the September board meeting, I have been working with both Apartment MarketData and the TDHCA to identify from where these residents originated. The answer surprised us all.

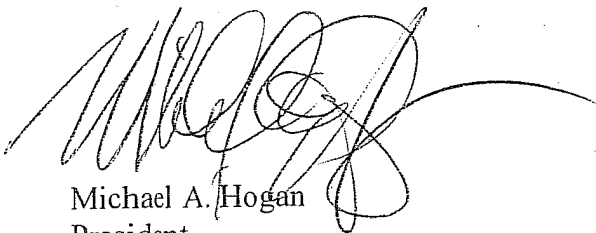
Based on the culmination of our lease data, we found that 40% of the residents were previously living within another household. Only 53% of the demand for Willow Bend's units came other rental properties.

Owners	13	5.2%
Renters	131	52.6%
Living in another HH	101	40.6%
Katrina	1	0.4%
Employees	3	1.2%
TOTAL	249	100.0%

From this information, we see considerable pent-up demand in the market for "affordable" units. With the construction of Willow Bend Apartments, there are now at least 100 households that could not find acceptable housing in the market now living at our community. Under the proposed capture rate changes, **NO WILLOW BEND.**

In summary, my point is that if the mission of TDHCA is to make access to affordable housing a dream come true for thousands of Texas citizens who need a financial "leg up", then there is no compelling reason to create these additional hurdles to project underwriting beyond the current rules. It is not broken!!

Very Sincerely,



Michael A. Hogan
President

Attachments
Example 1-4

Example One

AMI \$55,300 Austin

Unit Type	# OF UNITS	Monthly Rental	Annual Rental	2007 TDHCA Underwriting	Annual Rental
Unit 1BR/1B	84	632	\$637,056		\$637,056
Unit 2BR/2B	84	759	\$765,072		\$765,072
Unit 3BR/2B	84	876	\$883,008		\$883,008
Total Units	252		\$2,285,136		\$2,285,136
Other Income (TDHCA LIMIT)	252	\$15.00	\$45,360		\$45,360
Gross Income			\$2,330,496		\$2,330,496
<u>Vacancy</u>	7.5%		(\$174,787)	7.5%	(\$174,787)
Adjusted Gross Income			\$2,155,709		\$2,155,709
Op Expenses (TDHCA Min)					
General Admin Costs	20%				
Management Fee	5%				
Payroll & Payroll Expense	10%				
Repairs and Maintenances	20%				
Utilities Expense	30%				
Water Sewer Trash	30%				
Property Tax	0%	\$2,800	(\$705,600)		(\$705,600)
<u>Replacement Reserves</u>	\$200	\$200	(\$50,400)	\$250	(\$63,000)
Total Expenses					
Net Operating Income (NOI)			\$1,399,709		\$1,387,109
<u>Debit Service Coverage</u>	1.10			1.15	
NOI available for Debit Service			\$1,272,463		\$1,206,182
Mortgage Constant	0.066864061				
Mortgage Amount			\$19,030,590		\$18,039,311
Assumptions:					
		Amount of Mortgage Reduction		\$991,280	5.21%
No Property Tax					
No Utility Allowances					
Equal Mix					
Same Mortgage Constant					
\$2,800/Unit Expenses w/o Taxes and Reserves					

Example Two

AMI \$53,100 Bexar

Unit Type	# OF UNITS	Monthly Rental	Annual Rental	2007 TDHCA Underwriting	Annual Rental
Unit 1BR/1B	84	597	\$601,776		\$601,776
Unit 2BR/2B	84	717	\$722,736		\$722,736
Unit 3BR/2B	84	828	\$834,624		\$834,624
Total Units	252		\$2,159,136		\$2,159,136
Other Income (TDHCA LIMIT)	252	\$15.00	\$45,360		\$45,360
Gross Income			\$2,204,496		\$2,204,496
Vacancy	7.5%		(\$165,337)	7.5%	(\$165,337)
Adjusted Gross Income			\$2,039,159		\$2,039,159
Op Expenses (TDHCA Min)					
General Admin Costs		20%			
Management Fee		5%			
Payroll & Payroll Expense		10%			
Repairs and Maintained		20%			
Utilities Expense		30%			
Water Sewer Trash		30%			
Property Tax		0%	\$2,800		(\$705,600)
Replacement Reserves	\$200		\$200	(\$50,400)	\$250
Total Expenses					
Net Operating Income (NOI)			\$1,283,159		\$1,270,559
Debit Service Coverage	1.10			1.15	
NOI available for Debit Service			\$1,166,508		\$1,104,834
Mortgage Constant	0.066864061				
Mortgage Amount			\$17,445,964		\$16,523,581
Assumptions:					
			Amount of Mortgage Reduction	\$922,383	5.29%
No Property Tax					
No Utility Allowances					
Equal Mix					
Same Mortgage Constant					
\$2,800/Unit Expenses w/o Taxes and Reserves					

Example Three

AMI \$48,800 Killeen

Unit Type	# OF UNITS	Monthly Rental	Annual Rental	2007 TDHCA Underwriting	Annual Rental
Unit 1BR/1B	84	549	\$553,392		\$553,392
Unit 2BR/2B	84	658	\$663,264		\$663,264
Unit 3BR/2B	84	761	\$767,088		\$767,088
Total Units	252		\$1,983,744		\$1,983,744
Other income(TDHCA LIMIT)	252	\$15.00	\$45,360		\$45,360
Gross Income			\$2,029,104		\$2,029,104
<u>Vacancy</u>	7.5%		(\$152,183)	7.5%	(\$152,183)
Adjusted Gross Income			\$1,876,921		\$1,876,921
Op Expenses (TDHCA Min)					
General Admin Costs	20%				
Management Fee	5%				
Payroll & Payroll Expense	10%				
Repairs and Maintenance	20%				
Utilities Expense	30%				
Water Sewer Trash	30%				
Property Tax	0%	\$2,800	(\$705,600)		(\$705,600)
<u>Replacement Reserves</u>	\$200	\$200	(\$50,400)	\$250	(\$63,000)
Total Expenses			\$1,120,921		\$1,108,321
Net Operating Income(NOI)					
<u>Debit Service Coverage</u>	1.10			1.15	
NOI available for Debit Service			\$1,019,019		\$963,758
Mortgage Constant	0.06686406				
Mortgage Amount			\$15,240,164		\$14,413,686
Assumptions:					
			Amount of Mortgage Reduction	\$826,478	5.42%
No Property Tax					
No Utility Allowances					
Equal Mix					
Same Mortgage Constant					
\$2,800/Unit Expenses w/o Taxes and Reserves					

Example Four

AMI \$44,600 Anderson

Unit Type	# OF UNITS	Monthly Rental	Annual Rental	2007 TDHCA Underwriting	Annual Rental
Unit 1BR/1B	84	504	\$508,032		\$508,032
Unit 2BR/2B	84	604	\$608,832		\$608,832
Unit 3BR/2B	84	699	\$704,592		\$704,592
Total Units	252		\$1,821,456		\$1,821,456
Other income(TDHCA LIMIT)	252	\$15.00	\$45,360		\$45,360
Gross Income			\$1,866,816		\$1,866,816
<u>Vacancy</u>	7.5%		(\$140,011)	7.5%	(\$140,011)
Adjusted Gross Income			\$1,726,805		\$1,726,805
Op Expenses (TDHCA Min)					
General Admin Costs		20%			
Management Fee		5%			
Payroll & Payroll Expense		10%			
Repairs and Maintenance		20%			
Utilities Expense		30%			
Water Sewer Trash		30%			
Property Tax		0%	\$2,800		
<u>Replacement Reserves</u>		\$200	\$200		
Total Expenses					
Net Operating Income(NOI)			\$970,805		\$958,205
<u>Debit Service Coverage</u>		1.10		1.15	
NOI available for Debit Service			\$882,550		\$833,222
Mortgage Constant	0.066864061				
Mortgage Amount			\$13,199,166		\$12,461,426

Assumptions:

Amount of Mortgage Reduction \$737,739 5.59%

- No Property Tax
- No Utility Allowances
- Equal Mix
- Same Mortgage Constant
- \$2,800/Unit Expenses w/o Taxes and Reserves

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

2006 STATE OF TEXAS

PUBLIC HEARING

Bazan Public Library
2200 W. Commerce
San Antonio, Texas

September 22, 2006
11:10 a.m.

BEFORE:

STEPHEN SCHOTTMAN, TDHCA Team Leader of
Research and Planning Policy
and Public Affairs

JESSE T. MITCHELL, TDHCA Manager, Community
Services

BRENDA HULL, TDHCA Real Estate Analysis

ALSO PRESENT:

DAVID B. BROWN, ORCA Representative

KATHERINE CLOSMANN, TSAHC,
Executive Vice President

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(512) 450-0342

probably see some faces at the Austin meetings. Thanks very much.

MR. SCHOTTMAN: Were there any more comments on the Underwriting? Okay.

MR. MENENDEZ: Good morning, again. Jose Menendez, the representative for District 124 for the record. One of the things that Mr. Hogan did not go into in his explanation that you're going to find in his report that I found very, very interesting on the capture rate -- of the 249 families, he'll give you a break down of where they came from.

Of those 249, 101 of those families were actually people that were living in another household prior to -- so that capture rate may not actually accurately access where they're coming from. It was only actually 131 people who actually came from, of those units, only 131 people or 52 percent came from other apartment complexes.

So it's not like this was a cannibalization of other units. I mean there's obviously a great need in the community and so it's just another example on why 1) we need to be careful how we tweak these rules. I think if you were doing rules just to be in compliance with some national standard, which I believe -- if we look at both

coasts and they're skewed in so many different ways in terms of real estate, in terms of housing -- the cost of housing on both the East coast and the West coast compared to Texas, you just cannot apply national solutions.

I mean we look at average home prices. If you say an average national home price is \$300,000, that's an accurate statement but if you come to Texas, \$300,000 you get a very nice home. The average home price in San Antonio is about \$125,000, \$130,000.

So I would just like to add my concerns that we do not mess with these financial feasibility issues, these capture rates, and others as we move forward because my belief is that TDHCA is doing everything they can to help provide more high quality affordable housing and that's why I think everybody in this room is here.

And so my concern is if you start tweaking the rules to where you make it to where people who actually play by the rules and are honest about their responses that you actually push them out of these programs. In the past, I've asked very good reputable people who live in the communities they work in. They're not fly-by-nights who come in from other states or other parts of the states. Why don't you participate in this program?

And they said, Well, the rules are kind of

funky and there are some people in there who don't play by the rules or say that they do one thing and they're actually not doing another.

So let's not encourage -- let's not make it so difficult to where you encourage to either fudge on the rules or not. I'd love it to just be a good level playing field to where everybody can play.

One other comments I wanted to make on the difference between urban and ex-urban. We have different ways we call urban, ex-urban, and rural. Why not just say if we're trying to make a fix for the --what was it earlier? It captured my attention. Oh, Debra, you brought it up.

MR. SCHOTTMAN: Affordable housing needs score?

MR. MENENDEZ: It had to do with the needs score and why not come up with a separate urban versus --

MS. GUERRERO: On the reconstruction.

MR. MENENDEZ: On the reconstruction. Yes. Why not come up with a different -- because one of the issues on the -- it was actually the municipal allocations as far as to get the full score.

If a small city or a small county can only afford X percent, why not -- say make it a percentage of their HOME dollars that they allocate to get a full score?

You know, we have to be a little more conscientious of the differences.

Texas is so diverse in terms of its municipalities. The same rules that apply in Harris County and Dallas County can't apply -- you can't expect to apply in Nueces County, down in Corpus, or down in the Valley. That's it. Thank you.

MR. SCHOTTMAN: Thank you. Any other comments on Underwriting guidelines?

(No response.)

MR. SCHOTTMAN: If so, we will turn to the comments away from sort of the housing production and housing-related issues to Community Affairs Division Program Rules. Again, I'm going to turn it over to Jesse Mitchell to discuss these items.

MR. MITCHELL: The Texas Department of Housing and Community Affairs Division program rules are produced by the Community Affairs Division and outline the proposed 2007 rules for programs that fund essential services, shelter and services to homeless persons or those at risk of homelessness.

Utility assistance, education, and weatherization repairs and activities. At the back of the room, we have copies of all of the proposed rules for all

To: Beth Anderson, Chairperson
Michael Gerber, Executive Director
From: Michael Hartman
Date: September 6, 2006
Subject: 2007 Draft Real Estate Analysis Rules

Following are my comments on the draft rules released by the Department. In order to be brief, I will only address those rules that I believe should be modified. I will be happy to meet or conference with you at your convenience to expound on my comments and/or discuss alternative ideas and viewpoints.

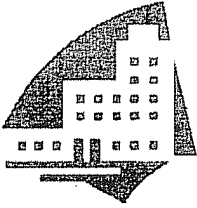
1. Provision 1.31(a) states that the Department wants to “ensure the most efficient allocation of resources while promoting and preserving the public interest in ensuring the long-term health of the Department’s portfolio.” I think it best that the Department remember that we are faced with uncertainty on many fronts in developing affordable housing today: rapidly rising construction costs, utility costs, and operating expenses (such as the tripling of insurance rates in coastal counties). In times such as these, the Department should concentrate on the latter part of that quote by building more contingency in to its numbers and allowing for more credits per deal, which would generate more tax credit equity and require less debt, thereby ensuring the long-term health of the Department’s portfolio. I would recommend that the Department adopt a rule similar to Michigan which allows a development to automatically apply for up to 5% additional credits in the year of cost certification. For instance, if a development is awarded \$600,000 of tax credits by Michigan in 2006, Michigan will allow that development to automatically apply for an additional \$30,000 of credits in 2008 if justified by the cost certification and the gap calculation.
2. Provision 1.32(d)(2)(I), Reserves – The annual reserve for new construction should be \$200 per unit per year, unless specified higher in the loan or syndication commitments. My recommendation for \$250 to the House Urban Affairs Committee was based upon an adoption of my proposed underwriting package as a whole, but was not offered as an ala carte menu from which the Department can pick and choose.
3. Provision 1.32(d)(3), Net Operating Income – change to read “If the Year 1 NOI figure...the Applicant’s figure is characterized as reasonable and will be used in the Report. If the Year 1 NOI figure provided by the Applicant is not within 5%, then the NOI figure calculated by the Underwriter will be used in the Report.” NOI is the bottom line figure used by lenders to size the debt; the components may be different, but if the two NOI figures are within 5%, then the Applicant’s NOI should be used.
4. Provision 1.32(d)(5), Long Term Proforma – change to read “The Underwriter will create a 15-year operating proforma.” This time period is the industry standard used by syndicators and lenders, and all references in the Real Estate Analysis rules to the time period covered by a proforma or projection should be 15 years.

5. Provision 1.32(d)(5)(A) – change to read “The base year projection utilized is the NOI determined under Provision 1.32(d)(3).” Change for consistency.
6. Provision 1.32(e)(3), Site Work Costs – the \$7,500 figure has not been raised in years and should be raised to \$10,000 per unit to account for an average 6% inflation for the last five years. As it now stands, everybody puts \$7,500 per unit in the site work line item on the TDHCA development cost breakdown and puts the remainder in the construction costs. The syndicators, lenders and tax attorneys are given the real numbers, which average around \$9,500 to \$10,500 per unit, and they have no problem signing off on those numbers at construction loan and equity closing. However, no one wants to spend the extra money at application time to get the opinions required by TDHCA, so everybody lowers the number to \$7,500 per unit. It’s a silly game, and it needs to end by TDHCA raising the bar.
7. Provision 1.32(i)(1)(A)(ii) and (B)(ii) – the QAP mandates that certain maximum percentages apply to each unit type. Therefore, we cannot always fit our unit mix to match demand by unit type. Therefore, if the rule on Ineligible Building Types is not changed, then these provisions need to be eliminated, as the two rules are in conflict. Further, it has been proven that Applicants with all 3 bedroom and/or a mix of 3 and 4 bedroom units works and has actually rented up and been very feasible (see the old single family developments that were built in Houston with 1993 tax credits and my 2001 deal in Lubbock). None of these would be built under this new rule. The inclusive capture rate as presently constituted has worked well, so why change a rule that is not broke?
8. Provision 1.32(i)(2), Restricted Market Rent – as explained at the 2007 QAP roundtable, the overall election of 40% of the units being at 60% or less of AMI has nothing to do with actual rents. This election is to ensure that the units will qualify for tax credits, and every deal in the country elects 40/60 no matter what the actual rents are. You underwrite the development at the lesser of (i) the maximum tax credit rents, or (ii) 90% of the market rents. Just because you elect 60% AMI and are charging 40% AMI rents does not in and of itself make a deal unfeasible. This provision needs to be deleted.
9. Provision 1.32(i)(3), Initial Feasibility – this rule is arbitrary and capricious. Just because the projected operating expenses are greater than 65% of income does not in and of itself make a deal unfeasible. This provision needs to be eliminated.
10. Provision 1.32(i)(5), Exceptions – this provision needs to be eliminated. First, you don’t need (A) if you remove Provision 1.32(i)(2). Second, (B) through (E) favor PHA and RD developments over conventionally financed developments and the Texas statute states that the rules are to be written so that no one type of Applicant shall be favored over another type of Applicant.

11. In Provision 1.33, delete all references to demand and capture rate by unit type and revert to the language for demand and capture rate found in the 2006 rule. This is to be consistent with the elimination of Provisions 1.32(i)(1)(A)(ii) and (B)(ii).
12. Provision 1.33(f) – change to read “Absent compelling written or other physical evidence to the contrary, the Department shall be bound by the opinion of the Market Analyst.” Why are we required to spend \$7,000 for a market analysis if the Department can ignore it in their sole and absolute discretion? If there is compelling, documented contradictory evidence (not hearsay), then put the evidence in the Report.

Thank you for your consideration of my recommendations.

63



Akamai Investments, Inc.

1905 Carriage Club Drive
Cedar Park, Texas 78613
512-963-1363 • 512-260-8855

August 29, 2006

Ms. Robbye Meyer
Texas Department of Housing and Community Affairs
Austin, Texas 78711

Dear Ms. Meyer,

After reviewing the draft for the 2007 QAP, the following is a list of the proposed changes which I think would be detrimental to the affordable housing program:

Proposed §1.32 (d)(1)(A)(ii) Restricted Market Rent
Proposed §1.32 (d)(2)(I) Reserves
Proposed §1.32 (d)(4)(D) Acceptable Debt Coverage Ratio Range
Proposed §1.32 (c)(7) Developer Fee
Proposed §1.32 (d)(5) Long Term Proforma
Proposed §1.32 (i) Feasibility Conclusion
Proposed §1.33 (d)(9)(E) and (10)(D) and (10)(E) Demand and Capture Rate by Unit type (Number of Bedrooms and Rent Restriction Category)
Proposed §1.33 (d)(9)(E)(ii) and (iii) Timing of Demand from Turnover and Population Growth

With the current QAP restrictions and market conditions, it is already challenging to build affordable housing in Texas, with these proposed changes it will make it even more difficult. All of these proposed changes will increase the costs to the developer and decrease the financial feasibility of the development making it harder to acquire financing.

It is clear that the market shows a greater demand for affordable housing and by approving the above mentioned changes, it will be much more difficult for developers to develop affordable housing.

I strongly appose these changes. Please include my comments to the board and if you require anything further please feel free to contact me.

Sincerely,



Uwe Nahuina

September 18, 2006

HOGAN
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RE: Written Comments requested by Chairman in Follow-Up to August 30th
Board meeting verbal speech given during the Public Comment Period regarding
Draft Changes to the Real Estate Analysis Rules and Guidelines for 2007.

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Second, I want to comment in general to the remarks made by Mr. Darrell Jack regarding the proposed change of the current Capture Rate.

During the public comment section of the September board meeting, Mr. Darrell Jack of Apartment MarketData supplied the board with an analysis that showed 5 out of 6 successful projects reviewed by there company would not have been approved by the TDHCA underwriting department using the proposed 2007 capture rate rules. One of the five projects they studied was Willow Bend Apartments (San Antonio) and was developed by our company for Commonwealth Housing Corporation. This project leased even faster than I expected, completing its lease-up six months after we opened the first building.

Given this short lease-up period, there was demand in the market not accounted for by either the market analyst or the TDHCA underwriting department. Since the September board meeting, I have been working with both Apartment MarketData and the TDHCA to identify from where these residents originated. The answer surprised us all.

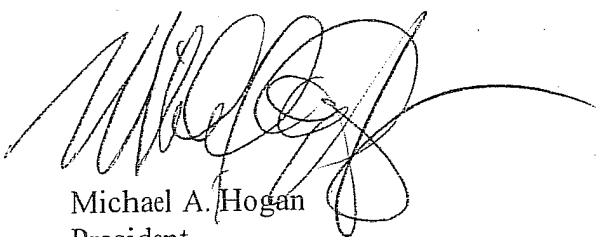
Based on the culmination of our lease data, we found that 40% of the residents were previously living within another household. Only 53% of the demand for Willow Bend's units came other rental properties.

Owners	13	5.2%
Renters	131	52.6%
Living in another HH	101	40.6%
Katrina	1	0.4%
Employees	3	1.2%
TOTAL	249	100.0%

From this information, we see considerable pent-up demand in the market for "affordable" units. With the construction of Willow Bend Apartments, there are now at least 100 households that could not find acceptable housing in the market now living at our community. Under the proposed capture rate changes, **NO WILLOW BEND.**

In summary, my point is that if the mission of TDHCA is to make access to affordable housing a dream come true for thousands of Texas citizens who need a financial "leg up", then there is no compelling reason to create these additional hurdles to project underwriting beyond the current rules. It is not broken!!

Very Sincerely,



Michael A. Hogan
President

Attachments
Example 1-4

Example One

AMI \$55,300 Austin

Unit Type	# OF UNITS	Monthly Rental	Annual Rental	2007 TDHCA Underwriting	Annual Rental
Unit 1BR/1B	84	632	\$637,056		\$637,056
Unit 2BR/2B	84	759	\$765,072		\$765,072
Unit 3BR/2B	84	876	\$883,008		\$883,008
Total Units	252		\$2,285,136		\$2,285,136
Other Income (TDHCA LIMIT)	252	\$15.00	\$45,360		\$45,360
Gross Income			\$2,330,496		\$2,330,496
<u>Vacancy</u>	7.5%		(\$174,787)	7.5%	(\$174,787)
Adjusted Gross Income			\$2,155,709		\$2,155,709
Op Expenses (TDHCA Min)					
General Admin Costs	20%				
Management Fee	5%				
Payroll & Payroll Expense	10%				
Repairs and Maintenances	20%				
Utilities Expense	30%				
Water Sewer Trash	30%				
Property Tax	0%	\$2,800	(\$705,600)		(\$705,600)
<u>Replacement Reserves</u>	\$200	\$200	(\$50,400)	\$250	(\$63,000)
Total Expenses					
Net Operating Income (NOI)			\$1,399,709		\$1,387,109
<u>Debit Service Coverage</u>	1.10			1.15	
NOI available for Debit Service			\$1,272,463		\$1,206,182
Mortgage Constant	0.066864061				
Mortgage Amount			\$19,030,590		\$18,039,311
Assumptions:					
		Amount of Mortgage Reduction		\$991,280	5.21%
No Property Tax					
No Utility Allowances					
Equal Mix					
Same Mortgage Constant					
\$2,800/Unit Expenses w/o Taxes and Reserves					

Example Two

AMI \$53,100 Bexar

Unit Type	# OF UNITS	Monthly Rental	Annual Rental	2007 TDHCA Underwriting	Annual Rental
Unit 1BR/1B	84	597	\$601,776		\$601,776
Unit 2BR/2B	84	717	\$722,736		\$722,736
Unit 3BR/2B	84	828	\$834,624		\$834,624
Total Units	252		\$2,159,136		\$2,159,136
Other Income (TDHCA LIMIT)	252	\$15.00	\$45,360		\$45,360
Gross Income			\$2,204,496		\$2,204,496
Vacancy	7.5%		(\$165,337)	7.5%	(\$165,337)
Adjusted Gross Income			\$2,039,159		\$2,039,159
Op Expenses (TDHCA Min)					
General Admin Costs		20%			
Management Fee		5%			
Payroll & Payroll Expense		10%			
Repairs and Maintained		20%			
Utilities Expense		30%			
Water Sewer Trash		30%			
Property Tax		0%	\$2,800		(\$705,600)
Replacement Reserves	\$200		\$200	(\$50,400)	\$250
Total Expenses					
Net Operating Income (NOI)			\$1,283,159		\$1,270,559
Debit Service Coverage	1.10			1.15	
NOI available for Debit Service			\$1,166,508		\$1,104,834
Mortgage Constant	0.066864061				
Mortgage Amount			\$17,445,964		\$16,523,581
Assumptions:					
			Amount of Mortgage Reduction	\$922,383	5.29%
No Property Tax					
No Utility Allowances					
Equal Mix					
Same Mortgage Constant					
\$2,800/Unit Expenses w/o Taxes and Reserves					

Example Three

AMI \$48,800 Killeen

Unit Type	# OF UNITS	Monthly Rental	Annual Rental	2007 TDHCA Underwriting	Annual Rental
Unit 1BR/1B	84	549	\$553,392		\$553,392
Unit 2BR/2B	84	658	\$663,264		\$663,264
Unit 3BR/2B	84	761	\$767,088		\$767,088
Total Units	252		\$1,983,744		\$1,983,744
Other income(TDHCA LIMIT)	252	\$15.00	\$45,360		\$45,360
Gross Income			\$2,029,104		\$2,029,104
<u>Vacancy</u>	7.5%		(\$152,183)	7.5%	(\$152,183)
Adjusted Gross Income			\$1,876,921		\$1,876,921
Op Expenses (TDHCA Min)					
General Admin Costs	20%				
Management Fee	5%				
Payroll & Payroll Expense	10%				
Repairs and Maintenance	20%				
Utilities Expense	30%				
Water Sewer Trash	30%				
Property Tax	0%	\$2,800	(\$705,600)		(\$705,600)
<u>Replacement Reserves</u>	\$200	\$200	(\$50,400)	\$250	(\$63,000)
Total Expenses			\$1,120,921		\$1,108,321
Net Operating Income(NOI)					
<u>Debit Service Coverage</u>	1.10			1.15	
NOI available for Debit Service			\$1,019,019		\$963,758
Mortgage Constant	0.06686406				
Mortgage Amount			\$15,240,164		\$14,413,686
Assumptions:					
		Amount of Mortgage Reduction		\$826,478	5.42%
No Property Tax					
No Utility Allowances					
Equal Mix					
Same Mortgage Constant					
\$2,800/Unit Expenses w/o Taxes and Reserves					

Example Four

AMI \$44,600 Anderson

Unit Type	# OF UNITS	Monthly Rental	Annual Rental	2007 TDHCA Underwriting	Annual Rental
Unit 1BR/1B	84	504	\$508,032		\$508,032
Unit 2BR/2B	84	604	\$608,832		\$608,832
Unit 3BR/2B	84	699	\$704,592		\$704,592
Total Units	252		\$1,821,456		\$1,821,456
Other income(TDHCA LIMIT)	252	\$15.00	\$45,360		\$45,360
Gross Income			\$1,866,816		\$1,866,816
<u>Vacancy</u>	7.5%		(\$140,011)	7.5%	(\$140,011)
Adjusted Gross Income			\$1,726,805		\$1,726,805
Op Expenses (TDHCA Min)					
General Admin Costs		20%			
Management Fee		5%			
Payroll & Payroll Expense		10%			
Repairs and Maintenance		20%			
Utilities Expense		30%			
Water Sewer Trash		30%			
Property Tax		0%	\$2,800		
<u>Replacement Reserves</u>		\$200	\$200		
Total Expenses					
Net Operating Income(NOI)			\$970,805		\$958,205
<u>Debit Service Coverage</u>		1.10		1.15	
NOI available for Debit Service			\$882,550		\$833,222
Mortgage Constant	0.066864061				
Mortgage Amount			\$13,199,166		\$12,461,426

Assumptions:

Amount of Mortgage Reduction \$737,739 5.59%

- No Property Tax
- No Utility Allowances
- Equal Mix
- Same Mortgage Constant
- \$2,800/Unit Expenses w/o Taxes and Reserves

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

2006 STATE OF TEXAS

PUBLIC HEARING

Bazan Public Library
2200 W. Commerce
San Antonio, Texas

September 22, 2006
11:10 a.m.

BEFORE:

STEPHEN SCHOTTMAN, TDHCA Team Leader of
Research and Planning Policy
and Public Affairs
JESSE T. MITCHELL, TDHCA Manager, Community
Services
BRENDA HULL, TDHCA Real Estate Analysis

ALSO PRESENT:

DAVID B. BROWN, ORCA Representative
KATHERINE CLOSMANN, TSAHC,
Executive Vice President

Brenda Hull will be discussing these particular items. I'll turn it over to you, Brenda.

MS. HULL: Hello. I'm Brenda Hull from the Real Estate Analysis Division of TDHCA and the real estate analysis rules cover all the items Steve just listed. They relate to looking at the proposed development's financial feasibility and economic viability. If you have any questions about the rules or guidelines or any of the program, you can contact Lisa Vecchietti (512)475-3227 or myself, Brenda Hull, (512)475-3357.

MR. SCHOTTMAN: And I do have a witness affirmation form for a Mr. Hogan. I think you wanted to talk on the real estate rules.

MR. HOGAN: I did.

MR. SCHOTTMAN: Okay.

MR. HOGAN: I do. Still do.

MR. SCHOTTMAN: Great.

MR. HOGAN: My name is Mike Hogan, Hogan Real Estate Services. I'm here to comment particularly on this. I'm going to submit it in writing to you on three issues, two that I can really speak to authoritatively because this is what I do is the reserve replacement -- changing it from \$200 a unit to \$250. And the debt service coverage from 110 to 115 debt service coverage.

Also I want to talk about capture rates but I want to talk about the first two first because those I'm very familiar with. Capture rates I have to default to my market guy but I will make a couple comments on that.

To those who don't do underwriting, these appear to be a little obscure and not a big change but the reality is it's a major change. I made additional comments to the TDHCA Board on the August 20 meeting and Beth Anderson asked me to submit some examples in writing, which I've done, and I'm going to leave these here with you also because these went on to Ms. Anderson and she asked me to copy all the Board members. So I'm going to give you a copy of what I did submit.

And on the front of it is also a letter from Representative Menendez, who didn't think he could make this meeting today, because he was copied on this and he understands the importance of these comments.

The impact -- I ran some examples. I ran four examples in four different median income areas. I assumed that the expenses were pretty much the same. Really what's going to change in these examples is really the income in debt service and reserves, those together because they happen at the same time. They're not independent of each other. They're the same underwriting.

And what I saw was that for anywhere from \$737,000 to \$990,000 in debt loss, shrinkage, occurs by integrating these into these formulas. Now, it even gets worst because the low median income areas really get hurt the worst because the really is they have less net operating income to deal with.

They have less rents. They've got about the same expenses. So they really get whacked. So it's really hurts everything first of all. It hurts the Affordable Program. Not even sure why we're even considering this to tell you the truth.

In the handout, it says that you're considering the change because of the National Council of State Housing Agencies, whoever the heck they are. Well, they're not here in the state of Texas and to apply something on a national basis, one size fits all, I don't think is a reason to change things. So I kind of want to yell down here, Look, we've got enough hurdles out here in this industry to overcome and at a time when you have rising interest rates -- they have been rising. I think they're going to flatten out just a little bit -- but we've gone from fairly low interest rates back up to a little higher interest rate plateau.

Real estate taxes haven't subsided in these

areas for most municipalities. Utility allowances are escalating, at least they are in this area this year. You just have all these things that are impacting the underwriting as it is. To add this to the mix doesn't seem to make sense to me at this point.

It's harmful across the board and it -- you've got insurance problems down close to the coast. The closer you get to Louisiana, those guys are wondering how the heck they're going to get insurance to underwrite these numbers any way. So I don't see this encouraging or helping affordable housing. I see it as the opposite.

So I would like to leave the things the way they are at this point. I vote to lower them but that's a separate issue. But as far as increasing them -- well, I would in some areas. Not here in San Antonio, but if you're a small community and you're trying to attract housing, you could you some help in some of these underwriting criteria.

Do away with the seven and a half percent vacancy. At least give them seven market. I mean when you add all these little things up, it lowers the debt that they can attract. When you lower the debt, you increase the deferred developer's fee which is the buffer that operates all of this and if you do it too far, then

the project itself can't pay back that deferred development fee from cash flow and TDHCA is going to say this is not a feasible project.

And that's the way it works. So you need to attract a reasonable amount of debt to a project. So that's really what this is all about. So I'm here to say leave the debt service coverage alone, leave the reserve alone. The market out -- the guys buying the bonds and stuff with their [indiscernible] appraisers are going to drive that anyway. So why do it when you're trying to allocate tax credits?

So the third issue is the capture rate. First one to tell you I have never understood the capture rate.

I've left it to the guys who do the market study. I'm not an authority on it but Darrell Jack here in San Antonio, Apartment Market Data is one of the tops in the industry. And he did -- took six projects that he had done market studies for and have all been built and have all been successful. It so happens that one of the ones he picked was one that we built, one called Willow Bend.

And had you used the capture rate analysis that you're proposing now, Willow Bend would have never made the cut. And Willow Bend now has 250 families. We leased it. From the time we finished the first building, which

was in January of this year, until it was fully leased and 100 percent certified, was June. Six months. That's an incredible velocity. I was pushing the contractor to get the buildings ready.

So there's a big demand at least in our area and to change the capture rate to impact that doesn't -- again that doesn't seem to be what we should be doing right now. Again, leave what seems to be working -- I know -- I think Darrell is working with the Underwriting Department to try to work through this and use examples and I support whatever they come up with but it appears to be broken if you go with what you've got now and that doesn't seem to be encouraging to me.

Thank you very much and I'm going to submit this in writing. Yes?

MS. HULL: I have question --

MR. HOGAN: Sure.

MS. HULL: -- about the three geographic areas that you talked about.

MR. HOGAN: Four, actually.

MS. HULL: Are those identified in the write-up?

MR. HOGAN: They are.

MS. HULL: Okay. Because it would be helpful

for us to be able to look at proposed --

MR. HOGAN: Right. And I know there's a bunch of moving pieces and you know there are too but you know the reality is labor and construction costs and stuff pretty much are the same all over Texas. I can't buy lumber than they can somewhere else. So if you just freeze those things and just look at the impact of those two items in the absence of everything else, it's pretty dramatic. Very dramatic and I used Austin at 553. I used Bexar County. I'm familiar with that one, 531. I used Colleen at 488 and I used Anderson at 446 just as examples and the lower you went -- the lower median income, of course, you get lower promulgated rates and you just have less in the line to work with.

So it's really a more impact I think on the smaller community, which is typical. Every time you try to make one size fit all that's usually who takes the hit. Who do I submit this to?

MS. HULL: I'll take that.

MR. HOGAN: Okay.

MR. SCHOTTMAN: Thank you very much.

MR. HOGAN: Thank you. And I know there's going to be more contingency coming to Austin from Bexar County. Not everybody could make this meeting so you'll probably see some faces at the Austin meetings. Thanks very much.

**Lisa Vecchietti**

From: Lisa Vecchietti [lisa.vecchietti@tdhca.state.tx.us]
Sent: Thursday, November 02, 2006 10:59 AM
To: 'Lisa Vecchietti'
Subject: FW: Public Comment - 2007 Real Estate Rules and Guidelines

From: Darrell Jack [mailto:djack-amd@satx.rr.com]
Sent: Thursday, October 12, 2006 1:51 PM
To: brooke.boston@tdhca.state.tx.us
Cc: kirt02@hotmail.com
Subject: Public Comment - 2007 Real Estate Rules and Guidelines

Brooke:

Please include the following statements in the public comment for the 2007 Real Estate Rules and Guidelines.

Currently the population must be limited to 100,000 for a Primary Market Area (PMA) for Urban and Exurban Family projects.

I am recommending that the market analyst be allowed to use a Secondary Market Area (SMA) with a population limited to 250,000 for Urban/Exurban Family projects. I am basing this recommendation on two lease audits conducted by Apartment MarketData for two income restricted projects - Eagle Ridge and Willow Bend. The audits show that only 50-55% of tenants previously resided within the PMA.

Thank You,

Darrell G Jack

Darrell Jack <djack-amd@satx.rr.com> wrote:

Beth:

You have not heard from me since the last board meeting as I have been working with Tom Gouris to model the impact the Real Estate Analysis rule changes will have for 2007. If you recall, my presentation at the last board meeting modeled 6 projects previously approved by the TDHCA underwriting department. The analysis showed that 5 of the 6 projects would not have been recommended by staff if the proposed rule changes had been in effect. My work this past month has both Tom Gouris and Brenda Hull largely agreeing with this conclusion.

I also performed a lease audit on two projects developed by Mike Hogan, Willow Bend and Eagle Ridge Apartments (San Antonio). Willow Bend, you recall, was the project that leased-up in 6 months but would not have been recommended due to the capture rate by unit type. The lease audit revealed that only 50% of the residents lived within the Primary Trade Area prior to moving into Willow Bend. The audit also showed that only 53% of the units were filled by current renter households. The most surprising part of the audit was that 40% of the residents were previously living within another household (i.e. child w/ parent, parent with adult child, etc.). This source of demand caught both Tom and myself off guard. The lease audit for Eagle Ridge was amazingly similar.

Even with these results, Tom is convinced that there needs to be a capture rate by unit type included in the underwriting assessment for 2007. My concern about this change has several parts. First, the underwriting department did not model what affect these changes would have on the affordable housing program prior to recommending the changes for 2007. It is likely that they would not have done any modeling if I had not made my presentation at the last board meeting.

Second, even after largely agreeing with my conclusions, they are pressing forward with a capture rate by unit type. To date, neither Tom nor myself have modeled enough projects to know at what level the capture rate percentage could be set at without negatively affecting the program.

Third, Tom believes that the TDHCA Board expects a continuing refinement of the market analysis. In affect, he wants to continue to quantify as much of the demand analysis and thus eliminating the "art" of evaluating rental demand. That might be fine if every project operated in exactly the same environment, but we know that what might be true in Dallas does not necessarily apply in Pecos.

Additionally, my review of the major cities in Texas shows that, with few exceptions, any overbuilding of

affordable units would be addressed by the current capture rate rules. Additionally, forcing a developer to modify a project's unit mix based on current market conditions is not good policy, as markets are continually changing.

If possible, I would like for Craig Young (O'Connor & Associates) and myself to sit down with you to show you how all these numbers fit together. Together, we believe that there will be unintended consequences detrimental to the future of affordable housing in Texas. I know that you are currently busy with election matters. If you would agreed to meet with us, we would come to Dallas at your convenience.

Sincerely,

Darrell G. Jack
Apartment MarketData
(210) 530-0040

APARTMENT

MARKETDATA, LLC

CONSULTANTS, ECONOMISTS, ANALYSTS

October 6, 2006

Board of Directors
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

RE: Public Comment
2007 Real Estate Analysis Rules and Guidelines

Greetings:

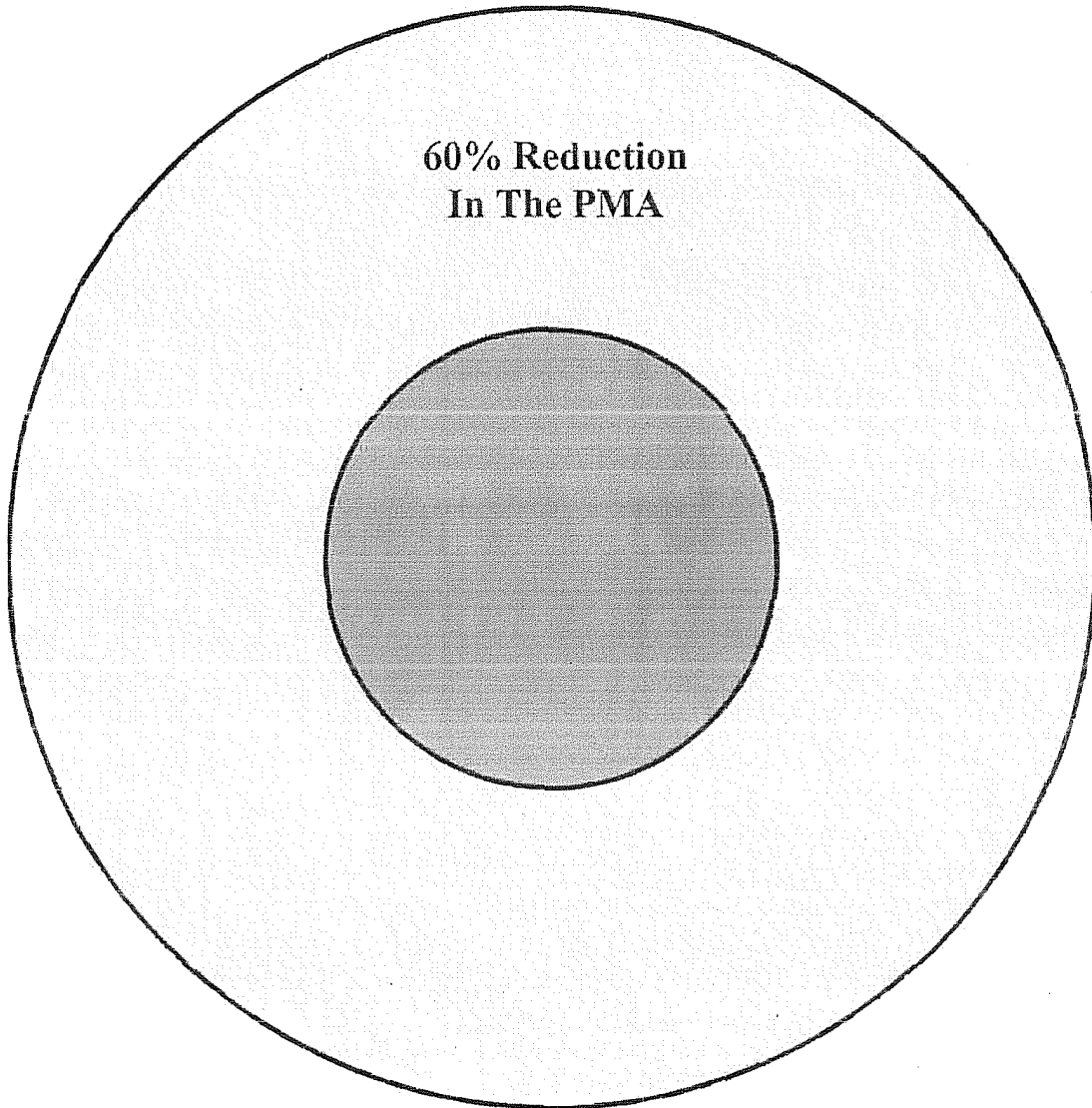
I am writing to you in opposition of several proposed rules changes for 2007. The rule changes that I will speak toward are:

1. Reduction of the capture rate for rural and senior (urban) projects.
2. Restricted Market Rents less than program maximums making a project infeasible.
3. Demand and capture rate by unit type.

Background

Through the changes to the Real Estate Analysis Rules and Guidelines implemented over the past several years, the business of providing "affordable" housing has become increasingly difficult. No doubt, the intentions of the changes were well intended and based in a desire to further refine the means by which demand for "affordable" housing would be calculated. However, these changes continue to strangle the neck of "affordable" housing.

The first major change for market analysts was to restrict the Primary Trade Area (PMA) based on population limits, rather than the market analyst's knowledge of the area. The first change limited the PMA in urban and rural areas to a population of 250,000. Then for 2006, the PMA was further restricted for urban-family projects to a population of 100,000. This was a reduction of the PMA by 60%.



Apartment MarketData recently performed lease audits of the original residents for Willow Bend and Eagle Ridge Apartments (San Antonio, TX). These audits showed that only 50 to 55% of the project's residents came from within the PMA.

As these changes pertain to the changes proposed for 2007, capture rate has everything to do with the size of the PMA.

Reduction of the capture rate for rural and senior (urban) projects

The proposed changes of the capture rate for rural, elderly or special needs decrease the capture rate from 100% to 50%. Effectively, this reduces the PMA by 50%.

The affect this change will have is significant. A lower capture rate means fewer units can be placed in a market. Fewer units means a lowered financial feasibility. A lowered financial feasibility means developers will not attempt to do senior projects or projects in many of the rural areas of the state that desperately need new, affordably price housing.

Some of the rural / senior deals approved for 2006 that would not have been recommend for funding are as follows:

NAME	CITY	DESCRIPTION	CAP RATE
Oak Timbers	Ft. Worth	Urban – Senior	57%
Country Lane Srs.	Waxahachie	Urban – Senior	54%
Knightsbridge	Aldine	Urban – Senior	94%
Reed Road Srs.	Houston	Urban – Senior	58%
Orchard Park	Houston	Urban – Senior	62%
Picadilly Estates	Pflugerville	Urban – Senior	74%
Grand Reserve	Temple	Urban – Senior	98%
Mansion at Briar Ck.	Bryan	Urban – Senior	57%
Vista Pines	Nacogdoches	Rural – Senior	59%
Pembroke Court	Gatesville	Rural – Family	66%
Alta Vista Srs.	Weslaco	Urban – Senior (Rehab.)	79%
Mission Palms	San Elizario	Rural – Family	55%

All told, these 12 properties account for \$11,129,315 in tax credits.

Restricted Market Rents less than program maximums making a project infeasible

The proposed changes will determine that a project is infeasible if the project’s rents are less than program maximums and market rents. The idea is that this situation indicates a market is oversupplied with “affordable units”.

Let’s look at a specific example.

The Austin MSA is comprised of Bastrop, Caldwell, Hays, Travis and Williamson Counties. The Area Median Income (AMI) for the Austin MSA has changed each year since 2000. The highest reported AMI was in 2002. At such time, the maximum program rents were establish. However, the AMI dropped significantly in 2003 while the maximum program rents were never adjusted.

Max. 60%	AMI	1 Bdrm	2 Bdrm	3 Bdrm	4 Bdrm
2000	\$58,900	\$662	\$795	\$918	\$1,024
2001	\$64,700	\$728	\$873	\$1,009	\$1,126
2002	\$71,100	\$800	\$960	\$1,109	\$1,237
2003	\$66,900	\$800	\$960	\$1,109	\$1,237
2004	\$66,900	\$800	\$960	\$1,109	\$1,237
2005	\$67,300	\$800	\$960	\$1,109	\$1,237
2006	\$69,600	\$800	\$960	\$1,109	\$1,237

The result of not adjusting the maximum program rents ended up with program rents that were equal to or above rents that could be proven in the market.

Today, many of the “affordable” projects within Austin have yet to catch up to the maximum program limits. This is due in part to the term of resident leases. As time goes by, owners will certainly raise rents as leases expire and market conditions warrant.

As first stated, the idea for this change is that this situation indicates a market is oversupplied with “affordable” units. At the same time, our survey of “affordable” projects occupancy is contrary to this statement. Our survey of 7,806 units indicates an average occupancy 93.4% citywide. Additionally, no individual unit type by AMI is less than 91.9% occupied (See Table Below).

Another affect that this rule will have is to exclude many of the outlying areas from future development. As stated previously, the Austin MSA is comprised of Bastrop, Caldwell, Hays, Travis and Williamson Counties. In no way are the incomes earned or rental rates homogeneous throughout the entire MSA. The following thematic map shows very clearly the differences in the area median income. Especially impacted will be Bastrop and Caldwell Counties (See Following Map).

Furthermore, the proposed rule will force developers to locate projects in more affluent neighborhoods where higher market rents are provable. Lower income neighborhoods which may have a greater demand will be excluded based on lower market rents in the surrounding area.

		Austin		
Unit Type	Unit Descr.	# of Units	Occupied Units	Occupancy %
1 Bdrm	30%	69	68	98.6%
1 Bdrm	40%	74	69	93.2%
1 Bdrm	50%	491	464	94.5%
1 Bdrm	60%	929	864	93.0%
1 Bdrm	MKT	105	95	90.5%
2 Bdrm	30%	87	86	98.9%
2 Bdrm	40%	45	43	95.6%
2 Bdrm	50%	1,174	1,091	92.9%
2 Bdrm	60%	1,977	1,853	93.7%
2 Bdrm	MKT	209	198	94.7%
3 Bdrm	30%	28	28	100.0%
3 Bdrm	40%	20	20	100.0%
3 Bdrm	50%	640	588	91.9%
3 Bdrm	60%	1,305	1,214	93.0%
3 Bdrm	MKT	159	150	94.3%
4 Bdrm	30%	6	6	100.0%
4 Bdrm	40%	8	8	100.0%
4 Bdrm	50%	123	114	92.7%
4 Bdrm	60%	310	288	92.9%
4 Bdrm	MKT	47	41	87.2%
Overall	30%	190	188	98.9%
Overall	40%	147	140	95.2%
Overall	50%	2,428	2,257	93.0%
Overall	60%	4,521	4,219	93.3%
Overall	MKT	520	484	93.1%
TOTAL		7,806	7,288	93.4%



Legend

- Site
- Custom Boundary
- Highways
- County Boundaries
- State Boundaries

Copy of 2005 Median Household Income by Block Group

- \$250,000 To \$500,000
- \$150,000 To \$250,000
- \$100,000 To \$150,000
- \$75,000 To \$100,000
- \$60,000 To \$75,000
- \$50,000 To \$60,000
- \$40,000 To \$50,000
- \$30,000 To \$40,000
- \$20,000 To \$30,000
- \$0 To \$20,000

Site Coordinates
 Longitude/X: -97.759159
 Latitude/Y: 30.254891

Miles
 0 15 30

APARTMENT MARKETDATA
 Consultants, Economists, Analysts
 42 NE Loop 410, Suite 200
 San Antonio, TX 78216
 (210) 530-0900

Demand and capture rate by unit type

Many times change brings with it unanticipated consequences. The proposed rule change to include a capture rate by unit type is one of these changes.

Apartment MarketData modeled the affect the proposed change would have on the underwriting of "affordable" projects going forward. We modeled six projects serving a variety of residents. These include urban family and senior projects and rural family and senior projects. The results concluded that 5 of the 6 projects would not have been recommended for funding.

One project that would not have been recommended was the Willow Bend Apartments (San Antonio). Willow Bend successfully leased-up in six months. That equates to an average of 42 units occupied per month. The reason this project would not have been recommend is due to the fact that the capture rate for the two and three bedroom units would have exceeded the 50% establish by the proposed rule.

In the case of Meadowlands and Costa Valencia, the number of units would have been reduced to 137 and 114 units respectively. At that point both projects become financially infeasible. The affect this had overall was to reduce the maximum capture rate from 25% to 10-11%.

Since the August board meeting, Apartment MarketData has been working with Tom Gouris to model the impact the Real Estate Analysis rule changes will have for 2007. Our work this past month has both Tom Gouris and Brenda Hull largely agreeing with this conclusion. Even with these results, Mr. Gouris is convinced that there needs to be a capture rate by unit type included in the underwriting assessment for 2007.

My concern about this change has several parts. First, the underwriting department did not model what affect these changes would have on the affordable housing program prior to recommending the changes for 2007.

Second, even after largely agreeing with my conclusions, they are pressing forward with a capture rate by unit type. To date, neither Tom nor myself have modeled enough projects to know at what level the capture rate percentage could be set at without negatively affecting the program.

Third, Tom believes that the TDHCA Board expects a continuing refinement of the market analysis. In affect, he wants to continue to quantify as much of the demand analysis and thus eliminating the "art" of evaluating rental demand. That might be fine if every project operated in exactly the same environment, but we know that what might be true in Dallas does not necessarily apply in Pecos.

My review of the major cities in Texas shows that, with few exceptions, any overbuilding of affordable units would be addressed by the current capture rate rules. Additionally, forcing a developer to modify a project's unit mix based on current market conditions is not good policy, as markets are continually changing.

Conclusion

As I believe I have shown, these three proposed rule changes for 2007 will impede, if not strangle, the development of "affordable" housing within the State of Texas. In the case of Willow Bend Apartments, 250 families now have a rent that they can afford in a modern development. And up until the time Willow Bend opened, 101 of those families were living within someone else's home.

How many seniors will not find an affordable place to live as developments are rejected base on an arbitrary number chosen for the capture rate?

If the TDHCA's mission is to assist the residents of Texas by facilitating the development of affordable housing throughout the state, then you have to reject these rules outright. Furthermore, before such rules are ever implemented, the TDHCA should adequately model and be able to predict the impact such rule changes will have on the program.

Thank you,

Darrell G. Jack
President

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CONSOLIDATED PUBLIC HEARING

900 North Shoreline Blvd.
Corpus Christi, Texas

September 21, 2006
3:50 p.m.

BEFORE:

ERIN FERRIS, TDHCA Housing Specialist

ALSO PRESENT:

DAVID B. BROWN, ORCA Representative
KATHERINE CLOSMANN, TSAHC,
Executive Vice President
ROBBYE MEYER, TDHCA Director of Multi-Family
Finance
PATRICIA MURPHY
LISA VECCHIETTI

I just want to let know that I realize there's a couple of major changes. We tried not to make that many but the way things went this year we did. Obviously, the market analysis rule section as it relates to underwriting and the capture rate, I'm sure you guys are interested in that, and how we're going to be looking at possibly changing over to inclusive capture rate by bedroom type and set-aside.

And also the infeasibility criteria section -- are the two major ones that I can think of. Again, please make your comments and we'll listen to everything. But if you have any questions, just come find me afterwards. Thank you.

MS. FERRIS: Thank you very much. Is there public comment?

AUDIENCE: [indiscernible]

MS. FERRIS: Have you -- and that's your form? Great. Thank you.

MR. IPSE: My name is Edward Ipser, market analyst. There's a clear and concise definition of the primary market area, which is logical, is also a definition of the secondary market area, which is again logical. But that secondary market area is still limited to geographic reason around the proposed site.

This is, I think, restrictive of what we have been finding in some survey work we have been doing. Working with TDHCA staff, we initiated a survey and what I have are some preliminary results right here which are mostly rural, fitting this group, and some comments from urban areas also.

But what we're finding is that about 51 percent come from the immediate market area, the primary market area. Another ten percent come from a much larger surrounding area and then that leaves about 38 percent that come from outside the market area, which can be out of state, which you're told not to include in the second market area. That would have to be in the demand from other sources group then. So the demand from other sources is not very open as far as what definitions can be included in that.

So -- and that 38 percent can also include homeowners, which in the case of elderly -- we have not been able to include. We have only be restricted to using potential renters. We're finding that about ten percent or more are homeowners moving into TDHCA properties and then there another 18 to 20 percent that are living with family.

And of course these things somewhat vary with

different regions -- whether you're talking about the lower Rio Grande Valley or Central or North Texas. So we'll have to learn to adjust these things a little bit but we do need some method of being able to include people from outside the immediate, primary, and secondary market area, from home ownership, and from living with family.

And home ownership and living with family also go from the immediate area to the out-of-state and beyond the secondary market area. So we need some way for the definitions to be open to include that in the demand analysis.

MS. FERRIS: Thank you very much for you comments. Is there further comment on this? Mr. Sugrue?

MR. SUGRUE: Thank you so much. You are calling me by my name. I want to make comment about the feasibility of properties that cannot obtain full low-income housing tax credit rents.

In many rural communities, that's impossible. That means you're red-lining these communities. Can't be done and also, since they didn't address it, the capture rate, 50 percent in rural communities, is a little too low as well. We need to find some happy medium in there also. Thank you.

MS. FERRIS: Thank you for your comments. Mr.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING
2006 STATE OF TEXAS

Wednesday, August 30, 2006
Capitol Extension Auditorium
State Capitol
1100 Congress Avenue
Austin, Texas

PRESIDING:

BETH ANDERSON

BOARD MEMBERS PRESENT:

VIDAL GONZALEZ
C. KENT CONINE (Vice-Chair)
MAYOR NORBERTO SALINAS
SHADRICK BOGANY
SONNY FLORES

STAFF:

MICHAEL GERBER, Executive Director

MR. CONINE: Were they speaking on QAP?

MS. ANDERSON: No. It is draft underwriting market analysis, 5A.

MR. CONINE: Okay.

MS. ANDERSON: Okay. And then I have a witness affirmation form from the brand new president of TAP, and it is kind of hard to read which Agenda Item he wants to speak on.

MR. MCDONALD: 5H of the QAP.

MS. ANDERSON: 5H? Okay.

MR. CONINE: Right.

MS. ANDERSON: And then, Mr. Jeff Spicer.

MR. SPICER: would like to speak on the real estate analysis rules and specifically address the capture rate. What I would like to propose is looking at a capture rate that differentiates the urban and exurban.

We have discussed a long time some problems in getting developments, really, in exurban areas outside of the major metropolitan areas that are growing rapidly. And one of the problems there is as Tom has noted earlier there are quite a bit fewer apartment units in these exurban areas.

And what I would like to propose in looking at, is looking at a 50 percent capture rate in exurban areas,

but having that capture rate based solely on household growth in the area, and not renter turnover. I think as a Board, what you want to see is, you don't want to cannibalize units. And we have talked about having too many units in other areas, and cannibalizing other deals.

What we really need to look at is, population growth in these outlying areas, that we can get, really truly get new developments in areas outlying the MSA. And right now, our capture rate calculations and definitions are preventing us from doing that.

So I think a 50 percent capture rate based solely upon household growth, I think would give us really a good approximation of what I believe the Board has been trying to do for a while. And I would like to make that proposal, and have that in the draft real estate analysis rules.

I also want to make a comment on the real estate capture rate as it relates to the bedroom type. And I see a disconnect in the QAP, and specifically, the ineligible building types, where we have a prescribed number of units that we have to put in the projects that we are doing.

And the capture rate that we are trying to get,

on a per unit type basis, if you are going to tell us that we have to do, have to meet what is out there in the market, on one hand, and do that in the market analysis section, under real estate rules and then prescribe a polling unit mix in the ineligible building type, there is a potential disconnect that these two will not meet.

And I think it is either one or the other. Either tell us in the ineligible building types what we need to do, or tell some of the market analysis what we need to do. Thanks.

MS. ANDERSON: Thank you. That is the end of the public comment for this item. Are there questions?

MR. CONINE: Yes. I have one or two. I presume those comments that we just heard from Jeff and the others, somebody is taking those down and when these things come back a couple of months from now, we will kind of have a smorgasbord of things to look at. Okay.

MR. GOURIS: Yes, sir.

MR. CONINE: Because he is right about that point, by the way. Tom, we had a case not too long ago where we had a discussion about a property tax number that took into consideration the new legislation that was passed by the state Legislature in property tax reduction and so forth. And I think your comment at that time was,

MULTIFAMILY FINANCE PRODUCTION

BOARD ACTION REQUEST

November 9, 2006

Action Items

Final Housing Tax Credit Program Qualified Allocation Plan and Rules.

Required Action

1. Adoption of Repeal of Title 10 Texas Administrative Code, Part 1, Chapter 49 – 2005 Housing Tax Credit Program Qualified Allocation Plan and Rules
2. Adoption of New Title 10 Texas Administrative Code, Part 1, Chapter 49 – 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

Background and Recommendation

See attached background summary.

Required Action

1. Adoption of Repeal of Title 10 Texas Administrative Code, Part 1, Chapter 49 – 2005 Housing Tax Credit Program Qualified Allocation Plan and Rules
2. Adoption of Staff's Recommendations for the New Title 10 Texas Administrative Code, Part 1, Chapter 49 – 2007 Final Housing Tax Credit Program Qualified Allocation Plan and Rules

Reasoned Response to Public Comment on the 2007 Draft Qualified Allocation Plan and Rules
(QAP)

The Texas Department of Housing and Community Affairs (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 include both administrative clarifications and corrections made to the QAP by staff, as well as substantive comments on the QAP and the corresponding 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. If comment resulted in recommended language changes to the Draft QAP, those new language changes are highlighted). Copies of the exact comment letters provided are available on the Department’s website.

§49 – General (no specific section of the QAP provided in comment) – (2,14, 26, 30, 33, 34, 54)

Comment:

Texas Association of Community Development Corporation (TACDC) members are very interested in augmenting the Housing Tax Credit program to allow for and encourage a variety of development types targeted to many different income levels, not just traditional multifamily rental. Given the unique design of the program and inherent complications in administering the program, they understand there will be challenges to achieve this goal. TACDC also wants to encourage SRO and scattered site developments through the tax credit program. No specific language change was proposed (54). Additional comment generally asserts that local housing finance corporations provide a good service to affordable housing (30).

One comment from the National Housing Trust asserts that the first step to resolving America’s affordable housing problem is to preserve the affordable housing we already have. While the demand for affordable rental housing remains high, the supply of this housing is shrinking. Comment further commends the Department on its successful efforts to preserve and improve existing, affordable housing in Texas (14). One commenter asserts that the current draft dissuades preserving existing housing (26). No specific language change was proposed

Comment also requests that, when feasible, green technologies and methods should be integrated into rehabilitation in order to improve energy efficiency, conserve water and other resources, and use healthy building materials. These types of improvements benefit both residents and property owners through utility savings and lower maintenance costs, result in long-term sustainability, and provide residents with a better and healthier living environment (14). No specific language change was proposed

One commenter provided a substantial report that demonstrates his assertion that there are deficiencies in the rules and regulations of governmental agencies dealing in low-income multifamily housing subsidies and the impacts on communities unless governmental agencies craft and enforce rigorous standards for tenants of multifamily housing subsidized by TDHCA and other agencies (2). This comment did not provide specific comment to any particular section of the QAP, nor did it submit recommended language to the draft QAP.

Additional comment requests that the Department provide a stronger focus on addressing the needs of the homeless populations throughout Texas. This comment did not provide specific comment to any particular section of the QAP, nor did it submit recommended language to the draft QAP (33).

Comment also requested that the Department include more consideration given to public opposition and the opposition of elected officials. Additionally, comment requests that if there are remaining funds after making initial award recommendations, that the Department not just award at a developer’s request (34).

Staff Response:

Items not referring to a specific section of the QAP have not been directly addressed in this response, although staff appreciates the comment. Staff appreciates the commendation relating to Department efforts in preservation and energy efficiency and agrees that the draft reflects the Department’s efforts to preserve and improve existing housing.

Staff would also like to note that all public comment is taken very seriously, whether it is support or opposition. All comment is reflected in the summary made to the TDHCA Board. Additionally, there are many sections of the QAP which require approval at the local level before an application may meet eligibility, threshold and/or selection criterion.

It should be noted that staff may not recommend and the Board may not approve an application for tax credits unless the Development is 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.

§49.1 – Purpose and Authority; Program Statement; Allocation Goals (Administrative), Page 2 of 69
Administrative Change:

Staff recommends the following change to this clarify references to “the Code” throughout the QAP:

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

§49.3(5)(A) – Applicable Percentage (31), Page 3 of 69

Comment:

Comment was received that the words “the greater of” were crossed out in a typo. It stands to reason that the APR would be the greater of the two options listed (31).

Staff Response:

Staff concurs and recommends the following language

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

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

(i) 40 basis points over the current applicable percentage for 70 percent present value credits, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department, or

(ii) 15 basis points over the current applicable percentage for 30 percent present value credits, pursuant to §42(b) of the Code ~~for the trailing 1 year, 2 year or 3 year average rate in effect during the~~ month in which the Application is submitted to the Department.

§49.3(13)(D) – At-Risk (17), Pages 3 and 4 of 69

Comment:

Comment was received regarding the new language added that Developments must be at risk of losing all affordability. The commenter asserts that many of the eligible programs have two components of both a loan and a rental assistance contract. The rental assistance contracts typically expire long before the loans; thus, if the rental assistance is lost, but not your loan, the project is still in extreme jeopardy of not being able to serve lower income residents (17).

Staff Response:

Staff concurs with the comment and proposes the following language:

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

§49.3(30) – Developer (31), Page 5 of 69

Comment:

Comment was received that the word “exceed” was deleted unintentionally (31).

Staff Response:

Staff concurs and recommends the following language:

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

§49.3(52)(G) – Definitions – Ineligible Building Types (1,31,38), Page 7 of 69

Comment:

Comment suggests that although it is desirable to offer a variety of unit types, it is more important to address the needs in a particular market. The comment further requests the deletion of this section’s restrictions on minimum percentages of unit types and let the market dictate the unit mix (1,38). Additional comment suggests that the differences between (E) and (G) of this section are very confusing regarding 4 bedroom units and suggests that another item be added to the list in Paragraph G that clarifies that up to 5% of the units may be 4 bedrooms, if this is still the intent of the language in this section (31).

Staff Response:

While Staff appreciates the arguments for the deletion of this section’s restrictions on minimum percentages of unit types, the Department’s Board has indicated that the draft language provides for appropriate unit mixes. However, staff does recommend the following change to this section which clarifies the restrictions for 4 bedrooms.

~~(E) Any Development proposing New Construction, other than a Development (New Construction or Rehabilitation) composed entirely of single family dwellings, having more than 5% of the Units in the Development with four or more bedrooms.~~

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

~~(G)~~ Any Development located in an Urban/Exurban Area involving any New Construction (excluding New Construction of non-residential buildings) of additional Units (other than a Qualified Elderly Development, a Development composed entirely of single family dwellings, and certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §42(i)(3)(B)(iii) and (iv)) in which any of the designs in clauses (i) - (iii) of this subparagraph are proposed. ~~For purposes of this limitation, a den, study or other similar space that could reasonably function as a bedroom will be considered a bedroom.~~ For Applications involving a combination of single family detached dwellings and multifamily dwellings, the percentages in this subparagraph do not apply to the single family detached dwellings. For Intergenerational Housing Applications, the percentages in this subparagraph do not apply to buildings that are restricted to the age requirements of a Qualified Elderly Development. An Application may reflect a total of Units for a given bedroom size greater than the percentages stated below to the extent that the increase is only to reach the next highest number divisible by four.

(i) more than 30% of the total Units are one bedroom Units; or

(ii) more than 55% of the total Units are two bedroom Units; or

(iii) more than 40% of the total Units are three bedroom Units; or

(iv) more than 5% of the total Units in the Development with four or more bedrooms.

§49.3(56) – Definitions – Local Political Subdivision (Administrative), Page 7 of 69

Administrative Change:

Staff recommends the following change to this definition so that §49.9(i)(5) is more understandable:

(56) Local Political Subdivision--A county or municipality (city) in Texas. For purposes of §50.49.9(i)(5) of this title, a local political subdivision may act through a Government Instrumentality such as a housing authority, housing finance corporation, or municipal utility, even if the Government Instrumentality’s creating statute states that the entity is not itself a “political subdivision.”

§49.3(66)(A) – Definitions – Principal (9), Page 8 of 69

Comment:

Comment suggests that the current language captures all partners of a partnership regardless of ownership interest, specifically very minor limited partners, and is inconsistent with the Principal definitions under corporations and limited liability companies, which only requires a 10% ownership interest (9).

Staff Response:

Staff recommends no change to this definition because the definition is limited to any Person that will exercise control over the entity, which could include persons with less than 10% ownership. It should be noted that the result of this change would not effect any documentation requirements as it relates to capturing Development information in the application, which seems to be the intention of the commenter.

§49.3(75) – Definitions – Reconstruction (1,38,20,25,36,37,5,42,43,44,45,46,47,48,49,50,51,52,53,55), Page 9 of 69

Comment:

Comment points to the fact that the current draft QAP does not allow for an increase in number of units under the definition of Reconstruction. For example, the total demolition of a 100 unit building with a mix of two and three-bedroom units, is going to increase in number of units, when smaller one-bedroom units are added to the unit mix. Under the current definition, an increase in the units above the 100 original units would preclude it from qualifying as “Reconstruction”. Instead, it would be 100% New Construction (and would therefore not be eligible for point incentives for Reconstruction and Rehabilitation. Comment further asserts that Reconstruction should not be limited to replacing the exact number of units (1,20,38).

Obsolete Public Housing that is demolished is replaced with HUD mixed finance housing developments on sites that are underutilized with very low density developments. Housing Authorities and the very low income residents they serve should not be penalized by excluding a mixed finance development proposing to increase the number of demolished units from the definition of Reconstruction as well as their eligibility for QCP scoring (5,42,43,44,45,46,47,48,49,50,51,52,53,55).

Additional comment suggests that if a proposed development involves the rehabilitation of an existing residential development, but part of the apartments’ buildings have been fire damaged or basically need to be torn down to the ground and rebuilt, while the other portions did not require demolishing, the scenario would not qualify as Reconstruction as currently drafted (37).

Staff Response:

This definition was written to ensure that the QAP does not provide incentives to increase density on a piece of land. Therefore, staff does not recommend a change to this definition to allow for an increase in units above the original total number of units. However, staff does recommend the following change to the definition to allow for scenarios with partial demolition:

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

§49.3(92) – Urban/Exurban (41), Page 11 of 69

Comment:

Comment was received that asserts that because there are cities defined as rural areas located in large MSA's that need and can justify developments in excess of 76 units, these developments should receive the Exurban scores and be funded from the Urban/Exurban allocation. This recommendation requests to add an additional sentence that states, "A development located in a Rural area as defined in Section 49.3 (81) that exceeds 76 units if involving new construction (41)."

Staff Response:

Staff recommends no change. This rule is based on §2306.6702 of Texas Government Code which defines a Rural Area and the Department has no authority to make this change.

§49.5(a)(8) – Ineligibility (3,11,5,39,42,43,44,45,46,47,48,49,50,51,52,53), Page 12 of 69

Comment:

Comment suggests that this rule only apply to New Construction, not Reconstruction or Rehabilitation. The comment further asserts that the 3-year rule is designed to protect a pre-existing HTC development until it has the opportunity to stabilize. A New Construction project adds to the existing supply of housing units, and therefore creates competition that the developer of the pre-existing HTC development may not have anticipated in assessing the demand for the pre-existing HTC development. Reconstruction and Rehabilitation, however, are the replacement or upgrading of previously-existing housing units, and neither concept permits an increase in the number of the units originally on the reconstructed or rehabilitated site. Accordingly, Reconstruction and Rehabilitation projects are not adding to the housing supply and are simply upgrading units that should have already been taken into consideration when the pre-existing HTC development was planned. Making the 3-year rule apply to Reconstruction and Rehabilitation projects only serves to sentence the existing occupants of those projects to additional time spent in below-standard housing. Additionally, to the extent that Reconstruction or Rehabilitation requires that existing tenants be relocated, such developments could help the stabilization of the pre-existing HTC development by sending displaced tenants to it (3,11,5,39,42,43,44,45,46,47,48,49,50,51,52,53).

Staff Response:

Staff appreciates the significant comment received and recommends the following language:

(8) The Applicant proposes to construct a new Development proposing New Construction (excluding New Construction of non-residential buildings) that is located one linear mile (measured by a straight line on a map) or less from a Development that: ~~(2306.6703(a)(3))~~

(A) serves the same type of household as the new Development, regardless of whether the Development serves families, elderly individuals, or another type of household (Intergenerational Housing is not a type of household as it relates to this restriction);

§49.5(b)(10) – Disqualification and Debarment (1,3,38,54), Pages 13 of 69

Comment:

This new provision disqualifies Applicants, Development Owners, Developers, Guarantors and Affiliates of an entity whose pre-development loan is not prepaid by the time of commitment or Bond closing. Comment asserts that the issuance of a Commitment Notice does not necessarily bring any funding to repay a pre-development loan. Additionally, pre-development loans are often necessary to purchase the site in time for Carryover (3). Comment therefore recommends this section require that pre-development loans be repaid at the time of construction financing or equity closing, whichever is the first to occur (1,3,38,54). For 4% HTC developments, the commenter concurs that Bond closing is the appropriate time to have the pre-development loan paid off (3,39,54).

Staff Response:

In an effort to initiate activities to reduce the level of risk of the Department's assets, this mechanism is meant to further monitor the financial performance for previously funded developments and ensure a minimal risk and high return for pre-development loans. Therefore, staff recommends this section not be deleted. However, staff concurs that this section should be revised so that pre-development loans be repaid at the time

of carryover for Competitive Tax Credit Developments and that the deadline remain for Tax Exempt Bond Developments. Therefore, staff recommends the following language:

(10) The Applicant, Development Owner, Developer, Guarantor, or any Affiliate of such entity whose pre-development award from the Department has not been repaid for the Development at the time of Carryover Allocation or Bond closing.

§49.6(d) – Credit Amount (20), Page 15 of 69

Comment:

One Comment recommends altering the \$1.2 Million restriction to not include any 4% acquisition credits received. Therefore, an applicant could receive an award of \$1.2 million in 9% construction tax credits, and still be eligible to receive 4% acquisition credits over the \$1.2 Million limit (20).

Staff Response:

At the August 30, 2006 Board meeting, there was a discussion relating to this \$1.2 Million maximum. The Board indicated that it did not want to increase the \$1.2 Million limitation in the 2007 Draft QAP, but instead encouraged comment during the comment period relating to this maximum limitation for the Board's consideration at the November 9, 2006 meeting. There were no comments received during the comment period requesting this limitation be increased or stricken. The only comment that was received was during the discussion at the August 30, 2006 Board meeting (and is reflected in the comment above). Due to the lack of comment requesting an increase to the \$1.2 Million limitation, or support for comment received at the August 30, 2006 meeting, staff proposes no change to this section.

§49.6(e)(4)– Limitation on Size of Developments (5,42,43,44,45,46,47,48,49,50,51,52,53,55), Page 15 of 69

Comment:

Comment asserts that the proposed draft prevents a second phase or adjacent development from exceeding the number of units demolished in a Reconstruction development unless the first phase is completed and stabilized for six months. Comment recommends staff revise the language to waive this restriction in a number not to exceed the original units being replaced unless a Market Study supports the absorption of additional units, and to delete the six months restriction (5,42,43,44,45,46,47,48,49,50,51,52,53,55).

Staff Response:

Staff concurs with the recommendation, although it does not concur with the language proposed in the public comment. Staff proposes language as follows, which is consistent with the comment received:

(4) 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, unless a market study supports the absorption of additional units) 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.

§49.6(f) – Limitation on the Location of Developments (3), Pages 15 and 16 of 69

Comment:

This section shows a proposed insertion of “or” at the end of the subsection. Comment suggests that the insertion appears to be inappropriate and creates confusion regarding whether or not a Development must meet both the 1-mile rule and §49.6(g), which is a new rule limiting development in a census tract with more than 30% HTC units per total households (3).

Staff Response:

Staff concurs and recommends the “or” be deleted.

§49.6(g) – Limitations of Developments in Certain Census Tracts (1,18,35,38,54), Pages 16 of 69

Comment:

Comment suggests that the housing tax credit units/number of households ratio does not tell enough of the story and is not an adequate measure of saturation or concentration. Further, the commenter asserts that it is not a feasible expectation to have a municipality approve a development before the April deadline stipulated in this section. Typical developments often do not have all of the moving parts of financing and costs nailed down until July. The municipality would have to be working on draft pro-formas in February/March. Comment suggest modifying this provision to include a formal statement from the city indicating that the subject development is in compliance with the municipality's concentration policy and that the housing tax credit units/number of households ratio does not tell enough of the story and is not an adequate measure of saturation or concentration (35).

Other comment is supportive of this attempt to get more geographical dispersion of units (54). However, the commenting group believes it should be tried first in the major metropolitan areas with populations of greater than 1,000,000, where the problem seems more pervasive. Additionally, this commenter believes that where a City or County already has a Concentration Policy (such as Houston and Harris County), then the local policy should preempt the need for a resolution (1,38). Comment received in the August 30, 2006 Board meeting proposed and supports the draft language limiting the restriction to areas with populations greater than 100,000 (18).

Staff Response:

Staff concurs that the proposed language will limit over-saturation of affordable units by restricting new construction of Developments located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tract. Because the governing body of the appropriate municipality or county containing the Development may specifically allow the award of tax credits in the form of a resolution by April 2, 2007, this would be enough time for the governing body if an applicant meets their due diligence in working with the city as the site becomes available. The April deadline is consistent with other local resolution requirements throughout the QAP.

Based on the current data available, of the 1,010 census tracts in the state, only 43 census tracts would fall in this category. These 43 tracts are highlighted in the attached “§49.6(g) Census Tracts 2007 HTC Site Demographic Characteristics Report,” (the “report”). Please note this report is presented only for informational purposes. The report reflects data accurate as of the date of this posting and does not reflect the 2007 Competitive Tax Credit Awards. The report and updated data will be posted to the Department's website monthly. Applicants will be evaluated pursuant to this section utilizing the report and corresponding data in effect as of March 1, 2007 for competitive HTC applications or for tax-exempt bond applications, at the time Volume 1 is submitted.

Staff recommends no changes to this section.

§49.6(h) – Limitations of Developments Proposing to Qualify for a 30% Increase in Eligible Basis (22,35), Page 16 of 69

Comment:

Comment requests that the 30 percent boost remain the same as in past years because the QCT should already have qualified for that extra eligibility 30 percent boost, based on where it is inherently, not that there should be any other criteria associated with the boost in eligible basis (22). Comment suggests that the housing tax credit units/number of households ratio does not tell enough of the story and is not an adequate measure of saturation or concentration (35). Other comment requests the deletion of this section (22).

Staff Response:

Staff recommends no changes to this section because the proposed language will prohibit the 30% increase for Developments proposing new construction in QCTs which have more than 40% Housing Tax Credit Units per total households in the census tract. The language will work to de-concentrate tax credit units in QCTs with over-saturation.

§49.6(i) – Rehabilitation Costs (22), Page 16 of 69

Comment:

Comment suggests a minimum of \$6,000 of rehabilitation hard costs per unit instead of \$12,000 because the higher minimum prevents certain affordable housing developments from being able to apply for housing tax credits (22).

Staff Response:

Staff recommends no change. Consistent with national trends and other housing finance agencies, analysis confirms existing rehabilitations generally exceed the \$12,000 limit unless they are USDA-RHS which are already exempt from this requirement. The Department, as a policy, wants to ensure a thorough and significant rehabilitation as it contributes resources.

§49.7(a) – Regional Allocation Formula (4,8,19,24,27,28), Pages 16 and 17 of 70

Comment:

Comment to the REA Rules suggests an allocation of credits set-aside which would allow awarded developments from the previous year to automatically be eligible to apply for up to 5% in additional credits at cost certification. Comment did specifically provide comment to this section and did not suggest any specifics on how this suggestion would function within the cycle and award recommendations (4).

Significant comment requests a change to allow any type of additional financing of a rehabilitation or acquisition/rehabilitation of an existing TX-USDA-RHS's 515 Program, if it retains the 515 loan and restrictions, as eligible for the TX-USDA-RHS's set-aside (8,19,24,27,28).

Staff Response:

As it relates to a request for 5% of additional credits set-aside for additional credits, the Department has no authority to make this change pursuant to §2306.111(d) of statute which says that the QAP may only allow set-asides required by state or federal statute. Staff appreciates the comment from the rural areas and recommends the following language:

...New Construction Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will not be considered under this set-aside. Any Rehabilitation or Reconstruction of an existing 515 development that retains the 515 loan and restrictions, regardless of the source or nature of additional financing, will be considered under this set-aside...

§49.7(b) – Set-Asides (14, 41), Page 17 of 70

Comment:

One comment supports TDHCA giving special attention through the At-Risk Set-Aside (14). Additional comment supports dividing the Dallas (3), Houston (6), Austin (7), and San Antonio (9) regions into an “A” and “B” part to disperse credits throughout the region because the larger cities are concentrated with developments due to having prior year competitive scoring advantages. Many lower income people, who work and utilize the amenities of large Metropolitan Statistical Areas live in smaller adjoining counties and cities. Some of these non-urban communities have significant affordable housing needs, but are not able to compete with the large Metropolitan Statistical Areas for points. Dividing the tax credits into two allocation pools within Regions 3, 6, 7, and 9 will ensure that smaller counties and cities receive their fair share of tax credit allocations (41).

Staff Response:

Staff appreciates positive feedback relating to the At-Risk set-aside. As it relates to splitting particular cities into two additional pots of money, unfortunately, this change would be significant enough to warrant further public comment. In order to truly evaluate the effects of the proposed revisions, staff recommends that further research and discussion occur.

§49.8(d)(3)(A)(i) – Pre-Application Threshold Criteria Notification Requirements (1,38,5,42,43,44,45,46,47,48,49,50,51,52,53), Page 18 of 70

Comment:

Significant comment was received that requests a change in the date for submission of request for neighborhood organizations from December 8, 2006, to the same date as the pre-application date. Comment

suggests this change because of the assertion that December 8, 2006 is too early for notification and will create unnecessary notifications for projects without site control. The pre-application date is sufficient for the developer's ability to notify and work with neighborhood organizations prior to the application (1,38,5,42,43,44,45,46,47,48,49,50,51,52,53).

Staff Response:

Staff does not recommend a change to this section. The December 8, 2006 data is for a request of neighborhood information and not the notification. This request is needed to allow enough time for the Developer to receive the information and send the notification on or before the Applicant submits the data.

§49.9(a) – Application Submission (Administrative), Page 20 of 69

Administrative Change:

In an effort to reflect the current requirement to submit an electronic copy of the complete application, staff proposes the following language, which is consistent with last's year's submission requirements:

(a) **Application Submission.** Any Applicant requesting a Housing Credit Allocation or a Determination Notice must submit an Application, and the required Application fee as described in ~~§50.49.20~~ of this title, to the Department during the Application Acceptance Period. Only complete Applications will be accepted. All required volumes must be appropriately bound as required by the Application Submission Procedures Manual and fully complete for submission and received by the Department not later than 5:00 p.m. on the date the Application is due. A searchable electronic copy of all required volumes and exhibits, unless otherwise indicated in the Application Submission Procedures Manual, must be submitted in the format of a single file presented in the order they appear in the hard copy of the complete Application on a CD-R clearly labeled with the report type, Development name, and Development location is required for submission and received by the Department not later than 5:00 p.m. on the date the Application is due. Only one Application may be submitted for a site in an Application Round. While the Application Acceptance Period is open, Applicants may withdraw their Application and subsequently file a new Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized, but not required, to request the Applicant to provide additional information it deems relevant to clarify information contained in the Application or to submit documentation for items it considers to be an Administrative Deficiency, including ineligibility criteria, site and development restrictions, and threshold and selection criteria documentation. (~~2306.§2306.6708~~) An Applicant may not change or supplement an Application in any manner after the filing deadline, and may not add any set-asides, increase their credit amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct request from the Department to remedy an Administrative Deficiency as further described in ~~§50.49.3(1)~~ of this title or by amendment of an Application after a commitment or allocation of tax credits as further described in ~~§50.49.17(d)~~ of this title.

§49.9(c) – Adherence to Obligations (1, 38), Page 21 of 70

Comment:

Comment suggests that the last sentence in this section is unclear and suggests language which would not penalize Applicants who are requesting extensions for the substantiation of points at the time of commitment (1,38).

Staff Response:

Staff does not recommend this change because it would allow an extension of necessary evidence to substantiate points at Commitment, which the Department does not allow or encourage without this penalty. The Department does recommend an Administrative change which corrects the erroneous language referring to an extension as it relates to amendments. Staff recommends the following language:

(c) **Adherence to Obligations.** (~~2306.§2306.6720~~, General Appropriation Act, Article VII, Rider 8(a)) All representations, undertakings and commitments made by an Applicant in the

application process for a Development, whether with respect to Threshold Criteria, Selection Criteria or otherwise, shall be deemed to be a condition to any Commitment Notice, Determination Notice, or Carryover Allocation for such Development, the violation of which shall be cause for cancellation of such Commitment Notice, Determination Notice, or Carryover Allocation by the Department, and if concerning the ongoing features or operation of the Development, shall be enforceable even if not reflected in the LURA. All such representations are enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, as stated in the representations and in accordance with the LURA. Effective December 1, 2006 (~~meaning this does not apply to amendments received prior to this effective date and does not apply to 2006 Tax Credit Applications~~), if a Development Owner does not produce the Development as represented in the Application and in any amendments approved by the Department subsequent to the Application, or does not provide the necessary evidence for any points received for the Commitment of Development Funding by Local Political Subdivisions by the required deadline (~~unless granted an extension by the Department~~):

§49.9(d)(4) – Administrative Deficiencies (1,38,4,20,5,42,43,44,45,46,47,48,49,50,51,52,53,54,55,56), Page 22 of 70

Comment:

Significant comment received requests that staff restore to 5 business days from 3 days and to 7 business days from 5 for deficiency submissions because many times, the requests relate to need for information from third party sources and it is difficult to get these documents in the requested time frames (1,38,4,20,5,42,43,44,45,46,47,48,49,50,51,52,53,54,56).

Staff Response:

It is staff's general experience that applicants tend to submit corrections to Administrative Deficiencies on the last possible day for submission, no matter what the deadline is. This not only creates a delay in the processing of the Applications, but it also prevents staff from having the time necessary to work with the Applicant in submitting the correct responses to Departmental requests. Historically, even when Applicants submit their response on the last possible day before losing points or being terminated, there is still the expectation that staff will have the time to review the corrective action and inform the Applicant of uncorrected deficiencies before the deadline.

However, staff recognizes that significant comment requests that staff restore to 5 business days from 3 days and to 7 business days from 5 for deficiency submissions. In an effort to compromise with public comment and staff's needs to ensure that staff has enough time to review, evaluate feasibility, and accurately award tax credits in an Application round, staff recommends the following language:

“If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within **five** business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within **seven** business days from the deficiency notice date, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. If the applicant fully responds to the Administrative Deficiency Notice within the **third** business day following the deficiency notice date, the Department will review the documentation submitted and contact the Applicant by the end of the **fourth** business day following the deficiency notice date with guidance on items not clarified or corrected to the satisfaction of the Department. **If Administrative Deficiencies are submitted to the Department after the **third** business day following the deficiency notice date, the Department will not be required to review the documentation submitted until after the 5th day, nor will the Department be required to contact an applicant with guidance on items not clarified or corrected to the satisfaction of the Department until after the 5th day.**”

§49.9(d)(5)(C) – Subsequent Evaluation of Prioritized Applications and Methodology (1,18,31,38), Pages 22 and 23 of 70

Comment:

Comment suggests that as worded, this section is confusing and would penalize rural regions where the top scoring Application exceeds credits, and credits might go to urban area instead (1,18,31,38). The comment requests that this section be stricken (1,38).

Additional comment received strongly supports the change in this paragraph, allowing unused funds in a sub-region to stay within its same region first, before being re-allocated to another region. The comment asserts that the language is more in line with the intent of the original language of the Regional Allocation Formula Bill authored by Senator Shapleigh from El Paso and believes a support letter from him regarding this language change will be forthcoming (31).

Staff Response:

Staff does not agree that this section would penalize Rural Applications. In response to the comment, staff applied this draft methodology to the 2006 Applications. Interestingly, had this methodology been applied in 2006, the award recommendations to the Board would have been exactly the same as staff's actual recommendations to the Board. Consistent with the actual awards made in 2006, 10 out of the 13 Applications awarded to regions with a shortfall in credits were Rural. Staff believes that this is consistent mathematically, in that the regions with the greatest shortfall of credits will most often be the sub-regions with the smallest pot of money, which is most often Rural regions. This language was included in the draft after comment was received requesting the methods of allocation be put in writing in order to ensure transparency in the award process.

Staff concurs with other comment that the language is consistent with the intent of the Regional Allocation Formula. Staff recommends no changes to this section.

§49.9(d)(6)(B)(ii) – Underwriting Evaluation Criteria Regarding Developer Fee (1,38,3,4,7,19,24,26,27, 29,35,39,5,42,43,44,45,46,47,48,49,50,51,52,53), Pages 23 and 24 of 70

Comment:

Significant comment was received which asserted that this section prohibits the paying of a developer's fee on the acquisition portion of an acquisition/rehabilitation, which goes against the overall preference for preserving or rehabilitating existing complexes in Texas. Likewise, it is not apparent why the developer of a 9% HTC development should not be paid for services rendered in locating an appropriate housing site for rehabilitation. Comment requests that this new provision, along with corresponding new language in Underwriting Guidelines Section 1.32(e)(7), be eliminated (1,38,3,4,19,24,26,27,29,35,39,5,42,43,44,45,46,47,48,49,50,51, 52,53). Comment was also received requesting clarification of how the limitations would apply in an adaptive re-use situation (7).

Additional comment stated that small developments would benefit from any incentive such as the added language in this section as it related to a 20% developer fee (27).

Staff Response:

Staff made an administrative error in the wording of this section which resulted in unintended implications that the proposed changes would prohibits the paying of a developer's fee on the acquisition portion of a Development. It should be noted that the intention of the proposed language was to reflect the actual methodology of computing the developer fee limitation, while also providing an incentive to small Developments (which is a recommended practice of National Council of State Housing Agencies [NCSHA]). The error was noted at the August Board meeting, and although the Board did not amend this section of the proposed draft, the Board did acknowledge the error and encouraged public comment. Therefore, staff recommends the following language, which is consistent with public comment and staff's original intention of the draft language:

“(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. The Developer's fee limits will be calculated as follows:

(i) new construction pursuant to §42(b)(1)(A) U.S.C., the developer fee cannot exceed 15% of the project's Total Eligible Basis, less developer fees, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less; and

(ii) acquisition/rehabilitation developments that are eligible for acquisition credits pursuant to §42(b)(1)(B) U.S.C., the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less, and will be limited to 4% credits. The rehabilitation portion of the developer fee cannot exceed 15% of the total rehabilitation basis, less developer fee, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less."

§49.9(e)(2) – Evaluation Process for Tax Exempt Bond Development Applications (1,38,57), Pages 24 of 70

Comment:

Comment opposes the daily penalty fee of \$500 and requests its removal (1,38,57).

Staff Response:

Staff recommends no change to this section. The penalty fee assessed to bond transactions that have deficiencies that remain outstanding after 5 business days was included in the draft 2007 QAP and Bond rules because historically deficiencies have not been submitted by the deadline stated in the deficiency notice. Because bond transactions have a limited timeframe in which to have the threshold and underwriting reviews completed it is imperative that all outstanding deficiency items be resolved within the stated time frame to allow sufficient time for underwriting to occur. Rather than automatic termination (which will not be done until the 10th business day) the imposed penalty fee was a solution that would not jeopardize the bond reservation, and would still allow the Application to stay on track to be presented at the scheduled Board meeting date, while sending a clear message that these delays are strongly discouraged.

§49.9(h)(4)(A)(ii)(VI) – Threshold Criteria – Certification of Amenities (31,59), Page 27 of 70

Comment:

Comment was received in support of the requirement of 911 telephones in exchange from the requirement of public telephones because they have found that the public telephones on our existing sites are often used for drug-related activities and wish we could replace them with 911 phones (31,59).

Staff Response:

Staff appreciates the positive comment. Staff does not recommend the proposed change. However, staff does recommend the following administrative clarification.

(A) A certification of the basic amenities selected for the Development. All Developments, must meet at least the minimum threshold of points. These points are not associated with the selection criteria points in subsection (i) of this section. The amenities selected must be made available for the benefit of all tenants. If fees in addition to rent are charged for amenities reserved for an individual tenant's use, then the amenity may not be included among those provided to satisfy this requirement. Developments must provide a minimum number of common amenities in relation to the Development size being proposed. The amenities selected must be selected from clause (ii) of this subparagraph and made available for the benefit of all tenants. Developments proposing Rehabilitation or proposing Single Room Occupancy will receive 1.5 points double points for each point item. Applications for non-contiguous scattered site housing, including New Construction, Reconstruction, Rehabilitation, and single-family design, will have the threshold test applied based on the number of Units per individual site, and must submit a separate certification for each individual site under control by the

~~Applicant individual site.~~ Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §50-49.17(d) of this title and may result in a decrease in awarded credits if the substitution or change includes a decrease in cost, or in the cancellation of a Commitment Notice or Carryover Allocation if all of the Common Amenities claimed are no longer met.

§49.9(h)(4)(A)(ii)(XI) – Threshold Criteria – Certification of Amenities (1,38,3,5,41,42,43,44,45,46,47,48, 49,50,51,52,53), Page 27 of 70

Comment:

Comment was received requesting that this section be changed based on the experience of owners and property managers in the operations of business centers. In a residential context, it is unlikely that you would need more than 1 printer for every 10 computers, if properly networked. Further, more and more residents have personal computers (1,38,3). Comment also suggests that faxes are outdated and no longer used (41). Significant other comment requests that this change to 1 computer for every 25-50 units, 1 fax machine for every 75 units and 1 printer for every 3 computers (5,41,42,43,44,45,46,47,48,49,50,51,52,53).

Staff Response:

Staff appreciates the comment and recommends the following changes to the current language:

“(XII) Equipped ~~and functioning B~~business Center ~~(computer and fax machine)~~ or ~~E~~Equipped ~~C~~computer ~~L~~learning ~~c~~Center with 1 computer for every 30 Units proposed in the Application, 1 printer for every 3 computers (with minimum of one printer), and 1 fax machine (2 points);”

§49.9(h)(4)(B)(i) – Threshold Criteria – Certification of Amenities (1,38,10), Page 27 of 70

Comment:

Comment was received requesting the language be changed based on feedback of owners/developers with recommendations from the communications industry (1,38).

Additional comment asserts that this item is unnecessary for elderly developments, where residents do not often own their own computers. The comment requests that this item be deleted for elderly developments (10).

Staff Response:

Staff does not recommend the exemption of elderly developments from this threshold item because many elderly persons enjoy and require computer access as much as non-elderly persons. However, staff does recommend the following language, which is consistent with comment received:

“(i) All New Construction Units must be wired with 6 pair CAT5e wiring or better to provide phone and data service to each unit and wired with COAX cable to provide TV and high speed internet data service to each unit built with three networks: One network installed for phone using CAT5e or better wiring; a second network for data installed using CAT5e or better wiring; and a third network for TV services using COAX cable;”

§49.9(h)(4)(F) – Threshold Criteria – Certification of Amenities (31), Page 28 of 70

Comment:

Comment was received which disagrees with striking the language in this paragraph that summarizes the Uniform Federal Accessibility Standards (UFAS) standards, because having the summary notes in the paragraph are a reminder to what our obligations are. (31,59).

Staff Response:

Staff recommends no change to this section. Staff does not recommend that the QAP exceed the citation to ensure that the Applicants fully review the statute instead of relying on the Department’s summary.

§49.9(h)(6)(G) – Threshold Criteria – Site Work Costs (1,38,36), Page 29 of 70

Comment:

Comment received requests that the \$7,500 limit for site work be raised to a higher amount of \$10,000 per unit. This \$7,500 per unit threshold was first put in place with the 2003 Real Estate rules. Site costs have increased dramatically and it is time to raise this limit (1,38,36)

Staff Response:

Staff does not recommend a change. Sitework costs claimed at cost certification for 41 new construction developments that placed in service in 2004 and 2005 indicate a mean of \$6,200 and a median of \$6,400 per unit. Fifteen (37%) had site work costs above \$7,500 per unit. These figures indicate \$7,500 per unit is still a good benchmark for requiring additional third party documentation. This safe harbor limit at \$7,500 per unit is intended to account for more than the average historical site work cost on a per unit basis. Anything over that amount will still be accepted as long as substantiation for the significantly higher than average site work cost is provided.

§49.9(h)(4)(M) – Threshold Criteria – Certification of Background Check (31,59), Page 28 of 70

Comment:

Comment was received which opposes the requirement of criminal background checks on all tenants. The commenter believes that this creates a huge liability for property owners and property managers, especially when the Department is not stipulating what types of convicted criminals are prevented from living in our units. If the Department wishes to make individuals convicted of certain crimes ineligible as tenants in the program, then the rule should state that. As a compromise, comment suggests a rule to have a policy of running sex offender checks on prospective tenants and rejecting any convicted sex offenders from our properties (31,59).

Staff Response:

Staff recommends no change to this section because, while the Department believes that it is good practice to run a criminal background check, it does not wish to micro-manage how specific management companies wish to address criminal backgrounds in their leasing criteria.

§49.9(h)(7)(A) (iii) – Threshold Criteria – Evidence of Readiness to Proceed (3,15,39), Page 30 of 69

Comment:

This year language has been added stating that for Tax Exempt Bond Developments, site control must be valid for 150 days after the Application Acceptance Period or through the full reservation and allocation period, whichever is longer. Comment suggests that this period of site control is extremely difficult to achieve with a Rehabilitation project. Owners of tenanted developments are generally unwilling to contractually agree to keep their properties off the market for such a long period of time. Comment requests the deletion of the proposed insertion and return to the language of the 2006 QAP (3). Other comment objects to the current language in the QAP regarding the requirement for site control for bond deals because they feel that this additional requirement will be harmful to developers that have chosen good sites that are highly sought after and particularly damaging to developers attempting to close on acquisition/rehabilitation deals where site control is always an issue. Comment does not object to this same requirement in TDHCA's proposed Bond rules as they feel TDHCA should be allowed to dictate their own multi-family rules; just as the local HFCs want the ability to manage their individual programs (15).

Staff Response:

Staff appreciates the input and recommends the following change to this language:

(iii) a contract for sale, an exclusive option to purchase ~~or earnest money contract (which must show that the earnest money has been deposited)~~ which is valid for the entire period the Development is under consideration for tax credits. For Tax Exempt Bond Developments site control must be valid through December 1, 2006 with option to extend through March 1, 2007 (Applications submitted for lottery) or 90 days from the date of the bond reservation with the option to extend through the scheduled TDHCA Board meeting. The potential expiration of site control does not warrant the Application being presented to the TDHCA Board prior to the scheduled meeting. If the acquisition can be characterized as an identity of interest transaction as described in §1.32(e)(1)(B), ~~the following (I) and (II) of this clause must be provided (not required at Pre-Application):~~

§49.9(h)(8)(B) – Threshold Criteria – Signage on Property or Alternative (15, 16), Page 34 of 70

Comment:

As it relates to the mailing alternative to signage for Tax Exempt Bond Developments, new language was added to this section which clarifies that the date, time and location of the bond public hearing must be included in the notification and be mailed within thirty days of the Department's receipt of the Volume I and II or thirty days prior to the bond public hearing date, whichever is earlier. Comment requests flexibility and the deletion of the new language because the required timing to mail the notifications could be prior to the date that hearing date has been scheduled (15,16).

Staff Response:

Staff concurs with the comment and recommends deleting the new language relating to the written notifications at the bottom of the section, and instead adding the following language:

(B) Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development ~~s~~Site prior to the date the Application is submitted. Scattered site Developments must install a sign on each Development Site. For Tax-Exempt Bond Developments, the sign must be installed no later than 30 days after the Department's receipt of Volumes I and II, regardless of the Priority of the Application or the Issuer, the sign must be installed within thirty (30) days of the Department's receipt of Volumes I and II. The date, time and location of the bond public hearing must be included on the sign no later than thirty (30) days prior to the scheduled public hearing. Evidence submitted with the Application must include photographs of the site with the installed sign ~~and invoice receipt confirming installation from the entity that installed the sign.~~ The sign must be at least 4 feet by 8 feet in size and located within twenty feet of, and facing, the main road adjacent to the site. The sign shall be continuously maintained on the site until the day that the Board takes final action on the Application for the Development. The information and lettering on the sign must meet the requirements identified in the Application. For Tax-Exempt Bond Developments ~~for which the Department is not the issuer of the bonds,~~ regardless of the issuer, the Applicant must certify to the fact that the sign was installed within 30 days of submission and the date, time and location of the ~~bond~~TEFRA hearing ~~are~~ is indicated on the sign at least 30 days prior to as soon as the date of the scheduled hearing has been scheduled. As an alternative to installing a Public Notification Sign and at the same required time, the Applicant may instead, at the Applicant's option, mail written notification to those addresses described in either clause (i) or (ii) of this subparagraph. This written notification must include the information otherwise required for the sign as provided in the Application. If the Applicant chooses to provide this mailed notice in lieu of signage, the final Application must include a map of the proposed Development site and mark the distance required by clause (i) or (ii) of this subparagraph, up to 1,000 feet, showing street names and addresses; a list of all addresses the notice was mailed to; an exact copy of the notice that was mailed; and a certification that the notice was mailed through the U.S. Postal Service and stating the date of mailing. If the option in clause (i) of this subparagraph is used, then evidence must be provided affirming the local zoning notification requirements.

§49.9(h)(9)(C) – Threshold Criteria – State Previous Participation (9), Page 35 of 69

Comment:

Comment received asserts that the current language captures all entities (and at least implies Persons) regardless of ownership interest, specifically very minor owners, and is inconsistent with the Principal definitions under corporations and limited liability companies as well as the 10% requirement for Persons receiving more than 10% of the Developer Fee (9):

Staff Response:

Staff recommends no change to this section because the full information is needed to perform a material noncompliance review, pursuant to Portfolio Management and Compliance (PMC) Rules.

§49.9(h)(12)(C) – Threshold Criteria – Applicants Applying for Acquisition Credits (1,38,4,26,5,42,43, 45,46,47,48,49,50,51,52,53), Page 36 of 69

Comment:

This section requires as a part of threshold requirements a legal opinion that the proposed acquisition meets the requirements of Section 42. Comment strongly opposes this section and requests its deletion because one can not obtain a hypothetical legal opinion based upon future events. The commenters assert that no attorney will issue an opinion in February that a transaction to be closed many months later complies with Section 42 of the Code (1,38,4,26,5,42,43,44,45,46,47,48,49,50,51,52,53).

Staff Response:

Staff concurs with the comment and recommends deleting the new language. The section will read:

- (12) Applicants applying for acquisition credits must provide must provide
 - (A) an appraisal meeting the requirements of subparagraph (14)(D) of this subsection, and
 - (B) an “Acquisition of Existing Buildings Form.”

§49.9(h)(13) – Threshold Criteria – Financial Statement and Credit Release (9), Pages 36 and 37 of 69

Comment:

Comment received asserts that the current language captures all entities (and at least implies Persons) regardless of ownership interest, specifically very minor owners, and is inconsistent with the Principal definitions under corporations and limited liability companies as well as the 10% requirement for Persons receiving more than 10% of the Developer Fee (9):

Staff Response:

Staff appreciates the comment and concurs. Staff recommends the following change to this section:

- (13) Evidence of Financial Statement and Authorization to Release Credit Information. The financial statements and authorization to release credit information must be unbound and clearly labeled. A “Financial Statement and Authorization to Release Credit Information” must be completed and signed for any General Partner, Developer or Guarantor and any Person that has **an** ownership interest **of ten percent or more** 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.

§49.9(h)(14)(C) – Threshold Criteria – Property Condition Assessment (26), Page 37 of 69

Comment:

Comment received asserts that the current language states that a property condition assessment for a rehabilitation property must be dated within 90 days of submitting the Application. Comment suggests that the QAP go back to the six month date because if not, Applicants will be required to get two property condition assessments, one when we start analyzing the proposed acquisition and then redo it again within the 90 day limit.

Staff Response:

Staff concurs with comment and proposes last year’s language:

- (ii) dated not more than 6 months prior to the first day of the Application Acceptance Period;
- and

§49.9(i) – Selection Criteria – General (13,24,25,27,57), Pages 38-51 of 69

Comment:

Comment was received that referred to a panel involving syndicators at a recent National Affordable Home Builders (NAHB) conference, in which data was provided that the large majority of nonperforming properties were rehabilitations. Comment questions if providing additional points for rehabilitation is in the best interest of the program (57).

Comment was also received that requested a new selection criteria item worth 7 points for eligible Rural Set Aside Properties located in cities whose population is less than 5000 (2000 census) and are not located within an MSA or SMSA, and a separate item worth 7 points for eligible Rural Set Aside properties located in cities who have not received a tax credit award in at least 10 years (13,24,25,27).

Staff Response:

Staff appreciates the comment relating to rehabilitation incentives, and would like to review some of the data referred to in the comment. However, the Department believes that an increase emphasis on Rehabilitation serves many purposes including deconcentration and revitalization.

Staff also appreciates the suggested new selection items relating to Rural Developments. Unfortunately, this change would be significant enough to warrant further public comment. In order to truly evaluate the effects of the proposed revisions, staff recommends that further research and discussion occur in anticipation of the 2008 QAP.

§49.9(i)(1) – Selection Criteria – Financial Feasibility of the Development (1,38), Pages 38 and 39 of 69

Comment:

Comment requests the requirement of a 15 year proforma rather than a 30 year proforma because this conforms with the industry standards in the underwriting of tax credit transactions.

Staff Response:

Staff concurs with comment and recommends the following changes to the QAP:

(1) **Financial Feasibility of the Development.** Financial Feasibility of the Development based on the supporting financial data required in the Application that will include a Development underwriting pro forma from the permanent or construction lender. (~~§2306.6710(b)(1)(A)~~) Applications may qualify to receive 28 points for this item. No partial points will be awarded. Evidence will include the documentation required for this exhibit, as reflected in the Application submitted, in addition to the commitment letter required under subsection (h)(7)(C) of this section. The supporting financial data shall include:

(A) a ~~thirty~~ **fifteen** year pro forma prepared by the permanent or construction lender:

(i) specifically identifying each of the first ~~five~~ **ten** years and every fifth year thereafter;

(ii) specifically identifying underlying assumptions including, but not limited to general growth factor applied to income and expense; and

(iii) indicating The pro forma must indicate that the Development pro forma maintains a minimum 1.150 debt coverage ratio throughout the initial ~~thirty~~ **fifteen** years proposed for all third party lenders that require scheduled repayment; and

(B) In addition, a statement in the commitment letter must state indicating that the lender's assessment finds that the Development will be feasible for ~~thirty~~ **fifteen** years.

§49.9(i)(2) – Quantifiable Community Participation, General (1,38,4,6,18), Pages 39-41 of 70

Comment:

While comments applaud the addition of QAP Section 49.9(i)(16), which grants up to 7 points for Applications in areas that have no organizations meeting the definition of “neighborhood organization” in the QAP, it does not go far enough in leveling the playing field between Applications that have neighborhood organizations and Applications that do not. Assuming an Applicant meets the requirements of 49.9(i)(16), they would receive a maximum of 19 points (12 plus 7), while an Application with a neighborhood organization would receive 24 points. While the incentive for fraud in neighborhood organization creation and the disincentive for developing in rural areas without “neighborhood organizations” may decrease, it will not be totally eliminated. In creating 2306.6711(b)(2), the Legislature did not intend to penalize Applications from areas without neighborhood organizations, rather it sought to penalize Applications with neighborhood opposition (1,38,4,6,18). There is no statutory mandate that scoring for an item must start at zero points and rise upward; scoring can start at 24 and reduce downward with opposition and still meet the requirements of 2306.6711(b)(2). To fulfill legislative intent and avoid discrimination against certain geographic areas, TDHCA should eliminate 49.9(i)(16) and amend 49.9(i)(2)(B)(iii) to read as follows (1,38,4):

“In general, letters that meet the requirements of this paragraph and:

(I) establish ~~three or more reasons~~ at least one reason for support ~~or opposition~~ will be scored ~~the maximum points for either support (+24 points) or opposition (zero);~~

(II) establish ~~two reasons for support or~~ at least one reason for opposition will be scored zero +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;~~

(~~III~~IV) that do not establish a reason for support or opposition or that are unclear will be considered ineligible and not scored as neutral (+12 points);

(iv) Applications for which there are multiple eligible letters received, an average score will be applied to the Application;

(iv) Applications for which no letters from neighborhood organizations are scored will receive a ~~neutral~~ score of ~~+12~~24 points.

Staff Response:

The Department does not believe that it can allow points for QCP if a neighborhood organization does not exist because the statute is clear that these points are for QCP from neighborhood organizations. §2306.6710(b)(1)(B) of Texas Government Code indicates that the second most important criteria to be considered is “quantifiable community participation with respect to the development **evaluated on the basis of written statements from any neighborhood organization. . .**which the development is to be **located and whose boundaries contain the proposed development site;**” (emphasis added).

This language clearly indicates that there should be a neighborhood organization that comments to qualify for these points. Since Texas Attorney General Opinion GA-0208 limited negative points for only legislative comments, then on a positive scale from 0 to 24, 12 would be the neutral for no comment with 0 being a negative implication. Under this scenario, the developments within the boundaries of a neighborhood association would receive the highest points if supported by the neighborhood association as is indicated in statutory construction.

Staff believes that by allowing for more points for additional reasons offered by the neighborhood organizations reflects the “evaluation” component as opposed to a simple support or not support letter.

§49.9(i)(2)(A) – Quantifiable Community Participation (1,38), Pages 39 and 40 of 70

Comment:

This year’s draft QAP requires all QCP letters to be postmarked no later than March 1, 2007 if a pre-Application was submitted for the Application. If no Pre-Application was submitted, the deadline is April 2, 2007. Comment requests the date for submission of these letters be April 2, 2007 for all Applications, rather than March 1, 2007, to allow a period of time after the Application has been finalized to meet with any organizations (1,38).

Staff Response:

Staff recommends no change to this section. Staff strongly believes that the March 1, 2007 deadline is imperative to ensure that staff has enough time to review, evaluate feasibility, and accurately award tax credits in an Application round. Neighborhood organizations will have had sufficient notification and time to provide input.

It should be noted that in 2006, the final scores for Applications varied by very little in each region and often came down to tie-breakers in order to determine which Application would receive an award. In fact, the average point difference between an awarded Application, and an unawarded Application was only 2 points. The average median self score for Applications was 147 points, but the average medium final score awarded after points for QCP and elected officials were evaluated and attributed was 168 points, which is an average 21 point difference from self score to final score for Applications.

It is anticipated for 2007 the average point difference between awarded and unawarded Applications will be similar to 2006, and the median difference between self score and final score will be even greater than 2006 because of the additional 7 points that are contingent on QCP scores. Therefore, scores must be finalized as early as possible in order to adequately identify Applications as “priority” to ensure that staff has enough time

to review and evaluate feasibility. If QCP letters were required to be submitted April 2, as comment recommends, it is anticipated that scores would not be final until mid-May to early June, leaving little time for staff to accurately identify potential awarded Applications and perform reviews and feasibility analysis before the July awards are required to be made by the Board.

Staff understands that Applicants would prefer more time to work with neighborhood organizations after Applications are submitted. However, given that neighborhood organizations are notified nearly three months from the March 1, 2007 deadline (for Applicants submitting a Pre-Application), and that they should be primarily working independently, there is sufficient time for Applicants to work with neighborhood organizations. Therefore, staff believes that it is critical that the current draft deadlines remain as March 1, 2007 for Applications submitting Pre-applications.

§49.9(i)(2)(A)(iv) – Quantifiable Community Participation (3,5,42,43,44,45,46,47,48,49,50,51,52,53,55), Page 39 of 69

Comment:

This year’s draft QAP continues to limit the input of public housing residents by restricting quantifiable community participation letters from resident councils to those “in which the council is commenting on the Rehabilitation or Reconstruction of the Development occupied by the residents.” Comment suggests that substantial Fair Housing and Equal Protection arguments have been presented to the TDHCA Board regarding the probable unconstitutionality of this limitation (3,5,42,43,44,45,46,47,48,49,50,51,52,53,55). Significant comment also asserts that if TDHCA does not correct this unjust and obvious noncompliance with state statutes and the Fair Housing Act, TDHCA risks a request for an opinion from the Texas Attorney General as well as the filing by residents of a fair housing violation complaint with Housing and Urban Development (HUD) (5,42,43,45,46,47,48,49,50,51,52,53).

Commenters are not aware of any benefit to the neighborhood as a whole, of prohibiting public housing residents from having an effective voice in the TDHCA’s Quantifiable Community Participation process, and they question why should a resident council’s input be ineligible for scoring if the input of a board of directors of an apartment dweller’s association would be scored? Comment requests that the Department delete this limitation on the ability of resident councils to provide truly effective commentary on the development of their communities (3). Further comment requests that neighborhood organizations include residents councils in which the council is commenting on the Rehabilitation, Reconstruction, or New Construction of the Development within the boundaries of their council and again requests that the definition of Reconstruction in §49.3(75) be revised to include HUD mixed finance housing developments that proposes more than the number of units demolished (5,42,43,44,45,46,47,48,49,50,51,52,53).

Staff Response:

Staff does not recommend a change to this section as recommended. Staff acknowledges there is a current Attorney General Opinion pending which will address the issue. Staff will monitor this opinion and if change is later found necessary, it will be made in accordance with the A.G. Opinion. However, staff does recommend the following Administrative change to make “definition” of neighborhood organizations clearly only applicable to this section:

(iv) ~~establish~~ certify that the organization is a “neighborhood organization.” For the purposes of this section, Aa “neighborhood organization” is defined as an organization of persons living near one another within the organization’s defined boundaries in effect December 1, 2006 that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. “Neighborhood organizations” include homeowners associations, property owners associations, and resident councils ~~(only for Rehabilitation or demolition with New Construction applications~~ in which the council is commenting on the Rehabilitation or Reconstruction ~~demolition/ New Construction~~ of the property occupied by the residents). “Neighborhood organizations” do not include broader based “community” organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or

any governmental entity. Organizations whose boundaries include an entire county or larger area are not “neighborhood organizations-”, unless the large organization is a parent organization of smaller organizations whose purpose, and composition would otherwise meet the requirements of this definition. –Organizations whose boundaries include an entire city are generally not “neighborhood organizations-”, unless the city organization is a parent organization of smaller organizations whose purpose, and composition would otherwise meet the requirements of this definition.

§49.9(i)(2)(A)(v) – Quantifiable Community Participation (4), Pages 39 and 40 of 70

Comment:

New language to this section adds one option to submit a letter from the city showing a neighborhood organization was on record with the city as of December 1, 2006 in order for it to be on “record with the state (Department).” Comment suggests that Government Code Section 2306.6711(b)(2) states “on record with the county or state,” not “city.” Texas Attorney General Opinion GA-0208 reinforced this point and further asserts that this subverts legislative intent and this alternate certification should be deleted (4).

Staff Response:

Staff recommends no change. Staff believes that the current language is transparently clear that a neighborhood organization that is on record with the city may become on record with the state if the requirements of this section are met, and without submitting the required documentation to become on record with the state. It is not on record with the state simply by being on record with the city.

§49.9(i)(2)(A)(viii) – Quantifiable Community Participation (5,42,43,44,45,46,47,48,49,50,51,52,53,55), Page 40 of 69

Comment:

Comment asserts that the draft of the QAP does not require the letter to state the exact boundaries of the Neighborhood Organization; all that the draft requires is that the Neighborhood Organization state the development is within their boundaries. Therefore, the comment suggests that this provision as of December 1, 2006 is a typo because the draft QAP does not require the boundaries to be identified (5,42,43, 45,46,47,48,49,50,51,52,53).

Staff Response:

Staff concurs and recommends the following change to this section:

~~(ixviii) The boundaries in effect for the organization on March 1, 2006, will be those boundaries utilized for the purposes of evaluating these letters and determining eligibility. The organization must accurately certify that the boundaries in effect December 1, 2006 include the proposed Development Site and acknowledge in the certification that~~ Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization to satisfy eligibility for this item; a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site.

§49.9(i)(3) – Income Levels of the Tenants of the Development (1,10,31,38,3,4,12,18,17,21,26,35,5,42,43, 44,45,46,47,48,49,50,51,52,53,54,57), Pages 41 and 42 of 69

Comment:

Substantial comment opposes new language which disallows households receiving any Section 8 voucher rental subsidies, Tenant Based Rental Assistance (TBRA), or similar rental assistance to qualify a unit in which points were awarded for this section (1,10, 17,31,38,3,4,12,18,17,21,26,35,5,42,43,44,45,46,47,48,49,50 ,51,52,53,54,57). Comment asserts that this could possibly be a fair housing violation and that the prohibition unfairly applies throughout the extended use period (1,38,57). Comment also asserts that mixed income housing developments with a large percentage of low-income tenants rarely command market rents sufficient to offset the operating deficits experienced with tenants at the 30% AMGI level, even without consideration of debt service (3). Comment also asserts that the language would actually direct that a development would be required to deny admission to a voucher holder if that unit had been designated for very low income household, which would be a violation of state and federal law (4).

Staff Response:

Staff does not agree that this language would violate fair housing because the current Section 8 policy would still be enforced under the current language. Therefore, an Applicant could not deny a qualified resident with a voucher. The Applicant would only be precluded from certifying that household at the level the points were awarded on. Thus, the lower rents on the properties would be available to households eligible at the lower AMGIs, but that do not have a voucher or subsidy attached to the household. However, staff acknowledges the significant amount of comment opposing the draft language and recommends deleting the draft language which restricted the qualification of the targeted units to non-Section 8 households (or similar) and instead proposes the following language for this section:

“(3) The Income Levels of Tenants of the Development. Applications may qualify to receive up to 22 points for qualifying under only one of subparagraphs (A) - (F) of this paragraph. To qualify for these points, the household ~~tenant~~ incomes must not be higher than permitted by the AMGI level. 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), Internal Revenue Code.”

§49.9(i)(4) – Quality of the Units (Administrative), Page 42 of 69

Administrative Change:

Staff recommends an Administrative change to this section which simply capitalizes the words “Unit” and “Bedrooms” so that it is clear that the words are used in accordance with the definitions in the QAP.

§49.9(i)(4)(B) – Quality of the Units (14,54), Page 42 of 69

Comment:

Comment commends TDHCA for recognizing that rehabilitation and preservation projects should not be expected to meet the same green building criteria as new construction developments. The comment strongly supports TDHCA’s efforts to award rehabilitation developments one and a half times the number of points awarded to new construction when incorporating the same energy efficient materials. Comment further asserts that it is often not practicable to integrate all of the new energy saving technologies into an existing structure and site. Nonetheless, as the National Resources Defense Council has recognized, “Preservation of affordable housing is inherently energy and resource efficient.” Preservation of existing housing conserves energy and resources that might otherwise be expended in the demolition and disposal of existing structures, and the construction of new dwellings (14).

Additional comment encourages Single Room Occupancy (SRO) and scattered site developments through the tax credit program and due to the complexities of these types of developments is opposed to the proposed reduction in points related to specific amenities (54).

Staff Response:

Staff appreciates positive feedback relating to this item. Staff does not recommend changes to this section which would delete the proposed language which reduces the additional points awarded to Rehabilitation or SROs because staff believes that the reduction from 2 to 1.5 encourages a higher quality of Rehabilitation Developments and SROs, while still providing additional point incentives to Rehabilitation Developments and SROs. Staff does recommend the following administrative change in an effort to clarify the 1.5 point value:

(B) Quality of the Units. Applications may qualify to receive up to 14 points. Applications in which Developments provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in clauses (i) - (xx) of this subparagraph, not to exceed 14 points in total. Applications involving scattered site Developments must have all at least half of the Units located with a specific amenity to count for points. Applications involving Rehabilitation or single room occupancy may receive 1.5 ~~double the points for~~ listed for each point item, not to exceed 14 points in total.

§49.9(i)(4)(B)(vii) , (ix) , and (xii) – Quality of the Units (14,31), Page 42 of 69

Comment:

Comment encourages TDHCA's efforts to award points for communal laundry facilities. Community laundry rooms can reduce water usage by more than 300% and energy consumption by 500% compared to buildings with individual washer and dryer connections in each apartment. These significant savings increase when communal laundry rooms are equipped with high-efficiency washers and dryers. However, there is concern that more points are awarded for the installation of in-unit washer/dryer connections and appliances. Comment asserts that points should not be awarded for washer and dryer hook-ups in each unit, as this feature results in unduly excessive water usage. Comment recommends that no points be awarded for in-unit washer/dryer hook-ups and appliances and points be awarded for community laundry facilities (14).

Additional comment points to the fact that, until last year, evaporative coolers in dry climates were allowed as an alternative to 14 SEER HVAC in the 2005 QAP because evaporative cooling uses far less electricity and has no chlorofluorocarbons through emissions with the Freon gas that it uses. Comment requests that the language from 2005 get put back into the 2007 QAP (31).

Staff Response:

Staff does not recommend the proposed changes relating to in-unit washers and dryers. While water conservation techniques are important, this change would be significant enough to warrant further public comment and there are benefits and conveniences for tenants having in-unit laundry capabilities. In order to truly evaluate the effects of the proposed revisions, staff recommends that further research and discussion occur for the 2008 QAP.

Staff does concur with the proposed language relating to evaporative water cooling and recommends the following language:

(xvii) 14 SEER HVAC **or evaporative coolers in dry climates** for New Construction or radiant barrier in the attic for Rehabilitation (3 points)

§49.9(i)(5) – Commitment of Development Funding by Local Political Subdivisions (1,5,38,3,10,15,16,17,18,24,25,29,30,32,33,35,36,5,42,43,44,45,46,47,48,49,50,51,52,53,55,58), Pages 42-44 of 69

Comment:

Significant comment recommends reverting to last year's point system for this category or to significantly reduced percentages, and supporting data was submitted to substantiate this request (1,38,3,10,15,16,18,24, 25,29,30,32,33,35,36,58).

Comment was also received regarding the draft language that limits the developer to only one source of funding. Comment asserts that this is particularly unfair to smaller communities where a developer may have to cobble together a donation of land from the city, an infrastructure grant from a county and funds from a Housing Finance Agency. Even though this section has been modified to allow substitution of the source, Applicants still need to be able to get these funds from several sources (1,38,5,35,42,43,44,45,46,47,48,49,50, 51,52,53,55).

Comment further requests a clarification as to why staff took the TDHCA HOME funds out of this section and further asserts that if HOME funds (which are federal) are considered local when distributed by a City, they should be considered "local" when they are distributed by TDHCA (1,58). Comment requests that the Department continue to allow TDHCA's HOME Funds to count for these points as was allowed in the 2005 and 2006 QAPs (1,17,18,58).

One comment supported this language so that the TDHCA HOME funds may be awarded to Developments truly in need of the funds, rather than just to get points for tax credits (27). An additional comment request this item as a threshold item instead of scoring (25).

Additional comment requests that the QAP address what would occur if the Total Development Costs increase and the percentages change. (5,42,43,44,45,46,47,48,49,50,51,52,53). Comment further suggests that if the QAP will use a percentage of cost system (rather than dollar per unit), then the total development costs will need to remain fixed at the Application stage for purpose of these points. Additionally, if loans are going to be acceptable, then there must be a minimum term and a maximum interest rate of a value that can be proven to benefit the project (1).

Comment also requests the QAP clearly specify whether funding for operating expenses qualifies for points under this section (5,42,43,44,45,46,47,48,49,50,51,52,53).

One additional comment asserted that points were awarded last year to developments getting property tax waivers for amounts that were clearly inconsistent with assessment practices, mandated in some cases for affordable housing by state statute, and in some cases involving entities that would likely structure their developments to be property tax exempt such as PHA's and other instrumentalities of the City or County. Waivers of any kind of fee or taxes must apply to Development Costs applicable during the development period. Fee or tax waiver will not count during operating period, EX: once the buildings are placed in service (44).

Staff Response:

Although significant comment opposes the point values in the draft QAP, it should be noted that the language was taken directly from public comment received in the July 2006 TDHCA Rules Open Forum. These same values were submitted in public comment in 2005 as well. The intent of the increase was to create a scoring requirement that is based on substantial and meaningful development funding by leveraging with local resources. However, the significant comment received does seem to indicate that the percentages required to substantiate the funds are too high, causing hardship throughout the state, but especially in Rural areas. While staff does agree that the total sources needed to substantiate these points should be reduced, staff does not agree that the use of percentages of total development costs has a negative impact on rural areas when the requirements are lessened. Thus, rather than use a specific dollar amount for specific points, it is recommend that 6 points be allowed for a contribution equal to 1% of the total development cost per low-income unit, 12 points for a contribution equal to 2.5% of the total development cost per low-income unit, and 18 points for a contribution equal to 5% of the total development cost per low-income unit.

As it relates to the restriction of one source in the Application, this was an administrative error in the QAP. Last year, an Applicant was not allowed to substitute any source of funds after the Application was submitted. Therefore, if an Application needed \$100,000 to substantiate points for this section, most Applicants submitted 5 or more separate sources to substantiate the \$100,000, which was reflected as \$500,000 in the Sources and Uses. This "padding" of sources became very problematic when determining feasibility. The intention of the limitation was not to limit the number of qualifying sources to substantiate points, but rather it was meant to address last year's problem by allowing substitutions of sources and restricting this "padding" to only the source needed to substantiate points. Clearly, this section does require a change in the language. However, staff still recommends that only the sources needed to substantiate the points should be reflected in the Application. Staff recommends language reflecting this, as well as clarifying language regarding representing sources in the Application.

Staff agrees that specific terms for loans should be included in the QAP; however, none were suggested in any of the comment. Therefore, staff recommends minimal restrictions to this section with loan requirements with a minimum 1-year term at an interest rate at Applicable Fair Market Value or lower (at the time of Application). Additionally, staff concurs that language should be added to this section that clarifies that the value of any in-kind contributions or waivers should only represent the value during the period the contribution or waiver is received and/ or assessed. However, staff does not agree that the section should clarify whether or not funds for operating costs would be included in this definition, because the definition of "Total Housing Development Costs" is explicit in the QAP.

Staff does not agree that points "freeze" once awarded because points awarded pursuant to this section should only be awarded based on the costs represented in the most current Application. Therefore, any changes made to the original Total Housing Development Costs in the Cost Schedule will affect the points awarded for this section. These changes do not include the calculations made by REA outside of the Applicant's Cost Schedule.

As it relates to the TDHCA HOME funds, staff concurs with adding the ability for TDHCA HOME funds to qualify for points; however, staff recommends moving and amending last year's language within the section for clarity.

Additionally, staff recommends an administrative clarification which precludes rounding the percentages for this section. Staff also recommends restructuring the language so that the requirements are more clear and less confusing.

Lastly, staff concurs with comment made in another section of this document that this section, §49.9(i)(26), Third Party Funding Commitment Outside of Qualified Census Tracts and §49.9(i)(25), Leveraging of Private, State and Federal Resources should be as consistent as possible in requirements in all requirements.

The changes to this whole section are as follows:

(5) The Commitment of Development Funding by Local Political Subdivisions. Applications may qualify to receive up to 18 points for qualifying under this paragraph. (§2306.6710(b)(1)(E))

(A) Basic Submission Requirements for Scoring. Evidence of the following must be submitted in accordance with the Application Submission Procedures Manual (ASPM).

(i) Evidence must be submitted in the Application that the proposed Development has received or will receive qualifying loan(s), grants or in-kind contributions from a Local Political Subdivision, as defined in this title.

(ii) The loans, grant(s) or in-kind contribution(s) must be attributed to the Total Housing Development Costs, as defined in this title, unless otherwise stipulated in this section.

(iii) An Applicant may only submit enough sources to substantiate the point request, and all sources must be included in the Sources and Uses form. For example, if an Applicant is requesting 18 points, five sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost. However, five sources may not be submitted if each source is for an amount equal to 5% of the Total Housing Development Cost.

~~(iv) An Applicant may submit several sources to substantiate points for this section in the Application, but may not substitute any source in response to a Deficiency Notice or after the Application has been submitted to the Department. Use normal rounding (2306.6710(b)(1)(E)) Evidence that the proposed Development has received an allocation of funds for on site development costs from a Local Political Subdivision or a properly created governmental instrumentality thereof. An Applicant may receive points under this subparagraph even if the government instrumentality's creating statute states that the entity is not itself a "political subdivision." An Applicant whose Development receives a commitment from a governmental instrumentality with the legal authority to act on behalf of a Local Political Subdivision is also eligible for such points. In addition to~~

(v) A loans does not qualify as an eligible source unless it has a minimum 1-year term and the interest rate must be at the Applicable Fair Market Rate (AFR) or below (at the time of application

(vi) or grants, in-kind contributions such as donation of land, tax exemptions, or waivers of fees such as building permits, water and sewer tap fees, or similar contributions are only eligible if the in-kind contribution that provides a tangible economic benefit that results in a quantifiable Total Housing Development Cost reduction to benefit the Development will be acceptable to qualify for these points. The quantified value of the Total Housing Development Cost reduction may only include the value during the period the contribution or waiver is received and/ or assessed Donations of land must be under the control of the Applicant, pursuant to §49.9(h)(7) of this title to qualify. Points will be determined on a sliding scale based on the amount per Unit.

(vii) To the extent that a Notice of Funding Availability (NOFA) is released and funds are available, funds from TDHCA's HOME Investment Partnerships (HOME) Program will qualify if a resolution is submitted with the Application from the Local Political Subdivision authorizing the Applicant to act on behalf of the Local Political Subdivision in applying for HOME Funds from TDHCA for the particular application.

(viii) Development based rental subsidies may qualify under this section if evidence of the remaining value of the contract is submitted from the Local Political Subdivision. The value of the contract does not include past subsidies.

(ix) Evidence to be submitted with the Application must include a copy of the commitment of funds; a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received; or a certification of intent to apply for funding that indicates the funding entity and program to which the application will be submitted, the loan amount to be applied for and the specific proposed terms. For in-kind contributions, evidence must be submitted in the Application from Local Political Subdivision to substantiate the value of the in-kind contributions claimed for points as well as a statement of how the contribution will benefit the Development.

(x) If not already provided, at the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the Local Political Subdivision for the sufficient local funding to the Department. If the funding commitment from the Local Political Subdivision has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the Local Political Subdivision's funds, the Commitment Notice will be rescinded and the credits reallocated. No funds from TDHCA's HOME (with the exception of Developments located in non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category unless a resolution is submitted with the application from the Local Political Subdivision authorizing that the Applicant act on behalf of the Local Political Subdivision in applying for HOME or Housing Trust Funds from TDHCA for the particular application.

(xi) Funding commitments from a Local Political Subdivision will not be considered final unless the Local Political Subdivision must attest to the fact that any funds committed were not first provided to the Local Political Subdivision by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision or subsidiary.

(B) Scoring. Points will be determined on a sliding scale based on the percentage of the Total Housing Development Costs of the Development, as reflected in the in the Development Cost Schedule. If a revised Development Cost Schedule is submitted to the Department in response to a deficiency notice at anytime during the review process, the Revised Development Cost Schedule will be utilized for this calculation, and Applicants will be notified of the revised score, consistent with §49.9(e) of this title. Do not round for the following calculations. The "total contribution" is the total combined value of qualifying loan(s), grants or in-kind contributions from a Local Political Subdivision pursuant to (A) of this subsection.

(Ai) A total contribution equal to or greater than 1% of the Total Housing Development Cost of the Development of \$500 to \$1,000 per Low-income Unit receives 6 points; or

(Bii) A total contribution equal to or greater than 2.5% of the Total Housing Development Cost of the Development of \$1,001 to \$3,500 per Low-income Unit receives 12 points; or

(Ciii) A total equal to or greater than 5% of the Total Housing Development Cost of the Development contribution of \$3,501 or more per Low-income Unit receives 18 points; or

§49.9(i)(7) – Rent Levels of the Units (54), Page 44 of 69

Comment:

Comment wants to encourage scattered site and single family design in the tax credit program and is opposed to the change in this section (54).

Staff Response:

Staff recommends no change to this section. Given that 100% of the Units on a scattered site Development must be 100% low-income, scattered site developments will only be eligible to receive the full 12 points under this section.

§49.9(i)(8) – The Cost of the Development by Square Foot (1,38,4,17,31), Pages 44 and 45 of 69

Comment:

Comment asserts that the Department has identified a 14% increase in Marshall Swift, but only passed on roughly one half of this increase in establishing the cost limits for selection criteria. The comment further asserts increase in costs needs to match Marshall & Swift increases. (1,38,4). Comment suggests the

Department should be consistent and raise the maximum for all other developments by an additional \$3 per square foot to put them on par with other developments (4). Other comment suggests the need to be increased to Elderly: \$90, Elderly (Tier 1): \$92, Family: \$80, and Family (Tier 1): \$82 (1,38):

For the purposes of this subparagraph only, if the proposed Development is a high-rise building of 4 or more stories, the net rentable area (NRA) may include elevator served interior corridors. Increase in costs needs to match Marshall Swift increases. Further, the definition of Net Rentable Area needs to include two and three story senior facilities which are required to have elevators. Comment suggests this section be changed to read, if the proposed Development is an elevator building serving seniors or a high rise building serving any population, the NRA may include elevator served interior corridors (1,17,38).

One comment commends the Department for the suggested increases (31).

Staff Response:

Staff does not concur with the increased costs. As it relates to the comment stating, “The Department has identified a 14% increase in Marshall & Swift, but only passed on roughly one half of this increase in establishing the cost limits...Increase in costs needs to match Marshall & Swift increases.”, it should be noted that the current language does provide roughly a 7% increase from 2006 to 2007, which is consistent with Marshall and Swift for 1 year (the 14% increase was over 2-years). Therefore, staff continues to consider the current limitations at an appropriate level for selection. It should also be noted that these limitations are not threshold maximums, but are point incentives to have lower-than-average costs per square foot.

Staff does concur with the requested language relating to high-rise buildings 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-§2306.6710(b)(1)(H); 42-§42(m)(1)(C)(iii)~~) For this exhibit, costs shall be defined as construction costs, including site work, direct hard costs, contingency, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be costs per square foot of net rentable area (NRA). For the purposes of this subparagraph only, if the proposed Development is an elevator building serving elderly or a high rise building serving any population, the NRA may include elevator served interior corridors.”

§49.9(i)(9) – The Services to be Provided to Tenants of the Development (12), Page 45 of 69

Comment:

Comment supports adding language requiring an executed supportive service agreement at Application, as well as increasing the point value for this item from 4 points to 8 points, and also suggests the requirement similar to the Bond requirement that an executed contract be required at Application (12).

Staff Response:

Staff recommends no change to this section. Given that 98% of Applications in 2006 received these points, increasing the points would only award a blanket increase to nearly all Developments. Additionally, staff does not recommend that the executed contract be required because this restricts the flexibility of owners to get out of contracts with poor service providers and/or switch the types of services provided based on resident populations throughout the compliance period.

§49.9(i)(10) – Rehabilitation or Reconstruction (1,38,10,37,5,42,43,44,45,46,47,48,49,50,51,52,53), Page 45 of 69

Comment:

Comment suggests that if a proposed development is a rehabilitation of an existing residential development, but part of the apartments’ buildings have been fire damaged or basically need to be torn down to the ground and rebuilt, while the other portions could be renovated to a certain extent, that this would prevent an Application from receiving points under this section. The commenter asserts that the way the QAP reads, this scenario would be both rehabilitation and reconstruction, and because this section awards points if a

development is “solely” rehabilitation or reconstruction, this development would not qualify for the points (37).

Further comment suggests the following change to the current language for similar reason in order to provide clarity: “Applications proposing ~~to build solely~~ Rehabilitation (excluding New Construction of non-residential buildings), *and/or solely* Reconstruction (excluding New Construction of non-residential buildings) qualify for points.” (1,38,5,42,43,44,45,46,47,48,49,50,51,52,53)

Additional comment asserts that this sections provides to much of a point preference to rehabilitation and reconstruction Applications (10).

Staff Response:

Staff recommends no change because the recommended definitions of “Rehabilitation” and “Reconstruction” are mutually exclusive. Therefore, an Application cannot be a partial Reconstruction and Rehabilitation development, for the purposes of points under this section. In the example given in comment, the Application could qualify for points because it would qualify as 100% reconstruction, under the recommended definition of reconstruction.

§49.9(i)(11) – Housing Needs Characteristics (1,38,4,41), Page 45 of 69

Comment:

Comment suggests that these scores have not been accurate with respect to local need. There are many people who live in adjoining counties and smaller communities that have significant housing needs and work in the larger Metropolitan Statistical Areas. The scoring assumes that people with affordable housing needs live and work in the same community. There are smaller communities that have severe affordable housing needs that are experiencing economic growth and still receive disproportionately low Affordable Housing Needs Score (AHNS) scores (41). Comment suggests that this Section contains a minor language change which could result in uncertainty over the score for Applicants. The old language stated that “Each application *will* receive a score,” which is changed to “Each application *may* receive a score.” The previous language should be restored (1,38,4).

Staff Response:

Staff does not recommend that this section be deleted because it provides point incentives for Developments in un-saturated areas. Staff does not recommend that the word, “may” be deleted, but does recommend the following language for clarification:

(110) **Housing Needs Characteristics.** (42(~~§42(m)~~(1)(C)(ii)) Applications may qualify to receive up to 7 points. Each Application, ~~based on the Area or county where the Development is located,~~ will may receive a score if correctly requested in the self score form based on objective measures of housing need in the Area where the Development is located. This Affordable Housing Need Score for each Area will be published in a Site Demographic Characteristics table in the Reference Manual. ~~the Uniform Housing Needs Scoring Component. If a Development is in a place, the Area score will be used. If a Development is not within a place, then the county score will be used. The Uniform Housing Needs Scoring Component scores for each Area and county will be published in the Reference Manual.~~

§49.9(i)(12) – Development includes the Use of Existing Housing as Part of a Community Revitalization Plan (5,42,43,44,45,46,47,48,49,50,51,52,53), Page 45 of 69

Comment:

The definition of Reconstruction in §49.3(75) must be revised to include HUD mixed finance developments which allows applicants to fully utilize their site in accordance with the density allowed by the local building code (5,42,43,44,45,46,47,48,49,50,51,52,53).

Staff Response:

For the aforementioned reasons relating to the definition of Reconstruction, staff does not recommend a change to this section.

§49.9(i)(13)(E) – Pre-Application Participation Incentive Points (Administrative), Page 44 of 69

Administrative Change:

Staff recommends the following administrative change to this section, which excludes points awarded under §49.9(1)(16), Demonstration of Community Support other than Quantifiable Community Participation, from consideration under this section:

(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 paragraphs (i)(2), and (i)(6), and (16)~~ of this ~~title~~ of this subsection. An Applicant must choose, at the time of Application either clause (i) or (ii) of this subparagraph:

§49.9(i)(14)(C) – Development Location (1,38,57), Page 46 of 69

Comment:

Comment suggests Item (C) was stricken because of possible duplication with the points for developments in QCTs with revitalization plans. However, it also deletes Tax Increment Financing districts (TIFs) and Downtown Revitalization Districts important for Urban developments. Comment suggests this language should be reinstated to allow cities to be involved in directing the placement of affordable housing where it is most needed (1,38). The provision promotes new development where needed, particularly for seniors. Section 42(m)(B)(ii)(III) of the IRC requires for a plan to give preference to projects in a QCT where the development contributes to a concerted community revitalization plan (57).

Staff Response:

Staff does not recommend a change to this item that was basically duplicative of the current (i)(12) of this section. For example, typically TIFs and Downtown revitalization districts would qualify under (i)(12), and this section as it was drafted would only duplicate those points awarded. Section (22) of this subsection, Qualified Census Tracts with Revitalization, meets the requirements of Section 42(m)(B)(ii)(III).

§49.9(i)(15) – Exurban Developments (3,5,41,42,43,44,45,46,47,48,49,50,51,52,53), Page 47 of 69

Comment:

Comment provides support to reinstate the language providing that a Development financed in part with HOPE VI or HUD Capital Grant financing will qualify for these 7 points if the Application is a joint venture partnership between the public housing authority or its related entity and private market interests (either for profit or nonprofit) (3,5,41,42,43,44,45,46,47,48,49,50,51,52,53). Comment further asserts that in the current federal funding climate, public housing authorities are dependent upon tax credits in order to leverage their HOPE VI and Capital Grant funding to provide any new housing stock for their clients. Because a public housing authority's development is not able to qualify for many Selection Criteria, repeated requests have been made to the TDHCA for a public housing set-aside, as is provided in many states. Several years ago these 7 points were specifically extended to HOPE VI and Capital Grant projects in lieu of such a set-aside. In fact, these points were added by the Governor's Office after the QAP had been accepted by the TDHCA Board. This year, the public housing authority of the City of Beaumont is one of four recipients nation-wide of a HOPE VI grant, and the ability to compete effectively for tax credit allocations is critical to Beaumont's ability to provide the leveraging necessary to qualify to spend the awarded HOPE VI funds. While we acknowledge, and appreciate, the new §49.9(i)(10) which will provide points for Rehabilitation or Reconstruction developments, the 7 points awarded under §49.9(i)(15) are essential to the ability of public housing authorities to continue to provide safe and sanitary housing to low-income families (3).

Additional comment asserts that there is no rationale for not encouraging reconstruction and rehabilitation. Many of our markets are overbuilt with little or no rental rate growth. Communities remain more supportive of rehabilitations and reconstruction of dilapidated properties than new construction affordable housing. Staff should not do anything to discourage this practice, particularly the public housing sector provisions. Staff has to leverage HOPE VI funds and other Capital Funds programs in order to compete nationally for these resources. The entire state is put at a disadvantage in apply for these very scarce sources of housing funds without the ability to leverage them with Housing Tax Credits (44).

Staff Response:

Staff recommends no changes to this section, with the exception of an administrative change which clarifies that population is based on the “most current” decennial census.

~~(154) Exurban Developments or Reconstruction or Rehabilitation of Developments (Development characteristics). (2306.6725(a)(4) and (b)(2); 2306.127; 42.42(m)(1)(C)(i))~~ Applications may qualify to receive 7 points if the Development is not located in an ~~incorporated place or census designated place that is not a Rural Area and but~~ has a population ~~no greater~~ less than 100,000 based on the **most current** available information published by the United States Bureau of the Census as of October 1 of the year preceding the applicable program year ~~Decennial Census, or if a Development is proposed for reconstruction or rehabilitation (in whole or in part, on site or off site) that will be financed, in part, with HOPE VI financing or HUD capital grant financing provided that the Application is a joint venture partnership between the public housing authority or an entity formed by the public housing authority and private market interests (either for profit or nonprofit).~~

§49.9(i)(16) – Demonstration of Community Support other than Quantifiable Community Participation (5,31,42,43,44,45,46,47,48,49,50,51,52,53,55), Page 47 of 69

Comment:

Comment asserts that this new provision prevents the applicant from being able to earn these points if a neighborhood organization submits a letter of support but is determined by TDHCA to not count for some reason. Applicants should be able to submit both QCP letters and these types of letters but only the QCP letters will count if they can be scored. If the QCP letters do not count, then an applicant should be able to earn these points (5,31,42,43,44,45,46,47,48,49,50,51,52,53,55). Comment also asked for a definition of community or civic organizations (31).

Staff Response:

Staff does not recommend a change to this section pursuant to the comment. The purpose of this section is to award points to Developments in areas with no qualified neighborhood organizations, and is not intended to award points to areas with qualified neighborhood organizations whose letters are not eligible. If an eligible neighborhood organization submits an ineligible letter, the Application will not be awarded points under this section. It should be noted that if a letter is found ineligible because the organization itself is ineligible or not qualified, the points in this section may be awarded. Staff does not believe that there is a need for a definition of community or civic organizations. Staff does recommend an Administrative change to this section which will clarify the definition of neighborhood organization:

(16) Demonstration of Community Support other than Quantifiable Community Participation: If an Applicant requests these points on the self scoring form and correctly certifies to the Department that there are no neighborhood organizations that meet the Department’s definition of Neighborhood Organization pursuant to §49.9(i)(2)(A)(iv) of this title and 12 points were awarded under paragraph (2) of this subsection, then that Applicant may receive two points for each letter of support submitted from a community or civic organization that serves the community in which the site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. The community or civic organization must provide some documentation of its existence in the community to include, but not be limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that are not active in the area that includes the location of the Development will not be counted. For purposes of this item, community and civic organizations do not include neighborhood organizations, governmental entities, taxing entities or educational activities. Letters of support received after March 1, 2007, will not be accepted for this item. Two points will be awarded for each letter of support submitted in the Application, not to exceed 7 points. Should an Applicant elect this option and the Application receives letters in opposition by March 1, 2007, then two points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community. At no time will the Application, however, receive a score lower than zero for this item.

§49.9(i)(17) – Developments in Census Tracts with No Other Existing Housing Supported by Tax Credits (24), Page 47 of 69

Comment:

Comment suggests that this new language will make many Rural Applications non-competitive, after the Rural allocation is filled and Rural applications will not be able to compete with non-rural deals. Many rural towns have only one census tract and many others only two. If the census tract containing the bulk of the population has ever had a tax credit deal, the potential application would need to be moved to another census tract, if available, even if the tract only includes ranches, farms, cows and horses. A suggested solution for this issue would be a 3, 5 or 10 year limitation for previous developments. (24)

Staff Response:

To prevent a possible disparity, staff recommends that Rural Applications, which compete only with other Rural Applications and therefore will retain equality among competing Applications, not be eligible for these points. Staff recommends the following language:

(17) Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits: The Application may receive 7 points if the proposed Development is located in an Urban/Exurban Area and in a census tract in which there are no other existing developments supported by housing tax credits. Applicant must provide evidence of the census tract in which the Development is located. (§2306.6725(b)(2)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

§49.9(i)(18) – Tenant Populations with Special Housing Needs (1,12,38,4,24), Page 47 of 69

Comment:

Substantial comment requests that any applicants receiving points for serving special needs populations should be required to “hold these units open” for a period of 12 months, rather than 24 months (1,38,4,24). The shorter period is supported by the advocates as they want to encourage (rather than discourage) the setting aside of units for persons with disabilities and more developers can accommodate a shorter period as a long “hold” open period is discouraged by investors (1).

Conversely, one comment did request that developments be required to set aside these units for longer than 12 months; however, their comment seemed to reflect concern that tenants would be evicted after 24 months and not a comment on the length of time a Unit may be vacant for eligible tents (12).

Staff Response:

Staff concurs with the comment to hold the units open for a period of 12 months, rather than 24 months and recommends the following language:

(18) Tenant Populations with Special Housing Needs. Applications may qualify to receive 4 points for this item. (42(§42(m)(1)(C)(v)) The Department will award these points to Applications in which at least 10% of the Units are set aside for Persons with Special Needs. Throughout the Compliance Period, unless otherwise permitted by the Department, the Development owner agrees to affirmatively market Units to Persons with Special needs. In addition, the Department will require a minimum 12 month period during which units must either be occupied by persons with Special Needs or held vacant. The 12 month period will begin on the date each building receives its certificate of occupancy. For buildings that do not receive a Certificate of Occupancy, the 12 month period will begin on the placed in service date as provided in the Cost Certification manual. After the 12 month period, the owner will no longer be required to hold units vacant for households with special needs, but will be required to continue to affirmatively market units to household with special needs.

§49.9(i)(20)(B) – Site Characteristics (1,38), Page 48 of 69

Comment:

Comment requests that this language be updated to be more “user friendly” to downtown/urban developments and more predictable for rural areas. For instance, some cities have “active railroad tracks” but have noise reduction features. Also, there are varying degrees of high voltage transmission power lines and definitions are hard to locate (1,38).

Staff Response:

Staff concurs and recommends the following language:

“(ii) Developments located adjacent to or within 300 feet of active railroad tracks will have 1 point deducted from their score, unless the applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail. Rural Developments funded through TX-USDA-RHS are exempt from this point deduction....

(v) Developments where the buildings are located within the “fall line” located adjacent to or within 100 feet of high voltage transmission power lines will have 1 point deducted from their score.”

§49.9(i)(21) – Development Size (1,38), Page 48 of 69

Comment:

Comment asserts that Phase 2 developments, particularly in rural areas, should be encouraged, as these tend to improve operating feasibility through the ability to achieve greater economies of scale (1,38).

Staff Response:

Staff concurs and recommends the following language:

(2148) **Development Size.** The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger existing tax credit development (3 points).

§49.9(i)(23) – Sponsor Characteristics (60), Page 49 of 69

Comment:

Comment received requests that since Texas is a Community Property state, the spouses of Developers who have received two 8609’s for more than two Developments should not be allowed to receive the points under the section (60).

Staff Response:

Staff recommends no change to this section. The scenario outlined in the comment would not be eligible for points because a spouse is a Related Party, as defined in the QAP, and would therefore not be eligible for points.

§49.9(i)(24) – Developments Intended for Eventual Tenant Ownership (54, Administrative), Pages 49 and 50 of 69

Comment:

Comment received requests that the value for the points under this section be increased from 1 point to 5 points (54).

Staff Response:

Staff does not recommend a point increase for this section because given that 98% of applications in 2006 received these points, increasing the points would only award a blanket increase to nearly all Developments. Staff has determined that the language currently drafted in this section which allows “eligible forprofits” as an entity eligible under the Right of First Refusal is not allowed pursuant to §42(m)(1)(C)(viii) of the Code. Therefore, staff recommends an administrative clarification deleting all portions of this section stating, “or an eligible forprofit organization”.

§49.9(i)(25) – Leveraging of Private, State and Federal Resources (5,423,2,43,44,45,46,47,48,49,50,51,52, 53,Administrative), Pages 50 and 51 of 69

Comment:

Comment requests that this section be revised to include that HAP contracts, HOPE VI and Capital Funds specifically as eligible for points and to provide an exception for funds being provided by a Housing Authority that may also be the applicant (5,23,42,43,44,45,46,47,48,49,50,51,52,53). Comment further suggests that the Rita areas are poised to get HOPE VI funds from HUD and that they must be in a position to leverage these funds. HOPE VI funding is very limited and very few Housing Authorities have HOPE VI Programs. The Capital Fund is the main source of capital financing for Housing Authorities to supplement their affordable housing with mixed finance application eligible units (44).

One additional comment requests clarification of whether or not federal funds awarded from a Local Political Subdivision qualify for points for this section (23).

Staff Response:

Staff does recommend a change to this section as it relates to the inclusion of Capital Grant funds and development based vouchers (HOPE VI funds are already included in the language). Staff also recommends the change to allow a Housing Authority to award funds to itself for points for this section because it is consistent with (i)(5) of this subsection. Staff does recommend the following language which clarifies that any federal funds awarded, regardless of the issuer of funds, would qualify for a point under this section, and also provides an administrative clarification which stipulates that an applicant may not use normal rounding when applying the 3% requirement for the funding source value and that a qualifying source may be substituted at Commitment:

(252) **Leveraging of Private, State, and Federal Resources.** Applications may qualify to receive 1 point for this item. ~~(2306-§2306.6725(a)(3))~~ Evidence must be submitted in the Application that the proposed Development has received or will receive loan(s), grant(s) or in-kind contributions from a ~~an allocation of~~ private, state or federal resources, which includeing Capital Grant Funds and HOPE VI funds, that is equal to or greater than 2% (not using normal rounding) of the Total Housing Development ~~Costs~~ reflected in the Application. For in-kind contributions, evidence must be submitted in the Application from a private, state or federal resource which substantiates the value of the in-kind contributions. Development based rental subsidies from private, state or federal resource may qualify under this section if evidence of the remaining value of the contract is submitted from the source. The value of the contract does not include past subsidies. Qualifying funds awarded through local entities may qualify for points if the original source of the funds is from a private, state or federal source. Applicants may only submit enough sources to substantiate the point request, and all sources must be included in the Sources and Uses form. For example, two sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost. However, two sources may not be submitted if each source is for an amount equal to 2% of the Total Housing Development Cost. The funding must be in addition to the primary funding (construction and permanent loans) that is proposed to be utilized and cannot be issued from the same primary funding source or an affiliated source. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision. The Development must have already applied for funding from the funding entity. Evidence to be submitted with the Application must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. At the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the entity for the sufficient financing to the Department. If the funding commitment from the private, state or federal source, or qualifying substitute source, has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the commitment from the private, state or federal source, the Commitment Notice will be rescinded and the credits reallocated. Use normal rounding. Funds from the Department's HOME and Housing Trust Fund sources will only qualify under this category if there is a Notice of Funding Availability (NOFA) out for available funds and the Applicant is eligible under that NOFA. To qualify for this point, the Rent Schedule must show that at least 3% (not using normal rounding) of all low-income Units are designated to serve individuals or families with incomes at or below 30% of AMGI.

§49.9(i)(26) – Third Party Funding Commitment Outside of Qualified Census Tracts (Administrative), Page 51 of 69

Administrative Change:

Staff proposed the following administrative clarification which stipulates that an Applicant may not use normal rounding when applying the 2% requirement for the funding source value.

(263) Third-Party Funding Commitment Outside of Qualified Census Tracts.

Applications may qualify to receive 1 point for this item. (2306.6710(e)(1)) Evidence that the proposed Development has documented and committed third-party funding sources and the Development is located outside of a Qualified Census Tract. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The commitment of funds (an application alone will not suffice) must already have been received from the third-party funding source and must be equal to or greater than 2% **(not using normal rounding)** of the Total Development costs reflected in the Application. Funds from the Department’s HOME and Housing Trust Fund sources will not qualify under this category. The third-party funding source cannot be a loan from a commercial lender.

§49.9(i)(27) – Penalty Points (57), Page 51 of 69

Comment:

Comment suggests that penalty points with regard to a foreclosure or removal of a General Partner/Developer be limited to those occurring within 6 years of an allocation of credits for a development, not forever. With developments getting squeezed with no rent increases, and in fact rent decreases due to increasing utility allowances, and increasing operating expenses, good, qualified developers are now facing the additional risk of having a default with an older property. Changes in market or area conditions beyond a developer's control may also affect older properties. One takes these risks with newer properties for which one needs to have responsibility through the typical guarantee periods which typically end around 5 years from commencement of construction (two years to build and lease up and then a 3 year guaranty period). Even lenders and syndicators don't require guarantees after this period of time. Without change, the industry may lose many of the better and more experienced developers since they are penalized for up to five years thereafter. The proposed six year limitation is supported by major syndicators such as SunAmerica, Boston Capital and others. In instances where there has been a lack of good faith by a developer, most lenders and investors would more than likely not do further business with such an applicant, thus the department has a secondary safeguard for those situations.

Staff Response:

Staff does not recommend a change to this section because the current language only restricts for the past 5 years.

§49.9(j) – Tie Breaker Factors (1,38,4,14,5,23,42,43,45,46,47,48,49,50,51,52,53,54,55,60) Pages 51 and 52 of 69

Comment:

Comment requests that the current tie-breaker under (D) of this subsection be moved to (B) in order to promote single-family design and eventual homeownership (54). Comment was also received requesting that an additional tie-breaker be added that would give preference to developers who reside in Texas, called a “Texas First Provision” (60).

Comment asserts that Rehabilitation of existing units involving demolition and New Construction, rather than construction within existing walls, has been segregated out and defined as “Reconstruction.” “Reconstruction” is further excluded from the rehabilitation tie-breaker factor in QAP Section 49.9(j). Reconstruction carries the same benefits as other types of rehabilitation and should be restored as part of the rehabilitation tie-breaker (4). Comment further suggests the proposed tie-breaker policy clarify that Applications involving any

Rehabilitation and/or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction (1,38,5,,23,42,43,44,45,46,47,48,49,50,51,52,53,55).

Staff Response:

Staff does not concur with moving the current tie-breaker under (D) to the second tie-breaker under (B) because staff believes that the current language for the second-tier tie breaker encourages development in unsaturated areas with housing tax credits, and the third tie-breaker encourages strong utilization of housing tax credits. Additionally, staff does not concur with comment which would add a Texas First Provision because the Department encourages all eligible Applicants to apply for Competitive Tax Credits, regardless of their residency. Staff concurs that the tie-breaker should include Reconstruction and recommends the following language:

(A) Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction.

§49.10(a)(2) – Board Decisions (34), Pages 52 and 53 of 69

Comment:

Comment requests that the QAP rules include more consideration being given to public opposition and the opposition of elected officials during the pre-application scoring process and beyond in the Board's decisions.

Staff Response:

Staff does not recommend a change to this section. It should be noted that staff may not recommend and the Board may not approve an Application for tax credits unless the Development is 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.

§49.13(a)(1)(B) – Commitment and Determination Notices (1,38,17), Pages 57 and 58 of 69

Comment:

Comment suggests that this language allows a recipient of a tax credit award to extend until December 31 of the year and without requiring Board Approval. Comment asserts that a deadline is needed such that funds can be awarded to the waiting list and require Board approval. Comment recommends that no extension be granted past November 1, and that Board Action be required for any extension approval (1,38,17).

Staff Response:

Staff believes that the Executive Director's authority to approve or deny an extension is consistent with the proposed authority the Executive Director would have over any extension request, pursuant to the draft language in §49.20(i). Staff does not recommend the request that no extension would be granted past November 1 because it would prevent extensions for applications awarded off of the waiting list close to or after November 1.

§49.13(a)(6) – Commitment and Determination Notices (1,38,4), Page 58 of 69

Comment:

Comment suggests that this language eliminates the 10 day time period for acceptance of the commitment notice and allows the department staff to specify the due date. This has the potential to create inequities among Development Owners with staff setting different dates for each and can also create problems for Applicants trying to assemble the multitude of documents required to be submitted with the commitment notice (1,38,4).

Staff Response:

Staff concurs and recommends the following language:

(6) The executed Commitment or Determination Notice must be returned to the Department on the date specified with the Commitment Notice or Determination Notice, which shall be no earlier than within ten days of the effective date of the Notice.

§49.15(a)– Land Use Restriction Agreement (1,38,4,26), Pages 60 of 69

Comment:

The recent rise in utility costs, which appear to be permanent, coupled with minimum rent provisions included in current LURAs are requiring developers to lower rents below underwritten levels due to increases in utility allowances. This is a recipe for bankruptcy as expenses rise and rents decrease. If this issue is not addressed in the 2007 QAP, and utility rates continue to rise, developers will continue to lose cash flow and may not be able to convert to permanent loans, and existing developments will become financially infeasible. Comment recommends amending this paragraph to add the following line: “The LURA prepared by the department shall not contain any provision which requires underwritten or application rents to be lowered, either for changes in AMI, utility rates, or any other reason, except in accordance with IRC Section 42.” This change is required to maintain the long-term financial feasibility of new developments, a priority established by the legislature in Senate Bill 264 (2003) (1,38,4). Clarification to the comment indicated that the commenters wanted to insure that the LURA's are prepared not based on the rent level used by Real Estate Analysis (REA) in underwriting the project, but on the maximum allowable rents allowed by Section 42 for the income level selected (4, 26).

Staff Response:

This comment requests this language change for several reasons. As it relates to the fact that increased utility allowances cause a risk of Developments becoming infeasible because of reduced income, staff does not recommend any change the QAP which would release an Applicant from serving households as represented in the Application to this section.

As it relates to the request that ensures that LURAs are prepared based on the rent levels selected by the applicant, and not the rent levels used by Real Estate Analysis, staff does recommend clarification to this section by adding the following language to the end of the current language:

(a) Land Use Restriction Agreement (LURA)...The LURA shall not contain any provision which requires the Development Owner to restrict rents and incomes at any AMGI level, other than the AMGI levels reflected in the final Application (at the time of Board approval) or amendments to the Application made pursuant to §49.17(d) of this title, regardless of the underwriting methodology utilized in determining feasibility. The restricted gross rents for any AMGI level outlined in the LURA will be calculated in accordance with §42(g)(2)(A), Internal Revenue Code.

To clarify the effect of this language, which is consistent with the methodology outlined in the QAP, it would ensure that any elections made by the Applicant in an Application to restrict incomes and/or rents at any Area Median Gross Incomes (AMGIs) will be calculated utilizing the methodology pursuant §42(g)(2)(A) of the Internal Revenue Code, which basically requires that the rents for the corresponding incomes at an AMGI equal 30% of the income limit. As an example, if an Application is determined to be feasible by REA and Applicant elected to build 100 low income units with 75 units serving households at 50% AMGI, then 25 units will be restricted at 60% AMGI. In this example, the LURA will reflect this election, regardless of the methodology REA used to determine the feasibility of the development.

However, using the same example, if REA determined that the development would be infeasible at the proposed rent selections elected by the Applicant, then the Application will not be recommended to the Board unless the unit mixes are changed by the Applicant in order to make the Application feasible. In this case, the Applicant may elect to change the unit mixes by submitting revised documentation to the original Application. This change could potentially affect the points awarded to the Application based on the revised rents. If the Application is determined feasible based on the new rents, and is still competitive for an award of tax credits, the LURA will reflect the rent restrictions elected in the final Application documents.

Continuing with this same example, if REA determined that the development would be infeasible at the proposed rent selections elected by the Applicant, and the Applicant chooses not to change the rents, the Applicant may chose to instead appeal the determinations made by REA. In this case, any award made would be based on the determinations made by the Board in the appeal, and the Applicant would be held to the final

restrictions elected by the Applicant, as determined by the Board, and the LURA would reflect those rent restrictions.

§49.15(b)(4)– Cost Certification (1,38), Pages 60 of 69

Comment:

Comment opposes the requirement that the Department look for noncompliance at the cost certification stage. This is opposed by developers and the investors in the program, because if TDHCA does not award the credits, then the development will be foreclosed upon by the lender/investor and the affordable units and the credits will be lost. This makes investors very nervous and will affect credit prices negatively. The time to penalize an Applicant is up front before awarding credits, not after the units are being filled with qualified residents (1,38).

Staff Response:

Staff does not recommend a change to this section. In an effort to initiate activities to reduce the level of risk of the Department’s assets, this mechanism is meant to further monitor the performance for previously funded developments and ensure a minimal risk and high return on awarded Applications. An Applicant will continue to be provided an opportunity to appeal any credits rescinded as a result of this review.

§49.16(g)– TX-USDA-RHS Inspections (1,38,26,28), Pages 62 of 69

Comment:

Comment opposes the deletion of the coordination of inspections between USDA and TDHCA because in the past they've worked well to avoid duplication. The commentor asserts that it appears that TDHCA is returning to the days of doing things their own way and operating to increase duplication of effort (26). Comment requests to reinstate and amend the deleted sentence (1,38):

“...For properties receiving financing through TX-USA-RHS or FHA, the Department may accept the inspections performed by TX-USDA-RHS or FHA in lieu of having other Third party inspections.”

Other comment received indicates that some representatives from USDA may prefer that TDHCA perform the inspections and requests that the language stay in as is until the two agencies are provided the opportunity to further discuss the issue (28).

Staff Response:

Staff concurs with the comment received from a representative of the Rural Rental Housing Association which requested that draft language stay in until the two agencies are provided the opportunity to further discuss the issue and come to an mutual agreement in terms of how inspections will be performed. This issue will be re-evaluated this year in preparation for the 2008 QAP.

§49.17(b) – Appeals (41), Page 62 and 63 of 69

Comment:

Comments suggests that the Applicant and the Department should have a reciprocal number of days to appeal and to respond to the appeal. If the Applicant is dissatisfied with the appeal to the Department, delete the requirement of appealing directly to the Board and set up a procedure whereby the Applicant has an option to either go to the Board or to appeal the decision in accordance with Alternative Dispute Resolution Policy in Section 49.17(i). The ADR procedure will require both the Applicant and the Department to defend their position with supporting documentation to an independent third party and to receive an unbiased decision. In the Board meeting, the Applicant has a 3 minute time slot to present their appeal. The Board has board meeting books that are in excess of 500 pages to include appeal documentation. It is unreasonable to expect the Board to review and understand the details each of appeal prior to the Board meeting. Providing the option of third party ADR in advance of the Board meeting will provide the Board members with an independent prospective to take into consideration when they make their appeal ruling (41).

Staff Response:

Staff does not recommend a change to this section. The language relating to appeals outlined in the QAP is written pursuant to the requirements of §2306.6717(a)(5). The language actually does not prevent the ADR process from occurring prior to the Board appeal, as long as the appeal is filed to the Board 7 days prior to the Board date in which the allocation will be made. However, the statute does preclude the information that an

independent third party mediator may provide as a result of ADR because it states, “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.”

§49.17(c) – Challenges Regarding Applications (18), Page 63 of 69

Comment:

Comments suggests that the Department wasted incredible amounts of time in previous years processing anonymous challenges, and the anonymous challenges were a simple way to harass Applicant at the Department’s expense. Comment requests the stipulation that no challenge will be accepted without the challenge including contact information (18).

Staff Response:

Staff concurs with the comment and recommends the following language:

(c) **Provision of Information or Challenges Regarding Applications from Unrelated Entities to the Application.** The Department will address information or challenges received from unrelated entities to a specific 2006/2007 active Application, utilizing a preponderance of the evidence standard, in the following manner, provided the information or challenge includes a contact name, telephone number, fax number and e-mail address of the person providing the information or challenge:

§49.20(a) – Timely Payment of Fees (Administrative), Page 66 of 69

Administrative Change:

In an effort to allow the ability of the Executive Director to waive fees in extenuating and extraordinary circumstances, staff recommends the following language:

(a) **Timely Payment of Fees.** All fees must be paid as stated in this section, unless the Executive Director has granted a waiver for specific extenuating and extraordinary circumstances. To be eligible for a waiver, the Applicant must submit a request for a waiver no later than 10 business days prior to the deadlines 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.

§49.20(f) – Commitment or Determination Fee (1,38), Page 67 of 69

Comment:

In an effort to provide an incentive to Developers to give back credits in time for reallocation to a project on the waiting list, comments suggests the added sentence to this section, “If a Development Owner has paid a Commitment Fee and returns the credits in a suitable time frame that they can be allocated to a development(s) on the Waiting List, the Development Owner will receive a refund of 50% of the Commitment Fee (1,38).”

Staff Response:

Staff concurs with the concept of the comment, but only as it applies to credits returned the same year of allocation. Therefore, staff recommends the following language:

(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 eCommitment or Determination notice, a non-refundable commitment fee equal to 5% of the annual Housing Credit Allocation amount. The commitment fee shall be paid by check. If a Development Owner of an Application awarded Competitive Housing Tax Credits has paid a Commitment Fee and returns the credits by November 1, 2007, the Development Owner will receive a refund of 50% of the Commitment Fee.

§49.20(1) – Extension and Amendment Requests (Administrative), Page 68 of 69

Administrative Change:

In an effort to allow the ability of the Executive Director to approve certain extensions, staff recommends the following language:

(1) **Extension and Amendment Requests.** All extension requests relating to the Commitment Notice, Carryover, Documentation for 10% Test, Substantial Construction Commencement, Placed in Service or Cost Certification requirements and amendment requests shall be submitted to the Department in writing and be accompanied by a **mandatory** non-refundable extension fee in the form of a check in the amount of \$2,500. Such requests must be submitted to the Department no later than the date for which an extension is being requested. **All requests for extensions totaling less than 6 months may be approved by the Executive Director and are not required to have Board approval.** For extensions which require Board approval, the extension request must be received by the Department at least 15 business days prior to the Board meeting where the extension will be considered. The extension request shall specify a requested extension date and the reason why such an extension is required. Carryover extension requests shall not request an extended deadline later than December 1st of the year the Commitment Notice was issued. The Department, in its sole discretion, may consider and grant such extension requests for all items. If an extension is required at Cost Certification, the fee of \$2,500 must be received by the Department to qualify for issuance of Forms 8609. Amendment requests must be submitted consistent with ~~§50.49.17~~(d) of this title. The Board may waive related fees for good cause.

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

QAP Para.#	Topic	Total Points	Notes	Legislative Citation - Compare to QAP
1	Financial Feasibility	28	NA	2306.6710(b)(1)(A)
2	QCP from Neighborhood Organizations	24 Max	Range of +24 to 0	2306.6710(b)(1)(B); 2306.6725(a)(2)
3	Income Levels of the Tenants	22	NA	2306.6710(b)(1)(C) and (e); 2306.111(g)(3)(B) and (E); 42(m)(1)(B)(ii)(I)
4	Size and Quality of the Units	20	NA	2306.6710(b)(1)(D); 42(m)(1)(C)(iii)
5	Commit. of Funds by LPS	18	NA	2306.6710(b)(1)(E)
6	State Elected Official Support/Opposition	14 Max	Range of +14 to -14	2306.6710(b)(1)(F), (f) and (g); 2306.6725(a)(2)
7	Rent Levels of the Units	12	NA	2306.6710(b)(1)(G)
8	Cost Per Square Foot	10	NA	2306.6710(b)(1)(H); 42(m)(1)(C)(iii)
9	Services Provided to Tenants	8	NA	2306.6710(b)(1)(I); Rider 7; 2306.254; 2306.6725(a)(1)
10	Rehab. or Reconstruction	7	NA	NA
11	Housing Needs	7	NA	42(m)(1)(C)(ii)
12	Existing Housing with Revitalization	7	NA	42(m)(1)(C)(iii)
13	Pre-Application	6	NA	2306.6704
14	Development Location	4	NA	2306.6725(a)(4) and (b)(2); 2306.127; Rider 6 42(m)(1)(C)(i) and (vii)
15	Exurban Developments	7	NA	2306.6725(a)(4); 42(m)(1)(C)(i)
16	Community Support other than QCP	7 Max	Range of +7 to 0	NA
17	Census Tracts with no Existing HTC Developments	7	NA	2306.6725(b)(2)
18	Special Housing Needs Populations	4	NA	42(m)(1)(C)(v)
19	Length of Affordability	4	NA	2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1) and (c); 2306.6710(e)(2); 42(m)(1)(B)(ii)(II)
20	Site Characteristics	4 Max	Max 4 pts for amenities. Max -5 pts for negative features.	NA
21	Development Size	3	NA	NA
22	QCT with Revitalization	1	NA	42(m)(1)(B)(ii)(III)
23	Sponsor Characteristics	2	NA	42(m)(1)(C)(iv)
24	Right of First Refusal	1	NA	2306.6725(b) 42(m)(1)(C)(viii)
25	Leveraging of Private, State and Federal Funds	1	NA	2306.6725(a)(3)
26	Third Party Commitment Outside of QCT	1	NA	2306.6710(e)(1)
27	Penalties	Range	Range	2306.6710(b)(2)

Maximum Number of Points Possible: 229

Comment Source Reference

Tab #	Organization
1	(TAAHP) Texas Affiliation of Affordable Housing Providers, Diana McIver (Jen update)
2	Chris Hajovsky, Individual
3	Coats Rose, Barry Palmer
4	Capital Consultants and Texas United Independent Developers Association, Eric Opiela
5	Tekoa Partners, Ltd , William J. Lee
6	Office of State Representative Ryan Guillen, Robert McVey
7	Gary Driggers, Individual
8	Lancaster Pollard, Ginger McGuire
9	Trammell Crow Residential, Brent Stewart
10	Kenneth H. Mitchell, P.C., Kenneth Mitchell
11	SBG Development Services, L.P., Robert Sherman
12	Corporation for Supportive Housing, Michelle D. Hoerth
13	Winston Sullivan
14	National Housing Trust, Michael Bodaken
15	(TALFA) Texas Association of Local Housing Finance Agencies, Jeanne Talerico & David Clark
16	Capital Area Housing Finance Corporation, Jim Shaw
17	DMA Development Company, Diana McIver
18	Granger McDonald, Individual
19	Gary Kersch, Individual
20	Anderson Consulting, Sarah Anderson
21	Barry Kahn, Individual
22	American Housing Foundation, Glenda David
23	David Marquez
24	Solutions Plus, Mike Sugrue
25	NRP Group, Dan Markson
26	Patrick Barbolla, Individual
27	Dennis Hoover, Individual
28	Rural Rental Housing, Sox Johnson
29	Colonia Communities, David Turek
30	City of Wichita Falls, Nortex HFC, Texas Association of Local Finance Agencies, David Clark
31	Bobby Bowling, Individual and Tropicana Properties
32	Fortuna Enterprises, Robert de los Santos
33	Search Homeless Project, Cathy Crouch
34	Fairbanks Area Partnership, Melissa Brandon
35	Houston Housing Finance Corporation, Jeff Smith

Tab #	Organization
36	NRP Group, Debra Guerrero
37	Texas Real Estate Group, Jeff Lester
38	Youngs Company, Don Youngs
39	Mark-Dana Corporation, David M. Koogler
40	O'Connor and Associates, Craig Young
41	Hyperion Holdings, Brian Cogburn
42	Donna Housing Finance Corporation, Liz Hernandez and Bob Gonzales
43	McAllen Housing Authority, Jose A Saenz
44	Odyssey Residential Holdings, LP, Bill Fisher
45	Edinburg Housing Authority, Estella L. Trevino
46	NAHRO, Richard Franco
47	Pharr Housing Authority, Roy Navarro
48	Weslaco Housing Authority, Ruben Sepulveda
49	Beaumont Housing Authority, Robert L. Reyna
50	Pharr Housing Development Corporation, Fernando Lopez
51	Flores Residential, Apolonio Flores
52	Community Development Corporation of South Texas, Inc., Robert A. Calvillo
53	Texarkana Housing Authority , Richard Herrington
54	(TACDC), Texas Association of Community Development Corporations, Matt Hull
55	Cambell & Riggs, Doak D. Brown
56	NuRock Development, Daniel Allgeier
57	Barry Kahn
58	Songhai Ventures, Inc, Cherno Njie
59	Tropicana Properties, Demetrio Jimenez
60	Margie Bingham

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

Number of Units by Census Tract

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Houston	Harris	48201331000	248	12400.0%	1	No
Fort Worth	Tarrant	48439103100	404	152.5%	1	Yes
San Antonio	Bexar	48029152000	240	125.7%	1	Yes
Dallas	Dallas	48113010000	450	125.0%	1	Yes
Dallas	Dallas	48113016605	1202	110.8%	1	Yes
Fort Worth	Tarrant	48439106600	648	79.6%	1	No
Laredo	Webb	48479000400	165	73.7%	1	Yes
Houston	Harris	48201240200	582	73.6%	1	No
Houston	Harris	48201331400	681	72.7%	1	Yes
Dallas	Dallas	48113006301	1076	67.5%	1	No
San Antonio	Bexar	48029151900	530	61.3%	1	Yes
Brownsville	Cameron	48061012610	184	59.9%	1	No
Houston	Harris	48201422200	1190	53.2%	1	Yes
Port Arthur	Jefferson	48245007001	1242	52.8%	1	Yes
Houston	Harris	48201222700	677	52.2%	1	Yes
San Antonio	Bexar	48029161200	280	51.4%	1	No
Austin	Travis	48453002201	250	48.3%	1	No
Austin	Travis	48453002312	528	47.1%	1	Yes
Austin	Travis	48453002110	441	46.3%	1	No
Arlington	Tarrant	48439111543	541	45.0%	1	No
Dallas	Dallas	48113012302	814	44.4%	1	Yes
Tyler	Smith	48423000700	479	43.5%	1	Yes
Houston	Harris	48201550100	650	41.7%	1	Yes
Dallas	Dallas	48113012208	349	39.6%	1	Yes
Houston	Harris	48201331200	413	39.1%	1	Yes
Dallas	Dallas	48113003901	264	38.2%	1	Yes
San Antonio	Bexar	48029121404	624	38.0%	1	Yes
Houston	Harris	48201410100	255	37.6%	1	Yes
Houston	Harris	48201221400	603	37.4%	1	Yes
Austin	Travis	48453002413	325	37.3%	1	Yes
Abilene	Taylor	48441010200	220	36.7%	1	Yes
Houston	Harris	48201230600	338	36.0%	1	Yes
Dallas	Dallas	48113001600	476	35.9%	1	Yes
Houston	Harris	48201232500	244	34.0%	1	No
San Antonio	Bexar	48029170800	176	34.0%	1	Yes
Houston	Harris	48201222600	496	33.6%	1	Yes
Houston	Harris	48201222200	326	32.7%	1	No
Houston	Harris	48201550800	238	32.6%	1	No
Corpus Christi	Nueces	48355005000	163	32.5%	1	Yes
Dallas	Dallas	48113008604	256	32.3%	1	Yes
Dallas	Dallas	48113007809	386	31.9%	1	No
Austin	Travis	48453002202	390	31.7%	1	Yes
Dallas	Dallas	48113003500	275	31.6%	1	Yes
Temple	Bell	48027020900	181	31.4%	1	Yes
Fort Worth	Tarrant	48439111013	248	29.7%	1	No
San Antonio	Bexar	48029130800	408	29.7%	1	Yes
Odessa	Ector	48135001800	248	29.6%	1	Yes
San Antonio	Bexar	48029110600	350	29.4%	1	Yes

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Fort Worth	Tarrant	48439103300	168	29.3%	1	Yes
Dallas	Dallas	48113007818	824	29.1%	1	Yes
Amarillo	Potter	48375011100	218	29.0%	1	No
Beaumont	Jefferson	48245000103	315	29.0%	1	Yes
Dallas	Dallas	48113011401	385	28.9%	1	Yes
Dallas	Dallas	48113016902	280	28.9%	1	No
Fort Worth	Tarrant	48439101800	167	28.8%	1	Yes
Houston	Harris	48201530700	428	28.0%	1	Yes
San Angelo	Tom Green	48451000500	160	27.8%	1	Yes
Brownsville	Cameron	48061012608	250	27.7%	1	No
Dallas	Dallas	48113006002	376	27.7%	1	Yes
Dallas	Dallas	48113010901	696	27.6%	1	No
Dallas	Dallas	48113005902	360	27.5%	1	Yes
Houston	Harris	48201552600	580	27.4%	1	No
Brownsville	Cameron	48061013106	332	27.0%	1	Yes
Dallas	Dallas	48113015900	200	27.0%	1	Yes
Houston	Harris	48201313800	406	26.7%	1	Yes
Houston	Harris	48201453300	250	26.7%	1	No
Houston	Harris	48201330800	240	26.6%	1	No
Dallas	Dallas	48113008701	400	26.2%	1	Yes
Houston	Harris	48201330400	280	26.1%	1	No
Houston	Harris	48201231200	454	25.5%	1	Yes
Midland	Midland	48329001700	250	25.3%	1	Yes
Austin	Travis	48453002308	502	25.2%	1	Yes
Dallas	Dallas	48113012100	322	25.2%	1	No
Houston	Harris	48201533400	574	25.1%	1	Yes
El Paso	El Paso	48141004105	314	24.3%	1	No
Dallas	Dallas	48113009804	553	24.2%	1	Yes
Austin	Travis	48453002311	655	23.9%	1	Yes
Dallas	Dallas	48113010704	264	23.8%	1	Yes
Arlington	Tarrant	48439121902	702	23.7%	1	Yes
Dallas	Dallas	48113000800	482	23.5%	1	No
Austin	Travis	48453002313	376	22.8%	1	No
Houston	Harris	48201533200	358	22.7%	1	Yes
Abilene	Taylor	48441010300	124	22.6%	1	Yes
San Antonio	Bexar	48029150800	200	22.4%	1	Yes
Austin	Travis	48453001835	360	22.4%	1	No
Longview	Gregg	48183001100	260	22.3%	1	Yes
Arlington	Tarrant	48439111523	520	22.2%	1	No
Edinburg	Hidalgo	48215023700	330	21.8%	1	Yes
Houston	Harris	48201531900	244	21.7%	1	Yes
Dallas	Dallas	48113011601	240	21.6%	1	No
Dallas	Dallas	48113010701	200	21.5%	1	Yes
Lubbock	Lubbock	48303000900	320	21.4%	1	Yes
Dallas	Dallas	48113009000	476	21.4%	1	Yes
Dallas	Dallas	48113009304	374	21.4%	1	Yes
Houston	Harris	48201350100	260	21.1%	1	No
San Antonio	Bexar	48029131200	230	21.0%	1	Yes
Fort Worth	Tarrant	48439110704	330	20.7%	1	No
Dallas	Dallas	48113007201	588	20.6%	1	Yes

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
McAllen	Hidalgo	48215020503	324	20.5%	1	No
Dallas	Dallas	48113010802	426	20.4%	1	Yes
San Antonio	Bexar	48029141300	408	20.3%	1	No
Houston	Harris	48201220600	200	20.3%	1	Yes
Fort Worth	Tarrant	48439104605	310	20.3%	1	No
Dallas	Dallas	48113006900	243	20.3%	1	Yes
San Antonio	Bexar	48029180202	444	20.2%	1	No
Dallas	Dallas	48113010200	152	20.2%	1	Yes
Pharr	Hidalgo	48215021303	281	20.0%	1	Yes
Dallas	Dallas	48113010902	436	19.9%	1	Yes
Brownsville	Cameron	48061014001	189	19.8%	1	Yes
Houston	Harris	48201532900	326	19.7%	1	No
Dallas	Dallas	48113011200	250	19.7%	1	No
Fort Worth	Tarrant	48439106300	184	19.6%	1	Yes
Houston	Harris	48201220700	324	19.3%	1	Yes
Houston	Harris	48201550300	932	19.1%	1	No
Abilene	Taylor	48441011000	98	19.0%	1	Yes
Houston	Harris	48201240700	252	18.9%	1	No
Houston	Harris	48201313900	260	18.3%	1	No
Houston	Harris	48201520400	158	18.1%	1	No
Austin	Travis	48453001842	248	18.0%	1	No
Fort Worth	Tarrant	48439102100	430	17.9%	1	No
Houston	Harris	48201533900	510	17.8%	1	No
Austin	Travis	48453002411	240	17.6%	1	No
Fort Worth	Tarrant	48439101100	36	17.4%	1	Yes
Fort Worth	Tarrant	48439113916	240	17.4%	1	No
San Antonio	Bexar	48029181602	336	17.3%	1	No
San Antonio	Bexar	48029161000	140	17.3%	1	Yes
Fort Worth	Tarrant	48439111005	280	17.1%	1	No
Wichita Falls	Wichita	48485011500	140	17.0%	1	No
Waco	McLennan	48309001200	200	17.0%	1	Yes
Waco	McLennan	48309001500	200	16.9%	1	Yes
Pharr	Hidalgo	48215021302	276	16.9%	1	No
Brownsville	Cameron	48061013401	151	16.9%	1	Yes
Houston	Harris	48201552200	248	16.7%	1	No
Houston	Harris	48201510200	196	16.7%	1	Yes
Houston	Harris	48201521200	355	16.6%	1	Yes
Houston	Harris	48201340100	216	16.5%	1	No
San Antonio	Bexar	48029171600	250	16.2%	1	Yes
San Antonio	Bexar	48029181505	280	16.2%	1	No
Austin	Travis	48453002105	340	16.1%	1	Yes
San Antonio	Bexar	48029171902	250	16.1%	1	No
Houston	Harris	48201455200	248	16.1%	1	No
Austin	Travis	48453001908	160	16.0%	1	No
Houston	Harris	48201420200	161	15.9%	1	No
San Antonio	Bexar	48029161501	407	15.9%	1	Yes
Wichita Falls	Wichita	48485011600	210	15.8%	1	No
Austin	Travis	48453002108	196	15.8%	1	No
Lubbock	Lubbock	48303000302	316	15.8%	1	Yes
Dallas	Dallas	48113006800	318	15.8%	1	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
San Antonio	Bexar	48029171700	371	15.8%	1	No
Houston	Harris	48201452600	312	15.4%	1	Yes
Corpus Christi	Nueces	48355005405	180	15.4%	1	No
El Paso	El Paso	48413950200	128	15.4%	1	No
Houston	Harris	48201220500	280	15.2%	1	Yes
Victoria	Victoria	48469000302	116	15.1%	1	No
Corpus Christi	Nueces	48355000700	200	15.1%	1	Yes
Fort Worth	Tarrant	48439110401	252	15.1%	1	No
El Paso	El Paso	48141001700	51	15.1%	1	Yes
Port Arthur	Jefferson	48245006500	200	15.0%	1	No
Fort Worth	Tarrant	48439105005	280	14.9%	1	No
Beaumont	Jefferson	48245002200	150	14.9%	1	Yes
Midland	Midland	48329001400	160	14.8%	1	Yes
Amarillo	Potter	48375013300	184	14.7%	1	No
Amarillo	Potter	48375011600	261	14.7%	1	No
Brownsville	Cameron	48061012504	223	14.7%	1	No
Houston	Harris	48201240300	216	14.7%	1	No
Houston	Harris	48201333300	276	14.6%	1	No
San Antonio	Bexar	48029151000	152	14.5%	1	No
Abilene	Taylor	48441010900	388	14.4%	1	No
Amarillo	Potter	48375012600	120	14.3%	1	No
College Station	Brazos	48041001700	392	14.2%	1	Yes
Houston	Harris	48201531800	99	14.2%	1	Yes
Fort Worth	Tarrant	48439100501	280	14.2%	1	Yes
Victoria	Victoria	48469001601	303	14.2%	1	No
Austin	Travis	48453001823	290	13.8%	1	No
Houston	Harris	48201553000	452	13.8%	1	No
Houston	Harris	48201350400	250	13.8%	1	No
Houston	Harris	48201231300	168	13.8%	1	Yes
Houston	Harris	48201453900	240	13.6%	1	No
Dallas	Dallas	48113008704	153	13.6%	1	Yes
Houston	Harris	48201532000	488	13.6%	1	Yes
Austin	Travis	48453001847	240	13.3%	1	No
Houston	Harris	48201521500	251	13.2%	1	No
Corpus Christi	Nueces	48355000800	124	13.2%	1	Yes
San Antonio	Bexar	48029161302	140	13.1%	1	No
Houston	Harris	48201230200	248	13.1%	1	Yes
Houston	Harris	48201220400	170	13.0%	1	Yes
Houston	Harris	48201310100	150	13.0%	1	Yes
El Paso	El Paso	48141003502	186	12.9%	1	Yes
Dallas	Dallas	48113011500	188	12.8%	1	Yes
Dallas	Dallas	48113007819	264	12.7%	1	Yes
San Antonio	Bexar	48029181806	248	12.7%	1	Yes
Houston	Harris	48201310900	234	12.7%	1	Yes
Arlington	Tarrant	48439113111	350	12.6%	1	No
Dallas	Dallas	48113006100	196	12.6%	1	No
Harlingen	Cameron	48061010602	80	12.6%	1	No
Odessa	Ector	48135002000	120	12.6%	1	No
San Antonio	Bexar	48029110100	196	12.3%	1	Yes
Mission	Hidalgo	48215020100	336	12.3%	1	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Fort Worth	Tarrant	48439104802	200	12.2%	1	Yes
Arlington	Tarrant	48439121610	114	12.2%	1	No
Fort Worth	Tarrant	48439100201	121	12.1%	1	No
Dallas	Dallas	48113002701	178	12.0%	1	Yes
Arlington	Tarrant	48439122800	366	12.0%	1	Yes
Dallas	Dallas	48113016501	256	11.7%	1	No
Houston	Harris	48201454300	468	11.7%	1	No
Houston	Harris	48201422500	314	11.7%	1	No
Houston	Harris	48201533300	250	11.7%	1	Yes
Houston	Harris	48201221500	220	11.6%	1	Yes
Fort Worth	Tarrant	48439105511	216	11.6%	1	No
Austin	Travis	48453000802	131	11.6%	1	Yes
Fort Worth	Tarrant	48439105205	320	11.6%	1	Yes
Dallas	Dallas	48113019016	158	11.5%	1	No
Amarillo	Potter	48375015000	235	11.5%	1	No
Dallas	Dallas	48113019209	303	11.5%	1	Yes
Houston	Harris	48201520500	285	11.4%	1	No
San Antonio	Bexar	48029171906	165	11.4%	1	No
Lubbock	Lubbock	48303001200	100	11.4%	1	Yes
Fort Worth	Tarrant	48439110804	192	11.4%	1	No
Dallas	Dallas	48113009802	192	11.2%	1	Yes
Waco	McLennan	48309002100	207	11.2%	1	No
Fort Worth	Tarrant	48439114001	186	11.2%	1	No
Arlington	Tarrant	48439121702	260	11.1%	1	No
Austin	Travis	48453002421	148	11.1%	1	No
Houston	Harris	48339692400	193	11.0%	1	No
Fort Worth	Tarrant	48439106102	140	11.0%	1	Yes
San Antonio	Bexar	48029130900	150	11.0%	1	Yes
San Antonio	Bexar	48029121403	166	10.8%	1	No
Houston	Harris	48201330300	260	10.8%	1	No
Austin	Travis	48453001813	228	10.8%	1	No
San Antonio	Bexar	48029130400	252	10.7%	1	Yes
Houston	Harris	48201232700	414	10.7%	1	Yes
Houston	Harris	48201330100	372	10.6%	1	No
Dallas	Dallas	48113010101	120	10.6%	1	Yes
Corpus Christi	Nueces	48355003302	306	10.5%	1	No
San Antonio	Bexar	48029110300	105	10.5%	1	Yes
Amarillo	Potter	48375010700	120	10.5%	1	No
Fort Worth	Tarrant	48439105508	237	10.5%	1	No
Dallas	Dallas	48113010801	212	10.4%	1	Yes
College Station	Brazos	48041001601	199	10.4%	1	No
El Paso	El Paso	48141000101	234	10.4%	1	No
Houston	Harris	48201333900	272	10.3%	1	No
Fort Worth	Tarrant	48439106511	180	10.3%	1	No
Dallas	Dallas	48113011101	144	10.1%	1	No
Houston	Harris	48201551900	240	10.1%	1	No
Austin	Travis	48453002422	200	10.1%	1	No
Austin	Travis	48453002419	173	10.1%	1	No
San Antonio	Bexar	48029170500	160	10.1%	1	Yes
Dallas	Dallas	48113010803	252	10.0%	1	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Belton	Bell	48027021602	54	10.0%	1	Yes
Houston	Harris	48201251700	200	10.0%	1	No
Houston	Harris	48201540300	212	9.9%	1	No
Arlington	Tarrant	48439111532	224	9.8%	1	No
Killeen	Bell	48027022401	128	9.7%	1	No
Dallas	Dallas	48113012301	158	9.7%	1	No
San Antonio	Bexar	48029181801	248	9.5%	1	No
Houston	Harris	48201422400	368	9.5%	1	No
Longview	Gregg	48183001400	137	9.5%	1	Yes
Dallas	Dallas	48113011800	229	9.4%	1	Yes
Bryan	Brazos	48041001000	232	9.3%	1	No
Dallas	Dallas	48113006200	172	9.3%	1	No
Houston	Harris	48201320600	200	9.1%	1	Yes
Dallas	Dallas	48085031703	382	9.0%	1	No
Tyler	Smith	48423002007	176	8.9%	1	No
Port Arthur	Jefferson	48245007002	120	8.8%	1	No
San Antonio	Bexar	48029160100	143	8.8%	1	Yes
Austin	Travis	48453001805	175	8.8%	1	Yes
Abilene	Taylor	48441011700	80	8.8%	1	Yes
Wichita Falls	Wichita	48485012200	180	8.7%	1	No
Houston	Harris	48201453600	250	8.7%	1	No
El Paso	El Paso	48141004309	128	8.6%	1	No
Amarillo	Potter	48375011700	144	8.6%	1	No
Houston	Harris	48201211300	189	8.6%	1	Yes
Houston	Harris	48201220800	76	8.5%	1	Yes
Austin	Travis	48453000902	136	8.5%	1	Yes
Beaumont	Jefferson	48245002100	110	8.5%	1	No
Mission	Hidalgo	48215024106	160	8.4%	1	No
Houston	Harris	48201533600	118	8.4%	1	No
San Antonio	Bexar	48029151200	186	8.4%	1	No
Corpus Christi	Nueces	48355001902	172	8.4%	1	No
Dallas	Dallas	48113013614	374	8.3%	1	No
Dallas	Dallas	48113006700	161	8.3%	1	Yes
Austin	Travis	48453002107	122	8.3%	1	Yes
Odessa	Ector	48135000500	136	8.3%	1	No
Austin	Travis	48453001833	174	8.3%	1	No
Harlingen	Cameron	48061011302	132	8.3%	1	No
San Antonio	Bexar	48029180400	112	8.2%	1	Yes
Houston	Harris	48201530900	136	8.2%	1	No
Texarkana	Bowie	48037011100	156	8.2%	1	No
Houston	Harris	48201433000	433	8.2%	1	Yes
Houston	Harris	48201550400	416	8.2%	1	No
Houston	Harris	48201332800	114	8.0%	1	Yes
Bryan	Brazos	48041000500	119	7.9%	1	No
Houston	Harris	48201421100	265	7.9%	1	No
Waco	McLennan	48309001400	205	7.9%	1	Yes
Dallas	Dallas	48113004202	93	7.9%	1	No
San Antonio	Bexar	48029181503	155	7.8%	1	No
Harlingen	Cameron	48061010800	174	7.8%	1	No
San Antonio	Bexar	48029171400	152	7.8%	1	Yes

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Victoria	Victoria	48469001604	150	7.7%	1	No
Laredo	Webb	48479001801	251	7.6%	1	No
Edinburg	Hidalgo	48215023800	219	7.6%	1	No
Waco	McLennan	48309003000	144	7.6%	1	No
Amarillo	Potter	48375014800	68	7.5%	1	Yes
Tyler	Smith	48423001700	160	7.5%	1	No
Amarillo	Potter	48375012000	54	7.5%	1	Yes
Tyler	Smith	48423000201	95	7.4%	1	Yes
Fort Worth	Tarrant	48439105510	116	7.4%	1	No
Temple	Bell	48027020701	61	7.4%	1	Yes
Houston	Harris	48201232800	153	7.4%	1	No
Austin	Travis	48453002304	196	7.4%	1	Yes
Houston	Harris	48201421400	302	7.3%	1	Yes
Dallas	Dallas	48467950100	120	7.3%	1	No
El Paso	El Paso	48141000203	152	7.1%	1	No
San Antonio	Bexar	48029180503	90	7.1%	1	No
Alamo	Hidalgo	48215021902	188	7.1%	1	No
El Paso	El Paso	48141010315	36	7.0%	1	No
Dallas	Dallas	48113019202	145	7.0%	1	No
Fort Worth	Tarrant	48439105506	216	6.8%	1	No
Houston	Harris	48201252300	250	6.8%	1	No
Texarkana	Bowie	48037010400	112	6.7%	1	Yes
Arlington	Tarrant	48439111524	171	6.7%	1	No
Houston	Harris	48201541300	144	6.7%	1	No
Lubbock	Lubbock	48303002400	152	6.7%	1	No
Fort Worth	Tarrant	48439106508	246	6.7%	1	No
San Antonio	Bexar	48029131000	120	6.7%	1	No
San Antonio	Bexar	48029181003	160	6.7%	1	No
Dallas	Dallas	48113012000	150	6.6%	1	Yes
Houston	Harris	48201230700	66	6.5%	1	Yes
Houston	Harris	48201232900	160	6.5%	1	No
Houston	Harris	48201240500	228	6.5%	1	Yes
Killeen	Bell	48027022200	88	6.5%	1	No
Temple	Bell	48027021202	103	6.4%	1	No
El Paso	El Paso	48141001201	100	6.3%	1	No
Laredo	Webb	48479000300	50	6.3%	1	Yes
Houston	Harris	48201453200	164	6.3%	1	No
Houston	Harris	48201232400	254	6.3%	1	No
San Antonio	Bexar	48029170700	87	6.2%	1	Yes
Beaumont	Jefferson	48245002300	105	6.1%	1	Yes
Fort Worth	Tarrant	48439113914	248	6.1%	1	No
Midland	Midland	48329000305	124	6.1%	1	No
Killeen	Bell	48027022500	172	6.1%	1	No
San Antonio	Bexar	48029181706	150	6.0%	1	No
Houston	Harris	48201433500	278	6.0%	1	Yes
Austin	Travis	48453001822	142	6.0%	1	No
Austin	Travis	48453001852	204	5.9%	1	No
San Antonio	Bexar	48029180800	85	5.9%	1	Yes
Houston	Harris	48201522300	154	5.9%	1	No
El Paso	El Paso	48141000206	88	5.9%	1	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
San Benito	Cameron	48061011400	97	5.8%	1	No
Laredo	Webb	48479001102	120	5.8%	1	No
Houston	Harris	48201533700	156	5.8%	1	No
El Paso	El Paso	48141003903	95	5.7%	1	Yes
Corpus Christi	Nueces	48355001700	152	5.7%	1	Yes
San Antonio	Bexar	48029140800	100	5.7%	1	No
El Paso	El Paso	48141001112	96	5.7%	1	No
Tyler	Smith	48423001000	114	5.7%	1	No
Houston	Harris	48201432300	160	5.6%	1	No
El Paso	El Paso	48141003804	64	5.5%	1	No
San Angelo	Tom Green	48451001400	112	5.5%	1	No
Weslaco	Hidalgo	48215022502	80	5.4%	1	No
San Antonio	Bexar	48029161100	108	5.4%	1	No
Longview	Gregg	48183001500	79	5.4%	1	Yes
College Station	Brazos	48041002003	92	5.4%	1	No
Amarillo	Potter	48375014700	117	5.3%	1	No
Houston	Harris	48201210500	81	5.3%	1	Yes
Amarillo	Potter	48375013200	38	5.3%	1	No
Edinburg	Hidalgo	48215023600	100	5.2%	1	No
El Paso	El Paso	48141001900	54	5.2%	1	Yes
Dallas	Dallas	48113004500	100	5.2%	1	No
El Paso	El Paso	48141004003	100	5.2%	1	No
Odessa	Ector	48135000700	85	5.2%	1	Yes
Austin	Travis	48453000901	26	5.2%	1	Yes
Bryan	Brazos	48041000900	48	5.2%	1	Yes
Waco	McLennan	48309001900	64	5.2%	1	Yes
El Paso	El Paso	48141004202	104	5.2%	1	No
Houston	Harris	48201551800	86	5.1%	1	No
Dallas	Dallas	48113005400	80	5.1%	1	No
El Paso	El Paso	48141001800	25	5.0%	1	Yes
Anthony	El Paso	48141010203	34	5.0%	1	No
Texarkana	Bowie	48037010100	100	4.9%	1	No
Killeen	Bell	48027022102	129	4.9%	1	No
San Antonio	Bexar	48029180702	152	4.9%	1	No
Victoria	Victoria	48469001603	120	4.9%	1	No
Houston	Harris	48201510100	27	4.9%	1	Yes
El Paso	El Paso	48141004303	100	4.9%	1	No
Dallas	Dallas	48113001504	61	4.9%	1	Yes
Dallas	Dallas	48113003400	30	4.8%	1	Yes
Beaumont	Jefferson	48245001301	100	4.8%	1	No
Austin	Travis	48453002316	100	4.8%	1	Yes
Lubbock	Lubbock	48303001703	144	4.7%	1	Yes
Houston	Harris	48201432700	173	4.7%	1	Yes
Houston	Harris	48201421600	93	4.7%	1	Yes
Houston	Harris	48201240800	154	4.7%	1	No
El Paso	El Paso	48141004316	81	4.6%	1	No
Fort Worth	Tarrant	48439105704	126	4.5%	1	No
Houston	Harris	48201534000	115	4.5%	1	No
Austin	Travis	48453001812	117	4.5%	1	Yes
Ingleside	San Patricio	48409010300	144	4.5%	1	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Weslaco	Hidalgo	48215023101	96	4.4%	1	Yes
Dallas	Dallas	48113004900	60	4.4%	1	Yes
El Paso	El Paso	48141010321	142	4.4%	1	No
San Antonio	Bexar	48029121206	113	4.3%	1	No
Dallas	Dallas	48113013005	82	4.3%	1	No
Houston	Harris	48201552000	114	4.3%	1	No
Alamo	Hidalgo	48215021901	76	4.3%	1	Yes
San Antonio	Bexar	48029181601	50	4.3%	1	No
Houston	Harris	48201334000	147	4.2%	1	No
El Paso	El Paso	48141004004	64	4.2%	1	No
Arlington	Tarrant	48439121703	75	4.2%	1	Yes
Dallas	Dallas	48113001400	63	4.1%	1	Yes
Houston	Harris	48157670100	105	4.1%	1	No
Dallas	Dallas	48113002000	76	4.0%	1	Yes
Houston	Harris	48201332000	72	3.9%	1	Yes
Austin	Travis	48453002417	93	3.9%	1	No
San Juan	Hidalgo	48215021802	86	3.9%	1	No
Longview	Gregg	48183001200	40	3.8%	1	Yes
San Antonio	Bexar	48029181809	72	3.8%	1	No
Laredo	Webb	48479001706	56	3.7%	1	No
El Paso	El Paso	48141000404	47	3.7%	1	Yes
Dallas	Dallas	48113007814	112	3.6%	1	No
San Benito	Cameron	48061011500	65	3.6%	1	No
Waco	McLennan	48309002302	91	3.6%	1	No
El Paso	El Paso	48141010309	76	3.5%	1	No
Houston	Harris	48201531600	40	3.4%	1	No
Waco	McLennan	48309003707	100	3.4%	1	No
Lubbock	Lubbock	48303010401	126	3.4%	1	No
Fort Worth	Tarrant	48439110203	88	3.4%	1	No
San Benito	Cameron	48061011600	60	3.4%	1	No
San Antonio	Bexar	48029141200	80	3.3%	1	No
Victoria	Victoria	48469000202	51	3.1%	1	No
Socorro	El Paso	48141010310	64	3.0%	1	No
El Paso	El Paso	48141001600	62	3.0%	1	Yes
Wichita Falls	Wichita	48485013200	76	3.0%	1	No
McGregor	McLennan	48387950600	36	2.9%	1	No
Austin	Travis	48453002307	70	2.8%	1	Yes
El Paso	El Paso	48141003401	58	2.8%	1	No
Dallas	Dallas	48113007102	60	2.8%	1	No
Socorro	El Paso	48141010402	40	2.7%	1	No
El Paso	El Paso	48141000106	44	2.5%	1	No
San Antonio	Bexar	48029151100	50	2.4%	1	Yes
Harlingen	Cameron	48061010900	16	2.3%	1	Yes
Houston	Harris	48201521100	15	2.0%	1	Yes
Austin	Travis	48453002111	26	1.9%	1	Yes
San Antonio	Bexar	48029120200	49	1.8%	1	No
El Paso	El Paso	48141000301	36	1.7%	1	Yes
El Paso	El Paso	48141000108	16	1.7%	1	No
El Paso	El Paso	48141000110	22	1.6%	1	No
San Antonio	Bexar	48029170200	29	1.6%	1	Yes

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
El Paso	El Paso	48141010314	60	1.6%	1	No
El Paso	El Paso	48141000800	31	1.6%	1	Yes
San Antonio	Bexar	48029150300	24	1.5%	1	Yes
Socorro	El Paso	48141010403	52	1.5%	1	Yes
Anthony	El Paso	48141002800	26	1.4%	1	Yes
Houston	Harris	48201230400	18	1.4%	1	Yes
Mission	Hidalgo	48215020203	35	1.4%	1	No
Austin	Travis	48453002109	16	1.3%	1	Yes
San Antonio	Bexar	48029180300	18	1.2%	1	No
El Paso	El Paso	48141002800	21	1.2%	1	Yes
El Paso	El Paso	48141001107	30	1.1%	1	No
El Paso	El Paso	48141003601	14	1.0%	1	No
Harlingen	Cameron	48061010700	10	0.9%	1	No
Alamo	Hidalgo	48215022002	26	0.8%	1	No
El Paso	El Paso	48141002100	9	0.8%	1	Yes
El Paso	El Paso	48141001105	19	0.8%	1	No
Amarillo	Potter	48375013900	7	0.7%	1	Yes
El Paso	El Paso	48141010209	36	0.7%	1	No
Amarillo	Potter	48375013000	4	0.6%	1	Yes
Austin	Travis	48453001503	10	0.6%	1	No
Fort Worth	Tarrant	48439104604	4	0.6%	1	Yes
El Paso	El Paso	48141010313	19	0.4%	1	No
Laredo	Webb	48479001400	8	0.4%	1	No
Austin	Travis	48453000803	3	0.4%	1	Yes
Laredo	Webb	48479001001	3	0.2%	1	No
Amarillo	Potter	48375011900	3	0.2%	1	No
Fort Worth	Tarrant	48439104603	2	0.2%	1	Yes
Amarillo	Potter	48375012200	2	0.2%	1	Yes
McAllen	Hidalgo	48215020901	2	0.1%	1	No
Mission	Hidalgo	48215020401	4	0.1%	1	No
Mission	Hidalgo	48215020300	4	0.1%	1	No
Fort Worth	Tarrant	48439104602	1	0.1%	1	Yes
Amarillo	Potter	48375015300	1	0.1%	1	Yes
Grand Prairie	Dallas	48113016100	605	68.5%	2	Yes
Denton	Denton	48121021200	1438	54.0%	2	Yes
South Houston	Harris	48201321500	307	43.1%	2	Yes
DeSoto	Dallas	48113016605	438	40.4%	2	Yes
Irving	Dallas	48113014802	169	38.1%	2	No
McKinney	Collin	48085030900	641	35.8%	2	Yes
Conroe	Montgomery	48339693400	506	35.8%	2	Yes
Lancaster	Dallas	48113016703	422	33.8%	2	No
Cleburne	Johnson	48251130800	366	30.4%	2	Yes
Georgetown	Williamson	48491021402	343	30.1%	2	Yes
Waxahachie	Ellis	48139060500	250	30.1%	2	No
Hitchcock	Galveston	48167723700	214	26.6%	2	No
Alvin	Brazoria	48039661100	178	25.5%	2	No
Pasadena	Harris	48201342200	489	25.3%	2	No
Mesquite	Dallas	48113018130	356	24.3%	2	No
Pasadena	Harris	48201323900	264	23.1%	2	Yes
San Marcos	Hays	48209010500	206	22.6%	2	Yes

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Galveston	Galveston	48167724600	196	21.4%	2	Yes
Jacinto City	Harris	48201233400	160	20.6%	2	No
Pasadena	Harris	48201323500	309	19.0%	2	Yes
Stafford	Fort Bend	48157671400	250	18.6%	2	No
Sherman	Grayson	48181001700	289	18.4%	2	No
McKinney	Collin	48085030800	525	18.4%	2	No
Carrollton	Denton	48113013718	244	17.4%	2	No
San Marcos	Hays	48209010400	274	17.2%	2	No
Plano	Collin	48085031803	351	17.0%	2	No
Denton	Denton	48121020601	250	16.9%	2	Yes
Cleburne	Johnson	48251130900	156	16.8%	2	Yes
The Woodlands	Montgomery	48339691300	620	16.1%	2	No
Texas City	Galveston	48167722700	230	15.8%	2	No
DeSoto	Dallas	48113016619	180	15.3%	2	No
McKinney	Collin	48085030602	420	15.3%	2	No
Pasadena	Harris	48201322900	182	14.9%	2	No
Keller	Tarrant	48439113911	250	14.9%	2	No
Garland	Dallas	48113018131	464	14.8%	2	No
Plano	Collin	48085031631	240	14.3%	2	No
Grand Prairie	Dallas	48439113002	264	14.2%	2	No
Georgetown	Williamson	48491021403	105	13.4%	2	No
Denison	Grayson	48181000501	176	13.3%	2	No
Grand Prairie	Dallas	48113015404	160	13.1%	2	No
The Woodlands	Montgomery	48339691500	216	13.0%	2	No
San Marcos	Hays	48209010301	495	12.8%	2	Yes
Baytown	Harris	48201254400	128	12.6%	2	No
Humble	Harris	48201250200	192	12.6%	2	No
Rosenberg	Fort Bend	48157675100	252	12.4%	2	No
Euless	Tarrant	48439113514	260	12.4%	2	No
Mansfield	Tarrant	48439111305	280	12.3%	2	No
Pflugerville	Travis	48453001836	654	12.1%	2	No
Plano	Collin	48085031632	240	12.0%	2	No
Garland	Dallas	48113019026	220	11.9%	2	No
Irving	Dallas	48113014405	155	11.6%	2	No
White Settlement	Tarrant	48439110704	184	11.5%	2	No
Pasadena	Harris	48201323600	303	11.5%	2	No
Irving	Dallas	48113014110	504	11.4%	2	No
Grapevine	Tarrant	48439113705	224	10.9%	2	No
Texas City	Galveston	48167721900	242	10.9%	2	No
Pasadena	Harris	48201323000	240	10.7%	2	Yes
Irving	Dallas	48113014310	144	10.6%	2	No
Greenville	Hunt	48231960900	178	10.5%	2	Yes
Greenville	Hunt	48231961300	250	10.3%	2	No
Baytown	Harris	48201253200	250	10.3%	2	No
Waxahachie	Ellis	48139060400	121	10.2%	2	Yes
Garland	Dallas	48113019013	183	10.1%	2	Yes
Freeport	Brazoria	48039664300	178	10.0%	2	Yes
Watauga	Tarrant	48439113809	166	10.0%	2	No
Round Rock	Williamson	48491020703	255	10.0%	2	No
La Porte	Harris	48201343100	141	10.0%	2	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Seguin	Guadalupe	48187210200	152	9.8%	2	No
Grand Prairie	Dallas	48439111539	176	9.7%	2	No
Georgetown	Williamson	48491020102	224	9.5%	2	No
Hurst	Tarrant	48439113408	197	9.4%	2	No
Frisco	Collin	48085030402	216	8.9%	2	No
Irving	Dallas	48113014602	132	8.8%	2	Yes
Irving	Dallas	48113015202	103	8.7%	2	No
Spring	Harris	48339691600	304	8.7%	2	No
Plano	Collin	48085031648	194	8.6%	2	No
Pasadena	Harris	48201323100	93	8.6%	2	Yes
The Woodlands	Montgomery	48339691600	300	8.6%	2	No
Baytown	Harris	48201253500	210	8.5%	2	No
Round Rock	Williamson	48491020705	168	8.4%	2	No
La Porte	Harris	48201343000	180	8.3%	2	No
Greenville	Hunt	48231960800	100	8.3%	2	Yes
Alvin	Brazoria	48039661200	126	8.2%	2	No
DeSoto	Dallas	48113016606	198	8.2%	2	No
Rosenberg	Fort Bend	48157675000	84	8.2%	2	Yes
Irving	Dallas	48113014306	142	8.1%	2	No
Seguin	Guadalupe	48187210300	156	7.9%	2	No
Cedar Park	Williamson	48491020308	236	7.9%	2	No
Irving	Dallas	48113014701	127	7.8%	2	No
Buda	Hays	48209010902	144	7.7%	2	No
Garland	Dallas	48113018111	150	7.6%	2	No
Katy	Harris	48201542300	174	7.3%	2	No
Lewisville	Denton	48121021712	218	7.3%	2	No
Little Elm	Denton	48121020102	202	6.9%	2	No
Hitchcock	Galveston	48167723200	72	6.9%	2	No
Katy	Harris	48201542800	120	6.8%	2	No
Grand Prairie	Dallas	48113015500	102	6.8%	2	Yes
Lancaster	Dallas	48113016705	126	6.7%	2	No
Hurst	Tarrant	48439113407	108	6.6%	2	No
Balch Springs	Dallas	48113017202	128	6.6%	2	No
Seagoville	Dallas	48113017003	158	6.5%	2	No
North Richland Hills	Tarrant	48439113217	108	6.5%	2	No
Euless	Tarrant	48439113515	250	6.4%	2	No
San Marcos	Hays	48209010904	156	6.3%	2	No
Lewisville	Denton	48121021601	194	6.3%	2	No
San Marcos	Hays	48209010600	180	6.2%	2	No
Azle	Tarrant	48439114204	109	6.1%	2	No
Jersey Village	Harris	48201552000	160	6.0%	2	No
Webster	Harris	48201341200	216	6.0%	2	No
Leon Valley	Bexar	48029181704	100	6.0%	2	No
La Porte	Harris	48201343500	61	5.9%	2	No
Katy	Harris	48201542700	84	5.8%	2	No
Cedar Park	Williamson	48491020306	180	5.8%	2	No
North Richland Hills	Tarrant	48439113219	194	5.7%	2	No
Pearland	Brazoria	48039660700	246	5.6%	2	No
Carrollton	Denton	48121021605	144	5.5%	2	No
Corinth	Denton	48121021402	224	5.5%	2	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Balch Springs	Dallas	48113017201	96	5.4%	2	No
Cedar Park	Williamson	48453001765	90	5.3%	2	No
North Richland Hills	Tarrant	48439113806	180	5.3%	2	No
Cedar Park	Williamson	48491020309	132	5.3%	2	No
Baytown	Harris	48201254100	88	5.3%	2	No
Katy	Harris	48201454800	120	5.1%	2	No
Garland	Dallas	48113018119	152	5.1%	2	No
Eules	Tarrant	48439113511	60	5.0%	2	No
Baytown	Harris	48201253000	62	5.0%	2	No
Clute	Brazoria	48039663800	75	4.9%	2	No
Humble	Harris	48201240300	71	4.8%	2	No
Spring	Harris	48201553400	168	4.7%	2	No
Princeton	Collin	48085031002	104	4.4%	2	No
Lewisville	Denton	48121021703	192	4.2%	2	No
Forest Hill	Tarrant	48439111202	78	4.1%	2	No
Channelview	Harris	48201252300	150	4.1%	2	No
New Braunfels	Comal	48091310300	100	4.1%	2	No
Highlands	Harris	48201253000	48	3.9%	2	No
Allen	Collin	48085031506	94	3.7%	2	No
Cedar Hill	Dallas	48113016614	132	3.7%	2	No
Lake Jackson	Brazoria	48039663500	80	3.7%	2	No
Meadows Place	Fort Bend	48157672000	145	3.4%	2	No
Lake Jackson	Brazoria	48039663400	80	3.4%	2	No
Santa Fe	Galveston	48167723300	48	3.2%	2	No
League City	Galveston	48167721200	105	3.0%	2	No
Haltom City	Tarrant	48439110101	74	3.0%	2	No
Spring	Harris	48201241100	144	3.0%	2	No
Joshua	Johnson	48251130206	56	3.0%	2	No
Lewisville	Denton	48121021709	163	2.9%	2	No
Webster	Harris	48201341000	80	2.7%	2	No
Corinth	Denton	48121021401	76	2.2%	2	No
Irving	Dallas	48113014304	92	2.2%	2	No
League City	Galveston	48167720500	80	1.7%	2	No
Round Rock	Williamson	48491020503	24	1.5%	2	No
Denton	Denton	48121021100	24	1.5%	2	Yes
Leander	Williamson	48491020309	36	1.4%	2	No
Azle	Tarrant	48367140405	31	1.4%	2	No
Irving	Dallas	48113014408	17	1.1%	2	No
Frisco	Collin	48085030401	38	1.1%	2	No
Conroe	Montgomery	48339693100	19	0.7%	2	Yes
Cedar Park	Williamson	48491020307	24	0.7%	2	No
Waxahachie	Ellis	48139060600	14	0.5%	2	No
Mesquite	Dallas	48113017702	12	0.5%	2	No
Galveston	Galveston	48167724300	2	0.1%	2	Yes
New Braunfels	Comal	48187210503	1	0.1%	2	No
New Braunfels	Comal	48091310900	1	0.0%	2	No
New Braunfels	Comal	48091310402	1	0.0%	2	No
Brownwood	Brown	48049950600	332	36.0%	3	Yes
Terrell	Kaufman	48257050500	336	26.0%	3	Yes
Nacogdoches	Nacogdoches	48347951000	329	19.5%	3	Yes

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Ennis	Ellis	48139061700	250	18.8%	3	No
Hillsboro	Hill	48217961000	132	17.4%	3	Yes
Gainesville	Cooke	48097990500	212	16.8%	3	Yes
Terrell	Kaufman	48257050701	187	15.8%	3	No
Palestine	Anderson	48001950500	211	14.5%	3	Yes
Angleton	Brazoria	48039662100	248	14.3%	3	No
Lufkin	Angelina	48005000500	208	13.4%	3	Yes
Port Lavaca	Calhoun	48057990200	181	12.2%	3	No
Weatherford	Parker	48367140100	292	12.2%	3	No
Fredericksburg	Gillespie	48171950500	127	12.1%	3	No
Del Rio	Val Verde	48465950400	150	11.7%	3	Yes
Paris	Lamar	48277000500	203	11.6%	3	Yes
Commerce	Hunt	48231960500	161	11.3%	3	Yes
Orange	Orange	48361020200	200	11.1%	3	Yes
Huntsville	Walker	48471790800	232	11.0%	3	Yes
Crystal City	Zavala	48507950301	60	11.0%	3	Yes
Mount Vernon	Franklin	48159950200	100	10.9%	3	No
Mercedes	Hidalgo	48215023101	228	10.6%	3	Yes
Kaufman	Kaufman	48257051100	154	9.8%	3	No
Marshall	Harrison	48203020402	167	9.7%	3	Yes
Hondo	Medina	48325990300	187	9.6%	3	No
Hereford	Deaf Smith	48117950500	107	9.4%	3	Yes
Taylor	Williamson	48491021100	90	9.3%	3	No
Lockhart	Caldwell	48055960200	104	9.3%	3	Yes
Jefferson	Marion	48315950400	86	9.2%	3	Yes
Marble Falls	Burnet	48053960700	200	9.0%	3	No
Palestine	Anderson	48001950700	76	8.7%	3	Yes
Wharton	Wharton	48481740500	106	8.6%	3	No
Fredericksburg	Gillespie	48171950400	180	8.5%	3	No
Robstown	Nueces	48355005602	169	8.4%	3	Yes
Ennis	Ellis	48139061600	146	8.3%	3	No
Ennis	Ellis	48139061500	112	8.2%	3	No
Kingsland	Llano	48299970500	170	8.1%	3	No
Mathis	San Patricio	48409011300	134	8.0%	3	Yes
Roma	Starr	48427950702	68	7.7%	3	Yes
Edcouch	Hidalgo	48215024500	121	7.6%	3	Yes
Sanger	Denton	48121020201	208	7.5%	3	No
Huntsville	Walker	48471790600	76	7.4%	3	Yes
Vernon	Wilbarger	48487950500	85	7.4%	3	Yes
Hereford	Deaf Smith	48117950400	131	7.1%	3	No
Donna	Hidalgo	48215022102	157	6.9%	3	No
Lake Dallas	Denton	48121021403	184	6.9%	3	No
Hillsboro	Hill	48217960700	52	6.8%	3	No
Pearsall	Frio	48163950200	106	6.8%	3	Yes
Laguna Vista	Cameron	48061012301	64	6.7%	3	No
Dayton	Liberty	48291700800	202	6.7%	3	No
Pittsburg	Camp	48063950200	116	6.7%	3	Yes
Tomball	Harris	48201555400	236	6.7%	3	No
Jasper	Jasper	48241950200	96	6.6%	3	No
Cleveland	Liberty	48291700200	70	6.6%	3	Yes

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Cotulla	La Salle	48283950100	100	6.5%	3	Yes
Livingston	Polk	48373210500	110	6.5%	3	No
Henderson	Rusk	48401950700	76	6.4%	3	No
Mexia	Limestone	48293970300	47	6.1%	3	No
Plainview	Hale	48189950400	90	6.1%	3	No
Palacios	Matagorda	48321730600	122	6.1%	3	No
Kingsville	Kleberg	48273020200	120	5.9%	3	Yes
Canyon	Randall	48381021900	76	5.9%	3	No
Bay City	Matagorda	48321730400	60	5.7%	3	Yes
Crockett	Houston	48225950500	100	5.7%	3	No
Marshall	Harrison	48203020401	76	5.7%	3	Yes
Jacksonville	Cherokee	48073950600	124	5.7%	3	No
Corrigan	Polk	48373210400	96	5.6%	3	No
Trinity	Trinity	48455950300	40	5.6%	3	No
Runge	Karnes	48255970400	32	5.6%	3	Yes
Navasota	Grimes	48185180200	128	5.6%	3	No
Dilley	Frio	48163950300	68	5.5%	3	Yes
Alice	Jim Wells	48249950600	76	5.5%	3	Yes
Gainesville	Cooke	48097990600	100	5.5%	3	No
Mount Pleasant	Titus	48449950700	28	5.4%	3	No
Hempstead	Waller	48473680500	147	5.4%	3	No
Eagle Pass	Maverick	48323950500	100	5.4%	3	Yes
Donna	Hidalgo	48215022202	108	5.3%	3	Yes
Llano	Llano	48299970200	76	5.3%	3	No
Uvalde	Uvalde	48463950500	100	5.3%	3	Yes
Queen City	Cass	48067950300	36	5.2%	3	No
Stephenville	Erath	48143950600	76	5.1%	3	No
Madisonville	Madison	48313980400	84	5.1%	3	No
Clifton	Bosque	48035950500	56	5.1%	3	No
Quitman	Wood	48499950500	48	5.0%	3	No
Floresville	Wilson	48493980600	58	4.9%	3	No
Kingsville	Kleberg	48273020400	128	4.9%	3	No
Sonora	Sutton	48435950200	64	4.9%	3	No
Refugio	Refugio	48391950200	68	4.7%	3	No
Pampa	Gray	48179950400	96	4.7%	3	No
Fairfield	Freestone	48161980200	24	4.7%	3	No
Lampasas	Lampasas	48281950400	64	4.7%	3	No
Paris	Lamar	48277000800	68	4.7%	3	Yes
Decatur	Wise	48497150200	89	4.7%	3	No
Perryton	Ochiltree	48357950300	47	4.7%	3	No
Plainview	Hale	48189950200	60	4.7%	3	Yes
Port Isabel	Cameron	48061012304	76	4.6%	3	No
Beeville	Bee	48025950300	90	4.6%	3	No
Taylor	Williamson	48491021203	44	4.6%	3	No
Nacogdoches	Nacogdoches	48347950700	76	4.6%	3	Yes
Waller	Waller	48473680300	130	4.5%	3	No
Sweeny	Brazoria	48039662800	107	4.5%	3	No
Wolfe City	Hunt	48231960200	40	4.5%	3	No
Sebastian	Willacy	48489950600	32	4.5%	3	No
Sulphur Springs	Hopkins	48223950500	48	4.4%	3	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Wylie	Collin	48085031303	90	4.4%	3	No
Big Spring	Howard	48227950400	63	4.3%	3	Yes
Floresville	Wilson	48493980300	70	4.3%	3	No
El Campo	Wharton	48481741000	60	4.3%	3	No
Jacksboro	Jack	48237950300	59	4.3%	3	No
Boerne	Kendall	48259970500	71	4.3%	3	No
Hillsboro	Hill	48217961100	48	4.3%	3	No
Electra	Wichita	48485013700	54	4.2%	3	No
Athens	Henderson	48213951200	76	4.2%	3	Yes
Silsbee	Hardin	48199030700	56	4.1%	3	No
Raymondville	Willacy	48489950400	61	4.1%	3	Yes
Carrizo Springs	Dimmit	48127950200	102	4.1%	3	Yes
Three Rivers	Live Oak	48297950100	60	4.1%	3	No
Boerne	Kendall	48259970300	100	4.0%	3	No
Nacogdoches	Nacogdoches	48347950500	124	4.0%	3	No
Rockport	Aransas	48007950400	55	4.0%	3	Yes
Rusk	Cherokee	48073950800	114	3.9%	3	No
Kerrville	Kerr	48265960300	152	3.9%	3	No
Springtown	Parker	48367140403	72	3.9%	3	No
Mount Pleasant	Titus	48449950600	48	3.9%	3	Yes
Brenham	Washington	48477170300	76	3.9%	3	No
Fort Stockton	Pecos	48371950300	47	3.9%	3	Yes
Wills Point	Van Zandt	48467950500	60	3.9%	3	No
Cameron	Milam	48331950400	100	3.8%	3	No
Kirbyville	Jasper	48241950600	36	3.8%	3	Yes
Big Spring	Howard	48227950800	76	3.7%	3	No
Childress	Childress	48075950200	80	3.7%	3	No
Brenham	Washington	48477170400	76	3.7%	3	No
Marlin	Falls	48145990300	56	3.7%	3	Yes
Ozona	Crockett	48105950100	56	3.7%	3	No
Trinity	Trinity	48455950500	36	3.7%	3	No
Lufkin	Angelina	48005000400	75	3.7%	3	No
Pecos	Reeves	48371950400	55	3.6%	3	No
Palestine	Anderson	48001950800	79	3.6%	3	No
West	McLennan	48309004202	44	3.6%	3	No
Alice	Jim Wells	48249950500	72	3.6%	3	Yes
Breckenridge	Stephens	48429950200	56	3.5%	3	No
Calvert	Robertson	48395960200	24	3.5%	3	Yes
Brady	McCulloch	48307950300	76	3.5%	3	No
Prairie View	Waller	48473680300	100	3.5%	3	No
Kilgore	Gregg	48183010600	76	3.4%	3	No
Mineral Wells	Palo Pinto	48363980400	72	3.4%	3	No
Garrison	Nacogdoches	48347950100	32	3.4%	3	No
Mineral Wells	Palo Pinto	48363980800	40	3.4%	3	Yes
Junction	Kimble	48267950200	30	3.4%	3	No
Menard	Menard	48327950200	24	3.4%	3	Yes
Cleveland	Liberty	48291700300	96	3.4%	3	No
Bryson	Jack	48237950200	16	3.4%	3	No
Hubbard	Hill	48217961300	36	3.4%	3	No
Burnet	Burnet	48053960200	30	3.4%	3	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Terrell	Kaufman	48257050300	45	3.3%	3	No
Carthage	Panola	48365950400	88	3.3%	3	No
Elsa	Hidalgo	48215024401	74	3.3%	3	No
Wallis	Austin	48015760100	24	3.3%	3	No
Kyle	Hays	48209010904	80	3.2%	3	No
Sour Lake	Hardin	48199030200	60	3.2%	3	No
Willis	Montgomery	48339694200	150	3.2%	3	No
San Augustine	San Augustine	48405950200	36	3.2%	3	No
Gilmer	Upshur	48459950400	54	3.1%	3	No
Johnson City	Blanco	48031950100	48	3.1%	3	No
Orange	Orange	48361021300	68	3.1%	3	No
Rockport	Aransas	48007950100	76	3.1%	3	No
Columbus	Colorado	48089750500	48	3.1%	3	No
Albany	Shackelford	48417950300	40	3.1%	3	No
Corsicana	Navarro	48349970900	76	3.1%	3	No
Graham	Young	48503950600	64	3.1%	3	No
Borger	Hutchinson	48233951000	47	3.0%	3	No
Center	Shelby	48381020200	32	3.0%	3	No
Del Rio	Val Verde	48465950201	76	3.0%	3	No
Seven Points	Henderson	48213950700	47	3.0%	3	No
Brownwood	Brown	48049951100	44	2.9%	3	No
Hereford	Deaf Smith	48117950300	56	2.9%	3	No
Nocona	Montague	48337950300	36	2.9%	3	No
Honey Grove	Fannin	48147950100	32	2.9%	3	No
La Feria	Cameron	48061011902	36	2.9%	3	No
Marlin	Falls	48145990400	25	2.9%	3	Yes
Venus	Johnson	48251130408	48	2.9%	3	No
Elgin	Bastrop	48453001837	76	2.9%	3	No
Eastland	Eastland	48133950200	68	2.8%	3	No
Burnet	Burnet	48053960300	54	2.8%	3	No
Zapata	Zapata	48505950300	68	2.8%	3	Yes
Sealy	Austin	48015760300	54	2.8%	3	No
Edgewood	Van Zandt	48467950300	46	2.8%	3	No
Crockett	Houston	48225950400	36	2.8%	3	Yes
Rio Grande City	Starr	48427950500	40	2.8%	3	Yes
Idalou	Lubbock	48303010102	24	2.8%	3	No
Whitewright	Grayson	48181001802	40	2.8%	3	No
Colorado City	Mitchell	48335950200	56	2.7%	3	No
San Diego	Duval	48131950100	44	2.7%	3	Yes
Yoakum	Lavaca	48123970100	40	2.7%	3	No
Edna	Jackson	48239950300	48	2.7%	3	No
Seagraves	Gaines	48165950100	32	2.7%	3	No
Hempstead	Waller	48473680300	76	2.7%	3	No
Hebronville	Jim Hogg	48247950200	20	2.7%	3	No
Crosbyton	Crosby	48107950100	24	2.6%	3	No
Aransas Pass	San Patricio	48409010200	76	2.6%	3	No
Van Alstyne	Grayson	48181001803	40	2.6%	3	No
Coldspring	San Jacinto	48407200200	48	2.5%	3	No
Mineola	Wood	48499950800	48	2.5%	3	No
Alto	Cherokee	48073951000	32	2.5%	3	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
La Villa	Hidalgo	48215024600	30	2.5%	3	No
Brackettville	Kinney	48271950100	32	2.4%	3	No
Bellville	Austin	48015760500	72	2.4%	3	No
Huntsville	Walker	48471790700	50	2.4%	3	Yes
Groesbeck	Limestone	48293970600	44	2.4%	3	No
Elkhart	Anderson	48001951000	54	2.4%	3	No
Bandera	Bandera	48019980100	76	2.4%	3	No
Fort Stockton	Pecos	48371950400	36	2.4%	3	No
Levelland	Hockley	48219950200	36	2.4%	3	No
Santa Anna	Coleman	48083950700	24	2.4%	3	No
St. Jo	Montague	48337950100	24	2.3%	3	No
Detroit	Red River	48387950300	16	2.3%	3	No
Gonzales	Gonzales	48177990300	30	2.3%	3	Yes
Buna	Jasper	48241950800	23	2.3%	3	No
Snyder	Scurry	48415950600	39	2.3%	3	No
Rusk	Cherokee	48073950900	24	2.3%	3	No
Grand Saline	Van Zandt	48467950200	28	2.3%	3	No
Waskom	Harrison	48203020102	48	2.2%	3	No
Pampa	Gray	48179950100	32	2.2%	3	No
Caldwell	Burleson	48051970300	32	2.2%	3	No
Groveton	Trinity	48455950200	32	2.2%	3	No
Leonard	Fannin	48147950701	32	2.2%	3	No
Kerrville	Kerr	48265960500	48	2.2%	3	No
Bonham	Fannin	48147950400	65	2.2%	3	No
Goliad	Goliad	48175960100	32	2.1%	3	No
Presidio	Presidio	48377950100	23	2.1%	3	No
Sabinal	Uvalde	48463950100	24	2.1%	3	No
Bowie	Montague	48337950500	48	2.1%	3	No
Whitney	Hill	48217960600	10	2.1%	3	No
Alpine	Brewster	48043950300	36	2.1%	3	No
Eagle Lake	Colorado	48089750100	36	2.1%	3	No
Eagle Pass	Maverick	48323950202	60	2.1%	3	Yes
Brenham	Washington	48477170200	43	2.1%	3	No
Keene	Johnson	48251131000	36	2.1%	3	No
Presidio	Presidio	48377950200	30	2.1%	3	Yes
Clarksville	Red River	48387950500	48	2.1%	3	No
Farmersville	Collin	48085031100	56	2.0%	3	No
Timpson	Shelby	48419950200	28	2.0%	3	No
Lone Star	Morris	48343950200	48	2.0%	3	No
Smithville	Bastrop	48021950700	32	2.0%	3	No
Donna	Hidalgo	48215022101	50	2.0%	3	No
Hidalgo	Hidalgo	48215021301	39	2.0%	3	No
Emory	Rains	48379950100	40	1.9%	3	No
Bastrop	Bastrop	48021950500	70	1.9%	3	No
Stephenville	Erath	48143950500	44	1.9%	3	No
Vidor	Orange	48361021900	47	1.9%	3	No
West Columbia	Brazoria	48039662600	24	1.9%	3	No
Pearsall	Frio	48163950100	36	1.8%	3	No
Forney	Kaufman	48257050202	51	1.8%	3	No
Hondo	Medina	48325990500	31	1.8%	3	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Whitehouse	Smith	48423002200	32	1.8%	3	No
Keene	Johnson	48251130301	56	1.8%	3	No
Chandler	Henderson	48213950100	43	1.8%	3	No
Big Lake	Reagan	48383950100	20	1.8%	3	No
Santa Rosa	Cameron	48061010300	53	1.8%	3	No
Brookshire	Waller	48473680200	44	1.8%	3	No
Karnes City	Karnes	48255970200	24	1.7%	3	No
Hallettsville	Lavaca	48285980200	24	1.7%	3	No
Bastrop	Bastrop	48021950400	48	1.7%	3	No
Granbury	Hood	48221160300	50	1.7%	3	No
Dripping Springs	Hays	48209010801	76	1.7%	3	No
Burkburnett	Wichita	48485013501	40	1.7%	3	No
Godley	Johnson	48251130100	20	1.7%	3	No
Somerset	Bexar	48029162002	40	1.7%	3	No
Rhome	Wise	48497150602	24	1.7%	3	No
Grapeland	Houston	48225950100	32	1.7%	3	No
Joaquin	Shelby	48419950100	32	1.6%	3	No
Quinlan	Hunt	48231961500	56	1.6%	3	No
Hooks	Bowie	48037011300	40	1.6%	3	No
Littlefield	Lamb	48279950600	24	1.6%	3	No
Lufkin	Angelina	48005000600	28	1.6%	3	Yes
Athens	Henderson	48213950300	44	1.6%	3	No
Teague	Freestone	48161980600	20	1.6%	3	No
Dimmitt	Castro	48069950200	24	1.6%	3	No
Tomball	Harris	48201555500	48	1.6%	3	No
Alton	Hidalgo	48215024105	30	1.6%	3	No
Valley View	Cooke	48097990900	24	1.5%	3	No
Royse City	Rockwall	48397040400	32	1.5%	3	No
Hughes Springs	Cass	48067950700	32	1.5%	3	No
Hemphill	Sabine	48403950300	32	1.5%	3	No
Rio Hondo	Cameron	48061010100	30	1.5%	3	No
Rio Grande City	Starr	48427950600	24	1.5%	3	Yes
Horizon City	El Paso	48141010320	72	1.5%	3	No
Lytle	Atascosa	48013960201	24	1.5%	3	No
Caldwell	Burleson	48051970200	24	1.5%	3	No
Luling	Caldwell	48055960700	30	1.5%	3	Yes
Mabank	Kaufman	48257051300	42	1.5%	3	No
Lexington	Lee	48287980100	24	1.5%	3	No
Giddings	Lee	48287980400	28	1.5%	3	No
Somerville	Burleson	48051970500	24	1.5%	3	No
Dalhart	Dallam	48205950200	24	1.5%	3	No
Shepherd	San Jacinto	48407200101	32	1.5%	3	No
Athens	Henderson	48213951300	32	1.5%	3	No
Van	Van Zandt	48467950800	28	1.5%	3	No
Bridgeport	Wise	48497150500	24	1.5%	3	No
Post	Garza	48169950100	24	1.4%	3	No
Sinton	San Patricio	48409011000	32	1.4%	3	No
Frankston	Anderson	48001950100	24	1.4%	3	No
Comanche	Comanche	48093950300	22	1.4%	3	No
Baird	Callahan	48059030200	24	1.4%	3	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Devine	Medina	48325990800	32	1.4%	3	No
Eagle Pass	Maverick	48323950300	20	1.3%	3	Yes
Elgin	Bastrop	48021950200	27	1.3%	3	No
Martindale	Caldwell	48055960500	24	1.3%	3	No
Hamilton	Hamilton	48193950300	18	1.3%	3	No
Alvarado	Johnson	48251130410	24	1.3%	3	No
Shepherd	San Jacinto	48407200200	24	1.3%	3	No
Rockport	Aransas	48007950300	28	1.3%	3	No
Willis	Montgomery	48339694100	48	1.3%	3	No
Bay City	Matagorda	48321730200	40	1.3%	3	No
Palestine	Anderson	48001950900	42	1.3%	3	No
Gladewater	Gregg	48183010200	34	1.3%	3	No
Rockdale	Milam	48331950700	29	1.3%	3	No
El Campo	Wharton	48481740900	32	1.2%	3	No
Fabens	El Paso	48141010503	24	1.2%	3	Yes
Big Sandy	Upshur	48459950500	24	1.2%	3	No
Tatum	Rusk	48401950100	24	1.2%	3	No
Lake Dallas	Denton	48121021401	40	1.2%	3	No
Andrews	Andrews	48003950200	24	1.2%	3	No
La Casita-Garciasville	Starr	48427950400	28	1.1%	3	Yes
Dublin	Erath	48143950300	24	1.1%	3	No
Blanco	Blanco	48031950200	20	1.1%	3	No
Glen Rose	Somervell	48425990100	20	1.1%	3	No
Center	Shelby	48419950400	26	1.1%	3	No
Troup	Smith	48423002100	36	1.1%	3	No
Grandview	Johnson	48251130500	24	1.1%	3	No
Slaton	Lubbock	48303010600	24	1.1%	3	No
Castroville	Medina	48325990100	39	1.1%	3	No
Iowa Park	Wichita	48485013600	24	1.0%	3	No
De Kalb	Bowie	48037011600	24	1.0%	3	No
Cibolo	Guadalupe	48187210701	24	1.0%	3	No
Orange Grove	Jim Wells	48249950100	24	1.0%	3	No
West Columbia	Brazoria	48039662000	24	1.0%	3	No
Pilot Point	Denton	48121020101	40	1.0%	3	No
Aransas Pass	San Patricio	48007950500	24	1.0%	3	No
Amherst	Lamb	48279950300	9	1.0%	3	No
Lamesa	Dawson	48115950400	24	1.0%	3	No
Buffalo	Leon	48289950100	24	1.0%	3	No
Hallsville	Harrison	48203020601	32	0.9%	3	No
Pleasanton	Atascosa	48013960402	24	0.9%	3	No
Normangee	Leon	48289950200	20	0.9%	3	No
Abernathy	Hale	48303010200	24	0.9%	3	No
Brownfield	Terry	48445950400	24	0.9%	3	Yes
Weimar	Colorado	48089750300	16	0.9%	3	No
Caddo Mills	Hunt	48231961400	16	0.9%	3	No
Lorena	McLennan	48309003801	16	0.8%	3	No
Justin	Denton	48121020301	24	0.8%	3	No
Yantis	Wood	48499950300	24	0.8%	3	No
Cisco	Eastland	48133950300	16	0.8%	3	No
Sulphur Springs	Hopkins	48223950400	24	0.8%	3	No

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

Place	County	Tract	Total HTCs	HTC Units/Tract Households	Area Type	QCT
Ferris	Ellis	48139060101	16	0.8%	3	No
Eldorado	Schleicher	48141010313	32	0.8%	3	No
La Grange	Fayette	48149970300	16	0.7%	3	No
Reno (Lamar)	Lamar	48277000400	24	0.7%	3	No
Evant	Coryell	48099010100	17	0.7%	3	No
Hearne	Robertson	48395960500	16	0.7%	3	Yes
Corsicana	Navarro	48349970300	16	0.6%	3	No
La Joya	Hidalgo	48215024202	24	0.6%	3	No
Clint	El Paso	48141010403	20	0.6%	3	Yes
Bullard	Smith	48423001904	24	0.6%	3	No
Schulenburg	Fayette	48149970600	8	0.4%	3	No
Ganado	Jackson	48239950100	8	0.4%	3	No
Port Lavaca	Calhoun	48057990400	2	0.1%	3	No

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

Number of Units by Census Tract

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Multifamily Finance Production Division

2006~~7~~ Housing Tax Credit Program

Qualified Allocation Plan and Rules with Amendments

§49.1. PURPOSE AND AUTHORITY; PROGRAM STATEMENT; ALLOCATION GOALS. 2

§49.2. COORDINATION WITH RURAL AGENCIES. 2

§49.3. DEFINITIONS. 2

§49.4. STATE HOUSING CREDIT CEILING. 11

§49.5. INELIGIBILITY; DISQUALIFICATION AND DEBARMENT; CERTAIN APPLICANT AND DEVELOPMENT STANDARDS; REPRESENTATION BY FORMER BOARD MEMBER OR OTHER PERSON; DUE DILIGENCE, SWORN AFFIDAVIT; APPEALS AND ADMINISTRATIVE DEFICIENCIES FOR INELIGIBILITY, DISQUALIFICATION AND DEBARMENT. 11

§49.6. SITE AND DEVELOPMENT RESTRICTIONS: FLOODPLAIN; INELIGIBLE BUILDING TYPES; SCATTERED SITE LIMITATIONS; CREDIT AMOUNT; LIMITATIONS ON THE SIZE OF DEVELOPMENTS; LIMITATIONS ON REHABILITATION COSTS; UNACCEPTABLE SITES; APPEALS AND ADMINISTRATIVE DEFICIENCIES FOR SITE AND DEVELOPMENT RESTRICTIONS. 14

§49.7. REGIONAL ALLOCATION FORMULA; SET-ASIDES; REDISTRIBUTION OF CREDITS. 16

§49.8. PRE-APPLICATIONS FOR COMPETITIVE HOUSING TAX CREDITS: SUBMISSION; COMMUNICATION WITH DEPARTMENTS STAFF; EVALUATION PROCESS; THRESHOLD CRITERIA AND REVIEW; RESULTS. (§2306.6704). 17

§49.9. APPLICATION: SUBMISSION; COMMUNICATION WITH DEPARTMENT EMPLOYEES; ADHERENCE TO OBLIGATIONS; EVALUATION PROCESS FOR COMPETITIVE APPLICATIONS UNDER THE STATE HOUSING CREDIT CEILING; EVALUATION PROCESS FOR TAX-EXEMPT BOND DEVELOPMENT APPLICATIONS; EVALUATION PROCESS FOR RURAL RESCUE APPLICATIONS UNDER THE 2008 CREDIT CEILING; EXPERIENCE PRE-CERTIFICATION PROCEDURES; THRESHOLD CRITERIA; SELECTION CRITERIA; TIEBREAKER FACTORS; STAFF RECOMMENDATIONS. 20

§49.10 BOARD DECISIONS; WAITING LIST; FORWARD COMMITMENTS 52

§49.11. REQUIRED APPLICATION NOTIFICATIONS, RECEIPT OF PUBLIC COMMENT, AND MEETINGS WITH APPLICANTS; VIEWING OF PRE-APPLICATIONS AND APPLICATIONS; CONFIDENTIAL INFORMATION. 54

§49.12. TAX-EXEMPT BOND DEVELOPMENTS: FILING OF APPLICATIONS; APPLICABILITY OF RULES; SUPPORTIVE SERVICES; FINANCIAL FEASIBILITY EVALUATION; SATISFACTION OF REQUIREMENTS. 55

§49.13 COMMITMENT AND DETERMINATION NOTICES; AGREEMENT AND ELECTION STATEMENT; DOCUMENTATION SUBMISSION REQUIREMENTS. 57

§49.14. CARRYOVER; 10% TEST; COMMENCEMENT OF SUBSTANTIAL CONSTRUCTION. 59

§49.15. LURA, COST CERTIFICATION. 59

§49.16. HOUSING CREDIT ALLOCATIONS. 60

§49.17 BOARD REEVALUATION, APPEALS PROCESS; PROVISION OF INFORMATION OR CHALLENGES REGARDING APPLICATIONS; AMENDMENTS; HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS; SALE OF TAX CREDIT PROPERTIES; WITHDRAWALS; CANCELLATIONS; ALTERNATIVE DISPUTE RESOLUTION. 62

§49.18. COMPLIANCE MONITORING AND MATERIAL NONCOMPLIANCE. 65

§49.19. DEPARTMENT RECORDS; APPLICATION LOG; IRS FILINGS. 66

§49.20. PROGRAM FEES; REFUNDS; PUBLIC INFORMATION REQUESTS; ADJUSTMENTS OF FEES AND NOTIFICATION OF FEES; EXTENSIONS; PENALTIES. 66

§49.21. MANNER AND PLACE OF FILING ALL REQUIRED DOCUMENTATION. 68

§49.22. WAIVER AND AMENDMENT OF RULES. 69

§49.23. DEADLINES FOR ALLOCATION OF HOUSING TAX CREDITS. (§2306.6724) 69

~~§50-49.1. Purpose and Authority; Program Statement; Allocation Goals.~~

(a) **Purpose and Authority.** The Rules in this chapter apply to the allocation by the Texas Department of Housing and Community Affairs (the Department) of Housing Tax Credits authorized by applicable federal income tax laws. The Internal Revenue Code of 1986, §42, (the "Code") as amended, provides for credits against federal income taxes for owners of qualified low-income rental housing Developments. That section provides for the allocation of the available tax credit amount by state housing credit agencies. Pursuant to Chapter 2306, Subchapter DD, Texas Government Code, the Department is authorized to make Housing Credit Allocations for the State of Texas. As required by the Internal Revenue Code, §42(m)(1), the Department developed this Qualified Allocation Plan (QAP) which is set forth in ~~§§50-49.1 - 50-49.23~~ of this title. Sections in this chapter establish procedures for applying for and obtaining an allocation of Housing Tax Credits, along with ensuring that the proper threshold criteria, selection criteria, priorities and preferences are followed in making such allocations.

(b) **Program Statement.** The Department shall administer the program to encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, accessible, affordable rental housing in the private marketplace; maximize the number of suitable, accessible, affordable residential rental units added to the state's housing supply; prevent losses for any reason to the state's supply of suitable, accessible, affordable residential rental units by enabling the Rehabilitation of rental housing or by providing other preventive financial support; and provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development and operation of accessible affordable housing developments in rural and urban communities. (~~2306-§2306.6701~~)

(c) **Allocation Goals.** It shall be the goal of this Department and the Board, through these provisions, to encourage diversity through broad geographic allocation of tax credits within the state, and in accordance with the regional allocation formula; to promote maximum utilization of the available tax credit amount; and to allocate credits among as many different entities as practicable without diminishing the quality of the housing that is being built. The processes and criteria utilized to realize this goal are described in ~~§50-49.8~~ and ~~§50-49.9~~ of this title, without in any way limiting the effect or applicability of all other provisions of this title. (General Appropriation Act, Article VII, Rider 8(e))

~~§50-49.2. Coordination with Rural Agencies.~~

To ensure maximum utilization and optimum geographic distribution of tax credits in rural areas, and to provide for sharing of information, efficient procedures, and fulfillment of Development compliance requirements in rural areas, the Department ~~has will~~ entered into a Memorandum of Understanding (MOU) or other agreement with the TX-USDA-RHS to coordinate on existing, Rehabilitation, and New Construction housing Developments financed by TX-USDA-RHS; and will jointly administer the Rural Regional Allocation with the Texas Office of Rural Community Affairs (ORCA). Through participation in hearings and meetings, ORCA will assist in developing all Threshold, Selection and Underwriting Criteria applied to Applications eligible for the Rural Regional Allocation. The Criteria will be approved by that Agency. To ensure that the Rural Regional Allocation receives a sufficient volume of eligible Applications, the Department and ORCA shall jointly implement outreach, training, and rural area capacity building efforts. (~~2306-§2306.6723~~)

~~§50-49.3. Definitions.~~

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

(1) **Administrative Deficiencies**--The absence of information or a document from the Application as is required under ~~§50-49.5, §50-49.6, §50-49.8(d) and §50-49.9(g), (h), i and (j)~~ of this title, unless determined by the Department as unable to be corrected.

(2) **Affiliate**--An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other Person, and specifically shall include parents or subsidiaries. Affiliates also include all General Partners, Special Limited Partners and Principals with an ownership interest unless the entity is an experienced developer as described in ~~§50-49.9(i)(210)(B)~~ of this title.

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

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

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

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

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

(i) 40 basis points over the current applicable percentage for 70 percent present value credits, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department, or

(ii) 15 basis points over the current applicable percentage for 30 percent present value credits, pursuant to §42(b) of the Code for the trailing 1 year, 2 year or 3 year average rate in effect during the month in which the Application is submitted to the Department.

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

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

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

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

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

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

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

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

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

(11) **Area**--

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

(i) An incorporated place or

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

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

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

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

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

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

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

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

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

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

2006~~7~~-Housing Tax Credit Program Qualified Allocation Plan and Rules

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

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

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

(B) is subject to the following conditions:

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

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

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

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

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

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

(15) Board--The governing Board of the Department. (~~2306~~-~~§2306~~.004)

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

(17) Carryover Allocation Document--A document issued by the Department, and executed by the Development Owner, pursuant to ~~§~~50-49.14(a) of this title.

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

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

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

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

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

(21) Commitment Notice--A notice issued by the Department to a Development Owner pursuant to ~~§~~50-49.13 of this title and also referred to as the "commitment."

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

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

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

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

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

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

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

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

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

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

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

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

(B) located on scattered sites and contain only rent-restricted units. ~~(2306-§2306.6702)~~

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

~~(332)~~ **Development Owner**--Any Person, General Partner, or Affiliate of a Person who owns or proposes a Development or expects to acquire Control of a Development under a purchase contract approved by the Department. ~~(2306-§2306.6702)~~

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

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

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

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

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

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

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

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

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

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

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

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

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

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

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

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

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

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

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

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

~~(5047)~~ **Housing Tax Credit ("tax credits")**--A tax credit allocated, or for which a Development may qualify, under the Housing Tax Credit Program, pursuant to the Code, §42. ~~(2306-§2306.6702)~~

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

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

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

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

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

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

~~(E) Any Development proposing New Construction, other than a Development (New Construction or Rehabilitation) composed entirely of single family dwellings, having more than 5% of the Units in the Development with four or more bedrooms.~~

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

~~(G)~~ Any Development located in an Urban/Exurban Area involving any New Construction- (excluding New Construction of non-residential buildings) of additional Units (other than a Qualified Elderly Development, a Development composed entirely of single family dwellings, and certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §42(i)(3)(B)(iii) and (iv)) in which any of the designs in clauses (i) - (iii) of this subparagraph are proposed. ~~For purposes of this limitation, a den, study or other similar space that could reasonably function as a bedroom will be considered a bedroom.~~ For Applications involving a combination of single family detached dwellings and multifamily dwellings, the percentages in this subparagraph do not apply to the single family detached dwellings. For Intergenerational Housing Applications,

the percentages in this subparagraph do not apply to buildings that are restricted the the age requirements of a Qualified Elderly Development. An Application may reflect a total of Units for a given bedroom size greater than the percentages stated below to the extent that the increase is only to reach the next highest number divisible by four.

- (i) more than 30% of the total Units are one bedroom Units; or
- (ii) more than 55% of the total Units are two bedroom Units; or
- (iii) more than 40% of the total Units are three bedroom Units; or
- (iv) more than 5% of the total Units in the Development with four or more bedrooms.

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

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

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

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

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

~~(563)~~ Local Political Subdivision--A county or municipality (city) in Texas. For purposes of §50.49.9(i)(5) of this title, a local political subdivision may act through a Government instrumentality such as a housing authority, housing finance corporation, or municipal utility, even if the Government Instrumentality's creating statute states that the entity is not itself a "political subdivision."

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

~~(585)~~ Minority Owned Business--A business entity at least 51% of which is owned by members of a minority group or, in the case of a corporation, at least 51% of the shares of which are owned by members of a minority group, and that is managed and Controlled by members of a minority group in its daily operations. Minority group includes women, African Americans, American Indians, Asian Americans, and Mexican Americans and other Americans of Hispanic origin. ~~(2306-§2306.6734)~~

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

~~(6057)~~ ORCA--Office of Rural Community Affairs, as established by Chapter 487 of Texas Government Code. ~~(2306-§2306.6702)~~

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

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

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

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

20067-Housing Tax Credit Program Qualified Allocation Plan and Rules

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

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

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

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

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

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

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

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

(A) As defined in the Code, §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 the Code, §42 and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

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

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

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

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

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

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

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

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

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

~~(730)~~ **Qualified Nonprofit Organization**--An organization that is described in the Code, §501(c)(3) or (4), as these cited provisions may be amended from time to time, that is exempt from federal income taxation under the Code, §501(a), that is not affiliated with or Controlled by a for profit organization, and includes as one of its exempt purposes the fostering of low-income housing within the meaning of the Code, §42(h)(5)(C). A Qualified Nonprofit Organization may select to compete in one or more of the Set-Asides, including, but not limited to, the nonprofit Set-Aside, the At-Risk Development Set-Aside and the TX-USDA-RHS Allocation. ~~(2306-§2306.6729)~~

~~(744)~~ **Qualified Nonprofit Development**--A Development in which a Qualified Nonprofit Organization (directly or through a partnership or wholly-owned subsidiary) holds a controlling interest, materially participates (within the meaning of the Code, §469(h), as it may be amended from time to time) in its development and operation throughout the Compliance Period, and otherwise meets the requirements of the Code, §42(h)(5). ~~(2306-§2306.6729)~~

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

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

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

~~(784)~~ **Related Party**--As defined, ~~(2306-§2306.6702)~~

(A) The following individuals or entities:

(i) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573, Texas Government Code;

(ii) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;

(iii) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:

(I) the total combined voting power of all classes of stock of each of the corporations that can vote;

(II) the total value of shares of all classes of stock of each of the corporations; or

(III) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;

(iv) a grantor and fiduciary of any trust;

(v) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(vi) a fiduciary of a trust and a beneficiary of the trust;

(vii) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:

(I) the trust; or

(II) a person who is a grantor of the trust;

(viii) a person or organization and an organization that is tax--exempt under the Code, §501(a), and that is controlled by that person or the person's family members or by that organization;

(ix) a corporation and a partnership or joint venture if the same persons own more than:

(I) 50 percent of the outstanding stock of the corporation; and

(II) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;

(x) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(xi) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(xii) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or

(xiii) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

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

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

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

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

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

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

(D) on a specific Development Site eligible for Rehabilitation funding by TX-USDA-RHS as evidenced by an executed TX-USDA-RHS letter indicating TX-USDA-RHS has received a Consent Request, also referred to as a Preliminary Submittal, as described in 7 CFR 3560.406. (2306-§2306.6702)

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

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

~~(8379)~~ **Set-Aside**--A reservation of a portion of the available Housing Tax Credits under the State Housing Credit Ceiling to provide financial support for specific types of housing or geographic locations or serve specific types of Applications or Applicants as permitted by the Qualified Allocation Plan on a priority basis. ~~(2306-§2306.6702)~~

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

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

(A) by an individual who is:

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

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

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

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

(ii) married and file a joint return.

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

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

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

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

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

~~(884)~~ **Threshold Criteria**--Criteria used to determine whether the Development satisfies the minimum level of acceptability for consideration as specifically defined in ~~§50.49.9(h)~~ of this title. ~~(2306-§2306.6702)~~

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

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

~~(9187)~~ **Unit**--Any residential rental unit ~~in a Development~~ consisting of an accommodation including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and

fixtures for living, sleeping, eating, cooking (such as a microwave), and sanitation. (~~2306-§2306.6702~~) For purposes of completing the Rent Schedule for loft or studio type Units (which still must meet the definition of Bedroom), a Unit with 649 square feet or less is considered an efficiency ~~u~~Unit, a Unit with 650 to 899 square feet is considered not more than a one-bedroom Unit, a Unit with 900 to 999 square feet is considered not more than a two-bedroom Unit, a Unit with 1000 to 1199 square feet is considered not more than a three-bedroom Unit, and a Unit with 1200 square feet or more is considered a four bedroom ~~U~~Unit.

(~~9288~~) **Urban/Exurban Area--** Non-Rural Areas located within the boundaries of a metropolitan Area as designated by the US Office of Management and Budget as of November 1, ~~2005~~2006, or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.), the date Volume III is submitted to the Department.

§50-49.4. State Housing Credit Ceiling.

The Department shall determine the State Housing Credit Ceiling for each calendar year as provided in the Code, §42(h)(3)(C), using such information and guidance as may be made available by the Internal Revenue Service. The Department shall publish each such determination in the *Texas Register* within 30 days after the receipt of such information as is required for that purpose by the Internal Revenue Service. The aggregate amount of commitments of Housing Credit Allocations made by the Department during any calendar year shall not exceed the State Housing Credit Ceiling for such year as provided in the Code, §42. As permitted by the Code, §42(h)(4), Housing Credit Allocations made to Tax-Exempt Bond Developments are not included in the State Housing Credit Ceiling.

§50-49.5. Ineligibility; Disqualification and Debarment; Certain Applicant and Development Standards; Representation by Former Board Member or Other Person; Due Diligence, Sworn Affidavit; Appeals and Administrative Deficiencies for Ineligibility, Disqualification and Debarment.

(a) **Ineligibility.** An Application is ineligible if:

(1) The Applicant, Development Owner, Developer or Guarantor has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs; or, (~~2306-§2306.6721(c)(2)~~)

(2) The Applicant, Development Owner, Developer or Guarantor has been convicted of a state or federal crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline; or,

(3) The Applicant, Development Owner, Developer or Guarantor at the time of Application is: subject to an enforcement or disciplinary action under state or federal securities law or by the NASD; is subject to a federal tax lien; or is the subject of an enforcement proceeding with any Governmental Entity; or

(4) The Applicant, Development Owner, Developer or Guarantor with any past due audits has not submitted those past due audits to the Department in a satisfactory format. A Person is not eligible to receive a commitment of Housing Tax Credits from the Department if any audit finding or questioned or disallowed cost is unresolved as of June 1 of each year, or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; or

(5) (~~2306-§2306.6703(a)(1)~~) At the time of Application or at any time during the two-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been:

(A) a member of the Board; or

(B) the Executive Director, a Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Portfolio Management and Compliance, the Director of Real Estate Analysis, or a manager over housing tax credits employed by the Department.

(6) (~~2306-§2306.6703(a)(2)~~) The Applicant proposes to replace in less than 15 years any private activity bond financing of the Development described by the Application, unless:

(A) the Applicant proposes to maintain for a period of 30 years or more 100 percent of the Development Units supported by Housing Tax Credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the Area Median Gross Income, adjusted for family size; and

(B) at least one-third of all the units in the Development are public housing units or Section 8 Development-based units; or,

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

(7) The Development is located in a municipality or in a valid Extra Territorial Jurisdiction (ETJ) of a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the reservation is made by the Texas Bond Review Board) unless the Applicant: ~~(2306.6703(a)(4))~~

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

(B) has included in the Application a written statement of support from that governing body referencing this rule and authorizing an allocation of housing tax credits for the Development;

(C) For purposes of this paragraph, evidence under subparagraphs (A) and (B) of this paragraph must be received by the Department no later than ~~April 1, April 2, 2006~~2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be considered) and may not be more than one year old from the date the Volume 1 is submitted to the Department; or

(8) The Applicant proposes to construct a new **Ddevelopment proposing New Construction (excluding New Construction of non-residential buildings)** that is located one linear mile (measured by a straight line on a map) or less from a Development that: ~~(2306.6703(a)(3))~~

(A) serves the same type of household as the new Ddevelopment, regardless of whether the Ddevelopments serves families, elderly individuals, or another type of household (Intergenerational Housing is not a type of household as it relates to this restriction);

(B) has received an allocation of Housing Tax Credits (including Tax-Exempt Bond Developments) for any New Construction at any time during the three-year period preceding the date the application round begins (or for Tax-Exempt Bond Developments the three-year period preceding the date the Volume I is submitted); and

(C) has not been withdrawn or terminated from the Housing Tax Credit Program.

(D) An Application is not ineligible under this paragraph if:

(i) the Development is using federal HOPE VI funds received through the United States Department of Housing and Urban Development; locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (~~42-(§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-(§42)U.S.C. Section §5301 et seq.~~); or

(ii) the Development is located in a county with a population of less than one million; or

(iii) the Development is located outside of a metropolitan statistical area; or

(iv) the local government where the Development is to be located has by vote specifically allowed the construction of a new Development located within one linear mile or less from a Development described under subparagraphs (A) - (C) of this paragraph. For purposes of this clause, evidence of the local government vote or evidence required by subparagraph (D) of this paragraph must be received by the Department no later than ~~April 1, April 2, 2006~~2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed) and may not be more than one year old.

(E) In determining the age of an existing Ddevelopment as it relates to the application of the three-year period, the Ddevelopment will be considered from the date the Board took action on approving the allocation of tax credits. In dealing with ties between two or more Developments as it relates to this rule, refer to ~~§50.49.9(j)~~ of this title.

(9) A submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review can not reasonably be performed by the Department, as determined by the Department. If an Application is determined ineligible pursuant to this section, the Application will be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibly will be included in the Termination letter to the Applicant.-

(b) **Disqualification and Debarment.** The Department will disqualify an Application, and/or debar a Person (see §2306.6721, Texas Government Code), if it is determined by the Department that any issues identified in the paragraphs of this subsection exist. The Department may debar a Person for one year from the date of debarment, or until the violation causing the debarment has been remedied, whichever term is longer, if the Department determines the facts warrant it-. Causes for disqualification and debarment include: ~~(2306.6721)~~

(1) The provision of fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation in the Application or other information submitted to the Department at any stage of the evaluation or approval process; or,

20067-Housing Tax Credit Program Qualified Allocation Plan and Rules

(2) The Applicant, Development Owner, Developer or Guarantor or anyone that has ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with the LURA (or any other document containing an Extended Housing Commitment) or the program rules in effect for such property as further described in §60.1 of this title on May 1, ~~2006~~2007 or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; (~~2306.6721(c)(3)~~) or

(3) The Applicant, Development Owner, Developer or Guarantor or anyone that has ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties outside of the state of Texas has an incidence of Material Noncompliance with the LURA or the program rules in effect for such tax credit property as further described in §60.1 of this title on May 1, ~~2006~~2007 or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; or

(4) The Applicant, Development Owner, Developer, or any Guarantor, or any Affiliate of such entity has been a Principal of any entity that failed to make all loan payments to the Department in accordance with the terms of the loan, as amended, or was otherwise in default with any provisions of any loans from the Department.

(5) The Applicant or the Development Owner that is active in the ownership or Control of one or more tax credit properties in the state of Texas has failed to pay in full any fees within 30 days of when they were billed by the Department, as further described in §50.49.20 of this title; or

(6) the Applicant or a Related Party and any Person who is active in the construction, Rehabilitation, ownership, or Control of the proposed Development, including a General Partner or contractor, and a Principal or Affiliate of a General Partner or contractor, or an individual employed as a lobbyist by the Applicant or a Related Party, communicates with any Board member during the period of time beginning on the date an Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, unless the communication takes place at any board meeting or public hearing held with respect to that Application. Communication with Department staff must be in accordance with §50.49.9(b) of this title; violation of the communication restrictions of §50.49.9(b) is also a basis for disqualification and/or debarment. (~~2306.6721(c)(3)~~)

(7) It is determined by the Department's General Counsel that there is evidence that establishes probable cause to believe that an Applicant, Development Owner, Developer, or any of their employees or agents has violated a state revolving door or other standard of conduct or conflict of interest statute, including §2306.6733, Texas Government Code, or a section of Chapter 572, Texas Government Code, in making, advancing, or supporting the Application.

(8) Applicants may be ineligible as further described in §50.49.17(d)(8) of this title.

~~(9) The Applicant or a Related Party has failed to comply in the past with, or materially violates, any condition imposed by the Department in connection with the allocation of Housing Tax Credits, or has repeatedly violated a LURA. (2306.6721(b), (c)(1) and (c)(3)).~~ The Applicant, Development Owner, Developer, Guarantor, or any Affiliate of such entity whose previous funding contracts or commitments have been partially or fully deobligated due to a failure to meet contractual obligations during the 12 months prior to the submission of the applications.

(10) The Applicant, Development Owner, Developer, Guarantor, or any Affiliate of such entity whose pre-development award from the Department has not been repaid for the Development at the time of Carryover Allocation or Bond closing.

(c) **Certain Applicant and Development Standards.** Notwithstanding any other provision of this section, the Department may not allocate tax credits to a Development proposed by an Applicant if the Department determines that: (~~2306.6721(c)(3)~~)

(1) the Development is not necessary to provide needed decent, safe, and sanitary housing at rental prices that individuals or families of low and very low-income or families of moderate income can afford;

(2) the Development Owner undertaking the proposed Development will not supply well-planned and well-designed housing for individuals or families of low and very low-income or families of moderate income;

(3) the Development Owner is not financially responsible;

(4) the Development Owner has contracted, or will contract for the proposed Development with, a Developer that:

(A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development;

(B) has breached a contract with a public agency and failed to cure that breach; or

(C) misrepresented to a subcontractor the extent to which the Developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Developer's participation in contracts with the agency and the amount of financial assistance awarded to the Developer by the agency;

(5) the financing of the housing Development is not a public purpose and will not provide a public benefit; and

(6) the Development will be undertaken outside the authority granted by this chapter to the Department and the Development Owner.

(d) Representation by Former Board Member or Other Person. (~~2306.6733~~ §2306.6733)

(1) A former Board member or a former executive director, deputy executive director, director of multifamily finance production, director of portfolio management and compliance, director of real estate analysis or manager over housing tax credits previously employed by the Department may not:

(A) for compensation, represent an Applicant or one of its Related Parties for an allocation of tax credits before the second anniversary of the date that the Board member's, director's, or manager's service in office or employment with the Department ceased;

(B) represent any Applicant or a Related Party of an Applicant or receive compensation for services rendered on behalf of any Applicant or Related Party regarding the consideration of an Application in which the former board member, director, or manager participated during the period of service in office or employment with the Department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an Applicant or Related Party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the Department ceased.

(2) A Person commits a criminal offense if the Person violates ~~section~~ §2306.6733. An offense under this section is a Class A misdemeanor.

(e) **Due Diligence, Sworn Affidavit.** In exercising due diligence in considering information of possible ineligibility, possible grounds for disqualification and debarment, Applicant and Development standards, possible improper representation or compensation, or similar matters, the Department may request a sworn affidavit or affidavits from the Applicant, Development Owner, Developer, Guarantor, or other persons addressing the matter. If an affidavit determined to be sufficient by the Department is not received by the Department within seven business days of the date of the request by the Department, the Department may terminate the Application.

(f) **Appeals and Administrative Deficiencies for Ineligibility, Disqualification and Debarment.** An Applicant or Person found ineligible, disqualified, debarred or otherwise terminated under subsections (a) - (e) of this section will be notified in accordance with the Administrative Deficiency process described in ~~§50.49.9(d)(4)~~ §50.49.9(d)(4) of this title. They may also utilize the appeals process described in ~~§50.49.17(b)~~ §50.49.17(b) of this title. (~~2306.6721(d)~~)

§50.49.6. Site and Development Restrictions: Floodplain; Ineligible Building Types; Scattered Site Limitations; Credit Amount; Limitations on the Size of Developments; Limitations ~~on~~ Rehabilitation Costs; Unacceptable Sites; Appeals and Administrative Deficiencies for Site and Development Restrictions.

(a) **Floodplain.** Any Development proposing New Construction located within the 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the 100 year floodplain. No buildings or roads that are part of a Development proposing Rehabilitation, with the exception of Ddevelopments with federal funding assistance from HUD or TX USDA-RHS, will be permitted in the 100 year floodplain unless they already meet the requirements established in this subsection for New Construction.

(b) **Ineligible Building Types.** Applications involving Ineligible Building Types as defined in ~~§50.49.3(5249)~~ §50.49.3(5249) of this title will not be considered for allocation of tax credits.

(c) **Scattered Site Limitations.** Consistent with ~~§50.49.3(319)~~ §50.49.3(319) of this title, a Development must be financed under a common plan, be owned by the same Person for federal tax purposes, and the buildings may be either located on a single site or contiguous site, or be located on scattered sites and contain only rent-restricted units.

(d) **Credit Amount.** The Department shall issue tax credits only in the amount needed for the financial feasibility and viability of a Development throughout the affordability period. The issuance of tax credits or the determination of any allocation amount in no way represents or purports to warrant the feasibility or viability of the Development by the Department, or that the Development will qualify for and be able to claim Housing Tax Credits. The Department will limit the allocation of tax credits to no more than \$1.2 million per Development. The Department shall not allocate more than \$2 million of tax credits in any given Application Round to any Applicant, Developer, Related Party or Guarantor; Housing Tax Credits approved by the Board during the ~~2006~~ 2007 calendar year, including commitments from the ~~2006-2007~~ Credit Ceiling and forward commitments from the ~~2007-2008~~ Credit Ceiling, are applied to the credit cap limitation for the ~~2006-2007~~ Application Round. In order to encourage the capacity enhancement of developers in rural areas, the Department will prorate the credit amount allocated in situations where an Application is submitted in the Rural Regional Allocation and the Development has 76 Units or less. The Department will prorate the credits based on the percentage ownership, if there is an ownership interest, or the proportional percentage of the developer fee received, if this applies to a Developer without an ownership interest. To be considered for this provision, a copy of a Joint Venture Agreement and narrative on how this builds the capacity of the inexperienced developers is required. Tax-Exempt Bond Development Applications are not subject to these Housing Tax Credit limitations, and Tax-Exempt Bond Developments will not count towards the total limit on tax credits per Applicant. The limitation does not apply (~~2306-~~§2306.6711(b)):

(1) to an entity which raises or provides equity for one or more Developments, solely with respect to its actions in raising or providing equity for such Developments (including syndication related activities as agent on behalf of investors);

(2) to the provision by an entity of "qualified commercial financing" within the meaning of the Code (without regard to the 80% limitation thereof);

(3) to a Qualified Nonprofit Organization or other not-for-profit entity, to the extent that the participation in a Development by such organization consists only of the provision of loan funds, grants or social services; and

(4) to a Development Consultant with respect to the provision of consulting services, provided the Development Consultant fee received for such services does not exceed 10% of the fee to be paid to the Developer (or 20% for Qualified Nonprofit Developments), or \$150,000, whichever is greater.

(e) **Limitations on the Size of Developments.**

(1) The minimum Development size will be 16 Units if the Development involves Housing Tax Credits. The minimum Development size will be 4 Units if the funding source only involves the Housing Trust Fund or HOME Program.

(2) Rural Developments involving any New Construction (excluding New Construction of non-residential buildings) will be limited to 76 Units. Rural Developments involving only Rehabilitation do not have a size limitation.

(3) Developments involving any New Construction (excluding New Construction of non-residential buildings), that are not Tax-Exempt Bond Developments, will be limited to 252 Total Units, wherein the maximum Department administered Units will be limited to 200 Units. Tax-Exempt Bond Developments will be limited to 252 Total Units. These maximum Unit limitations also apply to those Developments which involve a combination of Rehabilitation, Reconstruction, and New Construction. Developments that consist solely of acquisition/Rehabilitation or Rehabilitation only may exceed the maximum Unit restrictions.

(4) For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is 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, unless a market study supports the absorption of additional units) or that were originally located within a one mile radius from the proposed Development, the combined Unit total for the Developments may not exceed the maximum allowable Development size, unless the first phase has been completed and has attained Sustaining Occupancy (as defined in §1.31 of this title) for at least six months.

(f) **Limitations on the Location of Developments.** Staff will only recommend, and the Board may only allocate, housing tax credits from the Credit Ceiling to more than one Development from the Credit Ceiling in the same calendar year if the Developments are, or will be, located more than one linear mile apart as determined by the Department. If the Board forward commits credits from the following year's allocation of credits, the Development is considered to be in the calendar year in which the Board votes, not in the year of the Credit Ceiling. This limitation applies only to communities contained within counties with populations exceeding one million (which for calendar year ~~2006~~2007 are Harris, Dallas, Tarrant and Bexar Counties). For purposes of this rule, any two sites not more than one linear mile apart are deemed to be "in a single community." (~~2306-~~§2306.6711) This restriction does not apply to the allocation of housing tax credits to

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

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-~~§2306.67021)

(g) Limitations of Development in Certain Census Tracts. Staff will not recommend and the Board will not allocate housing tax credits for a Competitive Housing Tax Credit or Tax Exempt Bond Development located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tract as established by the U.S. Census Bureau for the most recent Decennial Census unless the Applicant:

(1) In an area whose population is less than 100,000;

(2) Proposes only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings); or,

(3) Submits to the Department an approval of the Development referencing this rule in the form of a resolution from the governing body of the appropriate municipality or county containing the Development. For purposes of this paragraph, evidence of the local government approval must be received by the Department no later than April 2, 2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed). These ineligible census tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(h) Limitations on Developments Proposing to Qualify for a 30% increase in Eligible Basis. Staff will only recommend a 30% increase in Eligible Basis:

(1) If the Development proposing to build in a Hurricane Rita Gulf Opportunity Zone (Rita GO Zone), which was designated as a Difficult to Develop Area as determined by HB4440, is able to be placed in service by December 31, 2008 (or date as revised by the Internal Revenue Service) as certified in the Application; or,

(2) The Development is located in a Qualified Census Tract that has less than 40% Housing Tax Credit Units per households in the tract as established by the U.S. Census Bureau for the most recent Decennial Census. Developments located in a Qualified Census Tract that has in excess of 40% Housing Tax Credit Units per households in the tract are not eligible to qualify for a 30% increase in Eligible Basis, which would otherwise be available for the Development site pursuant to the Code, §42(d)(5)(C), unless the Development is proposing only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings). These ineligible Qualified Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(ig) Rehabilitation Costs. ~~Rehabilitation~~ Developments involving Rehabilitation must establish that the Rehabilitation will substantially improve the condition of the housing and will involve at least \$12,000 per Unit in direct hard costs (including site work, contingency, contractor profit, overhead and general requirements) unless financed with TX-USDA-RHS in which case the minimum is \$6,000.

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

(ki) Appeals and Administrative Deficiencies for Site and Development Restrictions. An Application or Development found to be in violation under subsections (a) - (h) of this section will be notified in accordance with the Administrative Deficiency process described in ~~§50-49.9~~(d)(4) of this title. They may also utilize the appeals process described in ~~§50-49.17~~(b) of this title.

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

(a) Regional Allocation Formula. As required by §2306.111(d), Texas Government Code, the Department uses a regional distribution formula developed by the Department to distribute credits from the State Housing Credit Ceiling to all urban/exurban areas and rural areas. The formula is based on the need for housing assistance, and the availability of housing resources in those urban/exurban areas and rural areas, and the Department uses the information contained in the Department's annual state low income housing plan and other appropriate data to develop the formula. This formula establishes separate targeted tax credit amounts for rural areas and urban/exurban areas within each of the Uniform State Service Regions. Each Uniform State Service Region's targeted tax credit amount will be published on the Department's web site. The regional allocation for rural areas is referred to as the Rural Regional Allocation and the regional allocation for urban/exurban areas is referred to as the Urban/Exurban Regional Allocation. Developments qualifying for the Rural Regional Allocation must meet the Rural Development definition. At least 5% of each region's allocation for each calendar year shall be allocated to Developments which are financed through TX-USDA-RHS, that meet the definition of a Rural Development, do not exceed 76 Units if proposing any New Construction (excluding New Construction of non-residential buildings), and have filed an "Intent to Request ~~2006~~2007 Housing Tax Credits" form by the Pre-Application submission deadline. These Developments will be attributed to the Rural Regional Allocation in each region where they are located. New Construction Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will not be considered under this set-aside. Any Rehabilitation or Reconstruction of

an existing 515 development that retains the 515 loan and restrictions, regardless of the source or nature of additional financing, will be considered under this set-aside. Commitments of ~~2006~~2007 Housing Tax Credits issued by the Board in ~~2005~~2006 will be applied to each Set-Aside, Rural Regional Allocation, Urban/Exurban Regional Allocation and TX-USDA-RHS Allocation for the ~~2006~~2007 Application Round as appropriate.

(b) **Set-Asides.** An Applicant may elect to compete in as many of the following Set-Asides for which the proposed Development qualifies: (§-2306.111(d))

(1) At least 10% of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of the Code, §42(h)(5). Qualified Nonprofit Organizations must have the Controlling interest in the Qualified Nonprofit Development applying for this Set-Aside. If the organization's Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the controlling managing General Partner. If the organization's Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member. Additionally, a Qualified Nonprofit Development submitting an Application in the nonprofit set-aside must have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or a co-Developer as evidenced in the development agreement. (~~2306-§2306.6729~~ and ~~2306-§2306.6706~~(b))

(2) At least 15% of the allocation to each Uniform State Service Region will be set aside for allocation under the At-Risk Development Set-Aside. Through this Set-Aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of Developments designated as At-Risk Developments as defined in §50-49.3(13) of this title. (~~2306-§2306.6714~~). To qualify as an At-Risk Development, the Applicant must provide evidence that it either is not eligible to renew, retain or preserve any portion of the financial benefit described in §50-49.3(13)(A) of this title, or provide evidence that it will renew, retain or preserve the financial benefit described in §50-49.3(13)(A) of this title; and must have filed an "Intent to Request ~~2006~~2007 Housing Tax Credits" form by the Pre-Application submission deadline.

(c) **Redistribution of Credits.** (~~2306-§2306.111~~(d)) If any amount of housing tax credits remain after the initial commitment of housing tax credits among the Rural Regional Allocation and Urban/Exurban Regional Allocation within each Uniform State Service Region and among the Set-Asides, the Department may redistribute the credits amongst the different regions and Set-Asides depending on the quality of Applications submitted as evaluated under the factors described in §50-49.9(d) of this title, the need to most closely achieve regional allocation goals and then the level of demand exhibited in the Uniform State Service Regions during the Allocation Round. However as described in subsection (b)(1) of this section, no more than 90% of the State's Housing Credit Ceiling for the calendar year may go to Developments which are not Qualified Nonprofit Developments. If credits will be transferred from a Uniform State Service Region which does not have enough qualified Applications to meet its regional credit distribution amount, then those credits will be apportioned to the other Uniform State Service Regions.

§50-49.8. Pre-Applications for Competitive Housing Tax Credits: Submission; Communication with Departments Staff; Evaluation Process; Threshold Criteria and Review; Results. (~~2306-§2306.6704~~)

(a) **Pre-Application Submission.** Any Applicant requesting a Housing Credit Allocation may submit a Pre-Application to the Department during the Pre-Application Acceptance Period along with the required Pre-Application Fee as described in §50-49.20 of this title. Only one Pre-Application may be submitted by an Applicant for each site under the State Housing Credit Ceiling. The Pre-Application submission is a voluntary process. While the Pre-Application Acceptance Period is open, Applicants may withdraw their Pre-Application and subsequently file a new Pre-Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized to request the Applicant to provide additional information it deems relevant to clarify information contained in the Pre-Application or to submit documentation for items it considers to be Administrative Deficiencies. The rejection of a Pre-Application shall not preclude an Applicant from submitting an Application with respect to a particular Development or site at the appropriate time.

(b) **Communication with the Department.** Applicants that submit a Pre-Application are restricted from communication with Department staff as provided in §50-49.9(b) of this title. (~~2306-§2306.1113~~)

(c) **Pre-Application Evaluation Process.** Eligible Pre-Applications will be evaluated for Pre-Application Threshold Criteria. A TX USDA RHS 515 Development (only for Rehabilitation) will receive the Pre-Application points further outlined in §50.9(i) of this title upon submission to the Department of an executed TX USDA RHS letter indication TX USDA RHS has received a Consent Request, also referred to as a preliminary Submittal, as described in 7 CFR 3560.406. Applications involving New Construction that are associated with a TX-USDA-RHS Development are not exempt from Pre-Application and are eligible to compete for the Pre-Application points

further outlined in ~~§50.49.9(i)~~ of this title. ~~An Application that has not received confirmation from the state office of RHS of its financing from TX USDA RHS may qualify for Pre-Application points, but such points shall be withdrawn upon the Development's receipt of TX USDA RHS financing.~~ Pre-Applications that are found to have Administrative Deficiencies will be handled in accordance with ~~§50.49.9(d)(4)~~ of this title. Department review at this stage is limited and not all issues of eligibility and threshold are reviewed at Pre-Application. Acceptance by staff of a Pre-Application does not ensure that an Applicant satisfies all Application eligibility, Threshold or documentation requirements. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or threshold deficiencies at the time of Pre-Application.

(d) **Pre-Application Threshold Criteria and Review.** Applicants submitting a Pre-Application will be required to submit information demonstrating their satisfaction of the Pre-Application Threshold Criteria. The Pre-Applications not meeting the Pre-Application Threshold Criteria will be terminated and the Applicant will receive a written notice to the effect that the Pre-Application Threshold Criteria have not been met. The Department shall not be responsible for the Applicant's failure to meet the Pre-Application Threshold Criteria and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Pre-Application Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. The Pre-Application Threshold Criteria include:

(1) Submission of a "Pre-Application Submission Form" and "Certification of Pre-Application Itemized Self-Score" . The applicant may not change the Self-Score unless requested by the Department in a Deficiency Notice; and

(2) Evidence of property control through March 1, ~~2006~~2007 as evidenced by the documentation required under ~~§50.49.9(h)(7)(A)~~ of this title.

(3) Evidence in the form of a certification that all of the notifications required under this paragraph have been made. ~~Notifications-Requests for Neighborhood Organizations~~ under subparagraph (BA)(i) of this paragraph must be made by the deadlines described in that clause; notifications under subparagraphs ~~(CB)(ii)-(ix)~~ of this paragraph must be made prior to the close of the Pre-Application Acceptance Period. ~~(2306-§2306.6704)~~ Evidence of notification must meet the requirements identified in subparagraph (AB) of this paragraph to all of the individuals and entities identified in subparagraph (CB) of this paragraph. ~~Evidence of such notifications shall include a certification in the format provided by the Department that the Applicant made the notifications to all required individuals and entities in the format provided by the Department on or before the deadlines. (2306-§2306.6704)~~

(A) The Applicant must request Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site as follows:

(i) No later than December 08, 2006, the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Pre-Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format.

(ii) If no reply letter is received from the local elected officials by January 1, 2007, then the Applicant must certify to that fact in the "Pre-Application Notification Certification Form" provided in the Pre-Application.

(iii) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of Pre-Application Submission in the "Pre-Application Notification Certification Form" provided in the Pre-Application.

(A) Each such notice must include, at a minimum, all of the following:

- (i) The Applicant's name, address, individual contact name and phone number;
- (ii) The Development name, address, city and county;
- (iii) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
- (iv) Statement of whether the Development proposes New Construction or Rehabilitation;
- (v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing, or elderly);
- (vi) The approximate total number of Units and approximate total number of low income Units;

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

- ~~(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) Not later than the date the Pre-Application is submitted, Notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt return or similar tracking mechanism in the format required in the "Pre-Application Notification Template" provided in the Pre-Application. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials. Evidence of Notification is required in the form of a certification in the "Pre-Application Notification Certification Form" provided in the Pre-Application, although it is encouraged that Applicants retain proof of notifications in the event that the Department requires proof of Notification. Officials to be notified are those officials in office at the time the Pre-Application is submitted.

~~(i) Neighborhood Organizations on record with the city, state or county whose boundaries include the proposed Development Site as identified in subsection (A)(iii) of this subparagraph. Applicants must provide evidence that neighborhood organizations were notified pursuant to this subsection. Evidence in the form of a certification must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Neighborhood Organization Request" as outlined in the Application was sent no later than December 20, 2005 to the local elected official for the city or if located outside of a city, then the county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, or both at large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located in a jurisdiction that has only at large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. For urban/exurban areas, entities identified in the letter from the local elected official whose boundaries include the proposed Development and whose listed address has the same zip code as the zip code for the Development must be provided with written notification. If any other zip codes exist within a half mile of the Development site, then all entities identified in the letters with those adjacent zip codes must also be provided with written notification. For rural areas, all entities identified in the letters whose listed address is within a half mile of the Development site must be provided with written notification. If the Applicant can certify that there are no neighborhood organizations on any list from the local elected officials which are required to be notified pursuant to this subsection, then such certification in lieu of notification may be acceptable. If no reply letter is received from the local elected officials by January 1, 2006, (or For Tax Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application) then the Applicant must submit a statement attesting to that fact. If an Applicant has knowledge of any neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site, the Applicant must notify those organizations. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format. If the Applicant has no knowledge of neighborhood organizations within whose boundaries the Development is proposed to be located, the Applicant must attest to that fact in the format provided by the Department as part of the Application.~~

~~(ii) Superintendent of the school district containing the Development;~~

~~(iii) Presiding officer of the board of trustees of the school district containing the Development;~~

~~(iv) Mayor of any municipality containing the Development;~~

~~(v) All elected members of the governing body of any municipality containing the Development;~~

~~(vi) Presiding officer of the governing body of the county containing the Development;~~

~~(vii) All elected members of the governing body of the county containing the Development;~~

~~(viii) State senator of the district containing the Development; and~~

~~(ix) State representative of the district containing the Development.~~

(C) Each such notice must include, at a minimum, all of the following:

(i) The Applicant's name, address, individual contact name and phone number;

(ii) The Development name, address, city and county;

(iii) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;

- Rehabilitation:
- (iv) Statement of whether the Development proposes New Construction, Reconstruction, or
 - (v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing, or elderly);
 - (vi) The approximate total number of Units and approximate total number of low-income
- Units:
- (vii) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;
 - (viii) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Pre-Application, which are subject to change as annual changes in the area median income occur; and
 - (ix) The expected completion date if credits are awarded.

(e) **Pre-Application Results.** Only Pre-Applications which have satisfied all of the Pre-Application Threshold Criteria requirements set forth in subsection (d) of this section and ~~§50-49.9(i)(132)~~ of this title, will be eligible for Pre-Application points. The order and scores of those Developments released on the Pre-Application Submission Log do not represent a commitment on the part of the Department or the Board to allocate tax credits to any Development and the Department bears no liability for decisions made by Applicants based on the results of the Pre-Application Submission Log. Inclusion of a Development on the Pre-Application Submission Log does not ensure that an Applicant will receive points for a Pre-Application.

~~§50-49.9.~~ Application: Submission; Communication with Department Employees; Adherence to Obligations; Evaluation Process for Competitive Applications Under the State Housing Credit Ceiling; Evaluation Process for Tax-Exempt Bond Development Applications; Evaluation Process for Rural Rescue Applications Under the ~~20072008~~ Credit Ceiling; Experience Pre-Certification Procedures; Threshold Criteria; Selection Criteria; Tiebreaker Factors; Staff Recommendations.

(a) **Application Submission.** Any Applicant requesting a Housing Credit Allocation or a Determination Notice must submit an Application, and the required Application fee as described in ~~§50-49.20~~ of this title, to the Department during the Application Acceptance Period. Only complete Applications will be accepted. All required volumes must be appropriately bound as required by the Application Submission Procedures Manual and fully complete for submission and received by the Department not later than 5:00 p.m. on the date the Application is due. A searchable electronic copy of all required volumes and exhibits, unless otherwise indicated in the Application Submission Procedures Manual, must be submitted in the format of a single file presented in the order they appear in the hard copy of the complete Application on a CD-R clearly labeled with the report type, Development name, and Development location is required for submission and received by the Department not later than 5:00 p.m. on the date the Application is due. Only one Application may be submitted for a site in an Application Round. While the Application Acceptance Period is open, Applicants may withdraw their Application and subsequently file a new Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized, but not required, to request the Applicant to provide additional information it deems relevant to clarify information contained in the Application or to submit documentation for items it considers to be an Administrative Deficiency, including ineligibility criteria, site and development restrictions, and threshold and selection criteria documentation. (~~2306-§2306.6708~~) An Applicant may not change or supplement an Application in any manner after the filing deadline, and may not add any set-asides, increase their credit amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct request from the Department to remedy an Administrative Deficiency as further described in ~~§50-49.3(1)~~ of this title or by amendment of an Application after a commitment or allocation of tax credits as further described in ~~§50-49.17(d)~~ of this title.

(b) **Communication with Department Employees.** Communication with Department staff by Applicants that submit a Pre-Application or Application must follow the following requirements. During the period beginning on the date a Development Pre-Application or Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person that is active in the construction, rehabilitation, ownership or Control of the proposed Development including a General Partner or contractor and a Principal or Affiliate of a General Partner or contractor, or individual employed as a lobbyist by the Applicant or a Related Party, may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet, so long as that communication satisfies the conditions established under paragraphs (1) - (3) of this subsection. Section ~~50-49.5(b)(6)~~ of this title applies to all communication with Board members. Communications

with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.

(1) The communication must be restricted to technical or administrative matters directly affecting the Application;

(2) The communication must occur or be received on the premises of the Department during established business hours (emails may be sent and received after business hours);

(3) a record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication. (~~2306-~~§2306.1113)

(c) **Adherence to Obligations.** (~~2306-~~§2306.6720, General Appropriation Act, Article VII, Rider 8(a)) All representations, undertakings and commitments made by an Applicant in the application process for a Development, whether with respect to Threshold Criteria, Selection Criteria or otherwise, shall be deemed to be a condition to any Commitment Notice, Determination Notice, or Carryover Allocation for such Development, the violation of which shall be cause for cancellation of such Commitment Notice, Determination Notice, or Carryover Allocation by the Department, and if concerning the ongoing features or operation of the Development, shall be enforceable even if not reflected in the LURA. All such representations are enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, as stated in the representations and in accordance with the LURA. Effective December 1, 2006 (~~meaning this does not apply to amendments received prior to this effective date and does not apply to 2006 Tax Credit Applications~~), if a Development Owner does not produce the Development as represented in the Application and in any amendments approved by the Department subsequent to the Application, or does not provide the necessary evidence for any points received for the Commitment of Development Funding by Local Political Subdivisions by the required deadline (~~unless granted an extension by the Department~~):

(1) the Development Owner must provide a plan to the Department, for approval and subsequent implementation, that incorporates additional amenities to compensate for the non-conforming components; and

(2) the Board will opt either to terminate the Application and rescind the Commitment Notice, Determination Notice or Carryover Allocation Agreement as applicable or the Department must:

(A) Reduce the score ~~by ten points~~ for a Applications for tax credits that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development by ten points for the two Application Rounds concurrent to, or following, the date that the non-conforming aspect, or lack of financing, was identified by the Department; and

(B) prohibit eligibility to apply for tax credits for a Tax-Exempt Bond Development that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development for 12 months from the date that the non-conforming aspect, or lack of financing, was identified by the Department.

(d) **Evaluation Process for Competitive Applications Under the State Housing Credit Ceiling.** Applications submitted for competitive consideration under the State Housing Credit Ceiling will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in ~~§50.49.5~~; Applicants will be promptly notified in these instances.

(1) Eligibility Set-Aside and Selection Criteria Review. All Applications will first be reviewed as described in this paragraph. Applications will be confirmed for eligibility ~~under §50.5 of tfor his chapter and Set-Asides eligibility will be confirmed~~. Then, each Application will be preliminarily scored according to the Selection Criteria listed in subsection (i) of this section. When a particular scoring criterion involves multiple points, the Department will award points to the proportionate degree, in its determination, to which a proposed Development complied with that criterion. As necessary to complete this process only, Administrative Deficiencies may be issued to the Applicant. This process will generate a preliminary Department score for every application.

(2) Priority Review Assessment. Each Application will be assessed based on either the Applicant's self-score or the Department's preliminary score, region, and any Set-Asides that the Application indicates it is eligible for, consistent with paragraph (5) of this subsection. Those Applications that appear to be most competitive will be designated as "priority" Applications. Applications that do not appear to be competitive may not be reviewed in detail for Eligibility and Threshold Criteria during the Application Round. The designation of priority is not a stage of the application pursuant to §49.11(a)(7) of this title, and the designations will not be posted to the Department's website until final scoring notices are issued.

(3) Eligibility and Threshold Criteria Review. Applications that are designated as "priority" from the Priority Review Assessment will be evaluated ~~in detail~~ for eligibility under ~~§§50.49.5(a)(7)-(9), 49.5(c), (e), and~~

(f), and 49.6 of this chapter. The remaining portions of the Eligibility Review under §49.5 of this chapter will be performed in the Compliance Evaluation and Eligibility Review as described under subparagraph (7) of this paragraph. Priority Applications will also be evaluated and against the Threshold Criteria under §§49.9(h)(1) - (4), (7)(A) and (B), (8), (9), (11), and (15) of this chapter, at minimum. The remaining portions of the Threshold Criteria review may be performed in the Underwriting Evaluation and Criteria review for financial feasibility by the Department's Real Estate Analysis Division as described under subparagraph (6) of this paragraph. Applications not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria. To the extent that the review of Threshold Criteria documentation, or submission of Administrative Deficiency documentation, alters the score assigned to the Application, Applicants will be notified of their final score. As Applications are evaluated under this Review process, a final score by the Department may remove the Application from "priority" status at which point other Applications may be designated as "priority" and reviewed under this paragraph.

(4) Administrative Deficiencies. If an Application contains Administrative Deficiencies pursuant to §49.3(1) of this title which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, and Selection, and Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an email, or if an e-mail address is not provided in the Application, by facsimile, email (if an email address is provided by the Applicant) and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within seven business days from the deficiency notice date, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. If the applicant fully responds to the Administrative Deficiency Notice within the third business day following the deficiency notice date, the Department will review the documentation submitted and contact the Applicant by the end of the fourth business day following the deficiency notice date with guidance on items not clarified or corrected to the satisfaction of the Department. If Administrative Deficiencies are submitted to the Department after the third business day following the deficiency notice date, the Department will not be required to review the documentation submitted until after the 5th day, nor will the Department be required to contact an Applicant with guidance on items not clarified or corrected to the satisfaction of the Department until after the 5th day. -Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period.

(5) Subsequent Evaluation of Prioritized Applications and Methodology for Award Recommendations to the Board. The Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division - in general these will be those applications identified as "priority". This prioritization order will also be used in making recommendations to the Board as follows:-

(A) Assignments will be determined by first selecting the Applications with the highest scores in the At-Risk Set-Aside and TX-USDA-RHS Allocation within each Uniform State Service Region until the minimum requirements stated in ~~§50-49.7(b)~~ of this title are attained.

(B) Remaining funds within each Uniform State Service Region will then be selected based on the highest scoring Developments in each of the 26 sub-regions, regardless of Set-Aside, in accordance with the requirements under ~~§50-49.7(a)~~ of this title, without exceeding the credit amounts available for a Rural Regional Allocation and Urban/Exurban Regional Allocation in each region.

(C) Funds for the Rural Regional Allocation or Urban/Exurban Regional Allocation for which there are more requests for credits than remaining credits available will be combined in each Uniform State Service Regions. If the next eligible application in the Rural Allocation or Urban/Exurban for a given Uniform State Service Region is less than the remaining credits in a region, then that application is selected; however, if both Rural and Urban/Exurban areas in the region have Applications that are requesting less than the remaining credits in that Uniform State Service Region, then Application in the sub-region whose shortfall of credits being recommended would have been the most significant portion of their targeted sub-regional allocation will be

selected. All credits still remaining will be combined with the remaining credits from all other regions and will be allocated to an Application in the sub-region whose shortfall of credits being recommended would have been the most significant portion of their targeted sub-regional allocation. However, once a region's awarded credits exceeds the total allocation for that region no other applications will be selected.

(D) After this priority review has occurred, staff will review priority applications to ensure that at least 10% of the priority applications are qualified Nonprofits to satisfy the Nonprofit Set-Aside. If 10% is not met, then the Department will add the highest Qualified Nonprofits statewide until the 10% Nonprofit Set-Aside is met. Selection for each of the Set-Asides will take precedence over selection for the Rural Regional Allocation and Urban/Exurban Regional Allocation. Funds for the Rural Regional Allocation or Urban/Exurban Regional Allocation within a region, for which there are no eligible feasible applications, will be redistributed as provided in ~~§50-49.7(c)~~ of this title, Redistribution of Credits. If the Department determines that an allocation recommendation would cause a violation of the \$2 million limit described in ~~§50-49.6(d)~~ of this title, the Department will make its recommendation by selecting the Development(s) that most effectively satisfies(y) the Department's goals in meeting set-aside and regional allocation goals. Based on Application rankings, the Department shall continue to underwrite Applications until the Department has processed enough Applications satisfying the Department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and Set-Aside categories. To enable the Board to establish a Waiting List, the Department shall underwrite as many additional Applications as necessary to ensure that all available housing tax credits are allocated within the period required by law. (~~2306-§2306.6710(a), (b) and (d); 2306-§2306.111)~~)

(6) Underwriting Evaluation and Criteria. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits. In determining an appropriate level of housing tax credits, the Department shall, at a minimum, evaluate the cost of the Development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for the county in which the Development is to be located; if certifications are unavailable for the county, then the metropolitan statistical area in which the Development is to be located; or if certifications are unavailable under the county or the metropolitan statistical area, then the Uniform State Service Region in which the Development is to be located. Underwriting of a Development will include a determination by the Department, pursuant to the Code, §42, that the amount of credits recommended for commitment to a Development is necessary for the financial feasibility of the Development and its long-term viability as a qualified rent restricted housing property. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title. To the extent that the review of Administrative Deficiency documentation during this review alters the score assigned to the Application, Applicants will be re-notified of their final score. Receipt of feasibility points under ~~§50-49.9(i)(1)~~ of this title does not ensure that an Application will be considered feasible during the feasibility evaluation by the Real Estate Analysis Division and conversely, a Development may be found feasible during the feasibility evaluation by the Real Estate Analysis Division even if it did not receive points under ~~§50-49.9(i)(1)~~ of this title. (~~2306-§2306.6711(b); 2306-§2306.6710(d)~~)

(A) The Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation.

(B) The Department will reduce the Applicant's estimate of Developer's and/or Contractor fees in instances where these exceed the fee limits determined by the Department. 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. The Developer's fee limits will be calculated as follows:

(i) new construction pursuant to §42(b)(1)(A) U.S.C, the developer fee cannot exceed 15% of the project's Total Eligible Basis, less developer fees, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less; and

(ii) acquisition/rehabilitation developments that are eligible for acquisition credits pursuant to §42(b)(1)(B) U.S.C, the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less, and will be limited to 4% credits. The rehabilitation portion of the developer fee cannot exceed 15% of the total rehabilitation basis, less developer fee, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less.

(7) Compliance Evaluation and Eligibility Review. After the Department has determined which Developments will be reviewed for financial feasibility, those same Developments will be reviewed for evaluation of the compliance status by the Department's Portfolio Management and Compliance Division, in accordance with Chapter 60 of this title, and will be evaluated in detail for eligibility under §§49.5(a)(1)-(5) , 49.5(b), and 49.5(d) of this chapter.

(8) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its assigns. Such inspection will evaluate the site based upon the criteria set forth in the Site Evaluation form provided in the Application and the inspector shall provide a written report of such site evaluation. The evaluations shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational, and educational facilities, and employment centers. The site's appearance to prospective tenants and its accessibility via the existing transportation infrastructure and public transportation systems shall be considered. "Unacceptable" sites include, without limitation, those containing a non-mitigable environmental factor that may adversely affect the health and safety of the residents. For Developments applying under the TX-USDA-RHS Set-Aside, the Department may rely on the physical site inspection performed by TX-USDA-RHS.

(e) **Evaluation Process for Tax-Exempt Bond Development Applications.** Applications submitted for consideration as Tax-Exempt Bond Developments will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in ~~§50-49.5~~; Applicants will be promptly notified in these instances.

(1) **Eligibility and Threshold Criteria Review.** All Tax-Exempt Bond Development Applications will first be reviewed as described in this paragraph. Tax-Exempt Bond Development Applications will be confirmed for eligibility under ~~§§50-49.5~~ and ~~§50-49.6~~ of this chapter and Applications will be evaluated in detail against the Threshold Criteria. Tax-Exempt Bond Development Applications found to be ineligible and/or not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria.

(2) **Administrative Deficiencies.** If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies ~~as further described in subsection (d)(4) of this section.~~ Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. All Administrative Deficiencies shall be clarified or corrected to the satisfaction of the Department within five business days. Failure to resolve all outstanding deficiencies within 5 business days from the deficiency notice date will result in a penalty fee of \$500 for each business day the deficiency remains unresolved. Applications with unresolved deficiencies after the 10th day from the issuance of the deficiency notice will be terminated. The Applicant will be responsible for the payment of fees accrued pursuant to this section regardless of any termination pursuant to this section. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. The Application will not be presented to the Board for consideration until all outstanding fees have been paid.

(3) **Underwriting and Compliance Evaluation and Criteria.** The Department will assign all eligible Tax-Exempt Bond Development Applications meeting the eligibility and threshold requirements for review for financial feasibility by the Department's Real Estate Analysis Division, or the Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation. The Department or external party shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits as further described in subsection (d)(6) of this section. Tax-Exempt Bond Development Applications will also be reviewed for evaluation of the compliance status by the Department's Portfolio Management and Compliance Division in accordance with Chapter 60 of this title.

(4) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its assigns as further described in subsection (d)(8) of this section.

(f) **Evaluation Process for Rural Rescue Applications Under the ~~2007~~2008 Credit Ceiling.** Applications submitted for consideration as Rural Rescue Applications pursuant to ~~§50-49.10(c)~~ of this title under the ~~2007~~2008 Credit Ceiling will be reviewed according to the process outlined in this subsection. A Rural Rescue Application, during any of these stages of review, may be determined to be ineligible as further described in ~~§50-49.5~~ of this chapter; Applicants will be promptly notified in these instances.

(1) **Eligibility and Threshold Criteria Review.** All Rural Rescue Applications will first be reviewed as described in this paragraph. Rural Rescue Applications will be confirmed for eligibility under ~~§50-49.5~~ and ~~§50-49.6~~ of this chapter, Set-Aside and Rural Rescue eligibility will be confirmed, and Applications will be evaluated in detail against the Threshold Criteria. Applications found to be ineligible and/or not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria.

(2) **Selection Criteria Review.** All Rural Rescue Applications will be evaluated against the Selection Criteria and a score will be assigned to the Application. The minimum score for Selection Criteria is not required to be achieved to be eligible.

(3) **Administrative Deficiencies.** If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies as further described in subsection (d)(4) of this section.

(4) **Underwriting and Compliance Evaluation and Criteria.** The Department will assign all eligible ~~Tax-Exempt Bond Development~~Rural Rescue Applications meeting the eligibility and threshold requirements for review for financial feasibility by the Department's Real Estate Analysis Division, or the Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation. The Department or external party shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits as further described in subsection (d)(6) of this section. ~~Tax-Exempt Bond~~Rural Rescue Development Applications will also be reviewed for evaluation of the previous participation by the Department's Portfolio Management and Compliance Division in accordance with Chapter 60 of this title.

(5) **Site Evaluation.** Site conditions shall be evaluated through a physical site inspection by the Department or its assigns as further described in subsection (d)(8) of this section.

(g) **Experience Pre-Certification Procedures.** No later than 14 days prior to the close of the Application Acceptance Period, an Applicant must submit the documents required in this subsection to obtain the required pre-certification. For Applications submitted for Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) all of the documents in this section must be submitted with the Application. Upon receipt of the evidence required under this section, a certification from the Department will be provided to the Applicant for inclusion in their Application(s). Evidence must show that one of the Development Owner's General Partners, the Developer or their Principals have a record of successfully constructing or developing residential units (single family or multifamily) in the capacity of owner, General Partner or Developer. If a Public Housing Authority organized an entity for the purpose of developing residential units the Public Housing Authority shall be considered a principal for the purpose of this requirement. If the individual requesting the certification was not the Development Owner, General Partner or Developer, but was the individual within one of those entities doing the work associated with the development of the units, the individual must show that the units were successfully developed as required below, and also provide written confirmation from the entity involved stating that the individual was the person responsible for the development. If rehabilitation experience is being claimed to qualify for an Application involving new construction, then the rehabilitation must have been substantial and involved at least \$6,000 of direct hard cost per unit.

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

(A) at least 100 residential units or, if less than 100 residential units, 80 percent of the total number of Units the Applicant is applying to build (e.g. you must have 40 units successfully built to apply for 50 Units); or

(B) at least 36 residential units if the Development ~~applying for credits~~ is a Rural Development; or

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

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

(2) One or more of the following documents must be submitted: American Institute of Architects (AIA) Document A111 - Standard Form of Agreement Between Owner & Contractor, AIA Document G704 - Certificate of Substantial Completion, IRS Form 8609, HUD Form 9822, development agreements, partnership agreements, or other documentation satisfactory to the Department verifying that the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals have the required experience. If submitting the IRS Form 8609, only one form per Development is required. The evidence must clearly indicate:

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

(B) that the names on the forms and agreements tie back to the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals as listed in the Application; and

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

(h) **Threshold Criteria.** The following Threshold Criteria listed in this subsection are mandatory requirements at the time of Application submission unless specifically indicated otherwise:

(1) Completion and submission of the Application, which includes the entire Uniform Application and any other supplemental forms which may be required by the Department. ~~(2306-§2306.1111)~~

(2) Completion and submission of the Site Packet as provided in the Application.

(3) Set-Aside Eligibility. Documentation must be provided that confirms eligibility for all Set-Asides under which the Application is seeking funding as required in the Application.

(4) Certifications. The "Certification Form" provided in the Application confirming the following items:

(A) A certification of the basic amenities selected for the Development. All Developments, must meet at least the minimum threshold of points. These points are not associated with the selection criteria points in subsection (i) of this section. The amenities selected must be made available for the benefit of all tenants. If fees in addition to rent are charged for amenities reserved for an individual tenant's use, then the amenity may not be included among those provided to satisfy this requirement. Developments must provide a minimum number of common amenities in relation to the Development size being proposed. The amenities selected must be selected from clause (ii) of this subparagraph and made available for the benefit of all tenants. Developments proposing Rehabilitation or proposing Single Room Occupancy will receive 1.5 points ~~double points~~ for each point item. Applications for non-contiguous scattered site housing, including New Construction, Reconstruction, Rehabilitation, and single-family design, will have the threshold test applied based on the number of Units per individual site, and must submit a separate certification for each individual site under control by the Applicant ~~individual site~~. Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with ~~§50-49.17(d)~~ of this title and may result in a decrease in awarded credits if the substitution or change includes a decrease in cost, or in the cancellation of a Commitment Notice or Carryover Allocation if all of the Common Amenities claimed are no longer met.

(i) Applications must meet a minimum threshold of points (based on the total number of Units in the Development) as follows:

(I) Total Units are less than 13, 0 points are required to meet Threshold for Single Room Occupancy ~~Rehabilitation~~ and 1 point is required to meet threshold for all other Developments ~~for New Construction~~;

(II) Total Units are between 13 and 24, 1 point is required to meet Threshold;

(III) Total Units are between 25 and 40, 3 points are required to meet Threshold;

(IV) Total Units are between 41 and 76, 6 points are required to meet Threshold;

(V) Total Units are between 77 and 99, 9 points are required to meet Threshold;

(VI) Total Units are between 100 and 149, 12 points are required to meet Threshold;

(VII) Total Units are between 150 and 199, 15 points are required to meet Threshold;

(VIII) Total Units are 200 or more, 18 points are required to meet Threshold.

(ii) Amenities for selection include those items listed in subclauses (I) - (XXIV) of this clause.

Both Developments designed for families and Qualified Elderly Developments can earn points for providing each identified amenity unless the item is specifically restricted to one type of Development. All amenities must meet accessibility standards as further described in ~~§§50-49.9(h)(4)(D)~~ and (F) of this title. An Application can only count an amenity once, therefore combined functions (a library which is part of a community room) only count under one category. Spaces for activities must be sized appropriately to serve the anticipated population.

(I) Full perimeter fencing (2 points);

(II) Controlled gate access (1 point);

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

(IV) Accessible walking/ jogging path separate from a sidewalk (1 point);

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

- ~~(V) Community gardens (1 point);~~
- (V4) Community laundry room with at least one front loading washer (1 point);
- (VI4) ~~Public telephone(s)~~ Emergency 911 telephones accessible and available to tenants 24 hours a day (2 points);
- (VII4) Barbecue grills and picnic tables--at least one of each for every 50 Units (1 point);
- ~~(VIII) Covered pavilion that includes barbecue grills and tables (2 points);~~
- (IX) Swimming pool (3 points);
- (X4) Furnished fitness center (2 points);
- (XI4) Equipped and functioning Bbusiness Center ~~(computer and fax machine)~~ or eEquipped Computer Learning cCenter with 1 computer for every 30 Units proposed in the Application, 1 printer for every 3 computers (with minimum of one printer), and 1 fax machine (2 points);
- (XII4) Furnished Community room (1 point);
- ~~(XIII) Library with an accessible sitting area (separate from the community room) (1 point);~~
- (XIV) Enclosed sun porch or covered community porch/patio (2 points);
- (XV4) Service coordinator office in addition to leasing offices (1 point);
- (XVI4) Senior Activity Room (Arts and Crafts, etc.)--Only Qualified Elderly Developments Eligible (2 points);
- (XVII4) Health Screening Room (1 point);
- ~~(XVIII) Secured Entry (elevator buildings only)--(1 point);~~
- (XIX) Horseshoe pit, Lawn Bowling Courts, Croquet Courts, Bocce Ball Courts, Pputting Ggreen or Sshuffleboard Ccourt--Only Qualified Elderly Developments Eligible (1 point);
- (XX4) Community Dining Room w/full or warming kitchen--Only Qualified Elderly Developments Eligible (3 points);
- ~~(XXI) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot, -Only Family Developments Eligible-Only Family Developments Eligible (1 Point)~~
- (XXII) Two Children's Playgrounds Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each--Only Family Developments Eligible (2 points) ~~or one point for one playground or one tot lot;~~
- (XXIII) Sport Court (Tennis, Basketball or Volleyball)--Only Family Developments Eligible (2 points); or
- (XXIV) Furnished and staffed Children's Activity Center--Only Family Developments Eligible (3 points).

(B) A certification that the Development will have all of the following Unit Amenities (not required for Single Room Occupancy Developments). If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to satisfy this requirement. Any future changes in these amenities, or substitution of these amenities, may result in a decrease in awarded credits if the substitution or change includes a decrease in cost or in a cancellation of a Commitment Notice or Carryover Allocation if the Threshold Criteria are no longer met.

(i) All New Construction Units must be wired with 6 pair CAT5e wiring or better to provide phone and data service to each unit and wired with COAX cable to provide TV and high speed internet data service to each unit ~~built with three networks: One network installed for phone using CAT5e or better wiring; a second network for data installed using CAT5e or better wiring; and a third network for TV services using COAX cable;~~

- (ii) Mini-blinds or window coverings for all windows;
- (iii) Dishwasher and Disposal (not required for TX-USDA-RHS Developments);
- (iv) Refrigerator;
- (v) Oven/Range;
- (vi) Exhaust/vent fans in bathrooms; and
- (vii) Ceiling fans in living areas and bedrooms.

(C) A certification that the Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or if no local building codes are in place then to the most recent version of the International Building Code.

(D) A certification that the Applicant is in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (~~42 U.S.C. Section §3601 et seq.~~), and the Fair Housing Amendments Act of 1988 (~~42 U.S.C. Section §3601 et seq.~~); the Civil Rights Act of 1964 (~~42 U.S.C. Section §2000a et seq.~~); the Americans with Disabilities Act of 1990 (~~42 U.S.C. Section §12101 et seq.~~); the Rehabilitation Act of 1973 (29 U.S.C. ~~Section §701 et seq.~~); Fair Housing Accessibility; the Texas Fair Housing Act; and that the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, the Code Requirements for Housing Accessibility 2000 (or as amended from time to time) produced by the International Code Council and the Texas Accessibility Standards. (~~2306-§2306.257; 2306-§2306.6705(7)~~)

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

(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 certification from an accredited architect or Department-approved third party accessibility specialist, that the Development will comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C and this subparagraph. ~~This includes that for all New Construction Developments, a minimum of five percent of the total dwelling Units or at least one Unit, whichever is greater, shall be made accessible for individuals with mobility impairments. A Unit that is on an accessible route and is adaptable and otherwise compliant with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS), shall be deemed to meet this requirement. An additional two percent of the total dwelling Units, or at least one Unit, whichever is greater, shall be accessible for individuals with hearing or vision impairments. (§§2306.6722 and 2306.6730)~~

~~(G) Additionally, in Developments involving New Construction (excluding New Construction of non-residential buildings) where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A similar certification will also be required after the Development is completed from an inspector, architect, or accessibility specialist. Any Developments designed as single family structures must also satisfy the requirements of §2306.514, Texas Government Code. (2306.6722 and 2306.6730)~~

~~(H) A certification that the Development will be equipped with energy saving devices that meet the standard statewide energy code adopted by the state energy conservation office, unless historic preservation codes permit otherwise for a Development involving historic preservation. All Units must be air-conditioned. The measures must be certified by the Development architect as being included in the design of each tax credit Unit at the time the 10% Test Documentation is submitted and in actual construction upon Cost Certification. (2306.6725(b)(1))~~

~~(I) A certification that the Development will be built by a General Contractor that satisfies the requirements of the General Appropriation Act, Article VII, Rider 8(c) applicable to the Department which requires that the General Contractor hired by the Development Owner or the Applicant, if the Applicant serves as General Contractor, must demonstrate a history of constructing similar types of housing without the use of federal tax credits.~~

~~(J) A certification that the Development Owner agrees to establish a reserve account consistent with 2306.186 Texas Government Code and as further described in §1.37 of this title.~~

~~(K) A certification that the Applicant, Developer, or any employee or agent of the Applicant has not formed a neighborhood organization for purposes of subsection 50.49.9(i)(2) of this title, has not given money or a gift to cause the neighborhood organization to take its position of support or opposition, nor has provided any assistance to a neighborhood organization to meet the requirements under 50.49.9(i)(2) of this title which are not allowed under that subsection, as it relates to the Applicant's Application or any other Application under consideration in 20062007.~~

~~(L) A certification that the Development Owner will cooperate with the local public housing authority, to the extent there are any, in accepting tenants from their waiting lists (42.42(m)(1)(C)(vi)).~~

~~(M) A certification that the Development Owner will contract with a Management Company through out the Compliance Period that will perform criminal background checks on all adult tenants, head and co head of households.~~

(5) Design Items. This exhibit will provide:

(A) All of the architectural drawings identified in clauses (i) - (iii) of this subparagraph. While full size design or construction documents are not required, the drawings must have an accurate and legible scale and show the dimensions. All Developments involving New Construction, or conversion of existing buildings not configured in the Unit pattern proposed in the Application, must provide all of the items identified in clauses (i) - (iii) of this subparagraph. For Developments involving Rehabilitation for which the Unit configurations are not being altered, only the items identified in clauses (i) and (ii) of this subparagraph are required:

(i) a site plan which:

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

(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 and elevations for each type of residential building and each common area building clearly depicting the height of each floor and a percentage estimate of the exterior composition; and

(iii) Unit floor plans for each type of Unit showing special accessibility and energy features. The net rentable areas these Unit floor plans represent should be consistent with those shown in the "Rent Schedule" provided in the application; and

(B) A boundary survey of the proposed Development site and of the property to be purchased. In cases where more property is purchased than the proposed site of the Development, the survey or plat must show the survey calls for both the larger site and the subject site. The survey does not have to be recent; but it must show the property purchased and the property proposed for the Development. In cases where the site of the Development is only a part of the site being purchased, the depiction or drawing of the Development portion may be professionally compiled and drawn by an architect, engineer or surveyor.

(6) Evidence of the Development's development costs and corresponding credit request and syndication information as described in subparagraphs (A) - (G) of this paragraph.

(A) A written narrative describing the financing plan for the Development, including any non-traditional financing arrangements; the use of funds with respect to the Development; the funding sources for the Development including construction, permanent and bridge loans, rents, operating subsidies, and replacement reserves; and the commitment status of the funding sources for the Development. This information must be consistent with the information provided throughout the Application. ~~(2306-§23066705(a), 6705(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-§23066705(a), 6705(2) and (3))~~

(D) For Developments located in a Qualified Census Tract (QCT) as determined by the Secretary of HUD and qualifying for a 30% increase in Eligible Basis, pursuant to the Code, §42(d)(5)(C), if permitted under §49.6(h) of this title, Applicants must submit a copy of the census map clearly showing that the proposed Development is located within a QCT. Census tract numbers must be clearly marked on the map, and must be identical to the QCT number stated in the Department's Reference Manual.

(E) Rehabilitation Developments must submit a Property Condition Assessment meeting the requirements of paragraph (14)(C) of this subsection.

(F) If offsite costs are included in the budget as a line item, or embedded in the site acquisition contract, or referenced in the utility provider letters, then the supplemental form "Off Site Cost Breakdown" must be provided.

(G) If projected site work costs include unusual or extraordinary items or exceed \$7,500 per Unit, then the Applicant must provide a detailed cost breakdown prepared by a Third Party engineer or architect, and a letter from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible.

(7) Evidence of readiness to proceed as evidenced by at least one of the items under each of subparagraphs (A) - (D) of this paragraph:

(A) Evidence of Property control in the name of the Development Owner. If the evidence is not in the name of the Development Owner, then the documentation should reflect an expressed ability to transfer the rights to the Development Owner. All of the sellers of the proposed Property for the 36 months prior to the first day of the Application Acceptance Period and their relationship, if any, to members of the Development team must be identified at the time of Application (not required at Pre-Application).- One of the following items described in clauses (i) - (iii) of this subparagraph must be provided:

(i) a recorded warranty deed with corresponding executed settlement statement; or

(ii) a contract for lease (the minimum term of the lease must be at least 45 years) which is valid for the entire period the Development is under consideration for tax credits; or

(iii) a contract for sale, an exclusive option to purchase or earnest money contract (which must show that the earnest money has been deposited) which is valid for the entire period the Development is under consideration for tax credits. For Tax Exempt Bond Developments site control must be valid through December 1,

2006 with option to extend through March 1, 2007 (Applications submitted for lottery) or 90 days from the date of the bond reservation with the option to extend through the scheduled TDHCA Board meeting. The potential expiration of site control does not warrant the Application being presented to the TDHCA Board prior to the scheduled meeting. If the acquisition can be characterized as an identity of interest transaction as described in §1.32(e)(1)(B), the following (I) and (II) of this clause must be provided (not required at Pre-Application):

(I) documentation of the original acquisition cost in the form of a settlement statement or, if a settlement statement is not available, the seller's most recent audited financial statement indicating the asset value for the proposed Property, and

(II) if the original acquisition cost evidenced by (I) of this clause is less than the acquisition cost claimed in the application,

(-a-) an appraisal meeting the requirements of paragraph (14)(D) of this subsection, and

(-b-) any other verifiable costs of owning, holding, or improving the Property that when added to the value from subclause (I) of this clause justifies the Applicant's proposed acquisition amount.

(-1-) For land-only transactions, documentation of owning, holding or improving costs since the original acquisition date may include Property taxes, interest expense, a calculated return on equity at a rate consistent with the historical returns of similar risks, the cost of any physical improvements made to the Property, the cost of rezoning, replatting or developing the Property, or any costs to provide or improve access to the Property.

(-2-) For transactions which include existing buildings that will be rehabilitated or otherwise maintained as part of the Development, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the Property, a calculated return on equity at a rate consistent with the historical returns of similar risks, and allow the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the Property and avoid foreclosure.

(iv) As described in clauses (ii) and (iii) of this ~~title~~subparagraph, Property control must be continuous. Closing on the Property is acceptable, as long as evidence is provided that there was no period in which control was not retained.

(B) Evidence from the appropriate local municipal authority that satisfies one of clauses (i) - (iii) of this subparagraph. Documentation may be from more than one department of the municipal authority and must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period. (~~2306.6705(5)~~ §2306.6705(5))

(i) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision which does not have a zoning ordinance; the letter must also state that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan, comprehensive plan, or other local planning document; or if no such planning document exists, then the letter from the local municipal authority must state that there is a need for affordable housing.

(ii) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that:

(I) the Development is permitted under the provisions of the zoning ordinance that applies to the location of the Development ~~or that there is not a zoning requirement~~; or

(II) the Applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied, and a time schedule for completion of appropriate zoning. The Applicant must also provide at the time of Application a copy of the application for appropriate zoning filed with the local entity responsible for zoning approval and proof of delivery of that application in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. Final approval of appropriate zoning must be achieved and documentation of acceptable zoning for the Development, as proposed in the Application, must be provided to the Department at the time the Commitment Fee, or Determination Notice Fee, is paid. If this evidence is not provided with the Commitment Fee, any commitment of credits will be rescinded. No extensions may be requested for the deadline for submitting evidence of final approval of appropriate zoning.

(iii) In the case of a Rehabilitation Development, if the property is currently a non-conforming use as presently zoned, a letter which discusses the items in subclauses (I) - (IV) of this clause:

(I) a detailed narrative of the nature of non-conformance;

(II) the applicable destruction threshold;

(III) owner's rights to reconstruct in the event of damage; and

(IV) penalties for noncompliance.

(C) Evidence of interim and permanent financing sufficient to fund the proposed Total Housing Development Cost less any other funds requested from the Department and any other sources documented in the Application. Any local, state or federal financing identified in this section which restricts household incomes at any AMGI lower than restrictions required pursuant to the Rules must be identified in the Rent Schedule and the local, state or federal income restrictions must include corresponding rent levels that do not exceed 30% of the income limitation in accordance with §42(g), Internal Revenue Code. The income and corresponding rent restrictions will be continuously maintained over the compliance and extended use period as specified in the LURA. Such evidence must be consistent with the sources and uses of funds represented in the Application and shall be provided in one or more of the following forms described in clauses (i) - (iv) of this subparagraph:

(i) bona fide financing in place as evidenced by:

(I) a valid and binding loan agreement;

(II) deed(s) of trust in the name of the Development Owner expressly allowing transfer to the Development Owner; and

(III) for TX-USDA-RHS 515 Developments involving Rehabilitation, an executed TX-USDA-RHS letter indicating TX-USDA-RHS has received a Consent Request, also referred to as a Preliminary Submittal, as described in 7 CFR 3560.406; or,

(ii) bona fide commitment or term sheet for the interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the Development Owner and which has been executed by the lender (the term of the loan must be for a minimum of 15 years with at least a 30 year amortization). The commitment must state an expiration date and all the terms and conditions applicable to the financing including the mechanism for determining the interest rate, if applicable, and the anticipated interest rate and any required Guarantors. Such a commitment may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; or,

(iii) any Federal, State or local gap financing, whether of soft or hard debt, must be identified at the time of Application as evidenced by. ~~At a minimum:~~

(I) evidence from the lending agency that an application for funding has been made or from the Applicant indicating an intent to apply for funding; and

(II) a term sheet which clearly describes the amount and terms of the funding, and the date by which the funding determination will be made and any commitment issued, must be submitted; and-

(III) Evidence of application for funding from another Department program is not required except as indicated on the Uniform Application, as long as the Department funding is on a concurrent funding period with the Application submitted and the Applicant clearly indicates that such an aApplication has been filed as required by the Application Submission Procedures Manual; and -

(IV) If the commitment from any the other funding source identified in this subparagraph has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the other funding source, the Commitment Notice may will be rescinded; or

(iv) if the Development will be financed through more than 5% of Development Owner contributions, provide a letter from an Third Party CPA verifying the capacity of the Development Owner to provide the proposed financing with funds that are not otherwise committed together with a letter from the Development Owner's bank or banks confirming that sufficient funds are available to the Development Owner. Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(D) Provide the documents in clauses (i) - (iii) of this subparagraph:

(i) a copy of the full legal description

(ii) a current valuation report from the county tax appraisal district and documentation of the current total property tax rate for the proposed Property, and

(iii) a copy of:

(I) the current title policy which shows that the ownership (or leasehold) of the land/Development is vested in the exact name of the Development Owner; or

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

(III) if the title policy or commitment is more than six months old as of the day the Application Acceptance Period closes, then a letter from the title company indicating that nothing further has transpired on the policy or commitment.

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

(8) Evidence in the form of a certification of all of the notifications described in the subparagraphs of this paragraph. Such notices must be prepared in accordance with the "Public Notifications" certification statement provided in the Application.

~~(A) Evidence of notification in the form of a certification that the Applicant met meeting the requirements and deadlines identified in clauses (i) - of this subparagraph to all of the individuals and entities identified in clause (iii) of this subparagraph. Evidence of such notifications must be in the form of a certification in the format provided by the Department that the Applicant made the notifications to all required individuals and entities in the format provided by the Department on or before the deadlines. Notification must not be older than three months from the first day of the Application Acceptance Period. (2306-\$2306.6705(9)) If evidence of these notifications was submitted with the Pre-Application Threshold for the same Application and satisfied the Department's review of Pre-Application Threshold, then no additional notification is required at Application, except that re-notification is required by tax credit Applicants who have submitted a change in the Application, whether from Pre-Application to Application or as a result of a deficiency that reflects a total Unit increase of greater than 10%, a total increase of greater than 10% for any given level of AMGI, or a change to the population being served (elderly, Intergenerational Housing or family). For Applications submitted for Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.), notifications and proof thereof must not be older than three months prior to the date the Volume III of the Application is submitted.~~

(i) The Applicant must request Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site from local elected officials as follows:

(I) No later than January 15, 2007 (or for Tax-Exempt Bond Applications, Rural Rescue, or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., not later than 21 days prior to submission of the Threshold documentation), the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format.

(II) If no reply letter is received from the local elected officials by February 25, 2007, (or For Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application), then the Applicant must certify to that fact in the "Application Notification Certification Form" provided in the Application.

(III) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of the submission of the Application, in the "Application Notification Certification Form" provided in the Application.

(i) Each such notice must include, at a minimum, all of the following:

- (I) The Applicant's name, address, individual contact name and phone number;
- (II) The Development name, address, city and county;
- (III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
- (IV) Statement of whether the Development proposes New Construction or Rehabilitation;
- (V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing or elderly);
- (VI) The approximate total number of Units and approximate total number of low income Units;
- (VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;
- (VIII) The number of Units and proposed rents (less utility allowances) for the low income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Application, which are subject to change as annual changes in the area median income occur; and
- (IX) The expected completion date if credits are awarded.

(ii) Not later than the date the Application is submitted, notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt return or similar tracking mechanism e-mail, fax or mail with registered receipt in the format required in the "Application Notification Template" provided in the Application. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials. Evidence of Notification is required in the form of a certification in the "Application Notification Certification Form" provided in the Application, although it is encouraged that Applicants retain proof of notifications in the event that the Department requires proof of Notification. Officials to be notified are those officials in office at the time the Application is submitted.

~~(ii) Notification must be sent to all of the following individuals and entities. Officials to be notified are those officials in office at the time the Application is submitted.~~

~~(I) Neighborhood Organizations on record with the state or county whose boundaries include the proposed Development Site as identified in clause (i)(III) of this subparagraph. Applicants must provide evidence that neighborhood organizations were notified pursuant to this subsection. Evidence in the form of a certification must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Neighborhood Organization Request" as outlined in the Application was sent no later than January 15, 2006 (or for Tax Exempt Bond Applications or Rural Rescue Applications not later than 21 days prior to submission of the Threshold documentation) to the local elected official for the city or if located outside of a city, then the county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, or both at large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located in a jurisdiction that has only at large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. For urban/exurban areas, entities identified in the letters from the local elected official whose boundaries include the proposed Development and whose listed address has the same zip code as the zip code for the Development site, then all entities identified in the letters with those adjacent zip codes exist within a half mile of the Development site, then all entities identified in the letters whose listed address is within a half mile of the Development site must be provided with written notification. If the Applicant can certify that there are no neighborhood organizations on a list from the local elected officials which are required to be notified pursuant to this subsection, then such certification in lieu of notification may be acceptable. If no reply letter is received from the local elected officials by February 25, 2006, (or For Tax Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application) then the Applicant must submit a statement attesting to that fact. If an Applicant has knowledge of any neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site, the Applicant must notify those organizations. In the event that local elected officials refer the Applicant to another source, the Applicant must also request neighborhood organizations from that source in the same format. If the Applicant has no knowledge of neighborhood organizations within whose boundaries the Development is proposed to be located, the Applicant must attest to that fact in the format provided by the Department as part of the Application.~~

(II) Superintendent of the school district containing the Development;

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

(IV) Mayor of the governing body of any municipality containing the Development;

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

(VI) Presiding officer of the governing body of the county containing the Development;

(VII) All elected members of the governing body of the county containing the Development;

(VIII) State senator of the district containing the Development; and

(IX) State representative of the district containing the Development.

(iii) Each such notice must include, at a minimum, all of the following:

(I) The Applicant's name, address, individual contact name and phone number;

(II) The Development name, address, city and county;

(III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(IV) Statement of whether the Development proposes New Construction, Reconstruction, or Rehabilitation;

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

(V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing or elderly);

(VI) The approximate total number of Units and approximate total number of low-income Units;

(VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;

(VIII) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Application, which are subject to change as annual changes in the area median income occur; and

(IX) The expected completion date if credits are awarded.

(B) Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development sSite prior to the date the Application is submitted. Scattered site Developments must install a sign on each Development Site. For Tax-Exempt Bond Developments the sign must be installed no later than 30 days after the Department's receipt of Volumes I and II, regardless of the Priority of the Application or the Issuer, the sign must be installed within thirty (30) days of the Department's receipt of Volumes I and II. The date, time and location of the bond public hearing must be included on the sign no later than thirty (30) days prior to the scheduled public hearing. Evidence submitted with the Application must include photographs of the site with the installed sign and invoice receipt confirming installation from the entity that installed the sign. The sign must be at least 4 feet by 8 feet in size and located within twenty feet of, and facing, the main road adjacent to the site. The sign shall be continuously maintained on the site until the day that the Board takes final action on the Application for the Development. The information and lettering on the sign must meet the requirements identified in the Application. For Tax-Exempt Bond Developments ~~for which the Department is not the issuer of the bonds, regardless of the issuer,~~ the Applicant must certify to the fact that the sign was installed within 30 days of submission and the date, time and location of the bondTEFRA hearing are is indicated on the sign at least 30 days prior to as seen as the date of the scheduled hearing has been scheduled. As an alternative to installing a Public Notification Sign and at the same required time, the Applicant may instead, at the Applicant's option, mail written notification to those addresses described in either clause (i) or (ii) of this subparagraph. This written notification must include the information otherwise required for the sign as provided in the Application. If the Applicant chooses to provide this mailed notice in lieu of signage, the final Application must include a map of the proposed Development site and mark the distance required by clause (i) or (ii) of this subparagraph, up to 1,000 feet, showing street names and addresses; a list of all addresses the notice was mailed to; an exact copy of the notice that was mailed; and a certification that the notice was mailed through the U.S. Postal Service and stating the date of mailing. If the option in clause (i) of this subparagraph is used, then evidence must be provided affirming the local zoning notification requirements.

(i) All addresses required for notification by local zoning notification requirements. For example, if the local zoning notification requirement is notification to all those addresses within 200 feet, then that would be the distance used for this purpose; or

(ii) For Developments located in communities that do not have zoning, communities that do not require a zoning notification, or those located outside of a municipality, all addresses located within 1,000 feet of any part of the proposed Development site.

(C) If any of the Units in the Development are occupied at the time of Application, then the Applicant must certify that they have notified each tenant at the Development and let the tenants know of the Department's public hearing schedule for comment on submitted Applications.

(9) Evidence of the Development's proposed ownership structure and the Applicant's previous experience as described in subparagraphs (A) - (DE) of this paragraph.

(A) Chart which clearly illustrates the complete organizational structure of the final proposed Development Owner and of any Developer or Guarantor, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner or the Developer or Guarantor, as applicable, whether directly or through one or more subsidiaries. Nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors must be included in this exhibit.

(B) Each Applicant, Development Owner, Developer or Guarantor, or any entity shown on an organizational chart as described in subparagraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, shall provide the following documentation, as applicable:

(i) For entities that are not yet formed but are to be formed either in or outside of the state of Texas, a certificate of reservation of the entity name from the Texas Secretary of State; or

(ii) For existing entities whether formed in or outside of the state of Texas, evidence that the entity has the authority to do business in Texas or has applied for such authority.

(C) Evidence that each entity shown on the organizational chart described in subparagraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, has provided a copy of the completed and executed Previous Participation and Background Certification Form to the Department. Nonprofit entities, public housing authorities and publicly traded corporations are required to submit documentation for the entities involved; documentation for individual board members and executive directors is required for this exhibit. Any Person receiving more than 10% of the Developer fee will also be required to submit documents for this exhibit. The ~~2006~~2007 versions of these forms, as required in the Uniform Application, must be submitted. Units of local government are also required to submit this document. The form must include a list of all developments that are, or were, previously under ownership or Control of the Person. All participation in any TDHCA funded or monitored activity, including non-housing activities, must be disclosed.

~~(D) Evidence in the form of a certification from the Applicant, that each entity shown on the organizational chart described in subparagraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, and has, or has had, ownership or Control of affordable housing, being housing that receives any form of financing and/or assistance from any Governmental Entity for the purpose of enhancing affordability to persons of low or moderate income, outside the state of Texas, that such Persons have submitted the appropriate "National Previous Participation and Background Certification Form" to the appropriate Housing Credit Agency for each state in which they have developed or operated affordable housing. Nonprofit entities and public housing authorities are only required to submit documentation for the entity itself; documentation for board members and executive directors is not required for this exhibit. Any Person receiving more than 10% of the Developer fee will also be required to submit documents for this exhibit. This form is only necessary when the Developments involved are outside the state of Texas. An original form is not required.~~

(ED) Evidence, in the form of a certification, that one of the Development Owner's General Partners, the Developer or their Principals have a record of successfully constructing or developing residential units in the capacity of owner, General Partner or Developer. Evidence must be a certification from the Department that the Person with the experience satisfies this exhibit, as further described under subsection (g)(1) of this section. Applicants must request this certification at least fourteen days prior to the close of the Application Acceptance Period. Applicants must ensure that the Person whose name is on the certification appears in the organizational chart provided in subparagraph (A) of this paragraph.

(10) Evidence of the Development's projected income and operating expenses as described in subparagraphs (A) - (D) of this paragraph:

(A) All Developments must provide a 30-year proforma estimate of operating expenses and supporting documentation used to generate projections (operating statements from comparable properties).

(B) If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, any related contract or other agreement securing those funds or proof of Application must be provided, which at a minimum identifies the source and annual amount of the funds, the number of Units receiving the funds, and the term and expiration date of the contract or other agreement. (~~2306.6705(a)~~ 6705(4))

(C) Applicant must provide documentation from the source of the "Utility Allowance" estimate used in completing the Rent Schedule provided in the Application. This exhibit must clearly indicate which utility costs are included in the estimate. If there is more than one entity (Section 8 administrator, public housing authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided.

(D) Occupied Developments undergoing Rehabilitation must also submit the items described in clauses (i) - (iv) of this subparagraph.

(i) The items in subclauses (I) and (II) of this clause are required unless the current property owner is unwilling to provide the required documentation. In that case, submit a signed statement as to its inability to provide all documentation as described.

(I) Submit at least one of the following:

(-a-) historical monthly operating statements of the subject Development for 12 consecutive months ending not more than 3 months from the first day of the Application Acceptance Period;

(-b-) The two most recent consecutive annual operating statement summaries;

(-c-) the most recent consecutive six months of operating statements and the most recent available annual operating summary;

20067-Housing Tax Credit Program Qualified Allocation Plan and Rules

(-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-§23066705(a).6705(6))~~

(iii) For Intergenerational Applications or Qualified Elderly Developments, identification of the number of existing tenants qualified under the target population elected under this title;

(iv) a relocation plan outlining relocation requirements and a budget with an identified funding source; and ~~(2306-§23066705(a).6705(6))~~

(v) if applicable, evidence that the relocation plan has been submitted to the appropriate legal agency. ~~(2306-§23066705(a).6705(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-§2306.6706)~~

(i) an IRS determination letter which states that the nonprofit organization is a 501(c)(3) or (4) entity or; and

(ii) the "Nonprofit Participation Exhibit."

(B) Additionally, all Applications applying under the Nonprofit Set-Aside, established under ~~§50.49.7(b)(1)~~ of this title, must also provide the following information with respect to the Qualified Nonprofit Organization as described in clauses (i) - ~~(vii)~~ of this subparagraph.

~~(i) copy of the page from the articles of incorporation or bylaws indicating that one of the exempt purposes of the nonprofit organization is to provide low-income housing;~~

~~(ii) copy of the page from the articles of incorporation or bylaws indicating that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;~~

~~(iii) a Third Party legal opinion stating:~~

~~(I) that the nonprofit organization is not affiliated with or Controlled by a for-profit organization and the basis for that opinion, and~~

~~(II) that the nonprofit organization is eligible, as further described, for a Housing Credit Allocation from the Nonprofit Set-Aside and the basis for that opinion. Eligibility is contingent upon the nonprofit organization Controlling the Development, or if the organization's Application is filed on behalf of a limited partnership, or limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member; and otherwise meet the requirements of the Code, §42(h)(5).~~

(III) that one of the exempt purposes of the nonprofit organization is to provide low-income housing, and

(IV) that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board, and

(V) that the Qualified Nonprofit Development will have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or co-Developer as evidenced in the development agreement; and

~~(iv)~~ a copy of the nonprofit organization's most recent audited financial statement; and

~~(v) a certification that the Qualified Nonprofit Development will have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or co-Developer as evidenced in the development agreement.~~

~~(vii) evidence in the form of a certification that a majority of the members of the nonprofit organization's board of directors principally reside:~~

~~(I) in this state, if the Development is located in a ~~Rural a~~Area; or~~

~~(II) not more than 90 miles from the Development, if the Development is not located in a ~~Rural a~~Area.~~

(12) Applicants applying for acquisition credits must provide must provide

(A) an appraisal meeting the requirements of subparagraph (14)(D) of this subsection, and

(B) an "Acquisition of Existing Buildings Form."

(13) Evidence of Financial Statement and Authorization to Release Credit Information. The financial statements and authorization to release credit information must be unbound and clearly labeled. A "Financial Statement and Authorization to Release Credit Information" must be completed and signed for any General Partner, Developer or Guarantor and any Person that has an ownership interest of ten percent or more in the

Development Owner, General Partner, Developer, or Guarantor. Nonprofit entities, public housing authorities and publicly traded corporations are only required to submit documentation for the entities involved; documentation for individual board members and executive directors is not required for this exhibit.

(A) Financial statements for an individual must not be older than 90 days from the ~~date of Application submission~~first day of the Application Acceptance Period.

(B) Financial statements for partnerships or corporations should be for the most recent fiscal year ended 90 days ~~prior to the date of Application submission~~from the first day of the Application Acceptance Period. An audited financial statement should be provided, if available, and all partnership or corporate financials must be certified. Financial statements are required for an entity even if the entity is wholly-owned by a Person who has submitted this document as an individual.

(C) Entities that have not yet been formed and entities that have been formed recently but have no assets, liabilities, or net worth are not required to submit this documentation, but must submit a statement with their Application that this is the case.

(14) Supplemental Threshold Reports. All Applications must include documents under subparagraphs (A) and (B) of this paragraph. If required under paragraph (6) of this subsection, a Property Condition Assessment as described in subparagraph (C) of this paragraph must be submitted. If required under paragraphs (7) or (12) of this subsection, an appraisal as described in subparagraph (D) of this paragraph must be submitted. All submissions must meet the requirements stated in subparagraphs (E) - (G) of this paragraph.

(A) A Phase I Environmental Site Assessment (ESA) report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 12 months prior to the first day of the Application Acceptance Period. In the event that a Phase I Environmental Site Assessment on the Development is more than 12 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated letter or updated report dated not more than three months prior to the first day of the Application Acceptance Period from the Person or organization which prepared the initial assessment confirming that the site has been re-inspected and reaffirming the conclusions of the initial report or identifying the changes since the initial report; and

(iii) prepared in accordance with the Department's Environmental Site Assessment Rules and Guidelines, §1.35 of this title.

(iv) Developments whose funds have been obligated by TX-USDA-RHS will not be required to supply this information; however, the Applicants of such Developments are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

(B) A comprehensive Market Analysis report:

(i) prepared by a Third Party Qualified Market Analyst approved by the Department in accordance with the approval process outlined in the Market Analysis Rules and Guidelines, §1.33 of this title;

(ii) dated not more than 6 months prior to the first day of the Application Acceptance Period. In the event that a Market Analysis is more than 6 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated Market Analysis from the Person or organization which prepared the initial report; however the Department will not accept any Market Analysis which is more than 12 months old as of the first day of the Application Acceptance Period; and

(iii) prepared in accordance with the methodology prescribed in the Department's Market Analysis Rules and Guidelines, §1.33 of this title.

(iv) For Applications in the TX-USDA-RHS Set-Aside proposing acquisition and Rehabilitation with residential structures at or above 80% occupancy at the time of Application Submission, the appraisal, required under paragraphs (7) or (12) of this subsection and prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Department's Appraisal Rules and Guidelines, §1.34 of this title, will satisfy the requirement for a Market Analysis; however the Department may request additional information as needed. (~~2306-§2306.67055~~) (§42(m)(1)(A)(iii))

(C) A Property Condition Assessment (PCA) report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 6 months prior to the first day of the Application Acceptance Period; and

(iii) prepared in accordance with the Department's Property Condition and Assessment Rules and Guidelines, §1.36 of this title.

(iv) For Developments which require a capital needs assessment from TX-USDA-RHS, the capital needs assessment may be substituted and may be more than 6 months old, as long as TX-USDA-RHS has confirmed in writing that the existing capital needs assessment is still acceptable.

(D) An appraisal report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 6 months prior to the first day of the Application Acceptance Period. In the event that an appraisal is more than 6 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated appraisal from the Person or organization which prepared the initial report; however the Department will not accept any appraisal which is more than 12 months old as of the first day of the Application Acceptance Period; and

(iii) prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Department's Appraisal Rules and Guidelines, §1.34 of this title.

(iv) For Developments which require an appraisal from TX-USDA-RHS, the appraisal may be more than 6 months old, as long as TX-USDA-RHS has confirmed in writing that the existing appraisal is still acceptable.

(E) Inserted at the front of each of these reports must be a transmittal letter from the individual preparing the report that states that the Department is granted full authority to rely on the findings and conclusions of the report. The transmittal letter must also state the report preparer has read and understood the Department rules specific to the report found at §§1.33 - 1.36 of this title.

(F) All Applicants acknowledge by virtue of filing an Application that the Department is not bound by any opinion expressed in the report. The Department may determine from time to time that information not required in the Department's Rules and Guidelines will be relevant to the Department's evaluation of the need for the Development and the allocation of the requested Housing Credit Allocation Amount. The Department may request additional information from the report provider or revisions to the report to meet this need. In instances of non-response by the report provider, the Department may substitute in-house analysis.

(G) The requirements for each of the reports identified in subparagraphs (A) - (C) of this paragraph can be satisfied in either of the methods identified in clauses (i) or (ii) of this subparagraph and meet the requirements of clause (iii) of this subparagraph.

(i) Upon Application submission, the documentation for each of these exhibits may be submitted in its entirety; or

(ii) Upon Application submission, the Applicant may provide evidence in the form of an executed engagement letter with the party performing each of the individual reports that the required exhibit has been commissioned to be performed and that the delivery date will be no later than ~~April 1, April 2, 2006~~2007. In addition to the submission of the engagement letter with the Application, a map must be provided that reflects the Qualified Market Analyst's intended market area. Subsequently, the entire exhibit must be submitted on or before 5:00 p.m. CST, ~~April 1, April 2, 2006~~2007. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration.

(iii) A single hard copy of the report and a searchable soft copy in the format of a single file containing all information and exhibits in the hard copy report, presented in the order they appear in the hard copy report on a CD-R clearly labeled with the report type, Development name, and Development location are required.

(15) Self-Scoring. Applicant's self-score must be completed on the "Application Self-Scoring Form." An Applicant may not adjust the Application Self Scoring Form without a request from the Department as a result of an Administrative Deficiency.

(i) Selection Criteria. All Applications will be scored and ranked using the point system identified in this subsection. Unless otherwise stated, ~~When applicable,~~ use normal rounding. Points other than paragraphs (2) and (6) of this subsection will not be awarded unless requested in the Self Scoring Form. All Applications, with the exception of TX-USDA-RHS Applications, must receive a final score totaling a minimum of 105, not including any points awarded or deducted pursuant to paragraphs (2) and (6) of this subsection ~~125 points~~ to be eligible for an allocation of Housing Tax Credits. Maximum Total Points: ~~21509~~.

(1) Financial Feasibility of the Development. Financial Feasibility of the Development based on the supporting financial data required in the Application that will include a Development underwriting pro forma from the permanent or construction lender. ~~(§2306-§2306.6710(b)(1)(A))~~ Applications may qualify to receive 28 points for this item. No partial points will be awarded. Evidence will include the documentation required for this exhibit, as reflected in the Application submitted, in addition to the commitment letter required under subsection (h)(7)(C) of this section. The supporting financial data shall include:

(A) a ~~thirty~~ **fifteen** year pro forma prepared by the permanent or construction lender;

(i) specifically identifying each of the first ~~five~~ **ten** years and every fifth year thereafter;

(ii) specifically identifying underlying assumptions including, but not limited to general growth factor applied to income and expense; and

~~(iii) indicating The pro forma must indicate that the Development pro forma maintains a minimum 1.150 debt coverage ratio throughout the initial thirty-fifteen years proposed for all third party lenders that require scheduled repayment; and~~

~~(B) In addition, a statement in the commitment letter must state indicating that the lender's assessment finds that the Development will be feasible for thirty-fifteen years.~~

~~(C) Points will be awarded if these criteria are met. No partial points will be awarded. For Developments receiving financing from TX-USDA-RHS, the form entitled "Sources and Uses Comprehensive Evaluation for Multi-Family Housing Loans" or other form deemed acceptable by the Department shall meet the requirements of this section.~~

(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site. Points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. (§2306.6710(b)(1)(B); §2306.6725(a)(2)). It is possible for points to be awarded or deducted based on written statements from organizations that were not identified by the process utilized for notification purposes under subsection (h)(8)(A)(ii)(I) of this section if the organization provides the information and documentation required below. It is also possible that neighborhood organizations that were initially identified as appropriate organizations for purposes of the notification requirements will subsequently be determined by the Department not to meet the requirements for scoring.

(A) Basic Submission Requirements for Scoring. Each neighborhood organization may submit one letter (and enclosures) that represents the organization's input. In order to receive a point score, the letter (and enclosures) must be received or postmarked (or similar tracking system) by the Department no later than March 1, 2007, for letters relating to Applications that submitted a Pre-Application, or April 2, 2007 if a Pre-Application was not submitted. Letters should be addressed to the Texas Department of Housing and Community Affairs, "Attention: Executive Director (Neighborhood Input)." Letters received after ~~April 1, 2006~~ the applicable deadline will be summarized for the Board's information and consideration, but will not affect the score for the Application. The organization's letter (and enclosures) must:

(i) state the name and location of the proposed Development on which input is provided. A letter may provide input on only one proposed Development; if an organization is eligible to provide input on additional Developments, each Development must be addressed in a separate letter;

(ii) ~~certify that the letter is signed by the person with the authority to sign on behalf of the neighborhood organization the chairman of the board, chief executive officer, or comparable head of the organization,~~ and provide the street and/or mailing addresses, day and evening phone numbers, and e-mail addresses and/or facsimile numbers for the signer of the letter and for one additional contact for the organization;

~~(iii) establish certify that the organization has boundaries, state what the boundaries are, and establish and that the boundaries in effect December 1, 2006 contain the proposed Development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;~~

(iv) ~~establish certify that the organization is a "neighborhood organization."~~ For the purposes of this section, Aa "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries in effect December 1, 2006 that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils ~~(only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the Rehabilitation or Reconstruction demolition/ New Construction of the property occupied by the residents).~~ "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations-," unless the large organization is a parent organization of smaller organizations whose purpose, and composition would otherwise meet the requirements of this definition. ~~Organizations whose boundaries include an entire city are generally not "neighborhood organizations-," unless the city organization is a parent organization of smaller organizations whose purpose, and composition would otherwise meet the requirements of this definition.~~

(v) include documentation showing that the organization is on record as of ~~March 1~~ December 1, 2006 with the state or county in which the Development is proposed to be located. A record from the Secretary of State showing that the organization is incorporated or from the county clerk showing that the organization is

on record with the county is sufficient. For a property owners association, a record from the county showing that the organization's management certificate is on record is sufficient. The documentation must be from the state or county and be current. If an organization's status with the Secretary of State is shown as "forfeited," "dissolved," or any similar status in the documentation provided by the organization, the organization will not be considered on record with the state, unless corrected in a deficiency response. It is insufficient to be "on record" to provide only a request to the county or a state entity to be placed on record or to show that the organization has corresponded with such an entity or used its services or programs. ~~It is insufficient to show that the organization is on record with a city. There are two As an options to be considered on record with the Department (and thereby the state):~~

~~(I) The neighborhood organization may submit a letter from the city showing that the organization was on record with a city as of December 1, 2006 may be submitted including a contact name with a mailing address and phone number; name and position of officers; and a written description and map of the organization's geographical boundaries must be received by the Department no later than March 1, 2006 with the QCP Package to place the organization on record with the state effective December 1, 2006. The letter should be addressed to the Texas Department of Housing and Community Affairs, "Attention: Executive Director (Recording of Neighborhood Organization)" ; or~~

~~(II) The neighborhood organization may submit a letter including a contact name with a mailing address and phone number; and a written description and map of the organization's geographical boundaries, as well as proof that the boundaries described were in effect as of December 1, 2006. Under this option, a certification will not suffice. This request must be received no later than February 15, 2007. Acceptance of this documentation by the Department will be effective December 1, 2006 and will satisfy the "on record with the state" requirement, but is not a determination that the organization is a "neighborhood organization" or that other requirements are met. The Department is permitted to issue a deficiency notice for this registration process and if satisfied, the organization will still be deemed to be timely placed on record with the state.~~

~~(vi) accurately state certify that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant (the seller of land is not considered to be an agent of the Application) in the 20062007 Tax eCredit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).~~

~~(vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition. While not required, the organization is encouraged to hold a meeting to which all the members of the organization are invited to consider whether the organization should support, oppose, or be neutral on the proposed Development, and to have the membership vote on whether the organization should support, oppose, or be neutral on the proposed Development. The organization is also encouraged to invite the developer to this meeting.~~

~~(viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.~~

~~(ixviii) The boundaries in effect for the organization on March 1, 2006, will be those boundaries utilized for the purposes of evaluating these letters and determining eligibility. The organization must accurately certify that the boundaries in effect December 1, 2006 include the proposed Development Site and acknowledge in the certification that Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization to satisfy eligibility for this item; a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site.~~

~~(ix) Letters from organizations, and subsequent correspondence from organizations, may not be provided via the Applicant which includes facsimile and email communication.~~

~~(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.~~

~~(i) The score awarded for each letter for this exhibit will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. The number of points to be allocated to each organization's letter will be based on the organization's letter and~~

evidence enclosed with the letter. The final score will be determined by the Executive Director. The Department may investigate a matter and contact the Applicant and neighborhood organizations for more information. The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a Development in determining a score.

(ii) The Department highly values quality public input addressed to the merits of a Development. Input that points out matters that are specific to the neighborhood, the proposed site, the proposed Development, or Developer are valued. If a proposed Development is permitted by the existing or pending zoning or absence of zoning, concerns addressed by the allowable land use that are related to any multifamily development may generally be considered to have been addressed at the local level through the land use planning process. Input concerning positive efforts or the lack of efforts by the Applicant to inform and communicate with the neighborhood about the proposed Development is highly valued. If the neighborhood organization refuses to communicate with the Applicant the efforts of the Applicant will not be considered negative. Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) In general, letters that meet the requirements of this paragraph and:

(I) ~~establish three or more reasons~~ at least one reason for support or opposition will be scored the maximum points for either support (+24 points) or opposition (zero);

~~(II) establish two reasons for support or opposition will be scored up to +18 points for support or +6 points for opposition;~~

~~(III) establish one reason for support or opposition will be scored +13 points for support or +11 points for opposition;~~

~~(IV) that do not establish a reason for support or opposition or that are unclear will be considered ineligible and scored as neutral (+12 points).~~

(iv) Applications for which there are multiple eligible letters received, an average score will be applied to the Application.

~~(iv) Applications for which no letters from neighborhood organizations are scored will receive a neutral score of +12 points.~~

(C) Basic Submission Deficiencies. The Department is authorized but not required to request that the neighborhood organization provide additional information or documentation the Department deems relevant to clarify information contained in the organization's letter (and enclosures). If the Department determines to request additional information from an organization, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised. This potential deficiency process does not extend any deadline required above for the "Quantifiable Community Participation" process. An organization may not submit additional information or documentation after the applicable deadlines ~~April 1, 2006~~ deadline except in response to an e-mail or facsimile from the Department specifically requesting additional information.

(3) **The Income Levels of Tenants of the Development.** Applications may qualify to receive up to 22 points for qualifying under only one of subparagraphs (A) - (F) of this paragraph. To qualify for these points, the household tenant ~~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), Internal Revenue Code. ~~(2306-§2306.6710(b)(1)(C); 2306-§2306.111(g)(3)(B); 2306-§2306.6710(e); 42-§42(m)(1)(B)(ii)(I); 2306-§2306.111(g)(3)(E))~~

(A) 22 points if at least 80% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

(B) 22 points if at least 10% of the Total Units in the Development are set-aside with incomes at or below 30% of AMGI; or

(C) 20 points if at least 60% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

(D) 18 points if at least 40% of the Total Units in the Development are set-aside with incomes at or below a combination of 50% and 30% of AMGI in which at least 5% of the Total Units are at or below 30% of AMGI; or

(E) 16 points if at least 40% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

(F) 14 points if at least 35% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI.

(4) **The Size and Quality of the Units (Development Characteristics).** Applications may qualify to receive up to 20 points. Applications may qualify for points under both subparagraphs (A) and (B) of this paragraph. (~~2306.6710(b)(1)(D); 42(\$42(m)(1)(C)(iii)~~)

(A) **Size of the Units.** Applications may qualify to receive 6 points. The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Six points for this item will be automatically granted for Applications involving Rehabilitation, Developments receiving funding from TX-USDA-RHS, or Developments proposing single room occupancy without meeting these square footage minimums if requested in the Self Scoring Form. The square feet of all of the Units in the Development, for each type of Unit, must be at least the minimum noted below.

- (i) 500 square feet for an efficiency ~~unit~~Unit;
- (ii) 650 square feet for a non-elderly one ~~bedroom~~Unit; 550 square feet for an elderly one ~~bedroom~~Unit;
- (iii) 900 square feet for a non-elderly two ~~bedroom~~Unit; 750 square feet for an elderly two ~~bedroom~~Unit;
- (iv) 1,000 square feet for a three ~~bedroom~~Unit; and
- (v) 1,200 square feet for a four ~~bedroom~~Unit.

(B) **Quality of the Units.** Applications may qualify to receive up to 14 points. Applications in which Developments provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in clauses (i) - (xx) of this subparagraph, not to exceed 14 points in total. Applications involving scattered site Developments must have all at least half of the Units located with a specific amenity to count for points. Applications involving Rehabilitation or single room occupancy may receive 1.5 double the points for listed for each point item, not to exceed 14 points in total.

- (i) Covered entries (1 point);
- (ii) Nine foot ceilings in living room and all bedrooms (at minimum) (1 point);
- (iii) Microwave ovens (1 point);
- (iv) Self-cleaning or continuous cleaning ovens (1 point);
- (v) Ceiling fixtures in all rooms (light with ceiling fan in living area and all bedrooms) (1 point);
- (vi) Refrigerator with icemaker (1 point);
- (vii) Laundry connections (2 points);
- (viii) Storage room or closet, of approximately 9 square feet or greater, which does not include bedroom, entryway or linen closets - does not need to be in the Unit but must be on the property site (1 point);
- (ix) Laundry equipment (washers and dryers) for each individual unit including a front loading washer and dryer in required UFAS compliant Units (3 points);
- (x) Thirty year architectural shingle roofing (1 point);
- (xi) Covered patios or covered balconies (1 point);
- (xii) Covered parking (including garages) of at least one covered space per Unit (2 points);
- (xiii) 100% masonry on exterior, which can include stucco, cementitious board products, concrete brick and mortarless concrete masonry, but not EIFS ~~or synthetic stucco~~ (3 points);
- (xiv) Greater than 75% masonry on exterior, which can include stucco and cementitious board products, concrete brick and mortarless concrete masonry, but not EIFS ~~or synthetic stucco~~ (1 points);
- (xv) Use of energy efficient alternative construction materials (for example, Structural Insulated Panel construction) with wall insulation at a minimum of R-20 (3 points).
- (xvi) R-15 Walls / R-30 Ceilings (rating of wall system) (3 points);
- (xvii) 14 SEER HVAC or evaporative coolers in dry climates for New Construction or radiant barrier in the attic for Rehabilitation (3 points);(WG)
- (xviii) Energy Star ~~or equivalently~~-rated refrigerators and dishwashers (2 points); or
- (xix) High Speed Internet service to all Units at no cost to residents (2 points).
- (xx) Fire sprinklers in all Units (2 points).

(5) **The Commitment of Development Funding by Local Political Subdivisions.** Applications may qualify to receive up to 18 points for qualifying under this paragraph. (~~§2306.6710(b)(1)(E)~~)

(A) **Basic Submission Requirements for Scoring.** Evidence of the following must be submitted in accordance with the Application Submission Procedures Manual (ASPM).

(i) Evidence must be submitted in the Application that the proposed Development has received or will receive qualifying loan(s), grants or in-kind contributions from a Local Political Subdivision, as defined in this title.

- (ii) The loans, grant(s) or in-kind contribution(s) must be attributed to the Total Housing Development Costs, as defined in this title, unless otherwise stipulated in this section.
- (iii) An Applicant may only submit enough sources to substantiate the point request, and all sources must be included in the Sources and Uses form. For example, if an Applicant is requesting 18 points, five sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost. However, five sources may not be submitted if each source is for an amount equal to 5% of the Total Housing Development Cost.
- (iv) An Applicant may submit several sources to substantiate points for this section in the Application, but may not substitute any source in response to a Deficiency Notice or after the Application has been submitted to the Department. Use normal rounding—(2306.6710(b)(1)(E)) Evidence that the proposed Development has received an allocation of funds for on-site development costs from a Local Political Subdivision or a properly created governmental instrumentality thereof. An Applicant may receive points under this subparagraph even if the government instrumentality's creating statute states that the entity is not itself a "political subdivision." An Applicant whose Development receives a commitment from a governmental instrumentality with the legal authority to act on behalf of a Local Political Subdivision is also eligible for such points. In addition to
- (v) A loans does not qualify as an eligible source unless it has a minimum 1-year term and the interest rate must be at the Applicable Fair Market Rate (AFR) or below (at the time of application
- (vi) or grants, in-kind contributions such as donation of land, tax exemptions, or waivers of fees such as building permits, water and sewer tap fees, or similar contributions are only eligible if the in-kind contribution that provides a tangible economic benefit that results in a quantifiable Total Housing Development Cost reduction to benefit the Development will be acceptable to qualify for these points. The quantified value of the Total Housing Development Cost reduction may only include the value during the period the contribution or waiver is received and/ or assessed. Donations of land must be under the control of the Applicant, pursuant to §49.9(h)(7) of this title to qualify. Points will be determined on a sliding scale based on the amount per Unit.
- (vii) To the extent that a Notice of Funding Availability (NOFA) is released and funds are available, funds from TDHCA's HOME Investment Partnerships (HOME) Program will qualify if a resolution is submitted with the Application from the Local Political Subdivision authorizing the Applicant to act on behalf of the Local Political Subdivision in applying for HOME Funds from TDHCA for the particular application.
- (viii) Development based rental subsidies may qualify under this section if evidence of the remaining value of the contract is submitted from the Local Political Subdivision. The value of the contract does not include past subsidies.
- (ix) Evidence to be submitted with the Application must include a copy of the commitment of funds; a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received; or a certification of intent to apply for funding that indicates the funding entity and program to which the application will be submitted, the loan amount to be applied for and the specific proposed terms. For in-kind contributions, evidence must be submitted in the Application from Local Political Subdivision to substantiate the value of the in-kind contributions claimed for points as well as a statement of how the contribution will benefit the Development.
- (x) If not already provided, aAt the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the Local Political Subdivision for the sufficient local funding to the Department. If the funding commitment from the Local Political Subdivision has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the Local Political Subdivision's funds, the Commitment Notice will be rescinded and the credits reallocated. No funds from TDHCA's HOME (with the exception of Developments located in non-Participating Jurisdictions) or Housing Trust Fund sources will qualify under this category unless a resolution is submitted with the application from the Local Political Subdivision authorizing that the Applicant act on behalf of the Local Political Subdivision in applying for HOME or Housing Trust Funds from TDHCA for the particular application.
- (xi) Funding commitments from a Local Political Subdivision will not be considered final unless the Local Political Subdivision must attest to the fact that any funds committed were not first provided to the Local Political Subdivision by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision or subsidiary.

(B) Scoring. Points will be determined on a sliding scale based on the percentage of the Total Housing Development Costs of the Development, as reflected in the in the Development Cost Schedule. If a revised Development Cost Schedule is submitted to the Department in response to a deficiency notice at anytime during the review process, the Revised Development Cost Schedule will be utilized for this calculation, and Applicants will be notified of the revised score, consistent with §49.9(e) of this title. Do not round for the following calculations. The "total contribution" is the total combined value of qualifying loan(s), grants or in-kind contributions from a Local Political Subdivision pursuant to (A) of this subsection.

(Ai) A total contribution equal to or greater than 1% of the Total Housing Development Cost of the Development of \$500 to \$1,000 per Low income Unit receives 6 points; or

(Bii) A total contribution equal to or greater than 2.5% of the Total Housing Development Cost of the Development of \$1,001 to \$3,500 per Low income Unit receives 12 points; or

(Ciii) A total equal to or greater than 5% of the Total Housing Development Cost of the Development contribution of \$3,501 or more per Low income Unit receives 18 points; or

(6) The Level of Community Support from State Elected Officials. The level of community support for the application, evaluated on the basis of written statements from state elected officials. (2306-§2306.6710(b)(1)(F) and (f) and (g); 2306-§2306.6725(a)(2)) Applications may qualify to receive up to 14 points for this item. Points will be awarded based on the written statements of support or opposition from state elected officials representing constituents in areas that include the location of the Development. Letters of support must identify the specific Development and must clearly state support for or opposition to the specific Development. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or official by April 1, April 2, 20062007. Officials to be considered are those officials in office at the time the Application is submitted. Letters of support from state officials that do not represent constituents in areas that include the location of the Development will not qualify for points under this Exhibit. Neutral letters, or letters that do not specifically refer to the Development, will receive neither positive nor negative points. Letters from State of Texas Representative or Senator: support letters are 7 points each for a maximum of 14 points; opposition letters are -7 points each for a maximum of -14 points.

(7) The Rent Levels of the Units. Applications may qualify to receive up to 12 points for qualifying under this exhibit. (2306-§2306.6710(b)(1)(G)) If 80% or fewer of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 7 points. If between 81% and 85% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 8 points. If between 86% and 90% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 9 points. If between 91% and 95% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 10 points. If greater than 95% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 12 points. Developments that are scattered site will receive the full 12 points provided that they have received points under paragraph (3) of this subsection.

(8) The Cost of the Development by Square Foot (Development Characteristics). Applications may qualify to receive 10 points for this item. (2306-§2306.6710(b)(1)(H); 42-§42(m)(1)(C)(iii)) For this exhibit, costs shall be defined as construction costs, including site work, direct hard costs, contingency, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be costs per square foot of net rentable area (NRA). For the purposes of this subparagraph only, if the proposed Development is an elevator building serving elderly or a high rise building serving any population, the NRA may include elevator served interior corridors. The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule of the Application. Developments qualify for 10 points if their costs do not exceed \$850 per square foot for Qualified Elderly, transitional, and single room occupancy Developments (transitional housing for the homeless and single room occupancy units as provided in the Code, §42(i)(3)(B)(iii) and (iv)), unless located in a "First Tier County" in which case their costs do not exceed \$872 per square foot; and \$750 for all other Developments, unless located in a designated as "First Tier County" by the Texas Department of Insurance, in which case their costs do not exceed \$727 per square foot. For 20052006, the First Tier cCounties are Aransas, Brazoria, Calhoun, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, San Patricio, and Willacy. There are also specifically designated First Tier communities in Harris County that are east of State Highway 146, and evidence in the Application must include a map with the Development site designated clearly

within the community. These communities are Pasadena, Morgan's Point, Shoreacres, Seabrook and La Porte. Brazoria, Cameron, Galveston, Kennedy, Matagorda, Refugio and Willacy. Intergenerational developments will receive 10 points if costs described above do not exceed the square footage limit for elderly and non-elderly units as determined by using the NRA attributable to the respective elderly and non-elderly units. The Department will determine if points will be awarded by multiplying the NRA for elderly units by the applicable square footage limit for the elderly units and adding that total to the result of the multiplication of the NRA for family units by the applicable non-elderly square footage limit. If this maximum cost amount is equal to, or greater than the total of the costs identified above for the application, points will be awarded(10 points).

(9) The Services to be Provided to Tenants of the Development. Applications may qualify to receive up to 8 points. Applications may qualify for points under both subparagraphs (A) and (B) of this paragraph. ~~(2306-§2306.6710(b)(1)(I); 2306-§2306.254; 2306-§2306.6725(a)(1);~~ General Appropriation Act, Article VII, Rider 7)

(A) Applicants will receive points for coordinating their tenant services with those services provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points).

(B) The Applicant must certify that the Development will provide a combination of special supportive services appropriate for the proposed tenants. The provision of supportive services will be included in the LURA as selected from the list of services identified in this subparagraph. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to off-site services must be provided (maximum of 6 points).

(i) Applications will be awarded points for selecting services listed in clause (ii) of this subparagraph based on the following scoring range:

(I) Two points will be awarded for providing two of the services; or

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

(III) Six points will be awarded for providing six of the services.

(ii) Service options include child care; transportation; basic adult education; legal assistance; counseling services; GED preparation; English as a second language classes; vocational training; home buyer education; credit counseling; financial planning assistance or courses; health screening services; health and nutritional courses; organized team sports programs or youth programs; scholastic tutoring; any other programs described under Title IV-A of the Social Security Act ~~(42-(\$42(\$42U.S.C. §§601 et seq.)~~ which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of-wedlock pregnancies; and encourages the formation and maintenance of two-parent families; any services addressed by §2306.254 Texas Government Code; or any other services approved in writing by the Department.

(10) Rehabilitation or Reconstruction. Applications may qualify to receive 7 points. Applications proposing to build solely Rehabilitation (excluding New Construction of non-residential buildings), or solely Reconstruction (excluding New Construction of non-residential buildings) qualify for points.

(11) Housing Needs Characteristics. ~~(42(\$42(m)(1)(C)(ii))~~ Applications may qualify to receive up to 7 points. Each Application, ~~based on the Area or county where the Development is located, will may~~ receive a score **if correctly requested in the self score form** based on objective measures of housing need in the Area where the Development is located. This Affordable Housing Need Score for each Area will be published in a Site Demographic Characteristics table in the Reference Manual. the Uniform Housing Needs Scoring Component. If a Development is in a place, the Area score will be used. If a Development is not within a place, then the county score will be used. The Uniform Housing Needs Scoring Component scores for each Area and county will be published in the Reference Manual.

(12) Development Includes the Use of Existing Housing as part of a Community Revitalization Plan (Development Characteristics). Applications may qualify to receive 7 points for this item. ~~(42(\$42(m)(1)(C)(iii))~~ The Development is an Existing Residential Development and the proposed proposed any Rehabilitation or any Reconstruction or demolition and reconstruction that is part of a Community Revitalization Plan. Evidence of the Community Revitalization Plan and a map showing the boundaries of the Community Revitalization Plan and the location of the Development site within the boundaries a letter from the governing body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted.

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

(132) **Pre-Application Participation Incentive Points.** (§2306.6704) Applications which submitted a Pre-Application during the Pre-Application Acceptance Period and meet the requirements of this paragraph will qualify to receive 6 points for this item. To be eligible for these points, the Application must:

(A) be for the identical Development Site, or reduced portion of the Development sSite as the proposed Development Site under control in the Pre-Application;

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

(C) be serving the same target population (family, Intergenerational Housing, or elderly) as in the Pre-Application;

(D) be serving the same target Set-Asides as indicated in the Pre-Application (Set-Asides can be dropped between Pre-Application and Application, but no Set-Asides can be added); and

(E) be awarded by the Department an Application score that is not more than 5% greater or less than the number of points awarded by the Department at Pre-Application, with the exclusion of points for support and opposition under ~~subsections paragraphs (i)(2), and (i)(6), and (16)~~ of this ~~title of this subsection~~. 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.

(143) **Development Location.** (~~2306-§2306.6725(a)(4); 42(§42(m)(1)(C)(i)~~) Applications may qualify to receive 4 points. Evidence, not more than 6 months old from ~~the date of the close~~ the first day of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) - (G) of this paragraph. Areas qualifying under any one of the subparagraphs (A) - (G) of this paragraph will receive 4 points. An Application may only receive points under one of the subparagraphs (A) - (G) of this paragraph.

(A) A geographical Area which is an Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD at the time of Application submission (~~2306-§2306.1273~~).

(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the first day of the Application Acceptance Period. (General Appropriation Act, Article VII, Rider 6; ~~2306-§2306.127~~)

~~(C) a city or county sponsored area or zone where a city or county has, through a local government initiative, specifically encouraged or channeled growth, neighborhood preservation, or redevelopment. Such Developments must submit all of the following documentation: a letter from a city/county official verifying that 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)~~ (C) the Development is located in a county that has received an award as of November 15, ~~2005~~2006, within the past three years, from the Texas Department of Agriculture's Rural Municipal Finance Program or Real Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.

~~(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))~~

~~(D)~~ (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. These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

~~(E)~~ (G) the proposed Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and is proposed to be located in an elementary school

attendance zone of an elementary school that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. The date for consideration of the attendance zone is that in existence as of the opening date of the Application Round and the academic rating is the most current rating determined by the Texas Education Agency as of that same date. (42(~~§~~42(m)(1)(C)(vii))

(FH) the proposed Development will expand affordable housing opportunities for low-income families with children outside of poverty areas. This must be demonstrated by showing that the Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and that the census tract in which the Development is proposed to be located has no greater than 10% poverty population according to the most recent census data. (42(~~§~~42(m)(1)(C)(vii)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(154) ~~Exurban Developments or Reconstruction or Rehabilitation of Developments~~ (Development characteristics). (~~2306-§~~2306.6725(a)(4) ~~and (b)(2)~~; ~~2306.127~~; 42(~~§~~42(m)(1)(C)(i)) Applications may qualify to receive 7 points if the Development is not located in an ~~incorporated place or census designated place that is not~~ a Rural Area ~~and but~~ has a population ~~no greater~~ less than 100,000 based on the most current available information published by the United States Bureau of the Census as of October 1 of the year preceding the applicable program year ~~Decennial Census~~, or if a Development is proposed for reconstruction or rehabilitation (in whole or in part, on site or off site) that will be financed, in part, with HOPE VI financing or HUD capital grant financing provided that the Application is a joint venture partnership between the public housing authority or an entity formed by the public housing authority and private market interests (either for profit or nonprofit).

(16) Demonstration of Community Support other than Quantifiable Community Participation: If an Applicant requests these points on the self scoring form and correctly certifies to the Department that there are no neighborhood organizations that meet the Department's definition of Neighborhood Organization pursuant to §49.9(i)(2)(A)(iv) of this title and 12 points were awarded under paragraph (2) of this subsection, then that Applicant may receive two points for each letter of support submitted from a community or civic organization that serves the community in which the site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. The community or civic organization must provide some documentation of its existence in the community to include, but not be limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that are not active in the area that includes the location of the Development will not be counted. For purposes of this item, community and civic organizations do not include neighborhood organizations, governmental entities, taxing entities or educational activities. Letters of support received after March 1, 2007, will not be accepted for this item. Two points will be awarded for each letter of support submitted in the Application, not to exceed 7 points. Should an Applicant elect this option and the Application receives letters in opposition by March 1, 2007, then two points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community. At no time will the Application, however, receive a score lower than zero for this item.

(17) Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits: The Application may receive 7 points if the proposed Development is located in an Urban/Exurban Area and in a census tract in which there are no other existing developments supported by housing tax credits. Applicant must provide evidence of the census tract in which the Development is located. (§2306.6725(b)(2)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(185) ~~Tenant Populations with Special Housing Needs.~~ Applications may qualify to receive 4 points for this item. (42(~~§~~42(m)(1)(C)(v)) The Department will award these points to Applications in which at least 10% of the Units are set aside for Persons with Special Needs. Throughout the Compliance Period, unless otherwise permitted by the Department, the Development owner agrees to affirmatively market Units to Persons with Special needs. In addition, the Department will require a minimum 12 month period during which units must either be occupied by persons with Special Needs or held vacant. The 12 month period will begin on the date each building receives its certificate of occupancy. For buildings that do not receive a Certificate of Occupancy, the 12 month period will begin on the placed in service date as provided in the Cost Certification manual. After the 12 month period, the owner will no longer be required to hold units vacant for households with special needs, but will be required to continue to affirmatively market units to household with special needs.

(196) ~~Length of Affordability Period.~~ Applications may qualify to receive up to 4 points. (~~2306-§~~2306.6725(a)(5); ~~2306-§~~2306.111(g)(3)(C); ~~2306-§~~2306.185(a)(1) and (c); ~~2306-§~~2306.6710(e)(2);

42(~~§~~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)

(2047) **Site Characteristics.** Development Sites, including scattered sites, will be evaluated based on proximity to amenities, the presence of positive site features and the absence of negative site features. Sites will be rated based on the criteria below.

(A) Proximity of site to amenities. Developments Sites located on sites within a one mile radius (two-mile radius for Developments competing for a Rural Regional Allocation) of at least three services appropriate to the target population will receive four points. A site located within one-quarter mile of public transportation that is accessible to all residents including pPersons Wwith Ddisabilities and/or located within a community that has "on demand" transportation, special transit service, or specialized elderly transportation for Qualified Elderly Developments, will receive full points regardless of the proximity to amenities, as long as the Applicant provides appropriate evidence of the transportation services used to satisfy this requirement. If a Development is providing its own specialized van or on demand service, then this will be a requirement of the LURA. Only one service of each type listed below will count towards the points. A map must be included identifying the Ddevelopment site and the location of the services. The services must be identified by name on the map. If the services are not identified by name, points will not be awarded. All services must exist or, if under construction, must be at least 50% complete by the date the Application is submitted. (4 points)

(i) Full service grocery store or supermarket

(ii) Pharmacy

(iii) Convenience Store/Mini-market

(iv) Department or Retail Merchandise Store

(v) Bank/Credit Union

(vi) Restaurant (including fast food)

(vii) Indoor public recreation facilities, such as civic centers, community centers, and libraries

(viii) Outdoor public recreation facilities such as parks, golf courses, and swimming pools

(ix) Hospital/medical clinic

(x) Doctor's offices (medical, dentistry, optometry)

(xi) Public Schools (only eligible for Developments that are not Qualified Elderly Developments)

(xii) Senior Center (only eligible for Qualified Elderly Developments)

(B) Negative Site Features. Development Sites with the following negative characteristics will have points deducted from their score. For purpose of this exhibit, the term 'adjacent' is interpreted as sharing a boundary with the Development site. The distances are to be measured from all boundaries of the Development site. If an Applicant negligently fails to note a negative feature, double points will be deducted from the score or the Application may be terminated. If none of these negative features exist, the Applicant must sign a certification to that effect. (-5 points)

(i) Developments located adjacent to or within 300 feet of junkyards will have 1 point deducted from their score.

(ii) Developments located adjacent to or within 300 feet of active railroad tracks will have 1 point deducted from their score, unless the applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail. Rural Developments funded through TX-USDA-RHS are exempt from this point deduction.

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

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

(v) Developments where the buildings are located within the "fall line" located adjacent to or within 100 feet of high voltage transmission power lines will have 1 point deducted from their score.

(2148) **Development Size.** The Development consists of not more than 36 Units and is not a part of, or contiguous to, a larger existing tax credit development (3 points).

(1922) **Qualified Census Tracts with Revitalization.** Applications may qualify to receive 21 points for this item. (42(~~§~~42(m)(1)(B)(ii)(III)) Applications will receive the points for this item if the Development is located

within a Qualified Census Tract and contributes to a concerted Community Revitalization Plan. Evidence of the Community Revitalization Plan and a letter from the governing body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted. ~~a map showing boundaries of the Community Revitalization Plan and the location of the Development site within the boundaries must be submitted.~~

(230) **Sponsor Characteristics.** Applications may qualify to receive a maximum of 2 points for this item for qualifying under either subparagraph (A) or (B) of this paragraph. ~~(42)(§42(m)(1)(C)(iv))~~

(A) An Application will receive these two points for submitting a plan to use Historically Underutilized Businesses in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas.

(B) An Application will receive these points if there is evidence that a HUB that does not meet the experience requirements under ~~§50-49.9~~(g) of this title, as certified by the Texas Building and Procurement Commission, has at least 51% ownership interest in the General Partner and materially participates in the ~~D~~development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission that the Person is a HUB at the close of the Application Acceptance Period. The HUB will be disqualified from receiving these points if any Principal of the HUB has developed, and received 8609's for, more than two Developments involving tax credits. Additionally, to qualify for these points, the HUB must partner with an experienced developer (as defined by ~~§50-49.9~~ of this title); the experienced developer, as an Affiliate, will not be subject to the credit limit described under ~~§50-49.6~~(d) of this title for one application per Application Round. For purposes of this section the experienced developer may not be a Related Party to the HUB.

(24) **Developments Intended for Eventual Tenant Ownership - Right of First Refusal.** Applications may qualify to receive 1 point for this item. ~~(2306-§2306.6725(b)(1))~~ ~~(42)(§42(m)(1)(C)(viii))~~ Evidence that Development Owner agrees to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period for the minimum purchase price provided in, and in accordance with the requirements of, §42(i)(7) of the Code (the "Minimum Purchase Price"), to a Qualified Nonprofit Organization, the Department, or either an individual tenant with respect to a single family building, or a tenant cooperative, a resident management corporation in the Development or other association of tenants in the Development with respect to multifamily developments (together, in all such cases, including the tenants of a single family building, a "Tenant Organization"). Development Owner may qualify for these points by providing the right of first refusal in the following terms.

(A) Upon the earlier to occur of:

(i) the Development Owner's determination to sell the Development; or

(ii) the Development Owner's request to the Department, pursuant to §42(h)(6)(E)(II) of the Code, to find a buyer who will purchase the Development pursuant to a "qualified contract" within the meaning of §42(h)(6)(F) of the Code, the Development Owner shall provide a notice of intent to sell the Development ("Notice of Intent") to the Department and to such other parties as the Department may direct at that time. If the Development Owner determines that it will sell the Development at the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to expiration of the Compliance Period. If the Development Owner determines that it will sell the Development at some point later than the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to date upon which the Development Owner intends to sell the Development.

(B) During the two years following the giving of Notice of Intent, the Sponsor may enter into an agreement to sell the Development only in accordance with a right of first refusal for sale at the Minimum Purchase Price with parties in the following order of priority:

(i) during the first six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization that is also a community housing development organization, as defined for purposes of the federal HOME Investment Partnerships Program at 24 C.F.R. §92.1 (a "CHDO") and is approved by the Department,

(ii) during the second six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization or a Tenant Organization; and

(iii) during the second year after the Notice of Intent, only with the Department or with a Qualified Nonprofit Organization approved by the Department or a Tenant Organization approved by the Department.

(iv) If, during such two-year period, the Development Owner shall receive an offer to purchase the Development at the Minimum Purchase Price from one of the organizations designated in clauses (i) - (iii) of this subparagraph (within the period(s) appropriate to such organization), the Development Owner shall sell the Development at the Minimum Purchase Price to such organization. If, during such period, the Development

Owner shall receive more than one offer to purchase the Development at the Minimum Purchase Price from one or more of the organizations designated in clauses (i) - (iii) of this subparagraph (within the period(s) appropriate to such organizations), the Development Owner shall sell the Development at the Minimum Purchase Price to whichever of such organizations it shall choose.

(C) After whichever occurs the later of:

- (i) the end of the Compliance Period; or
- (ii) two years from delivery of a Notice of Intent,

the Development Owner may sell the Development without regard to any right of first refusal established by the LURA if no offer to purchase the Development at or above the Minimum Purchase Price has been made by a Qualified Nonprofit Organization, a Tenant Organization or the Department, or a period of 120 days has expired from the date of acceptance of all such offers as shall have been received without the sale having occurred, provided that the failure(s) to close within any such 120-day period shall not have been caused by the Development Owner or matters related to the title for the Development.

(D) At any time prior to the giving of the Notice of Intent, the Development Owner may enter into an agreement with one or more specific Qualified Nonprofit Organizations and/or Tenant Organizations to provide a right of first refusal to purchase the Development for the Minimum Purchase Price, but any such agreement shall only permit purchase of the Development by such organization in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(E) The Department shall, at the request of the Development Owner, identify in the LURA a Qualified Nonprofit Organization or Tenant Organization which shall hold a limited priority in exercising a right of first refusal to purchase the Development at the Minimum Purchase Price, in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(F) The Department shall have the right to enforce the Development Owner's obligation to sell the Development as herein contemplated by obtaining a power-of-attorney from the Development Owner to execute such a sale or by obtaining an order for specific performance of such obligation or by such other means or remedy as shall be, in the Department's discretion, appropriate.

(252) **Leveraging of Private, State, and Federal Resources.** Applications may qualify to receive 1 point for this item. ~~(2306.62306.6725(a)(3))~~ Evidence must be submitted in the Application that the proposed Development has received or will receive loan(s), grant(s) or in-kind contributions from a ~~an allocation of~~ private, state or federal resources, which including Capital Grant Funds and HOPE VI funds, that is equal to or greater than 2% (not using normal rounding) of the Total Housing Development Costs reflected in the Application. For in-kind contributions, evidence must be submitted in the Application from a private, state or federal resource which substantiates the value of the in-kind contributions. Development based rental subsidies from private, state or federal resource may qualify under this section if evidence of the remaining value of the contract is submitted from the source. The value of the contract does not include past subsidies. Qualifying funds awarded through local entities may qualify for points if the original source of the funds is from a private, state or federal source. Applicants may only submit enough sources to substantiate the point request, and all sources must be included in the Sources and Uses form. For example, two sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost. However, two sources may not be submitted if each source is for an amount equal to 2% of the Total Housing Development Cost. The funding must be in addition to the primary funding (construction and permanent loans) that is proposed to be utilized and cannot be issued from the same primary funding source or an affiliated source. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision. The Development must have already applied for funding from the funding entity. Evidence to be submitted with the Application must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. At the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the entity for the sufficient financing to the Department. If the funding commitment from the private, state or federal source, or qualifying substitute source, has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the commitment from the private, state or federal source, the

Commitment Notice will be rescinded and the credits reallocated. ~~Use normal rounding.~~ Funds from the Department's HOME and Housing Trust Fund sources will only qualify under this category if there is a Notice of Funding Availability (NOFA) out for available funds and the Applicant is eligible under that NOFA. To qualify for this point, the Rent Schedule must show that at least 3% ~~(not using normal rounding)~~ of all low-income Units are designated to serve individuals or families with incomes at or below 30% of AMGI.

~~(263)~~ **Third-Party Funding Commitment Outside of Qualified Census Tracts.** Applications may qualify to receive 1 point for this item. ~~(2306-§2306.6710(e)(1))~~ Evidence that the proposed Development has documented and committed third-party funding sources and the Development is located outside of a Qualified Census Tract. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The commitment of funds (an application alone will not suffice) must already have been received from the third-party funding source and must be equal to or greater than 2% ~~(not using normal rounding)~~ of the Total Development costs reflected in the Application. Funds from the Department's HOME and Housing Trust Fund sources will not qualify under this category. The third-party funding source cannot be a loan from a commercial lender.

~~(274)~~ **Scoring Criteria Imposing Penalties.** ~~(2306-§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 ~~a~~Developments receiving a housing tax credit commitment made in the ~~a~~Application ~~Round~~ preceding the current round. The extension that will receive a penalty is an extension related to the submission of the ~~e~~Carryover Allocation Agreement or the 10% Test pursuant to §49.14 of this title. For each extension request made, the Applicant will receive a 5 point deduction for not meeting the Carryover deadline. Subsequent extension requests for carryover after the first extension request made for each ~~D~~development from the preceding round will not result in a further point reduction than already described. No penalty points or fees will be deducted for extensions that were requested on Developments that involved Rehabilitation when the Department is the primary lender, or for Developments that involve TX-USDA-RHS as a lender if TX-USDA-RHS or the Department is the cause for the Applicant not meeting the deadline.

(B) Penalties will be imposed on an Application if the Developer or Principal of the Applicant has been removed by the lender, equity provider, or limited partners in the past five years for failure to perform its obligations under the loan documents or limited partnership agreement. An affidavit will be provided by the Applicant and the Developer certifying that they have not been removed as described, or requiring that they disclose each instance of removal with a detailed description of the situation. If an Applicant or Developer submits the affidavit, and the Department learns at a later date that a removal did take place as described, then the Application will be terminated and any Allocation made will be rescinded. The Applicant, Developers or Principals of the Applicant that are in court proceedings at the time of Application must disclose this information and the situation will be evaluated on a case-by-case basis. 3 points will be deducted for each instance of removal.

(C) Penalties will be imposed on an Application if Developer or Principal of the Applicant violates the Adherence to Obligations pursuant to §49.9(c) of this title.

(j) **Tie Breaker Factors.**

(1) In the event that two or more Applications receive the same number of points in any given Set-Aside category, Rural Regional Allocation or Urban/Exurban Regional Allocation, or Uniform State Service Region, and are both practicable and economically feasible, the Department will utilize the factors in this paragraph, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit commitment.

(A) Applications involving any Rehabilitation ~~or Reconstruction~~ of existing Units will win this first tier tie breaker over Applications involving solely New Construction.

(B) The Application located in the municipality or, if located outside a municipality, the county, that has the lowest state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins as reflected in the Reference Manual will win this second tier tie breaker.

(C) The amount of requested tax credits per net rentable square foot requested (the lower credits per square foot has preference)

(D) Projects that are intended for eventual tenant ownership. Such Developments must utilize a detached single family site plan and building design and have a business plan describing how the project will convert to tenant ownership at the end of the 15-year compliance period.

20067 -Housing Tax Credit Program Qualified Allocation Plan and Rules

(2) This clause identifies how ties will be handled when dealing with the restrictions on location identified in ~~§50.49.5(a)(8)~~ of this title, and in dealing with any issues relating to capture rate calculation. When two Tax-Exempt Bond Developments would violate one of these restrictions, and only one Development can be selected, the Department will utilize the reservation docket number issued by the Texas Bond Review Board in making its determination. When two competitive Housing Tax Credits Applications in the Application Round would violate one of these restrictions, and only one Development can be selected, the Department will utilize the tie breakers identified in paragraph (1) of this subsection. When a Tax-Exempt Bond Development and a competitive Housing Tax Credit Application in the Application Round would both violate a restriction, the following determination will be used:

(A) Tax-Exempt Bond Developments that receive their reservation from the Bond Review Board on or before April 30, ~~2006~~2007 will take precedence over the Housing Tax Credit Applications in the ~~2006~~2007 Application Round;

(B) Housing Tax Credit Applications approved by the Board for tax credits in July ~~2006~~2007 will take precedence over the Tax-Exempt Bond Developments that received their reservation from the Bond Review Board on or between May 1, ~~2006~~2007 and July 31, ~~2006~~2007; and

(C) After July 31, ~~2006~~2007, a Tax-Exempt Bond Development with a reservation from the Bond Review Board will take precedence over any Housing Tax Credit Application from the ~~2006~~2007 Application Round on the Waiting List. However, if no reservation has been issued by the date the Board approves an allocation to a Development from the Waiting List of Applications in the ~~2006~~2007 Application Round or a forward commitment, then the Waiting List Application or forward commitment will be eligible for its allocation.

(k) **Staff Recommendations.** (~~2306.§2306.1112~~ and ~~2306.§2306.6731~~) After eligible Applications have been evaluated, ranked and underwritten in accordance with the QAP and the Rules, the Department staff shall make its recommendations to the Executive Award and Review Advisory Committee. The Committee will develop funding priorities and shall make commitment recommendations to the Board. Such recommendations and supporting documentation shall be made in advance of the meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. The Committee will provide written, documented recommendations to the Board which will address at a minimum the financial or programmatic viability of each Application and a list of all submitted Applications which enumerates the reason(s) for the Development's proposed selection or denial, including all factors provided in subsection ~~§50.49.10(a)~~ of this section that were used in making this determination.

~~§50.49.10~~ Board Decisions; Waiting List; Forward Commitments

(a) **Board Decisions.** The Board's decisions shall be based upon the Department's and the Board's evaluation of the proposed Developments' consistency with the criteria and requirements set forth in this QAP and Rules.

(1) On awarding tax credits, the Board shall document the reasons for each Application's selection, including any discretionary factors used in making its determination, and the reasons for any decision that conflicts with the recommendations made by Department staff. The Board may not make, without good cause, a commitment decision that conflicts with the recommendations of Department staff. Good cause includes the Board's decision to apply discretionary factors. (~~2306.§2306.6725(c)~~; ~~42(§42(m)(1)(A)(iv)~~; ~~2306.§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.§2306.111(g)(3)~~; ~~2306.§2306.0661(f)~~)

(A) the developer market study;

(B) the location;

(C) the compliance history of the Developer;

~~(D) the Applicant and/or Developer's efforts to engage the neighborhood;~~

~~(DE)~~ the financial feasibility;

~~(FE)~~ the appropriateness of the Development's size and configuration in relation to the housing needs of the community in which the Development is located;

~~(G) the housing needs of the community, area, region and state;~~

~~(HF)~~ the Development's proximity to other low-income housing developments;

~~(G)~~ the availability of adequate public facilities and services;

20067-Housing Tax Credit Program Qualified Allocation Plan and Rules

- ~~(H)~~ the anticipated impact on local school districts;
- ~~(I)~~ zoning and other land use considerations;
- ~~(L)~~ laws relating to fair housing including affirmatively furthering fair housing;
- ~~(M)~~ the efficient use of the tax credits;
- ~~(N)~~ consistency with local needs, including consideration of revitalization or preservation needs;
- ~~(O)~~ the allocation of credits among many different entities without diminishing the quality of the housing; (General Appropriation Act, Article VII, Rider 8(e))
- ~~(P)~~ meeting a compelling housing need;
- ~~(Q)~~ providing integrated, affordable housing for individuals and families with different levels of income;
- ~~(R)~~ the inclusive capture rate as described under §1.32(g)(2);
- ~~(S)~~ any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes and the policies of Chapter 2306, Texas Government Code; or and
- ~~(T)~~ other good cause as determined by the Board.

(3) Before the Board approves any Application, the Department shall assess the compliance history of the Applicant with respect to all applicable requirements; and the compliance issues associated with the proposed Development, including compliance information provided by the Texas State Affordable Housing Corporation. The Committee shall provide to the Board a written report regarding the results of the assessments. The written report will be included in the appropriate Development file for Board and Department review. The Board shall fully document and disclose any instances in which the Board approves a Development Application despite any noncompliance associated with the Development or Applicant. (~~2306.2306.057~~)

(b) **Waiting List.** (~~2306.2306.6711(c)~~ and (d)) If the entire State Housing Credit Ceiling for the applicable calendar year has been committed or allocated in accordance with this chapter, the Board shall generate, concurrently with the issuance of commitments, a waiting list of additional Applications ranked by score in descending order of priority based on Set-Aside categories and regional allocation goals. The Board may also apply discretionary factors in determining the Waiting List. If at any time prior to the end of the Application Round, one or more Commitment Notices expire and a sufficient amount of the State Housing Credit Ceiling becomes available, the Board shall issue a Commitment Notice to Applications on the waiting list subject to the amount of returned credits, the regional allocation goals and the Set-Aside categories, including the 10% Nonprofit Set-Aside allocation required under the Code, §42(h)(5). At the end of each calendar year, all Applications which have not received a Commitment Notice shall be deemed terminated. The Applicant may re-apply to the Department during the next Application Acceptance Period.

(c) **Forward Commitments.** The Board may determine to issue commitments of tax credit authority with respect to Applications from the State Housing Credit Ceiling for the calendar year following the year of issuance (each a "forward commitment") to Applications submitted in accordance with the rules and timelines required under this rule and the Application Submission Procedures Manual. The Board will utilize its discretion in determining the amount of credits to be allocated as forward commitments and the reasons for those commitments considering score and discretionary factors. The Board may utilize the forward commitment authority to allocate credits to TX-USDA-RHS Developments which are experiencing foreclosure or loan acceleration at any time during the ~~2006~~2007 calendar year, also referred to as Rural Rescue Developments. Applications that are submitted under the ~~2006~~2007 QAP and granted a Forward Commitment of ~~2007~~2008 Housing Tax Credits are considered by the Board to comply with the ~~2007~~2008 QAP by having satisfied the requirements of this ~~2006~~2007 QAP, except for statutorily required QAP changes.

(1) Unless otherwise provided in the Commitment Notice with respect to a Development selected to receive a forward commitment, actions which are required to be performed under this chapter by a particular date within a calendar year shall be performed by such date in the calendar year of the Credit Ceiling from which the credits are allocated.

(2) Any forward commitment made pursuant to this section shall be made subject to the availability of State Housing Credit Ceiling in the calendar year with respect to which the forward commitment is made. If a forward commitment shall be made with respect to a Development placed in service in the year of such commitment, the forward commitment shall be a "binding commitment" to allocate the applicable credit dollar amount within the meaning of the Code, §42(h)(1)(C).

(3) If tax credit authority shall become available to the Department in a calendar year in which forward commitments have been awarded, the Department may allocate such tax credit authority to any eligible Development which received a forward commitment, in which event the forward commitment shall be canceled with respect to such Development.

§50-49.11. Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants; Viewing of Pre-Applications and Applications; Confidential Information.

(a) Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants.

(1) Within approximately seven business days after the close of the Pre-Application Acceptance Period, the Department shall publish a Pre-Application Submission Log on its web site. Such log shall contain the Development name, address, Set-Aside, number of units, requested credits, owner contact name and phone number. (~~2306-§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-§2306.1114~~)

(A) publish an Application submission log on its web site.

(B) give notice of a proposed Development in writing that provides the information required under clause (i) of this subparagraph to all of the individuals and entities described in clauses (ii) - (x) of this subparagraph. (~~2306-§2306.6718(a) - (c)~~)

(i) The following information will be provided in these notifications:

(I) The relevant dates affecting the Application including the date on which the Application was filed, the date or dates on which any hearings on the Application will be held and the date by which a decision on the Application will be made;

(II) A summary of relevant facts associated with the Development;

(III) A summary of any public benefits provided as a result of the Development, including rent subsidies and tenant services; and

(IV) The name and contact information of the employee of the Department designated by the director to act as the information officer and liaison with the public regarding the Application.

(ii) Presiding officer of the governing body of the political subdivision containing the Development (mayor or county judge) to advise such individual that the Development, or a part thereof, will be located in his/her jurisdiction and request any comments which such individual may have concerning such Development.

(iii) If the Department receives a letter from the mayor or county judge of an affected city or county that expresses opposition to the Development, the Department will give consideration to the objections raised and will offer to visit the proposed site or Development with the mayor or county judge or their designated representative within 30 days of notification. The site visit must occur before the Housing Tax Credit can be approved by the Board. The Department will obtain reimbursement from the Applicant for the necessary travel and expenses at rates consistent with the state authorized rate (General Appropriation Act, Article VII, Rider 5) (§42(m)(1));

(iv) Any member of the governing body of a political subdivision who represents the Area containing the Development. If the governing body has single-member districts, then only that member of the governing body for that district will be notified, however if the governing body has at-large districts, then all members of the governing body will be notified;

(v) state representative and state senator who represent the community where the Development is proposed to be located. If the state representative or senator host a community meeting, the Department, if timely notified, will ensure staff are in attendance to provide information regarding the Housing Tax Credit Program; (General Appropriation Act, Article VII, Rider 8(d))

(vi) United States representative who represents the community containing the Development;

(vii) Superintendent of the school district containing the Development;

(viii) Presiding officer of the board of trustees of the school district containing the Development;

(ix) Any Neighborhood Organizations on record with the city or county in which the Development is to be located and whose boundaries contain the proposed Development site or otherwise known to the Applicant or Department and on record with the state or county; and

(x) Advocacy organizations, social service agencies, civil rights organizations, tenant organizations, or others who may have an interest in securing the development of affordable housing that are registered on the Department's email list service.

(C) The elected officials identified in subparagraph (B) of this paragraph will be provided an opportunity to comment on the Application during the Application evaluation process. (§42(m)(1))

(4) The Department shall hold at least three public hearings in different Uniform State Service Regions of the state to receive comment on the submitted Applications and on other issues relating to the Housing Tax Credit Program for competitive Applications under the State Housing Credit Ceiling. (~~2306-§2306.6717(c)~~)

(5) The Department shall make available on the Department's website information regarding the Housing Tax Credit Program including notice of public hearings, meetings, Application Round opening and closing dates, submitted Applications, and Applications approved for underwriting and recommended to the Board, and shall provide that information to locally affected community groups, local and state elected officials, local housing departments, any appropriate newspapers of general or limited circulation that serve the community in which a proposed Development is to be located, nonprofit and for-profit organizations, on-site property managers of occupied Developments that are the subject of Applications for posting in prominent locations at those Developments, and any other interested persons including community groups, who request the information. (~~2306.6717(b);~~)

(6) Approximately forty days prior to the date of the July Board meeting at which the issuance of Commitment Notices shall be discussed, the Department will notify each Applicant of the receipt of any opposition received by the Department relating to his or her Development at that time.

(7) Not later than the third working day after the date of completion of each stage of the Application process, including the results of the Application scoring and underwriting phases and the commitment phase, the results will be posted to the Department's web site. (~~2306.6717(a)(3)~~)

(8) At least thirty days prior to the date of the July Board meeting at which the issuance of Commitment Notices shall be discussed, the Department will:

(A) provide the Application scores to the Board; (~~2306.6711(a)~~)

(B) if feasible, post to the Department's web site the entire Application, including all supporting documents and exhibits, the Application Log as further described in ~~§50.49.19(b)~~ of this title, a scoring sheet providing details of the Application score, and any other documents relating to the processing of the Application. (~~2306.6717(a)(1) and (2)~~)

(9) A summary of comments received by the Department on specific Applications shall be part of the documents required to be reviewed by the Board under this subsection if it is received 30 business days prior to the date of the Board Meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. Comments received after this deadline will not be part of the documentation submitted to the Board. However, a public comment period will be available prior to the Board's decision, at the Board meeting where tax credit commitment decisions will be made.

(10) Not later than the 120th day after the date of the initial issuance of Commitment Notices for housing tax credits, the Department shall provide an Applicant who did not receive a commitment for housing tax credits with an opportunity to meet and discuss with the Department the Application's deficiencies, scoring and underwriting. (~~2306.6711(e)~~)

(b) **Viewing of Pre-Applications and Applications.** Pre-Applications and Applications for tax credits are public information and are available upon request after the Pre-Application and Application Acceptance Periods close, respectively. All Pre-Applications and Applications, including all exhibits and other supporting materials, except Personal Financial Statements and Social Security numbers, will be made available for public disclosure after the Pre-Application and Application periods close, respectively. The content of Personal Financial Statements may still be made available for public disclosure upon request if the Attorney General's office deems it is not protected from disclosure by the Texas Public Information Act.

(c) **Confidential Information.** The Department may treat the financial statements of any Applicant as confidential and may elect not to disclose those statements to the public. A request for such information shall be processed in accordance with §552.305 of the Government Code. (~~2306.6717(d)~~)

§50.49.12. Tax-Exempt Bond Developments: Filing of Applications; Applicability of Rules; Supportive Services; Financial Feasibility Evaluation; Satisfaction of Requirements.

(a) **Filing of Applications for Tax-Exempt Bond Developments.** Applications for a Tax-Exempt Bond Development may be submitted to the Department as described in paragraphs (1) and (2) of this subsection:

(1) Applicants which receive advance notice of a Program Year ~~2006~~2007 reservation as a result of the Texas Bond Review Board's (TBRB) lottery for the private activity volume cap must file a complete Application not later than 12:00 p.m. on December ~~289~~, ~~2005~~2006. Such filing must be accompanied by the Application fee described in ~~§50.49.20~~ of this title.

(2) Applicants which receive advance notice of a Program Year ~~2006~~2007 reservation after being placed on the waiting list as a result of the TBRB lottery for private activity volume cap must submit Volume 1 and Volume 2 of the Application and the Application fee described in ~~§50.49.20~~ of this title prior to the Applicant's bond reservation date as assigned by the TBRB. Those applications designated as Priority 3 by the TBRB must submit Volumes I and II within 14 days of the bond reservation date if the Applicant intends to apply for tax credits regardless of the Issuer. Any outstanding documentation required under this section regardless of

Priority must be submitted to the Department at least 60 days prior to the Board meeting at which the decision to issue a Determination Notice would be made unless a waiver is being requested.

(b) **Applicability of Rules for Tax-Exempt Bond Developments.** Tax-Exempt Bond Development Applications are subject to all rules in this title, with the only exceptions being the following sections: ~~§50-49.4~~ of this title (regarding State Housing Credit Ceiling), ~~§50-49.7~~ of this title (regarding Regional Allocation and Set-Asides), ~~§50-49.8~~ of this title (regarding Pre-Application), ~~§50-49.9(d)~~ and (f) of this title (regarding Evaluation Processes for Competitive Applications and Rural Rescue Applications), ~~§50-49.9(i)~~ of this title (regarding Selection Criteria), ~~§50-49.10(b)~~ and (c) of this title (regarding Waiting List and Forward Commitments), and ~~§50-49.14(a)~~ and (b) of this title (regarding Carryover and 10% Test). Such Developments requesting a Determination Notice in the current calendar year must meet all Threshold Criteria requirements stipulated in ~~§50-49.9(h)~~ of this title. Such Developments which received a Determination Notice in a prior calendar year must meet all Threshold Criteria requirements stipulated in the QAP and Rules in effect for the calendar year in which the Determination Notice was issued; provided, however, that such Developments shall comply with all procedural requirements for obtaining Department action in the current QAP and Rules; and such other requirements of the QAP and Rules as the Department determines applicable. Consistency with the local municipality's consolidated plan or similar planning document must be demonstrated in those instances where the city or county has a consolidated plan. If no such planning document exists then the Applicant must submit a letter from the local municipal authority stating such and that there is a need for affordable housing. This documentation must be submitted no later than 14 days before the Board meeting where the credits will be considered. Applicants will be required to meet all conditions of the Determination Notice by the time the construction loan is closed unless otherwise specified in the Determination Notice. Applicants must meet the requirements identified in ~~§50-49.15~~ of this title. No later than 60 days following closing of the bonds, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan (as further described in the Carryover Allocation Procedures Manual), and evidence must be provided at this time of attendance of the Development Owner or management company at Department-approved Fair Housing training relating to leasing and management issues for at least five hours and the Development architect at Department-approved Fair Housing training relating to design issues for at least five hours. Certifications must not be older than two years. Applications that receive a reservation from the Bond Review Board on or before December 31, ~~2005~~2006 will be required to satisfy the requirements of the ~~2005~~2006 QAP; Applications that receive a reservation from the Bond Review Board on or after January 1, ~~2006~~2007 will be required to satisfy the requirements of the ~~2006~~2007 QAP.

(c) **Supportive Services for Tax-Exempt Bond Developments.** (~~2306-§2306.254~~) Tax-Exempt Bond Development Applications must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of these services will be included in the LURA. Acceptable services as described in paragraphs (1) - (3) of this subsection include:

(1) the services must be in at least one of the following categories: child care, transportation, basic adult education, legal assistance, counseling services, GED preparation, English as a second language classes, vocational training, home buyer education, credit counseling, financial planning assistance or courses, health screening services, health and nutritional courses, organized team sports programs, youth programs, scholastic tutoring, social events and activities, community gardens or computer facilities;

(2) any other program described under Title IV-A of the Social Security Act (~~42-§42U.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. Increases to the amount of tax credits that exceed 110% of the amount of credits reflected in the Determination Notice are contingent upon approval by the Board. Increases to the amount of tax credits that do not exceed 110% of the amount of credits reflected in the Determination Notice may be approved administratively by the Executive Director.

(e) **Satisfaction of Requirements for Tax-Exempt Bond Developments.** If the Department staff determines that all requirements of this QAP and Rules have been met, the Department will recommend that the Board authorize the issuance of a Determination Notice. The Board, however, may utilize the discretionary factors identified in ~~§50.49.10(a)~~ of this title in determining if they will authorize the Department to issue a Determination Notice to the Development Owner. The Determination Notice, if authorized by the Board, will confirm that the Development satisfies the requirements of the QAP and Rules in accordance with the Code, §42(m)(1)(D).

(f) Certification of Tax Exempt Applications with New Docket Numbers Applications that are processed through the Department review and evaluation process and receive an affirmative Board Determination, but do not close the bonds prior to the bond reservation expiration date, and subsequently have that docket number withdrawn from the Bond Review Board, may have their Determination Notice reinstated. The Applicant would need to receive a new docket number from the Texas Bond Review Board. One of the following must apply:

(1) The new docket number must be issued in the same program year as the original docket number and must not be more than four months from the date the original application was withdrawn from the BRB. The application must remain unchanged. This means that at a minimum, the following can not have changed: site control, total number of units, unit mix (bedroom sizes and income restrictions), design/site plan documents, financial structure including bond and housing tax credit amounts, development costs, rent schedule, operating expenses, sources and uses, ad valorem tax exemption status, target population, scoring criteria (TDHCA issues) or BRB priority status including the effect on the inclusive capture rate. Note that the entities involved in the applicant entity and developer can not change; however, the certification can be submitted even if the lender, syndicator or issuer changes, as long as the financing structure and terms remain unchanged. Notifications under §49.9(h)(8) of this title are not required to be reissued. In the event that the Department's Board has already approved the application for tax credits, the application is not required to be presented to the Board again (unless there is public opposition) and a revised Determination Notice will be issued once notice of the assignment of a new docket number has been provided to the Department and the Department has confirmed that the capture rate and market demand remain acceptable. This certification must be submitted no later than thirty days after the date the Bond Review Board issues the new docket number and no later than thirty days before the anticipated closing. In the event that the Department's Board has not yet approved the application, the application will continue to be processed and ultimately provided to the Board for consideration. This certification must be submitted no later than thirty days after the date the Bond Review Board issues the new docket number and no later than forty-five days before the anticipated Department's Board meeting date.

(2) If there are changing to the Application as referenced in paragraph (1) of this subsection, the Application will be required to submit a new Application in full, along with the applicable fees, to be reviewed and evaluated in its entirety for a new determination notice to be issued.

~~§50.49.13~~ Commitment and Determination Notices; Agreement and Election Statement; Documentation Submission Requirements.

(a) **Commitment and Determination Notices.** If the Board approves an Application, ~~within ten days of approval~~ the Department will:

(1) if the Application is for a commitment from the State Housing Credit Ceiling, issue a Commitment Notice to the Development Owner which shall:

(A) confirm that the Board has approved the Application; and

(B) state the Department's commitment to make a Housing Credit Allocation to the Development Owner in a specified amount, subject to the feasibility determination described at ~~in §50.49.16~~ of this title,

and compliance by the Development Owner with the remaining requirements of this chapter and any other terms and conditions set forth therein by the Department. This commitment shall expire on the date specified therein unless the Development Owner indicates acceptance of the commitment by executing the Commitment Notice or Determination Notice, pays the required fee specified in ~~§50.49.20~~ of this title, and satisfies any other conditions set forth therein by the Department. A Development Owner may request an extension of the Commitment Notice expiration date by submitting an extension request and associated extension fee as described in ~~§50.49.20~~ of this title. ~~Any such extension must be approved by the Board.~~ In no event shall the expiration date of a Commitment Notice be extended beyond the last business day of the applicable calendar year.

(2) if the Application regards a Tax-Exempt Bond Development, issue a Determination Notice to the Development Owner which shall:

(A) confirm the Board's determination that the Development satisfies the requirements of this QAP; and

(B) state the Department's commitment to issue IRS Form(s) 8609 to the Development Owner in a specified amount, subject to the requirements set forth at ~~in §50.49.12~~ of this title and compliance by the Development Owner with all applicable requirements of this title and any other terms and conditions set forth therein by the Department. The Determination Notice shall expire on the date specified therein unless the Development Owner indicates acceptance by executing the Determination Notice and paying the required fee specified in ~~§50.49.20~~ of this title. The Determination Notice shall also expire unless the Development Owner satisfies any conditions set forth therein by the Department within the applicable time period.

(3) notify, in writing, the mayor or other equivalent chief executive officer of the municipality in which the Property is located informing him/her of the Board's issuance of a Commitment Notice or Determination Notice, as applicable.

(4) A Commitment or Determination Notice shall not be issued with respect to any Development for an unnecessary amount or where the cost for the total development, acquisition, construction or Rehabilitation exceeds the limitations established from time to time by the Department and the Board, unless the Department staff make a recommendation to the Board based on the need to fulfill the goals of the Housing Tax Credit Program as expressed in this QAP and Rules, and the Board accepts the recommendation. The Department's recommendation to the Board shall be clearly documented.

(5) A Commitment or Determination Notice shall not be issued with respect to the Applicant, the Development Owner, the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of one or more other low-income rental housing properties in the state of Texas administered by the Department, or outside the state of Texas, that is in Material Noncompliance with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for such property, as described in §60.1 of this title.

(6) The executed Commitment or Determination Notice must be returned to the Department on the date specified with the Commitment Notice or Determination Notice, which shall be no earlier than within ten days of the effective date of the Notice.

(b) **Agreement and Election Statement.** Together with the Development Owner's acceptance of the Carryover Allocation, the Development Owner may execute an Agreement and Election Statement, in the form prescribed by the Department, for the purpose of fixing the Applicable Percentage for the Development as that for the month in which the Carryover Allocation was accepted (or the month the bonds were issued for Tax-Exempt Bond Developments), as provided in the Code, §42(b)(2). Current Treasury Regulations, §1.42-8(a)(1)(v), suggest that in order to permit a Development Owner to make an effective election to fix the Applicable Percentage for a Development, the Carryover Allocation Document must be executed by the Department and the Development Owner within the same month. The Department staff will cooperate with a Development Owner, as possible or reasonable, to assure that the Carryover Allocation Document can be so executed.

(c) **Documentation Submission Requirements at Commitment of Funds.** No later than the date the Commitment Notice or Determination Notice is executed by the Applicant and returned to the Department with the appropriate Commitment Fee as further described in ~~§50.49.20(f)~~ of this title, the following documents must also be provided to the Department. Failure to provide these documents may cause the Commitment to be rescinded. For each Applicant all of the following must be provided:

(1) Evidence that the entity has the authority to do business in Texas;

(2) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and a Certificate of Organization from the Secretary of State;

(3) Copies of the entity's governing documents, including, but not limited to, its Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, Bylaws, Regulations and/or Partnership Agreement; and

(4) Evidence that the signer(s) of the Application have the authority to sign on behalf of the Applicant in the form of a corporate resolution or by-laws which indicate same from the sub-entity in Control and that those Persons signing the Application constitute all Persons required to sign or submit such documents.

§50-49.14. Carryover; 10% Test; Commencement of Substantial Construction.

(a) **Carryover.** All Developments which received a Commitment Notice, and will not be placed in service and receive IRS Form 8609 in the year the Commitment Notice was issued, must submit the Carryover documentation to the Department no later than November 1 of the year in which the Commitment Notice is issued pursuant to §42(h)(1)(c) IRC. Commitments for credits will be terminated if the Carryover documentation, or an approved extension, has not been received by this deadline. In the event that a Development Owner intends to submit the Carryover documentation in any month preceding November of the year in which the Commitment Notice is issued, in order to fix the Applicable Percentage for the Development in that month, it must be submitted no later than the first Friday in the preceding month. If the financing structure, syndication rate, amount of debt or syndication proceeds are revised at the time of Carryover from what was proposed in the original Application, applicable documentation of such changes must be provided and the Development may be reevaluated by the Department. The Carryover Allocation format must be properly completed and delivered to the Department as prescribed by the Carryover Allocation Procedures Manual. All Carryover Allocations will be contingent upon the following, in addition to all other conditions placed upon the Application in the Commitment Notice:

(1) The Development Owner for all New Construction Developments must have purchased the property for the Development.

(2) A current original plat or survey of the land, prepared by a duly licensed Texas Registered Professional Land Surveyor. Such survey shall conform to standards prescribed in the Manual of Practice for Land Surveying in Texas as promulgated and amended from time to time by the Texas Surveyors Association as more fully described in the Carryover Procedures Manual.

(3) For all Developments involving New Construction, evidence of the availability of all necessary utilities/services to the Development site must be provided. Necessary utilities include natural gas (if applicable), electric, trash, water, and sewer. Such evidence must be a letter or a monthly utility bill from the appropriate municipal/local service provider. If utilities are not already accessible, then the letter must clearly state: an estimated time frame for provision of the utilities, an estimate of the infrastructure cost, and an estimate of any portion of that cost that will be borne by the Development Owner. Letters must be from an authorized individual representing the organization which actually provides the services. Such documentation should clearly indicate the Development property. If utilities are not already accessible (undeveloped areas), then the letter should not be older than three months from the first day of the Application Acceptance Period.

(4) The Department will not execute a Carryover Allocation Agreement with any Owner in Material Noncompliance on October 1, ~~2006~~2007.

(b) **10% Test.** No later than six months from the date the Carryover Allocation Document is executed by the Department and the Development Owner, more than 10% of the Development Owner's reasonably expected basis must have been incurred pursuant to §42(h)(1)(E)(i) and (ii) of the Internal Revenue Code and Treasury Regulations, §1.42-6. The evidence to support the satisfaction of this requirement must be submitted to the Department no later than June 30 of the year following the execution of the Carryover Allocation Document in a format prescribed by the Department. At the time of submission of the documentation, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan as further described in the Carryover Allocation Procedures Manual. Evidence must be provided at this time of attendance of the Development Owner or management company at Department-approved Fair Housing training relating to leasing and management issues for at least five hours and the Development architect at Department-approved Fair Housing training relating to design issues for at least five hours on or before the time the 10% Test Documentation is submitted. Certifications must not be older than two years.

(c) **Commencement of Substantial Construction.** The Development Owner must submit evidence of having commenced and continued substantial construction activities. The evidence must be submitted not later than December 1 of the year after the execution of the Carryover Allocation Document with the possibility of an extension as described in §50-49.20 of this title.

§50-49.15. LURA, Cost Certification.

(a) **Land Use Restriction Agreement (LURA).** The Development Owner must request a LURA from the Department no later than the date specified in §60.1(p)(6), the Department's Compliance Monitoring Policies and Procedures. The Development Owner must date, sign and acknowledge before a notary public the LURA and send the original to the Department for execution. The initial compliance and monitoring fee must be accompanied by a statement, signed by the Owner, indicating the start of the Development's Credit Period and the earliest placed in service date for the Development buildings. After receipt of the signed LURA from the Department, the Development Owner shall then record the LURA, along with any and all exhibits attached thereto, in the real property records of the county where the Development is located and return the original document, duly certified as to recordation by the appropriate county official, to the Department no later than the date that the Cost Certification Documentation is submitted to the Department. If any liens (other than mechanics' or materialmen's liens) shall have been recorded against the Development and/or the Property prior to the recording of the LURA, the Development Owner shall obtain the subordination of the rights of any such lienholder, or other effective consent, to the survival of certain obligations contained in the LURA, which are required by §42(h)(6)(E)(ii) of the Code to remain in effect following the foreclosure of any such lien. Receipt of such certified recorded original LURA by the Department is required prior to issuance of IRS Form 8609. A representative of the Department, or assigns, shall physically inspect the Development for compliance with the Application and the representations, warranties, covenants, agreements and undertakings contained therein. Such inspection will be conducted before the IRS Form 8609 is issued for a building, but it shall be conducted in no event later than the end of the second calendar year following the year the last building in the Development is placed in service. The Development Owner for Tax-Exempt Bond Developments shall obtain a subordination agreement wherein the lien of the mortgage is subordinated to the LURA. The LURA shall not contain any provision which requires the Development Owner to restrict rents and incomes at any AMGI level, other than the AMGI levels reflected in the final Application (at the time of Board approval) or amendments to the Application made pursuant to §49.17(d) of this title, regardless of the underwriting methodology utilized in determining feasibility. The restricted gross rents for any AMGI level outlined in the LURA will be calculated in accordance with §42(g)(2)(A), Internal Revenue Code.

(b) **Cost Certification.** The Cost Certification Procedures Manual sets forth the documentation required for the Department to perform a feasibility analysis in accordance with §42(m)(2)(C)(i)(II), Internal Revenue Code, and determine the final Credit to be allocated to the Development.

(1) To request IRS Forms 8609, Developments must have:

- (A) Placed in Service by December 31 of the year the Commitment Notice was issued if a Carryover Allocation was not requested and received; or December 31 of the second year following the year the Carryover Allocation Agreement was executed;
- (B) Scheduled a final construction inspection in accordance with §60.1(c) of this title;
- (C) Informed the Department of and received written approval for all Development amendments in accordance with ~~§50.49.17(c)~~ of this title;
- (D) Submitted to the Department the LURA in accordance with ~~§50.49.15(a)~~ of this title;
- (E) Paid all applicable Department fees; and
- (F) Prepared all Cost Certification documentation in the format prescribed by the Cost Certification Procedures Manual.

(2) Required Cost Certification documentation must be received by the Department no later than January 15 following the year the Credit Period begins. Any Developments issued a Commitment Notice or Determination Notice that fails to submit its Cost Certification documentation by this deadline will be reported to the IRS and the Owner will be required to submit a request for extension consistent with ~~§50.49.20(l)~~ of this title.

(3) The Department will perform an initial evaluation of the Cost Certification documentation within 45 days from the date of receipt and notify the Owner in a deficiency letter of all additional required documentation. Any deficiency letters issued to the Owner pertaining to the Cost Certification documentation will also be copied to the syndicator. The Department will issue IRS Forms 8609 no later than 90 days from the date that all required documents have been received.

(4) The Department will perform an evaluation of the Applicant, the Development Owner, the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of the Development to determine if any entity is in Material Noncompliance with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for such property, as described in §60.1 of this title prior to issuance of IRS Forms 8609.

~~§50.49.16.~~ Housing Credit Allocations.

(a) In making a commitment of a Housing Credit Allocation under this chapter, the Department shall rely upon information contained in the Application to determine whether a building is eligible for the credit under the Code, §42. The Development Owner shall bear full responsibility for claiming the credit and assuring that the Development complies with the requirements of the Code, §42. The Department shall have no responsibility for ensuring that a Development Owner who receives a Housing Credit Allocation from the Department will qualify for the housing credit.

(b) The Housing Credit Allocation Amount shall not exceed the dollar amount the Department determines is necessary for the financial feasibility and the long term viability of the Development throughout the affordability period. (~~2306-§2306.6711(b)~~) Such determination shall be made by the Department at the time of issuance of the Commitment Notice or Determination Notice; at the time the Department makes a Housing Credit Allocation; and as of the date each building in a Development is placed in service. Any Housing Credit Allocation Amount specified in a Commitment Notice, Determination Notice or Carryover Allocation Document is subject to change by the Department based upon such determination. Such a determination shall be made by the Department based on its evaluation and procedures, considering the items specified in the Code, §42(m)(2)(B), and the department in no way or manner represents or warrants to any Applicant, sponsor, investor, lender or other entity that the Development is, in fact, feasible or viable.

(c) The General Contractor hired by the Development Owner must meet specific criteria as defined by the General Appropriation Act, Article VII, Rider 8(c). A General Contractor hired by a Development Owner or a Development Owner, if the Development Owner serves as General Contractor must demonstrate a history of constructing similar types of housing without the use of federal tax credits. Evidence must be submitted to the Department, in accordance with ~~§50-49.9(h)(4)(H)~~ of this title, which sufficiently documents that the General Contractor has constructed some housing without the use of Housing Tax Credits. This documentation will be required as a condition of the commitment notice or carryover agreement, and must be complied with prior to commencement of construction and at cost certification and final allocation of credits.

(d) An allocation will be made in the name of the Development Owner identified in the related Commitment Notice or Determination Notice. If an allocation is made to a member or Affiliate of the ownership entity proposed at the time of Application, the Department will transfer the allocation to the ownership entity as consistent with the intention of the Board when the Development was selected for an award of tax credits. Any other transfer of an allocation will be subject to review and approval by the Department consistent with ~~§50-49.17(c)~~ of this title. The approval of any such transfer does not constitute a representation to the effect that such transfer is permissible under §42 of the Code or without adverse consequences thereunder, and the Department may condition its approval upon receipt and approval of complete current documentation regarding the owner including documentation to show consistency with all the criteria for scoring, evaluation and underwriting, among others, which were applicable to the original Applicant.

(e) The Department shall make a Housing Credit Allocation, either in the form of IRS Form 8609, with respect to current year allocations for buildings placed in service, or in the Carryover Allocation Document, for buildings not yet placed in service, to any Development Owner who holds a Commitment Notice which has not expired, and for which all fees as specified in ~~§50-49.20~~ of this title have been received by the Department and with respect to which all applicable requirements, terms and conditions have been met. For Tax-Exempt Bond Developments, the Housing Credit Allocation shall be made in the form of a Determination Notice. For an IRS Form 8609 to be issued with respect to a building in a Development with a Housing Credit Allocation, satisfactory evidence must be received by the Department that such building is completed and has been placed in service in accordance with the provisions of the Department's Cost Certification Procedures Manual. The Cost Certification documentation requirements will include a certification and inspection report prepared by a Third-Party accredited accessibility inspector to certify that the Development meets all required accessibility standards. IRS Form 8609 will not be issued until the certifications are received by the Department. The Department shall mail or deliver IRS Form 8609 (or any successor form adopted by the Internal Revenue Service) to the Development Owner, with Part I thereof completed in all respects and signed by an authorized official of the Department. The delivery of the IRS Form 8609 will occur only after the Development Owner has complied with all procedures and requirements listed within the Cost Certification Procedures Manual. Regardless of the year of Application to the Department for Housing Tax Credits, the current year's Cost Certification Procedures Manual must be utilized when filing all cost certification materials. A separate Housing Credit Allocation shall be made with respect to each building within a Development which is eligible for a housing credit; provided, however, that where an allocation is made pursuant to a Carryover Allocation Document on a Development basis in accordance with the Code, §42(h)(1)(F), a housing credit dollar amount shall not be assigned to particular buildings in the Development until the issuance of IRS Form 8609s with respect to such buildings. The Department may delay the issuance of IRS Form 8609 if any Development violates the representations of the Application.

(f) In making a Housing Credit Allocation, the Department shall specify a maximum Applicable Percentage, not to exceed the Applicable Percentage for the building permitted by the Code, §42(b), and a maximum Qualified Basis amount. In specifying the maximum Applicable Percentage and the maximum Qualified Basis amount, the Department shall disregard the first-year conventions described in the Code, §42(f)(2)(A) and §42(f)(3)(B). The Housing Credit Allocation made by the Department shall not exceed the amount necessary to support the extended low-income housing commitment as required by the Code, §42(h)(6)(C)(i).

(g) Development inspections shall be required to show that the Development is built or rehabilitated according to construction threshold criteria and Development characteristics identified at application. At a minimum, all Development inspections must meet Uniform Physical Condition Standards (UPCS) as referenced in Treasury Regulation §1.42-5 (d)(2)(ii) and include an inspection for quality during the construction process while defects can reasonably be corrected and a final inspection at the time the Development is placed in service. All such Development inspections shall be performed by the Department or by an independent Third Party inspector acceptable to the Department. The Development Owner shall pay all fees and costs of said inspections as described in ~~§50-49.20~~ of this title. ~~For properties receiving financing through TX USDA RHS, the Department shall accept the inspections performed by TX USDA RHS in lieu of having other Third party inspections.~~ Details regarding the construction inspection process are set forth in the Department Rule §60.1 of this title (~~2306-§2306.081~~; General Appropriation Act, Article VII, Rider 8(b)).

(h) After the entire Development is placed in service, which must occur prior to the deadline specified in the Carryover Allocation Document and as further outlined in ~~§50-49.15~~ of this title, the Development Owner shall be responsible for furnishing the Department with documentation which satisfies the requirements set forth in the Cost Certification Procedures Manual. For purposes of this title, and consistent with IRS Notice 88-116, the placed in service date for a new or existing building used as residential rental property is the date on which the building is ready and available for its specifically assigned function and more specifically when the first Unit in the building is certified as being suitable for occupancy in accordance with state and local law and as certified by the appropriate local authority or registered architect as ready for occupancy. The Cost Certification must be submitted for the entire Development; therefore partial Cost Certifications are not allowed. The Department may require copies of invoices and receipts and statements for materials and labor utilized for the New Construction or Rehabilitation and, if applicable, a closing statement for the acquisition of the Development as well as for the closing of all interim and permanent financing for the Development. If the Development Owner does not fulfill all representations and commitments made in the Application, the Department may make reasonable reductions to the tax credit amount allocated via the IRS Form 8609, may withhold issuance of the IRS Form 8609s until these representations and commitments are met, and/or may terminate the allocation, if appropriate corrective action is not taken by the Development Owner.

(i) The Board at its sole discretion may allocate credits to a Development Owner in addition to those awarded at the time of the initial Carryover Allocation in instances where there is bona fide substantiation of cost overruns and the Department has made a determination that the allocation is needed to maintain the Development's financial viability.

(j) The Department may, at any time and without additional administrative process, determine to award credits to Developments previously evaluated and awarded credits if it determines that such previously awarded credits are or may be invalid and the owner was not responsible for such invalidity.

~~§50-49.17~~ Board Reevaluation, Appeals Process; Provision of Information or Challenges Regarding Applications; Amendments; Housing Tax Credit and Ownership Transfers; Sale of Tax Credit Properties; Withdrawals; Cancellations; Alternative Dispute Resolution.

(a) **Board Reevaluation.** (~~2306-§2306.6731~~(b)) Regardless of development stage, the Board shall reevaluate a Development that undergoes a substantial change between the time of initial Board approval of the Development and the time of issuance of a Commitment Notice or Determination Notice for the Development. For the purposes of this subsection, substantial change shall be those items identified in subsection (d)(4) of this section. The Board may revoke any Commitment Notice or Determination Notice issued for a Development that has been unfavorably reevaluated by the Board.

(b) **Appeals Process.** (~~2306-§2306.6715~~) An Applicant may appeal decisions made by the Department as follows.

- (1) The decisions that may be appealed are identified in subparagraphs (A) - (D) of this paragraph.
 - (A) a determination regarding the Application's satisfaction of:
 - (i) Eligibility Requirements;
 - (ii) Disqualification or debarment criteria;

- (iii) Pre-Application or Application Threshold Criteria;
- (iv) Underwriting Criteria;

- (B) the scoring of the Application under the Application Selection Criteria; and
- (C) a recommendation as to the amount of housing tax credits to be allocated to the Application.
- (D) Any Department decision that results in termination of an Application.

(2) An Applicant may not appeal a decision made regarding an Application filed by another Applicant.

(3) An Applicant must file its appeal in writing with the Department not later than the seventh day after the date the Department publishes the results of any stage of the Application evaluation process identified in ~~§50.49.9~~ of this title. In the appeal, the Applicant must specifically identify the Applicant's grounds for appeal, based on the original Application and additional documentation filed with the original Application. If the appeal relates to the amount of housing tax credits recommended to be allocated, the Department will provide the Applicant with the underwriting report upon request.

(4) The Executive Director of the Department shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the Applicant is not satisfied with the Executive Director's response to the appeal, the Applicant may appeal directly in writing to the Board, provided that an appeal filed with the Board under this subsection must be received by the Board before:

(A) the seventh day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made; or

(B) the third day preceding the date of the Board meeting described by subparagraph (A) of this paragraph, if the Executive Director does not respond to the appeal before the date described by subparagraph (A) of this paragraph.

(5) Board review of an appeal under paragraph (4) of this subsection is based on the original Application and additional documentation filed with the original Application. The Board may not review any information not contained in or filed with the original Application. The decision of the Board regarding the appeal is final.

(6) The Department will post to its web site an appeal filed with the Department or Board and any other document relating to the processing of the appeal. (~~2306-§2306.6717(a)(5)~~)

(c) **Provision of Information or Challenges Regarding Applications from Unrelated Entities to the Application.** The Department will address information or challenges received from unrelated entities to a specific ~~2006~~2007 active Application, utilizing a preponderance of the evidence standard, in the following manner, **provided the information or challenge includes a contact name, telephone number, fax number and e-mail address of the person providing the information or challenge-;**

(1) Within 14 business ~~seven~~ days of the receipt of the information or challenge, the Department will post all information and challenges received (including any identifying information) to the Department's website.

(2) Within seven business days of the receipt of the information or challenge, the Department will notify the Applicant related to the information or challenge. The Applicant will then have seven business days to respond to all information and challenges provided to the Department.

(3) Within 14 business days of the receipt of the response from the Applicant, the Department will evaluate all information submitted and other relevant documentation related to the investigation. This information may include information requested by the Department relating to this evaluation. The Department will post its determination summary to its website. Any determinations made by the Department cannot be appealed by any party unrelated to the Applicant.

(d) **Amendment of Application Subsequent to Allocation by Board.** (~~2306-§2306.6712 and 2306-§2306.6717(a)(4)~~)

(1) If a proposed modification would materially alter a Development approved for an allocation of a housing tax credit, or if the Applicant has altered any selection criteria item for which it received points, the Department shall require the Applicant to file a formal, written request for an amendment to the Application.

(2) The Executive Director of the Department shall require the Department staff assigned to underwrite Applications to evaluate the amendment and provide an analysis and written recommendation to the Board. The appropriate party monitoring compliance during construction in accordance with ~~§50.49.18~~ of this title shall also provide to the Board an analysis and written recommendation regarding the amendment. For amendments which require Board approval, the amendment request must be received by the Department at least 30 days prior to the Board meeting where the amendment will be considered.

(3) The Board must vote on whether to approve an amendment. The Board by vote may reject an amendment and, if appropriate, rescind a Commitment Notice or terminate the allocation of housing tax credits and reallocate the credits to other Applicants on the Waiting List if the Board determines that the modification proposed in the amendment:

- (A) would materially alter the Development in a negative manner; or

(B) would have adversely affected the selection of the Application in the Application Round.

(4) Material alteration of a Development includes, but is not limited to:

(A) a significant modification of the site plan;

(B) a modification of the number of units or bedroom mix of units;

(C) a substantive modification of the scope of tenant services;

(D) a reduction of three percent or more in the square footage of the units or common areas;

(E) a significant modification of the architectural design of the Development;

(F) a modification of the residential density of the Development of at least five percent;

(G) an increase or decrease in the site acreage of greater than 10% from the original site under control and proposed in the Application; and

(H) any other modification considered significant by the Board.

(5) In evaluating the amendment under this subsection, the Department staff shall consider whether the need for the modification proposed in the amendment was:

(A) reasonably foreseeable by the Applicant at the time the Application was submitted; or

(B) preventable by the Applicant.

(6) This section shall be administered in a manner that is consistent with the Code, §42.

(7) Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and monitor regarding the amendment will be posted to the Department's web site.

(8) In the event that an Applicant or Developer seeks to be released from the commitment to serve the income level of tenants targeted in the original Application, the following procedure will apply. For amendments that involve a reduction in the total number of low-income Units being served, or a reduction in the number of low-income Units at any level of AMGI represented at the time of Application, evidence must be presented to the Department that includes written confirmation from the lender and syndicator that the Development is infeasible without the adjustment in Units. The Board may or may not approve the amendment request, however, any affirmative recommendation to the Board is contingent upon concurrence from the Real Estate Analysis Division that the Unit adjustment (or an alternative Unit adjustment) is necessary for the continued feasibility of the Development. Additionally, if it is determined by the Department that the allocation of credits would not have been made in the year of allocation because the loss of low-income targeting points would have resulted in the Application not receiving an allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the Applicant and all persons or entities with any ownership interest in the Application (excluding any tax credit purchaser/syndicator), from participation in the Housing Tax Credit Program (for both the Competitive Housing Tax Credit Developments and Tax-Exempt Bond Developments ~~4% or 9%~~) for 24 months from the time that the amendment is approved.

(e) **Housing Tax Credit and Ownership Transfers.** (~~2306.6713~~) A Development Owner may not transfer an allocation of housing tax credits or ownership of a Development supported with an allocation of housing tax credits to any Person other than an Affiliate of the Development Owner unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer.

(1) Transfers will not be approved prior to the issuance of IRS Forms 8609 unless the Development Owner can provide evidence that a hardship is creating the need for the transfer (potential bankruptcy, removal by a partner, etc.). A Development Owner seeking Executive Director approval of a transfer and the proposed transferee must provide to the Department a copy of any applicable agreement between the parties to the transfer, including any third-party agreement with the Department.

(2) A Development Owner seeking Executive Director approval of a transfer must provide the Department with documentation requested by the Department, including but not limited to, a list of the names of transferees and Related Parties; and detailed information describing the experience and financial capacity of transferees and related parties. All transfer requests must disclose the reason for the request. The Development Owner shall certify to the Executive Director that the tenants in the Development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the Department. Not later than the fifth working day after the date the Department receives all necessary information under this section, the Department shall conduct a qualifications review of a transferee to determine the transferee's past compliance with all aspects of the Housing Tax Credit Program, LURAs; and the sufficiency of the transferee's experience with Developments supported with Housing Credit Allocations. If the viable operation of the Development is deemed to be in jeopardy by the Department, the Department may authorize changes that were not contemplated in the Application.

(3) As it relates to the Credit Cap further described in ~~§50.49.6(d)~~ of this section ~~title~~, the credit cap will not be applied in the following circumstances:

(A) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(B) in cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.

(f) **Sale of Certain Tax Credit Properties.** Consistent with ~~2306.6726~~, Texas Government Code, not later than two years before the expiration of the Compliance Period, a Development Owner who agreed to provide a right of first refusal under ~~2306.6725(b)(1)~~, Texas Government Code and who intends to sell the property shall notify the Department of its intent to sell.

(1) The Development Owner shall notify Qualified Nonprofit Organizations and tenant organizations of the opportunity to purchase the Development. The Development Owner may:

(A) during the first six-month period after notifying the Department, negotiate or enter into a purchase agreement only with a Qualified Nonprofit Organization that is also a community housing development organization as defined by the Federal Home Investment Partnership Program (HOME);

(B) during the second six-month period after notifying the Department, negotiate or enter into a purchase agreement with any Qualified Nonprofit Organization or tenant organization; and

(C) during the year before the expiration of the compliance period, negotiate or enter into a purchase agreement with the Department or any Qualified Nonprofit Organization or tenant organization approved by the Department.

(2) Notwithstanding items for which points were received consistent with ~~§50.49.9(i)~~ of this title, a Development Owner may sell the Development to any purchaser after the expiration of the compliance period if a Qualified Nonprofit Organization or tenant organization does not offer to purchase the Development at the minimum price provided by §42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. ~~Section 42(i)(7)~~), and the Department declines to purchase the Development.

(g) **Withdrawals.** An Applicant may withdraw an Application prior to receiving a Commitment Notice, Determination Notice, Carryover Allocation Document or Housing Credit Allocation, or may cancel a Commitment Notice or Determination Notice by submitting to the Department a notice, as applicable, of withdrawal or cancellation, and making any required statements as to the return of any tax credits allocated to the Development at issue.

(h) **Cancellations.** The Department may cancel a Commitment Notice, Determination Notice or Carryover Allocation prior to the issuance of IRS Form 8609 with respect to a Development if:

(1) The Applicant or the Development Owner, or the Development, as applicable, fails to meet any of the conditions of such Commitment Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Applications process for the Development;

(2) Any statement or representation made by the Development Owner or made with respect to the Development Owner or the Development is untrue or misleading;

(3) An event occurs with respect to the Applicant or the Development Owner which would have made the Development's Application ineligible for funding pursuant to ~~§50.49.5~~ of this title if such event had occurred prior to issuance of the Commitment Notice or Carryover Allocation; or

(4) The Applicant or the Development Owner or the Development, as applicable, fails to comply with these Rules or the procedures or requirements of the Department.

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

~~§50.49.18.~~ **Compliance Monitoring and Material Noncompliance.**

The Code, §42(m)(1)(B)(iii), requires the Department as the housing credit agency to include in its QAP a procedure that the Department will follow in monitoring Developments for compliance with the provisions of the Code, §42 and in notifying the IRS of any noncompliance of which the Department becomes aware. Detailed compliance rules and procedures for monitoring are set forth in Department Rule §60.1 of this title.

§50-49.19. Department Records; Application Log; IRS Filings.

(a) **Department Records.** At all times during each calendar year the Department shall maintain a record of the following:

- (1) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Commitment Notices during such calendar year;
- (2) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Carryover Allocation Documents during such calendar year;
- (3) the cumulative amount of Housing Credit Allocations made during such calendar year; and
- (4) the remaining unused portion of the State Housing Credit Ceiling for such calendar year.

(b) **Application Log.** (~~2306-§2306.6702(a)(3) and 2306-§2306.6709~~) The Department shall maintain for each Application an Application Log that tracks the Application from the date of its submission. The Application Log will contain, at a minimum, the information identified in paragraphs (1) - (9) of this subsection.

- (1) the names of the Applicant and all General Partners of the Development Owner, the owner contact name and phone number, and full contact information for all members of the Development Team;
- (2) the name, physical location, and address of the Development, including the relevant Uniform State Service Region of the state;
- (3) the number of Units and the amount of housing tax credits requested for allocation by the Department to the Applicant;
- (4) any Set-Aside category under which the Application is filed;
- (5) the requested and awarded score of the Application in each scoring category adopted by the Department under the Qualified Allocation Plan;
- (6) any decision made by the Department or Board regarding the Application, including the Department's decision regarding whether to underwrite the Application and the Board's decision regarding whether to allocate housing tax credits to the Development;
- (7) the names of individuals making the decisions described by paragraph (6) of this subsection, including the names of Department staff scoring and underwriting the Application, to be recorded next to the description of the applicable decision;
- (8) the amount of housing tax credits allocated to the Development; and
- (9) a dated record and summary of any contact between the Department staff, the Board, and the Applicant or any Related Parties.

(c) **IRS Filings.** The Department shall mail to the Internal Revenue Service, not later than the 28th day of the second calendar month after the close of each calendar year during which the Department makes Housing Credit Allocations, ~~the a copy original~~ of each completed (as to Part I) IRS Form 8609, ~~a copy the original~~ of which was mailed or delivered by the Department to a Development Owner during such calendar year, along with a single completed IRS Form 8610, Annual Low-income Housing Credit Agencies Report. When a Carryover Allocation is made by the Department, a copy of the Carryover Allocation Agreement will be mailed or ~~faxed delivered~~ to the Development Owner by the Department ~~in the year in which the building(s) is placed in service, and thereafter the original will be mailed to the Internal Revenue Service in the time sequence in this subsection.~~ The original of the Carryover Allocation Document will be ~~retained~~ filed by the Department ~~and with IRS Form 8610 Schedule A will be filed by the Department with IRS Form 8610 for the year in which the allocation is made. The original of all executed Agreement and Election Statements shall be filed by the Department with the Department's IRS Form 8610 for the year a Housing Credit Allocation is made as provided in this section.~~ The Department shall be authorized to vary from the requirements of this section to the extent required to adapt to changes in IRS requirements.

§50-49.20. Program Fees; Refunds; Public Information Requests; Adjustments of Fees and Notification of Fees; Extensions; Penalties.

(a) **Timely Payment of Fees.** All fees must be paid as stated in this section, **unless the Executive Director has granted a waiver for specific extenuating and extraordinary circumstances. To be eligible for a waiver, the Applicant must submit a request for a waiver no later than 10 business days prior to the deadlines as stated in this section.** Any fees, as further described in this section, that are not timely paid will cause an Applicant to be ineligible to apply for tax credits and additional tax credits and ineligible to submit extension requests, ownership changes and Application amendments. Payments made by check, for which insufficient funds are available, may cause the Application, commitment or allocation to be terminated.

(b) **Pre-Application Fee.** Each Applicant that submits a Pre-Application shall submit to the Department, along with such Pre-Application, a non refundable Pre-Application fee, in the amount of \$10 per Unit. Units for the calculation of the Pre-Application Fee include all Units within the Development, including tax credit, market

rate and owner-occupied Units. Pre-Applications without the specified Pre-Application Fee in the form of a check will not be accepted. Pre-Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Pre-Application fee. (General Appropriation Act, Article VII, Rider 7; ~~2306-§2306.6716(d)~~)For Tax Exempt Bond Developments with the Department as the issuer, the Applicant shall submit the following fees: \$1,000 (payable to TDHCA), \$1,500 (payable to Vincent & Elkins, Bond Counsel), and \$5,000 (payable to the Texas Bond Review Board).

(c) **Application Fee.** Each Applicant that submits an Application shall submit to the Department, along with such Application, an Application fee. For Applicants having submitted a Pre-Application which met Pre-Application Threshold and for which a Pre-Application fee was paid, the Application fee will be \$20 per Unit. For Applicants not having submitted a Pre-Application, the Application fee will be \$30 per Unit. Units for the calculation of the Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Applications without the specified Application Fee in the form of a check will not be accepted. Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Application fee. (General Appropriation Act, Article VII, Rider 7; ~~2306-§2306.6716(d)~~) FoA Tax Exempt Bond developments with the Department as the Issuer the Applicant shall submit a tax credit application fee of \$30 per unit and bond application fee of \$10,000. Those applications utilizing a local issuer only need to submit the tax credit application fee.

(d) **Refunds of Pre-Application or Application Fees.** (~~2306-§2306.6716(c)~~) Upon written request from the Applicant, the Department shall refund the balance of any fees collected for a Pre-Application or Application that is withdrawn by the Applicant or that is not fully processed by the Department. The amount of refund on Pre-Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 50% of the review, and Threshold review prior to a deficiency issued will constitute 30% of the review. Deficiencies submitted and reviewed constitute 20% of the review. The amount of refund on Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 20% of the review, the site visit will constitute 20% of the review, Eligibility and Selection review will constitute 20%, and Threshold review will constitute 20% of the review, and underwriting review will constitute 20%. The Department must provide the refund to the Applicant not later than the 30th day after the date the last official action is taken with respect to the Application request.

(e) **Third Party Underwriting Fee.** Applicants will be notified in writing prior to the evaluation of a Development by an independent external underwriter in accordance with ~~§§50.49.9(d)(6), (e)(3), and (f)(4)~~ of this title if such a review is required. The fee must be received by the Department prior to the engagement of the underwriter. The fees paid by the Development Owner to the Department for the external underwriting will be credited against the commitment fee established in subsection (f) of this section, in the event that a Commitment Notice or Determination Notice is issued by the Department to the Development Owner.

(f) **Commitment or Determination Notice Fee.** Each Development Owner that receives a Commitment Notice or Determination Notice shall submit to the Department, not later than the expiration date on the ~~e~~Commitment or Determination notice, a non-refundable commitment fee equal to 5% of the annual Housing Credit Allocation amount. The commitment fee shall be paid by check. If a Development Owner of an Application awarded Competitive Housing Tax Credits has paid a Commitment Fee and returns the credits by November 1, 2007, the Development Owner will receive a refund of 50% of the Commitment Fee.

(g) **Compliance Monitoring Fee.** Upon receipt of the cost certification, the Department will invoice the Development Owner for compliance monitoring fees. The amount due will equal \$40 per tax credit unit. The fee will be collected, retroactively if applicable, beginning with the first year of the credit period. The invoice must be paid prior to the issuance of form 8609. Subsequent anniversary dates on which the compliance monitoring fee payments are due shall be determined by the beginning month of the compliance period.

(h) **Building Inspection Fee.** The Building Inspection Fee must be paid at the time the Commitment Fee is paid. The Building Inspection Fee for all Developments is \$750. Inspection fees in excess of \$750 may be charged to the Development Owner not to exceed an additional \$250 per Development. ~~Developments receiving financing through TX USDA RHS that will not have construction inspections performed through the Department will be exempt from the payment of an inspection fee.~~

(i) **Tax-Exempt Bond Credit Increase Request Fee.** As further described in ~~§50.49.12~~ of this title, requests for increases to the credit amounts to be issued on IRS Forms 8609 for Tax-Exempt Bond Developments must be

submitted with a request fee equal to ~~five~~ percent of the amount of the credit increase for one year's credit amount.

(j) **Public Information Requests.** Public information requests are processed by the Department in accordance with the provisions of the Government Code, Chapter 552. The Department uses the guidelines promulgated by The Texas Building and Procurement Commission- to determine the cost of copying, and other costs of production.

(k) **Periodic Adjustment of Fees by the Department and Notification of Fees.** (~~2306.6716~~(b)) All fees charged by the Department in the administration of the tax credit program will be revised by the Department from time to time as necessary to ensure that such fees compensate the Department for its administrative costs and expenses. The Department shall publish each year an updated schedule of Application fees that specifies the amount to be charged at each stage of the Application process. Unless otherwise determined by the Department, all revised fees shall apply to all Applications in process and all Developments in operation at the time of such revisions.

(l) **Extension and Amendment Requests.** All extension requests relating to the Commitment Notice, Carryover, Documentation for 10% Test, Substantial Construction Commencement, Placed in Service or Cost Certification requirements and amendment requests shall be submitted to the Department in writing and be accompanied by a **mandatory** non-refundable extension fee in the form of a check in the amount of \$2,500. Such requests must be submitted to the Department no later than the date for which an extension is being requested. **All requests for extensions totaling less than 6 months may be approved by the Executive Director and are not required to have Board approval.** For extensions which require Board approval, the extension request must be received by the Department at least 15 business days prior to the Board meeting where the extension will be considered—. The extension request shall specify a requested extension date and the reason why such an extension is required. Carryover extension requests shall not request an extended deadline later than December 1st of the year the Commitment Notice was issued. The Department, in its sole discretion, may consider and grant such extension requests for all items. If an extension is required at Cost Certification, the fee of \$2,500 must be received by the Department to qualify for issuance of Forms 8609. Amendment requests must be submitted consistent with ~~§50.49.17~~(d) of this title. The Board may waive related fees for good cause.

(m) **Penalties.** Development Owners who have more tax credits allocated to them than they can substantiate through Cost Certification will return those excess tax credits prior to issuance of 8609's. For ~~non-tax exempt bond funded developments~~Competitive Housing Tax Credit Developments, a penalty fee equal to the one year credit amount of the lost credits (10% of the total unused tax credit amount) will be required to be paid by the Owner prior to the issuance of form 8609's if the tax credits are not returned, and 8609's issued, within ~~60~~180 days of the end of the first year of the credit period. This penalty fee may be waived without further Board action if the Department recaptures and re-issues the returned tax credits in accordance with ~~Section 42~~, Internal Revenue Code.

~~§50.49.21.~~ **Manner and Place of Filing All Required Documentation.**

(a) All Applications, letters, documents, or other papers filed with the Department must be received only between the hours of 8:00 a.m. and 5:00 p.m. on any day which is not a Saturday, Sunday or a holiday established by law for state employees.

(b) All notices, information, correspondence and other communications under this title shall be deemed to be duly given if delivered or sent and effective in accordance with this subsection. Such correspondence must reference that the subject matter is pursuant to the Tax Credit Program and must be addressed to the Housing Tax Credit Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, TX 78711-3941 or for hand delivery or courier to ~~507 Sabine, Suite 400~~ 221 East 11th Street, Austin, Texas 78701 or more current address of the Department as released on the Department's website. Every such correspondence required or contemplated by this title to be given, delivered or sent by any party may be delivered in person or may be sent by courier, telecopy, express mail, telex, telegraph or postage prepaid certified or registered air mail (or its equivalent under the laws of the country where mailed), addressed to the party for whom it is intended, at the address specified in this subsection. Regardless of method of delivery, documents must be received by the Department no later than 5:00 p.m. for the given deadline date. Notice by courier, express mail, certified mail, or registered mail will be considered received on the date it is officially recorded as delivered by return receipt or equivalent. Notice by telex or telegraph will be deemed given at the time it is recorded by the carrier in the ordinary course of business as having been delivered, but in any event not later than one business day after dispatch. Notice not given in writing will be effective only if acknowledged in writing by a duly authorized officer of the Department.

(c) If required by the Department, Development Owners must comply with all requirements to use the Department's web site to provide necessary data to the Department.

§50.49.22. Waiver and Amendment of Rules.

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

(b) Section 1.13 of this title may be waived for any person seeking any action by filing a request with the Board.

~~(c)~~ The Department may amend this chapter and the Rules contained herein at any time in accordance with the Government Code, Chapter 2001.

§50.49.23. Deadlines for Allocation of Housing Tax Credits. (~~2306.6724~~)

(a) Not later than September 30 of each year, the Department shall prepare and submit to the Board for adoption the draft QAP required by federal law for use by the Department in setting criteria and priorities for the allocation of tax credits under the Housing Tax Credit program.

(b) The Board shall adopt and submit to the Governor the QAP not later than November 15 of each year.

(c) The Governor shall approve, reject, or modify and approve the QAP not later than December 1 of each year. (~~2306.67022~~)(§42(m)(1))

(d) The Board shall annually adopt a manual, corresponding to the QAP, to provide information on how to apply for housing tax credits.

(e) Applications for Housing Tax Credits to be issued a Commitment Notice during the Application Round in a calendar year must be submitted to the Department not later than March 1.

(f) The Board shall review the recommendations of Department staff regarding Applications and shall issue a list of approved Applications each year in accordance with the Qualified Allocation Plan not later than June 30.

(g) The Board shall approve final commitments for allocations of housing tax credits each year in accordance with the Qualified Allocation Plan not later than July 31, unless unforeseen circumstances prohibit action by that date. In any event, the Board shall approve final commitments for allocations of housing tax credits each year in accordance with the Qualified Allocation Plan not later than September 30. Department staff will subsequently issue Commitment Notices based on the Board's approval. Final commitments may be conditioned on various factors approved by the Board, including resolution of contested matters in litigation.



Multifamily Finance Production Division

2007 Housing Tax Credit Program

Qualified Allocation Plan and Rules with Amendments

§49.1. PURPOSE AND AUTHORITY; PROGRAM STATEMENT; ALLOCATION GOALS. 2

§49.2. COORDINATION WITH RURAL AGENCIES. 2

§49.3. DEFINITIONS. 2

§49.4. STATE HOUSING CREDIT CEILING. 11

§49.5. INELIGIBILITY; DISQUALIFICATION AND DEBARMENT; CERTAIN APPLICANT AND DEVELOPMENT STANDARDS; REPRESENTATION BY FORMER BOARD MEMBER OR OTHER PERSON; DUE DILIGENCE, SWORN AFFIDAVIT; APPEALS AND ADMINISTRATIVE DEFICIENCIES FOR INELIGIBILITY, DISQUALIFICATION AND DEBARMENT. 11

§49.6. SITE AND DEVELOPMENT RESTRICTIONS: FLOODPLAIN; INELIGIBLE BUILDING TYPES; SCATTERED SITE LIMITATIONS; CREDIT AMOUNT; LIMITATIONS ON THE SIZE OF DEVELOPMENTS; LIMITATIONS ON REHABILITATION COSTS; UNACCEPTABLE SITES; APPEALS AND ADMINISTRATIVE DEFICIENCIES FOR SITE AND DEVELOPMENT RESTRICTIONS. 14

§49.7. REGIONAL ALLOCATION FORMULA; SET-ASIDES; REDISTRIBUTION OF CREDITS. 16

§49.8. PRE-APPLICATIONS FOR COMPETITIVE HOUSING TAX CREDITS: SUBMISSION; COMMUNICATION WITH DEPARTMENTS STAFF; EVALUATION PROCESS; THRESHOLD CRITERIA AND REVIEW; RESULTS. (§2306.6704) . 17

§49.9. APPLICATION: SUBMISSION; COMMUNICATION WITH DEPARTMENT EMPLOYEES; ADHERENCE TO OBLIGATIONS; EVALUATION PROCESS FOR COMPETITIVE APPLICATIONS UNDER THE STATE HOUSING CREDIT CEILING; EVALUATION PROCESS FOR TAX-EXEMPT BOND DEVELOPMENT APPLICATIONS; EVALUATION PROCESS FOR RURAL RESCUE APPLICATIONS UNDER THE 2008 CREDIT CEILING; EXPERIENCE PRE-CERTIFICATION PROCEDURES; THRESHOLD CRITERIA; SELECTION CRITERIA; TIEBREAKER FACTORS; STAFF RECOMMENDATIONS. 19

§49.10 BOARD DECISIONS; WAITING LIST; FORWARD COMMITMENTS 48

§49.11. REQUIRED APPLICATION NOTIFICATIONS, RECEIPT OF PUBLIC COMMENT, AND MEETINGS WITH APPLICANTS; VIEWING OF PRE-APPLICATIONS AND APPLICATIONS; CONFIDENTIAL INFORMATION. 50

§49.12. TAX-EXEMPT BOND DEVELOPMENTS: FILING OF APPLICATIONS; APPLICABILITY OF RULES; SUPPORTIVE SERVICES; FINANCIAL FEASIBILITY EVALUATION; SATISFACTION OF REQUIREMENTS. 51

§49.13 COMMITMENT AND DETERMINATION NOTICES; AGREEMENT AND ELECTION STATEMENT; DOCUMENTATION SUBMISSION REQUIREMENTS. 53

§49.14. CARRYOVER; 10% TEST; COMMENCEMENT OF SUBSTANTIAL CONSTRUCTION. 55

§49.15. LURA, COST CERTIFICATION. 55

§49.16. HOUSING CREDIT ALLOCATIONS. 56

§49.17 BOARD REEVALUATION, APPEALS PROCESS; PROVISION OF INFORMATION OR CHALLENGES REGARDING APPLICATIONS; AMENDMENTS; HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS; SALE OF TAX CREDIT PROPERTIES; WITHDRAWALS; CANCELLATIONS; ALTERNATIVE DISPUTE RESOLUTION. 58

§49.18. COMPLIANCE MONITORING AND MATERIAL NONCOMPLIANCE. 61

§49.19. DEPARTMENT RECORDS; APPLICATION LOG; IRS FILINGS. 61

§49.20. PROGRAM FEES; REFUNDS; PUBLIC INFORMATION REQUESTS; ADJUSTMENTS OF FEES AND NOTIFICATION OF FEES; EXTENSIONS; PENALTIES. 62

§49.21. MANNER AND PLACE OF FILING ALL REQUIRED DOCUMENTATION. 64

§49.22. WAIVER AND AMENDMENT OF RULES. 64

§49.23. DEADLINES FOR ALLOCATION OF HOUSING TAX CREDITS. (§2306.6724) 64

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

(a) **Purpose and Authority.** The Rules in this chapter apply to the allocation by the Texas Department of Housing and Community Affairs (the Department) of Housing Tax Credits authorized by applicable federal income tax laws. The Internal Revenue Code of 1986, §42, (the "Code") as amended, provides for credits against federal income taxes for owners of qualified low-income rental housing Developments. That section provides for the allocation of the available tax credit amount by state housing credit agencies. Pursuant to Chapter 2306, Subchapter DD, Texas Government Code, the Department is authorized to make Housing Credit Allocations for the State of Texas. As required by the Internal Revenue Code, §42(m)(1), the Department developed this Qualified Allocation Plan (QAP) which is set forth in §§49.1 - 49.23 of this title. Sections in this chapter establish procedures for applying for and obtaining an allocation of Housing Tax Credits, along with ensuring that the proper threshold criteria, selection criteria, priorities and preferences are followed in making such allocations.

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

(c) **Allocation Goals.** It shall be the goal of this Department and the Board, through these provisions, to encourage diversity through broad geographic allocation of tax credits within the state, and in accordance with the regional allocation formula; to promote maximum utilization of the available tax credit amount; and to allocate credits among as many different entities as practicable without diminishing the quality of the housing that is being built. The processes and criteria utilized to realize this goal are described in §49.8 and §49.9 of this title, without in any way limiting the effect or applicability of all other provisions of this title. (General Appropriation Act, Article VII, Rider 8(e))

§49.2. Coordination with Rural Agencies.

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

§49.3. Definitions.

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

(1) **Administrative Deficiencies**--The absence of information or a document from the Application as is required under §49.5, §49.6, §49.8(d) and §49.9(g)- (j) of this title, unless determined by the Department as unable to be corrected.

(2) **Affiliate**--An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other Person, and specifically shall include parents or subsidiaries. Affiliates also include all General Partners, Special Limited Partners and Principals with an ownership interest unless the entity is an experienced developer as described in §49.9(i)(21)(B) of this title.

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

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

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

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

(A) For purposes of the Application, the Applicable Percentage will be projected at :

(i) 40 basis points over the current applicable percentage for 70 percent present value credits, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department, or

(ii) 15 basis points over the current applicable percentage for 30 percent present value credits, pursuant to §42(b) of the Code for 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 §49.9(a) and §49.21 of this title. For Tax-Exempt Bond Developments this period is the date the Volume 1 and 2 are submitted or the date the reservation is issued by the Texas Bond Review Board, whichever is earlier, and for Rural Rescue Applications this is that period of time stated in the Rural Rescue Policy.

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

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

(11) **Area**--

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

(i) An incorporated place or

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

Decennial Census.

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

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

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

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

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

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

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

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

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

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

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

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

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(B) is subject to the following conditions:

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

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

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

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

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

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

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

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

(17) **Carryover Allocation Document**--A document issued by the Department, and executed by the Development Owner, pursuant to §49.14(a) of this title.

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

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

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

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

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

(21) **Commitment Notice**--A notice issued by the Department to a Development Owner pursuant to §49.13 of this title and also referred to as the "commitment."

(22) **Community Revitalization Plan**--A published document under any name, approved and adopted by the local governing body by ordinance or resolution, that targets specific geographic areas for revitalization and development of residential developments.

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

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

(25) **Control**--(including the terms "Controlling," "Controlled by", and/or "under common Control with") the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person, whether through the ownership of voting securities, by contract or otherwise, including specifically ownership of more than 50% of the General Partner interest in a limited partnership, or designation as a managing General Partner of a limited liability company.

(26) **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.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(27) **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).

(28) **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)

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

(30) **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 the limits identified in §49.9(d)(6)(B) of this title) and any other Person receiving any portion of such fee, whether by subcontract or otherwise.

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

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

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

(32) **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.

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

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

(35) **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.

(36) **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.

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

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

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

(40) **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.

(41) **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."

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(42) **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.

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

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

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

(46) **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.

(47) **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.

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

(49) **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.

(50) **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)

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

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

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

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

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

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

(E) Any Development that violates the Integrated Housing Rule of the Department, §1.15 of this title.

(F) Any Development located in an Urban/Exurban Area involving any New Construction (excluding New Construction of non-residential buildings) of additional Units (other than a Qualified Elderly Development, a Development composed entirely of single family dwellings, and certain specific types of transitional housing for the homeless and single room occupancy units, as provided in the Code, §42(i)(3)(B)(iii) and (iv)) in which any of the designs in clauses (i) - (iii) of this subparagraph are proposed. For Applications involving a combination of single family detached dwellings and multifamily dwellings, the percentages in this subparagraph do not apply to the single family detached dwellings. For Intergenerational Housing Applications, the percentages in this subparagraph do not apply to buildings that are restricted to the age requirements of a Qualified Elderly Development. An Application may reflect a total of Units for a given bedroom size greater than the percentages stated below to the extent that the increase is only to reach the next highest number divisible by four.

(i) more than 30% of the total Units are one bedroom Units; or

(ii) more than 55% of the total Units are two bedroom Units; or

(iii) more than 40% of the total Units are three bedroom Units; or

(iv) more than 5% of the total Units in the Development with four or more bedrooms.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

- (G) Any Development that includes age restricted units that are not consistent with the Intergenerational Housing definition and policy or the definition of a Qualified Elderly Development.
- (53) **Intergenerational Housing**--Housing that includes specific units that are restricted to the age requirements of a Qualified Elderly Development and specific units that are not age restricted in the same Development that:
- (A) have separate and specific buildings exclusively for the age restricted units
 - (B) have separate and specific leasing offices and leasing personnel exclusively for the age restricted units
 - (C) have separate and specific entrances, and other appropriate security measures for the age restricted units
 - (D) provide shared social service programs that encourage intergenerational activities but also provide separate amenities for each age group
 - (E) share the same Development site
 - (F) are developed and financed under a common plan and owned by the same Person for federal tax purposes; and
 - (G) meet the requirements of the federal Fair Housing Act.
- (54) **IRS**--The Internal Revenue Service, or its successor.
- (55) **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)
- (56) **Local Political Subdivision**--A county or municipality (city) in Texas. For purposes of §49.9(i)(5) of this title, a local political subdivision may act through a Government Instrumentality such as a housing authority, housing finance corporation, or municipal utility even if the Government Instrumentality's creating statute states that the entity is not itself a "political subdivision."
- (57) **Material Noncompliance**--As defined in §60.1 of this title.
- (58) **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)
- (59) **New Construction**--Any Development or portion of the Development that does not meet the definition of Rehabilitation or Reconstruction.
- (60) **ORCA**--Office of Rural Community Affairs, as established by Chapter 487 of Texas Government Code. (§2306.6702)
- (61) **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.
- (62) **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 (§42U.S.C. §15002), or
 - (C) has a disability, as defined in 24 CFR §5.403.
- (63) **Persons with Special Needs**--Persons with alcohol and/or drug addictions, Colonia residents, Persons with Disabilities, victims of domestic violence, persons with HIV/AIDS, homeless populations and migrant farm workers.
- (64) **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 this title. (§2306.6704)
- (65) **Pre-Application Acceptance Period**--That period of time during which Competitive Housing Tax Credit Pre-Applications for a Housing Credit Allocation from the State Housing Credit Ceiling may be submitted to the Department.
- (66) **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:

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

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

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

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

(67) **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.

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

(A) As defined in the Code, §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 the Code, §42 and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

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

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

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

(69) **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).

(70) **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).

(71) **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 §42U.S.C. §3607(b)).

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

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

(74) **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

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

development and operation throughout the Compliance Period, and otherwise meets the requirements of the Code, §42(h)(5). (§2306.6729)

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

(76) **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.

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

(78) **Related Party**--As defined, (§2306.6702)

(A) The following individuals or entities:

(i) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573, Texas Government Code;

(ii) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;

(iii) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:

(I) the total combined voting power of all classes of stock of each of the corporations that can vote;

(II) the total value of shares of all classes of stock of each of the corporations; or

(III) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;

(iv) a grantor and fiduciary of any trust;

(v) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(vi) a fiduciary of a trust and a beneficiary of the trust;

(vii) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:

(I) the trust; or

(II) a person who is a grantor of the trust;

(viii) a person or organization and an organization that is tax-exempt under the Code, §501(a), and that is controlled by that person or the person's family members or by that organization;

(ix) a corporation and a partnership or joint venture if the same persons own more than:

(I) 50 percent of the outstanding stock of the corporation; and

(II) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;

(x) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(xi) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(xii) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or

(xiii) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

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

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

(80) **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

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

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

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

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

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

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

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

(85) **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 (§42U.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 §152) of another individual, or

(ii) married and file a joint return.

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

(87) **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.

(88) **Threshold Criteria**--Criteria used to determine whether the Development satisfies the minimum level of acceptability for consideration as specifically defined in §49.9(h) of this title. (§2306.6702)

(89) **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.

(90) **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.

(91) **Unit**--Any residential rental unit consisting of an accommodation including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking (such as a microwave), and sanitation. (§2306.6702) For purposes of completing the Rent Schedule for loft or studio type Units (which still must meet the definition of Bedroom), a Unit with 649 square feet or less is considered an efficiency Unit, a Unit with 650 to 899 square feet is considered not more than a one-bedroom Unit, a Unit with 900 to 999 square feet is considered not more than a two-bedroom Unit, a Unit with 1000 to 1199 square feet is considered not more than a three-bedroom Unit, and a Unit with 1200 square feet or more is considered a four bedroom Unit.

(92) **Urban/Exurban Area**-- Non-Rural Areas located within the boundaries of a metropolitan Area as designated by the US Office of Management and Budget as of November 1, 2006, or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.), the date Volume III is submitted to the Department.

§49.4. State Housing Credit Ceiling.

The Department shall determine the State Housing Credit Ceiling for each calendar year as provided in the Code, §42(h)(3)(C), using such information and guidance as may be made available by the Internal Revenue Service. The Department shall publish each such determination in the *Texas Register* within 30 days after the receipt of such information as is required for that purpose by the Internal Revenue Service. The aggregate amount of commitments of Housing Credit Allocations made by the Department during any calendar year shall not exceed the State Housing Credit Ceiling for such year as provided in the Code, §42. As permitted by the Code, §42(h)(4), Housing Credit Allocations made to Tax-Exempt Bond Developments are not included in the State Housing Credit Ceiling.

§49.5. Ineligibility; Disqualification and Debarment; Certain Applicant and Development Standards; Representation by Former Board Member or Other Person; Due Diligence, Sworn Affidavit; Appeals and Administrative Deficiencies for Ineligibility, Disqualification and Debarment.

(a) **Ineligibility.** An Application is ineligible if:

(1) The Applicant, Development Owner, Developer or Guarantor has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs; or, (§2306.6721(c)(2))

(2) The Applicant, Development Owner, Developer or Guarantor has been convicted of a state or federal crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline; or,

(3) The Applicant, Development Owner, Developer or Guarantor at the time of Application is: subject to an enforcement or disciplinary action under state or federal securities law or by the NASD; is subject to a federal tax lien; or is the subject of an enforcement proceeding with any Governmental Entity; or

(4) The Applicant, Development Owner, Developer or Guarantor with any past due audits has not submitted those past due audits to the Department in a satisfactory format. A Person is not eligible to receive a commitment of Housing Tax Credits from the Department if any audit finding or questioned or disallowed cost is unresolved as of June 1 of each year, or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; or

(5) (§2306.6703(a)(1)) At the time of Application or at any time during the two-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been:

(A) a member of the Board; or

(B) the Executive Director, a Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Portfolio Management and Compliance, the Director of Real Estate Analysis, or a manager over housing tax credits employed by the Department.

(6) (§2306.6703(a)(2)) The Applicant proposes to replace in less than 15 years any private activity bond financing of the Development described by the Application, unless:

(A) the Applicant proposes to maintain for a period of 30 years or more 100 percent of the Development Units supported by Housing Tax Credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the Area Median Gross Income, adjusted for family size; and

(B) at least one-third of all the units in the Development are public housing units or Section 8 Development-based units; or,

(7) The Development is located in a municipality or in a valid Extra Territorial Jurisdiction (ETJ) of a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the reservation is made by the Texas Bond Review Board) unless the Applicant: (§2306.6703(a)(4))

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

(B) has included in the Application a written statement of support from that governing body referencing this rule and authorizing an allocation of housing tax credits for the Development;

(C) For purposes of this paragraph, evidence under subparagraphs (A) and (B) of this paragraph must be received by the Department no later than April 2, 2007 (or for Tax-Exempt Bond Developments no later than

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

14 days before the Board meeting where the credits will be considered) and may not be more than one year old from the date the Volume 1 is submitted to the Department; or

(8) The Applicant proposes to construct a new development proposing New Construction (excluding New Construction of non-residential buildings) that is located one linear mile (measured by a straight line on a map) or less from a Development that: (§2306.6703(a)(3))

(A) serves the same type of household as the new development, regardless of whether the development serves families, elderly individuals, or another type of household (Intergenerational Housing is not a type of household as it relates to this restriction);

(B) has received an allocation of Housing Tax Credits (including Tax-Exempt Bond Developments) for any New Construction at any time during the three-year period preceding the date the application round begins (or for Tax-Exempt Bond Developments the three-year period preceding the date the Volume I is submitted); and

(C) has not been withdrawn or terminated from the Housing Tax Credit Program.

(D) An Application is not ineligible under this paragraph if:

(i) the Development is using federal HOPE VI funds received through the United States Department of Housing and Urban Development; locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (§42U.S.C. §12701 et seq.); or funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (§42U.S.C. §5301 et seq.); or

(ii) the Development is located in a county with a population of less than one million; or

(iii) the Development is located outside of a metropolitan statistical area; or

(iv) the local government where the Development is to be located has by vote specifically allowed the construction of a new Development located within one linear mile or less from a Development described under subparagraphs (A) - (C) of this paragraph. For purposes of this clause, evidence of the local government vote or evidence required by subparagraph (D) of this paragraph must be received by the Department no later than April 2, 2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed) and may not be more than one year old.

(E) In determining the age of an existing 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. In dealing with ties between two or more Developments as it relates to this rule, refer to §49.9(j) of this title.

(9) A submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review can not reasonably be performed by the Department, as determined by the Department. If an Application is determined ineligible pursuant to this section, the Application will be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the Termination letter to the Applicant.

(b) Disqualification and Debarment. The Department will disqualify an Application, and/or debar a Person (see §2306.6721, Texas Government Code), if it is determined by the Department that any issues identified in the paragraphs of this subsection exist. The Department may debar a Person for one year from the date of debarment, or until the violation causing the debarment has been remedied, whichever term is longer, if the Department determines the facts warrant it. Causes for disqualification and debarment include: (§2306.6721)

(1) The provision of fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation in the Application or other information submitted to the Department at any stage of the evaluation or approval process; or,

(2) The Applicant, Development Owner, Developer or Guarantor or anyone that has ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with the LURA (or any other document containing an Extended Housing Commitment) or the program rules in effect for such property as further described in §60.1 of this title on May 1, 2007 or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; (§2306.6721(c)(3)) or

(3) The Applicant, Development Owner, Developer or Guarantor or anyone that has ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties outside of the state of Texas has an incidence of Material Noncompliance with the LURA or the program rules in effect for such tax credit property as further described in §60.1 of this title on May 1, 2007 or for Tax-Exempt Bond Developments or other Applications not applying for

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; or

(4) The Applicant, Development Owner, Developer, or any Guarantor, or any Affiliate of such entity has been a Principal of any entity that failed to make all loan payments to the Department in accordance with the terms of the loan, as amended, or was otherwise in default with any provisions of any loans from the Department.

(5) The Applicant or the Development Owner that is active in the ownership or Control of one or more tax credit properties in the state of Texas has failed to pay in full any fees within 30 days of when they were billed by the Department, as further described in §49.20 of this title; or

(6) the Applicant or a Related Party and any Person who is active in the construction, Rehabilitation, ownership, or Control of the proposed Development, including a General Partner or contractor, and a Principal or Affiliate of a General Partner or contractor, or an individual employed as a lobbyist by the Applicant or a Related Party, communicates with any Board member during the period of time beginning on the date an Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, unless the communication takes place at any board meeting or public hearing held with respect to that Application. Communication with Department staff must be in accordance with §49.9(b) of this title; violation of the communication restrictions of §49.9(b) is also a basis for disqualification and/or debarment. (§2306.1113)

(7) It is determined by the Department's General Counsel that there is evidence that establishes probable cause to believe that an Applicant, Development Owner, Developer, or any of their employees or agents has violated a state revolving door or other standard of conduct or conflict of interest statute, including §2306.6733, Texas Government Code, or a section of Chapter 572, Texas Government Code, in making, advancing, or supporting the Application.

(8) Applicants may be ineligible as further described in §49.17(d)(8) of this title.

(9) The Applicant, Development Owner, Developer, Guarantor, or any Affiliate of such entity whose previous funding contracts or commitments have been partially or fully deobligated due to a failure to meet contractual obligations during the 12 months prior to the submission of the applications.

(10) The Applicant, Development Owner, Developer, Guarantor, or any Affiliate of such entity whose pre-development award from the Department has not been repaid for the Development at the time of Carryover Allocation or Bond closing.

(c) Certain Applicant and Development Standards. Notwithstanding any other provision of this section, the Department may not allocate tax credits to a Development proposed by an Applicant if the Department determines that: (§2306.223)

(1) the Development is not necessary to provide needed decent, safe, and sanitary housing at rental prices that individuals or families of low and very low-income or families of moderate income can afford;

(2) the Development Owner undertaking the proposed Development will not supply well-planned and well-designed housing for individuals or families of low and very low-income or families of moderate income;

(3) the Development Owner is not financially responsible;

(4) the Development Owner has contracted, or will contract for the proposed Development with, a Developer that:

(A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development;

(B) has breached a contract with a public agency and failed to cure that breach; or

(C) misrepresented to a subcontractor the extent to which the Developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Developer's participation in contracts with the agency and the amount of financial assistance awarded to the Developer by the agency;

(5) the financing of the housing Development is not a public purpose and will not provide a public benefit; and

(6) the Development will be undertaken outside the authority granted by this chapter to the Department and the Development Owner.

(d) Representation by Former Board Member or Other Person. (§2306.6733)

(1) A former Board member or a former executive director, deputy executive director, director of multifamily finance production, director of portfolio management and compliance, director of real estate analysis or manager over housing tax credits previously employed by the Department may not:

(A) for compensation, represent an Applicant or one of its Related Parties for an allocation of tax credits before the second anniversary of the date that the Board member's, director's, or manager's service in office or employment with the Department ceased;

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(B) represent any Applicant or a Related Party of an Applicant or receive compensation for services rendered on behalf of any Applicant or Related Party regarding the consideration of an Application in which the former board member, director, or manager participated during the period of service in office or employment with the Department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an Applicant or Related Party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the Department ceased.

(2) A Person commits a criminal offense if the Person violates §2306.6733. An offense under this section is a Class A misdemeanor.

(e) **Due Diligence, Sworn Affidavit.** In exercising due diligence in considering information of possible ineligibility, possible grounds for disqualification and debarment, Applicant and Development standards, possible improper representation or compensation, or similar matters, the Department may request a sworn affidavit or affidavits from the Applicant, Development Owner, Developer, Guarantor, or other persons addressing the matter. If an affidavit determined to be sufficient by the Department is not received by the Department within seven business days of the date of the request by the Department, the Department may terminate the Application.

(f) **Appeals and Administrative Deficiencies for Ineligibility, Disqualification and Debarment.** An Applicant or Person found ineligible, disqualified, debarred or otherwise terminated under subsections (a) - (e) of this section will be notified in accordance with the Administrative Deficiency process described in §49.9(d)(4) of this title. They may also utilize the appeals process described in §49.17(b) of this title. (§2306.6721(d))

§49.6. Site and Development Restrictions: Floodplain; Ineligible Building Types; Scattered Site Limitations; Credit Amount; Limitations on the Size of Developments; Limitations on Rehabilitation Costs; Unacceptable Sites; Appeals and Administrative Deficiencies for Site and Development Restrictions.

(a) **Floodplain.** Any Development proposing New Construction located within the 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the 100 year floodplain. No buildings or roads that are part of a Development proposing Rehabilitation, with the exception of 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 §49.3(52) of this title will not be considered for allocation of tax credits.

(c) **Scattered Site Limitations.** Consistent with §49.3(31) 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 2007 calendar year, including commitments from the 2007 Credit Ceiling and forward commitments from the 2008 Credit Ceiling, are applied to the credit cap limitation for the 2007 Application Round. In order to encourage the capacity enhancement of developers in rural areas, the Department will prorate the credit amount allocated in situations where an Application is submitted in the Rural Regional Allocation and the Development has 76 Units or less. The Department will prorate the credits based on the percentage ownership, if there is an ownership interest, or the proportional percentage of the developer fee received, if this applies to a Developer without an ownership interest. To be considered for this provision, a copy of a Joint Venture Agreement and narrative on how this builds the capacity of the inexperienced developers is required. Tax-Exempt Bond Development

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

Applications are not subject to these Housing Tax Credit limitations, and Tax-Exempt Bond Developments will not count towards the total limit on tax credits per Applicant. The limitation does not apply (§2306.6711(b)):

(1) to an entity which raises or provides equity for one or more Developments, solely with respect to its actions in raising or providing equity for such Developments (including syndication related activities as agent on behalf of investors);

(2) to the provision by an entity of "qualified commercial financing" within the meaning of the Code (without regard to the 80% limitation thereof);

(3) to a Qualified Nonprofit Organization or other not-for-profit entity, to the extent that the participation in a Development by such organization consists only of the provision of loan funds, grants or social services; and

(4) to a Development Consultant with respect to the provision of consulting services, provided the Development Consultant fee received for such services does not exceed 10% of the fee to be paid to the Developer (or 20% for Qualified Nonprofit Developments), or \$150,000, whichever is greater.

(e) Limitations on the Size of Developments.

(1) The minimum Development size will be 16 Units if the Development involves Housing Tax Credits. The minimum Development size will be 4 Units if the funding source only involves the Housing Trust Fund or HOME Program.

(2) Rural Developments involving any New Construction (excluding New Construction of non-residential buildings) will be limited to 76 Units. Rural Developments involving only Rehabilitation do not have a size limitation.

(3) Developments involving any New Construction (excluding New Construction of non-residential buildings) , that are not Tax-Exempt Bond Developments, will be limited to 252 Total Units, wherein the maximum Department administered Units will be limited to 200 Units. Tax-Exempt Bond Developments will be limited to 252 Total Units. These maximum Unit limitations also apply to those Developments which involve a combination of Rehabilitation, Reconstruction, and New Construction. Developments that consist solely of acquisition/Rehabilitation or Rehabilitation only may exceed the maximum Unit restrictions.

(4) For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is 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, unless a market study supports the absorption of additional units) or that were originally located within a one mile radius from the proposed Development, the combined Unit total for the Developments may not exceed the maximum allowable Development size, unless the first phase has been completed and has attained Sustaining Occupancy (as defined in §1.31 of this title) for at least six months.

(f) **Limitations on the Location of Developments.** Staff will only recommend, and the Board may only allocate, housing tax credits from the Credit Ceiling to more than one Development from the Credit Ceiling in the same calendar year if the Developments are, or will be, located more than one linear mile apart as determined by the Department. If the Board forward commits credits from the following year's allocation of credits, the Development is considered to be in the calendar year in which the Board votes, not in the year of the Credit Ceiling. This limitation applies only to communities contained within counties with populations exceeding one million (which for calendar year 2007 are Harris, Dallas, Tarrant and Bexar Counties). For purposes of this rule, any two sites not more than one linear mile apart are deemed to be "in a single community." (§2306.6711) This restriction does not apply to the allocation of housing tax credits to Developments financed through the Tax-Exempt Bond program, including the Tax-Exempt Bond Developments under review and existing Tax-Exempt Bond Developments in the Department's portfolio. (§2306.67021)

(g) **Limitations of Development in Certain Census Tracts.** Staff will not recommend and the Board will not allocate housing tax credits for a Competitive Housing Tax Credit or Tax Exempt Bond Development located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tract as established by the U.S. Census Bureau for the most recent Decennial Census unless the Applicant:

(1) In an area whose population is less than 100,000;

(2) Proposes only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings); or,

(3) Submits to the Department an approval of the Development referencing this rule in the form of a resolution from the governing body of the appropriate municipality or county containing the Development. For purposes of this paragraph, evidence of the local government approval must be received by the Department no later than April 2, 2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed). These ineligible census tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(h) **Limitations on Developments Proposing to Qualify for a 30% increase in Eligible Basis.** Staff will only recommend a 30% increase in Eligible Basis:

(1) If the Development proposing to build in a Hurricane Rita Gulf Opportunity Zone (Rita GO Zone), which was designated as a Difficult to Develop Area as determined by HB4440, is able to be placed in service by December 31, 2008 (or date as revised by the Internal Revenue Service) as certified in the Application; or,

(2) The Development is located in a Qualified Census Tract that has less than 40% Housing Tax Credit Units per households in the tract as established by the U.S. Census Bureau for the most recent Decennial Census. Developments located in a Qualified Census Tract that has in excess of 40% Housing Tax Credit Units per households in the tract are not eligible to qualify for a 30% increase in Eligible Basis, which would otherwise be available for the Development site pursuant to the Code, §42(d)(5)(C), unless the Development is proposing only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings). These ineligible Qualified Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(i) **Rehabilitation Costs.** Developments involving Rehabilitation must establish that the Rehabilitation will substantially improve the condition of the housing and will involve at least \$12,000 per Unit in direct hard costs (including site work, contingency, contractor profit, overhead and general requirements) unless financed with TX-USDA-RHS in which case the minimum is \$6,000.

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

(k) **Appeals and Administrative Deficiencies for Site and Development Restrictions.** An Application or Development found to be in violation under subsections (a) - (h) of this section will be notified in accordance with the Administrative Deficiency process described in §49.9(d)(4) of this title. They may also utilize the appeals process described in §49.17(b) of this title.

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

(a) **Regional Allocation Formula.** As required by §2306.111(d), Texas Government Code, the Department uses a regional distribution formula developed by the Department to distribute credits from the State Housing Credit Ceiling to all urban/exurban areas and rural areas. The formula is based on the need for housing assistance, and the availability of housing resources in those urban/exurban areas and rural areas, and the Department uses the information contained in the Department's annual state low income housing plan and other appropriate data to develop the formula. This formula establishes separate targeted tax credit amounts for rural areas and urban/exurban areas within each of the Uniform State Service Regions. Each Uniform State Service Region's targeted tax credit amount will be published on the Department's web site. The regional allocation for rural areas is referred to as the Rural Regional Allocation and the regional allocation for urban/exurban areas is referred to as the Urban/Exurban Regional Allocation. Developments qualifying for the Rural Regional Allocation must meet the Rural Development definition. At least 5% of each region's allocation for each calendar year shall be allocated to Developments which are financed through TX-USDA-RHS, that meet the definition of a Rural Development, do not exceed 76 Units if proposing any New Construction (excluding New Construction of non-residential buildings), and have filed an "Intent to Request 2007 Housing Tax Credits" form by the Pre-Application submission deadline. These Developments will be attributed to the Rural Regional Allocation in each region where they are located. New Construction Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will not be considered under this set-aside. Any Rehabilitation or Reconstruction of an existing 515 development that retains the 515 loan and restrictions, regardless of the source or nature of additional financing, will be considered under this set-aside. Commitments of 2007 Housing Tax Credits issued by the Board in 2006 will be applied to each Set-Aside, Rural Regional Allocation, Urban/Exurban Regional Allocation and TX-USDA-RHS Allocation for the 2007 Application Round as appropriate.

(b) **Set-Asides.** An Applicant may elect to compete in as many of the following Set-Asides for which the proposed Development qualifies: (§2306.111(d))

(1) At least 10% of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of the Code, §42(h)(5). Qualified Nonprofit Organizations must have the Controlling interest in the Qualified Nonprofit Development applying for this Set-Aside. If the organization's Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the controlling managing General Partner. If the organization's Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member. Additionally, a Qualified Nonprofit Development submitting an Application in the nonprofit set-aside must have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or a co-Developer as evidenced in the development agreement. (§2306.6729 and §2306.6706(b))

(2) At least 15% of the allocation to each Uniform State Service Region will be set aside for allocation under the At-Risk Development Set-Aside. Through this Set-Aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of Developments designated as At-Risk Developments as defined in §49.3(13) of this title. (§2306.6714). To qualify as an At-Risk Development, the Applicant must provide evidence that it either is not eligible to renew, retain or preserve any portion of the financial benefit described in §49.3(13)(A) of this title, or provide evidence that it will renew, retain or preserve the financial benefit described in §49.3(13)(A) of this title; and must have filed an "Intent to Request 2007 Housing Tax Credits" form by the Pre-Application submission deadline.

(c) **Redistribution of Credits.** (§2306.111(d)) If any amount of housing tax credits remain after the initial commitment of housing tax credits among the Rural Regional Allocation and Urban/Exurban Regional Allocation within each Uniform State Service Region and among the Set-Asides, the Department may redistribute the credits amongst the different regions and Set-Asides depending on the quality of Applications submitted as evaluated under the factors described in §49.9(d) of this title, the need to most closely achieve regional allocation goals and then the level of demand exhibited in the Uniform State Service Regions during the Allocation Round. However as described in subsection (b)(1) of this section, no more than 90% of the State's Housing Credit Ceiling for the calendar year may go to Developments which are not Qualified Nonprofit Developments. If credits will be transferred from a Uniform State Service Region which does not have enough qualified Applications to meet its regional credit distribution amount, then those credits will be apportioned to the other Uniform State Service Regions.

§49.8. Pre-Applications for Competitive Housing Tax Credits: Submission; Communication with Departments Staff; Evaluation Process; Threshold Criteria and Review; Results. (§2306.6704)

(a) **Pre-Application Submission.** Any Applicant requesting a Housing Credit Allocation may submit a Pre-Application to the Department during the Pre-Application Acceptance Period along with the required Pre-Application Fee as described in §49.20 of this title. Only one Pre-Application may be submitted by an Applicant for each site under the State Housing Credit Ceiling. The Pre-Application submission is a voluntary process. While the Pre-Application Acceptance Period is open, Applicants may withdraw their Pre-Application and subsequently file a new Pre-Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized to request the Applicant to provide additional information it deems relevant to clarify information contained in the Pre-Application or to submit documentation for items it considers to be Administrative Deficiencies. The rejection of a Pre-Application shall not preclude an Applicant from submitting an Application with respect to a particular Development or site at the appropriate time.

(b) **Communication with the Department.** Applicants that submit a Pre-Application are restricted from communication with Department staff as provided in §49.9(b) of this title. (§2306.1113)

(c) **Pre-Application Evaluation Process.** Eligible Pre-Applications will be evaluated for Pre-Application Threshold Criteria. Applications 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(i) of this title. Pre-Applications that are found to have Administrative Deficiencies will be handled in accordance with §49.9(d)(4) of this title. Department review at this stage is limited and not all issues of eligibility and threshold are reviewed at Pre-Application. Acceptance by staff of a Pre-Application does not ensure that an Applicant satisfies all Application eligibility, Threshold or documentation requirements. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or threshold deficiencies at the time of Pre-Application.

(d) **Pre-Application Threshold Criteria and Review.** Applicants submitting a Pre-Application will be required to submit information demonstrating their satisfaction of the Pre-Application Threshold Criteria. The Pre-Applications not meeting the Pre-Application Threshold Criteria will be terminated and the Applicant will receive a written notice to the effect that the Pre-Application Threshold Criteria have not been met. The Department shall not be responsible for the Applicant's failure to meet the Pre-Application Threshold Criteria and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Pre-Application Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. The Pre-Application Threshold Criteria include:

(1) Submission of a "Pre-Application Submission Form" and "Certification of Pre-Application Itemized Self-Score" . The applicant may not change the Self-Score unless requested by the Department in a Deficiency Notice; and

(2) Evidence of property control through March 1, 2007 as evidenced by the documentation required under §49.9(h)(7)(A) of this title.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(3) Evidence in the form of a certification that all of the notifications required under this paragraph have been made. Requests for Neighborhood Organizations under subparagraph (A) of this paragraph must be made by the deadlines described in that clause; notifications under subparagraph (C) of this paragraph must be made prior to the close of the Pre-Application Acceptance Period. (§2306.6704) Evidence of notification must meet the requirements identified in subparagraph (B) of this paragraph to all of the individuals and entities identified in subparagraph (C) of this paragraph. (§2306.6704)

(A) The Applicant must request Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site as follows:

(i) No later than December 08, 2006, the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Pre-Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format.

(ii) If no reply letter is received from the local elected officials by January 1, 2007, then the Applicant must certify to that fact in the "Pre-Application Notification Certification Form" provided in the Pre-Application.

(iii) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of Pre-Application Submission in the "Pre-Application Notification Certification Form" provided in the Pre-Application.

(B) Not later than the date the Pre-Application is submitted, notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt return or similar tracking mechanism in the format required in the "Pre-Application Notification Template" provided in the Pre-Application. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials. Evidence of Notification is required in the form of a certification in the "Pre-Application Notification Certification Form" provided in the Pre-Application, although it is encouraged that Applicants retain proof of notifications in the event that the Department requires proof of Notification. Officials to be notified are those officials in office at the time the Pre-Application is submitted.

(i) Neighborhood Organizations on record with the city, state or county whose boundaries include the proposed Development Site as identified in subsection (A)(iii) of this subparagraph.

(ii) Superintendent of the school district containing the Development;

(iii) Presiding officer of the board of trustees of the school district containing the Development;

(iv) Mayor of any municipality containing the Development;

(v) All elected members of the governing body of any municipality containing the Development;

(vi) Presiding officer of the governing body of the county containing the Development;

(vii) All elected members of the governing body of the county containing the Development;

(viii) State senator of the district containing the Development; and

(ix) State representative of the district containing the Development.

(C) Each such notice must include, at a minimum, all of the following:

(i) The Applicant's name, address, individual contact name and phone number;

(ii) The Development name, address, city and county;

(iii) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(iv) Statement of whether the Development proposes New Construction, Reconstruction, or Rehabilitation;

(v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing, or elderly);

(vi) The approximate total number of Units and approximate total number of low-income Units;

(vii) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(viii) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Pre-Application, which are subject to change as annual changes in the area median income occur; and

(ix) The expected completion date if credits are awarded.

(e) **Pre-Application Results.** Only Pre-Applications which have satisfied all of the Pre-Application Threshold Criteria requirements set forth in subsection (d) of this section and §49.9(i)(13) 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.

§49.9. Application: Submission; Communication with Department Employees; Adherence to Obligations; Evaluation Process for Competitive Applications Under the State Housing Credit Ceiling; Evaluation Process for Tax-Exempt Bond Development Applications; Evaluation Process for Rural Rescue Applications Under the 2008 Credit Ceiling; Experience Pre-Certification Procedures; Threshold Criteria; Selection Criteria; Tiebreaker Factors; Staff Recommendations.

(a) **Application Submission.** Any Applicant requesting a Housing Credit Allocation or a Determination Notice must submit an Application, and the required Application fee as described in §49.20 of this title, to the Department during the Application Acceptance Period. Only complete Applications will be accepted. All required volumes must be appropriately bound as required by the Application Submission Procedures Manual and fully complete for submission and received by the Department not later than 5:00 p.m. on the date the Application is due. A searchable electronic copy of all required volumes and exhibits, unless otherwise indicated in the Application Submission Procedures Manual, must be submitted in the format of a single file presented in the order they appear in the hard copy of the complete Application on a CD-R clearly labeled with the report type, Development name, and Development location is required for submission and received by the Department not later than 5:00 p.m. on the date the Application is due. Only one Application may be submitted for a site in an Application Round. While the Application Acceptance Period is open, Applicants may withdraw their Application and subsequently file a new Application utilizing the original Pre-Application Fee that was paid as long as no evaluation was performed by the Department. The Department is authorized, but not required, to request the Applicant to provide additional information it deems relevant to clarify information contained in the Application or to submit documentation for items it considers to be an Administrative Deficiency, including ineligibility criteria, site and development restrictions, and threshold and selection criteria documentation. (§2306.6708) An Applicant may not change or supplement an Application in any manner after the filing deadline, and may not add any set-asides, increase their credit amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct request from the Department to remedy an Administrative Deficiency as further described in §49.3(1) of this title or by amendment of an Application after a commitment or allocation of tax credits as further described in §49.17(d) of this title.

(b) **Communication with Department Employees.** Communication with Department staff by Applicants that submit a Pre-Application or Application must follow the following requirements. During the period beginning on the date a Development Pre-Application or Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person that is active in the construction, rehabilitation, ownership or Control of the proposed Development including a General Partner or contractor and a Principal or Affiliate of a General Partner or contractor, or individual employed as a lobbyist by the Applicant or a Related Party, may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet, so long as that communication satisfies the conditions established under paragraphs (1) - (3) of this subsection. Section 49.5(b)(6) of this title applies to all communication with Board members. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.

(1) The communication must be restricted to technical or administrative matters directly affecting the Application;

(2) The communication must occur or be received on the premises of the Department during established business hours (emails may be sent and received after business hours);

(3) a record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the

names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication. (§2306.1113)

(c) **Adherence to Obligations.** (§2306.6720, General Appropriation Act, Article VII, Rider 8(a)) All representations, undertakings and commitments made by an Applicant in the application process for a Development, whether with respect to Threshold Criteria, Selection Criteria or otherwise, shall be deemed to be a condition to any Commitment Notice, Determination Notice, or Carryover Allocation for such Development, the violation of which shall be cause for cancellation of such Commitment Notice, Determination Notice, or Carryover Allocation by the Department, and if concerning the ongoing features or operation of the Development, shall be enforceable even if not reflected in the LURA. All such representations are enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, as stated in the representations and in accordance with the LURA. Effective December 1, 2006, if a Development Owner does not produce the Development as represented in the Application and in any amendments approved by the Department subsequent to the Application, or does not provide the necessary evidence for any points received by the required deadline:

(1) the Development Owner must provide a plan to the Department, for approval and subsequent implementation, that incorporates additional amenities to compensate for the non-conforming components; and

(2) the Board will opt either to terminate the Application and rescind the Commitment Notice, Determination Notice or Carryover Allocation Agreement as applicable or the Department must:

(A) Reduce the score for Applications for tax credits that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development by ten points for the two Application Rounds concurrent to, or following, the date that the non-conforming aspect, or lack of financing, was identified by the Department; and

(B) prohibit eligibility to apply for tax credits for a Tax-Exempt Bond Development that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development for 12 months from the date that the non-conforming aspect, or lack of financing, was identified by the Department.

(d) **Evaluation Process for Competitive Applications Under the State Housing Credit Ceiling.** Applications submitted for competitive consideration under the State Housing Credit Ceiling will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in §49.5; Applicants will be promptly notified in these instances.

(1) **Set-Aside and Selection Criteria Review.** All Applications will first be reviewed as described in this paragraph. Applications will be confirmed for eligibility for Set-Asides. Then, each Application will be preliminarily scored according to the Selection Criteria listed in subsection (i) of this section. When a particular scoring criterion involves multiple points, the Department will award points to the proportionate degree, in its determination, to which a proposed Development complied with that criterion. As necessary to complete this process only, Administrative Deficiencies may be issued to the Applicant. This process will generate a preliminary Department score for every application.

(2) **Priority Review Assessment.** Each Application will be assessed based on either the Applicant's self-score or the Department's preliminary score, region, and any Set-Asides that the Application indicates it is eligible for, consistent with paragraph (5) of this subsection. Those Applications that appear to be most competitive will be designated as "priority" Applications. Applications that do not appear to be competitive may not be reviewed in detail for Eligibility and Threshold Criteria during the Application Round. The designation of priority is not a stage of the application pursuant to §49.11(a)(7) of this title, and the designations will not be posted to the Department's website until final scoring notices are issued.

(3) **Eligibility and Threshold Criteria Review.** Applications that are designated as "priority" from the Priority Review Assessment will be evaluated for eligibility under §§49.5(a)(7)-(9), 49.5(c), (e), and (f), and 49.6 of this chapter. The remaining portions of the Eligibility Review under §49.5 of this chapter will be performed in the Compliance Evaluation and Eligibility Review as described under subparagraph (7) of this paragraph. Priority Applications will also be evaluated against the Threshold Criteria under §§49.9(h)(1) - (4), (7)(A) and (B), (8), (9), (11), and (15) of this chapter, at minimum. The remaining portions of the Threshold Criteria review may be performed in the Underwriting Evaluation and Criteria review for financial feasibility by the Department's Real Estate Analysis Division as described under subparagraph (6) of this paragraph. Applications not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria

shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria. To the extent that the review of Threshold Criteria documentation, or submission of Administrative Deficiency documentation, alters the score assigned to the Application, Applicants will be notified of their final score. As Applications are evaluated under this Review process, a final score by the Department may remove the Application from "priority" status at which point other Applications may be designated as "priority" and reviewed under this paragraph.

(4) Administrative Deficiencies. If an Application contains Administrative Deficiencies pursuant to §49.3(1) of this title which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Selection, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an email, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within seven business days from the deficiency notice date, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. If the applicant fully responds to the Administrative Deficiency Notice within the third business day following the deficiency notice date, the Department will review the documentation submitted and contact the Applicant by the end of the fourth business day following the deficiency notice date with guidance on items not clarified or corrected to the satisfaction of the Department. If Administrative Deficiencies are submitted to the Department after the third business day following the deficiency notice date, the Department will not be required to review the documentation submitted until after the 5th day, nor will the Department be required to contact an Applicant with guidance on items not clarified or corrected to the satisfaction of the Department until after the 5th day." Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period.

(5) Subsequent Evaluation of Prioritized Applications and Methodology for Award Recommendations to the Board. The Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division - in general these will be those applications identified as "priority". This prioritization order will also be used in making recommendations to the Board as follows:

(A) Assignments will be determined by first selecting the Applications with the highest scores in the At-Risk Set-Aside and TX-USDA-RHS Allocation within each Uniform State Service Region until the minimum requirements stated in §49.7(b) of this title are attained.

(B) Remaining funds within each Uniform State Service Region will then be selected based on the highest scoring Developments in each of the 26 sub-regions, regardless of Set-Aside, in accordance with the requirements under §49.7(a) of this title, without exceeding the credit amounts available for a Rural Regional Allocation and Urban/Exurban Regional Allocation in each region.

(C) Funds for the Rural Regional Allocation or Urban/Exurban Regional Allocation for which there are more requests for credits than remaining credits available will be combined in each Uniform State Service Regions. If the next eligible application in the Rural Allocation or Urban/Exurban for a given Uniform State Service Region is less than the remaining credits in a region, then that application is selected; however, if both Rural and Urban/Exurban areas in the region have Applications that are requesting less than the remaining credits in that Uniform State Service Region, then Application in the sub-region whose shortfall of credits being recommended would have been the most significant portion of their targeted sub-regional allocation will be selected. All credits still remaining will be combined with the remaining credits from all other regions and will be allocated to an Application in the sub-region whose shortfall of credits being recommended would have been the most significant portion of their targeted sub-regional allocation. However, once a region's awarded credits exceeds the total allocation for that region no other applications will be selected.

(D) After this priority review has occurred, staff will review priority applications to ensure that at least 10% of the priority applications are qualified Nonprofits to satisfy the Nonprofit Set-Aside. If 10% is not met, then the Department will add the highest Qualified Nonprofits statewide until the 10% Nonprofit Set-Aside is met. Selection for each of the Set-Asides will take precedence over selection for the Rural Regional Allocation and Urban/Exurban Regional Allocation. Funds for the Rural Regional Allocation or Urban/Exurban Regional Allocation within a region, for which there are no eligible feasible applications, will be redistributed as provided in §49.7(c) of this title, Redistribution of Credits. If the Department determines that an allocation

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

recommendation would cause a violation of the \$2 million limit described in §49.6(d) of this title, the Department will make its recommendation by selecting the Development(s) that most effectively satisfies(y) the Department's goals in meeting set-aside and regional allocation goals. Based on Application rankings, the Department shall continue to underwrite Applications until the Department has processed enough Applications satisfying the Department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and Set-Aside categories. To enable the Board to establish a Waiting List, the Department shall underwrite as many additional Applications as necessary to ensure that all available housing tax credits are allocated within the period required by law. (§2306.6710(a), (b) and (d); §2306.111)

(6) Underwriting Evaluation and Criteria. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits. In determining an appropriate level of housing tax credits, the Department shall, at a minimum, evaluate the cost of the Development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for the county in which the Development is to be located; if certifications are unavailable for the county, then the metropolitan statistical area in which the Development is to be located; or if certifications are unavailable under the county or the metropolitan statistical area, then the Uniform State Service Region in which the Development is to be located. Underwriting of a Development will include a determination by the Department, pursuant to the Code, §42, that the amount of credits recommended for commitment to a Development is necessary for the financial feasibility of the Development and its long-term viability as a qualified rent restricted housing property. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title. To the extent that the review of Administrative Deficiency documentation during this review alters the score assigned to the Application, Applicants will be re-notified of their final score. Receipt of feasibility points under §49.9(i)(1) of this title does not ensure that an Application will be considered feasible during the feasibility evaluation by the Real Estate Analysis Division and conversely, a Development may be found feasible during the feasibility evaluation by the Real Estate Analysis Division even if it did not receive points under §49.9(i)(1) of this title. (§2306.6711(b); §2306.6710(d))

(A) The Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation.

(B) The Department will reduce the Applicant's estimate of Developer's and/or Contractor fees in instances where these exceed the fee limits determined by the Department. 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. The Developer's fee limits will be calculated as follows:

(i) new construction pursuant to §42(b)(1)(A) U.S.C., the developer fee cannot exceed 15% of the project's Total Eligible Basis, less developer fees, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less; and

(ii) acquisition/rehabilitation developments that are eligible for acquisition credits pursuant to §42(b)(1)(B) U.S.C., the acquisition portion of the developer fee cannot exceed 15% of the existing structures acquisition basis, less developer fee, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less, and will be limited to 4% credits. The rehabilitation portion of the developer fee cannot exceed 15% of the total rehabilitation basis, less developer fee, or 20% of the project's Total Eligible Basis, less developer fees if the Development proposes 49 total Units or less.

(7) Compliance Evaluation and Eligibility Review. After the Department has determined which Developments will be reviewed for financial feasibility, those same Developments will be reviewed for evaluation of the compliance status by the Department's Portfolio Management and Compliance Division, in accordance with Chapter 60 of this title, and will be evaluated in detail for eligibility under §§49.5(a)(1)-(5) , 49.5(b), and 49.5(d) of this chapter.

(8) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its assigns. Such inspection will evaluate the site based upon the criteria set forth in the Site Evaluation form provided in the Application and the inspector shall provide a written report of such site evaluation. The evaluations shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational, and educational facilities, and employment centers. The site's appearance to prospective tenants and its accessibility via the existing transportation infrastructure and public transportation systems shall be considered.

"Unacceptable" sites include, without limitation, those containing a non-mitigable environmental factor that may adversely affect the health and safety of the residents. For Developments applying under the TX-USDA-RHS Set-Aside, the Department may rely on the physical site inspection performed by TX-USDA-RHS.

(e) **Evaluation Process for Tax-Exempt Bond Development Applications.** Applications submitted for consideration as Tax-Exempt Bond Developments will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in §49.5; Applicants will be promptly notified in these instances.

(1) **Eligibility and Threshold Criteria Review.** All Tax-Exempt Bond Development Applications will first be reviewed as described in this paragraph. Tax-Exempt Bond Development Applications will be confirmed for eligibility under §§49.5 and 49.6 of this chapter and Applications will be evaluated in detail against the Threshold Criteria. Tax-Exempt Bond Development Applications found to be ineligible and/or not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria.

(2) **Administrative Deficiencies.** If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. All Administrative Deficiencies shall be clarified or corrected to the satisfaction of the Department within five business days. Failure to resolve all outstanding deficiencies within 5 business days from the deficiency notice date will result in a penalty fee of \$500 for each business day the deficiency remains unresolved. Applications with unresolved deficiencies after the 10th day from the issuance of the deficiency notice will be terminated. The Applicant will be responsible for the payment of fees accrued pursuant to this section regardless of any termination pursuant to this section. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. The Application will not be presented to the Board for consideration until all outstanding fees have been paid.

(3) **Underwriting and Compliance Evaluation and Criteria.** The Department will assign all eligible Tax-Exempt Bond Development Applications meeting the eligibility and threshold requirements for review for financial feasibility by the Department's Real Estate Analysis Division, or the Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation. The Department or external party shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits as further described in subsection (d)(6) of this section. Tax-Exempt Bond Development Applications will also be reviewed for evaluation of the compliance status by the Department's Portfolio Management and Compliance Division in accordance with Chapter 60 of this title.

(4) **Site Evaluation.** Site conditions shall be evaluated through a physical site inspection by the Department or its assigns as further described in subsection (d)(8) of this section.

(f) **Evaluation Process for Rural Rescue Applications Under the 2008 Credit Ceiling.** Applications submitted for consideration as Rural Rescue Applications pursuant to §49.10(c) of this title under the 2008 Credit Ceiling will be reviewed according to the process outlined in this subsection. A Rural Rescue Application, during any of these stages of review, may be determined to be ineligible as further described in §49.5 of this chapter; Applicants will be promptly notified in these instances.

(1) **Eligibility and Threshold Criteria Review.** All Rural Rescue Applications will first be reviewed as described in this paragraph. Rural Rescue Applications will be confirmed for eligibility under §§49.5 and 49.6 of this chapter, Set-Aside and Rural Rescue eligibility will be confirmed, and Applications will be evaluated in detail against the Threshold Criteria. Applications found to be ineligible and/or not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in which event the Applicant is given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

Deficiency response will be terminated and the Applicant will be provided a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Threshold Criteria, and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled. Not all Applications will be reviewed in detail for Threshold Criteria.

(2) Selection Criteria Review. All Rural Rescue Applications will be evaluated against the Selection Criteria and a score will be assigned to the Application. The minimum score for Selection Criteria is not required to be achieved to be eligible.

(3) Administrative Deficiencies. If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies as further described in subsection (d)(4) of this section.

(4) Underwriting and Compliance Evaluation and Criteria. The Department will assign all eligible Rural Rescue Applications meeting the eligibility and threshold requirements for review for financial feasibility by the Department's Real Estate Analysis Division, or the Department may have an external party perform the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting evaluation shall be paid by the Applicant prior to the commencement of the aforementioned evaluation. The Department or external party shall underwrite an Application to determine the financial feasibility of the Development and an appropriate level of housing tax credits as further described in subsection (d)(6) of this section. Rural Rescue Development Applications will also be reviewed for evaluation of the previous participation by the Department's Portfolio Management and Compliance Division in accordance with Chapter 60 of this title.

(5) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or its assigns as further described in subsection (d)(8) of this section.

(g) Experience Pre-Certification Procedures. No later than 14 days prior to the close of the Application Acceptance Period, an Applicant must submit the documents required in this subsection to obtain the required pre-certification. For Applications submitted for Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) all of the documents in this section must be submitted with the Application. Upon receipt of the evidence required under this section, a certification from the Department will be provided to the Applicant for inclusion in their Application(s). Evidence must show that one of the Development Owner's General Partners, the Developer or their Principals have a record of successfully constructing or developing residential units (single family or multifamily) in the capacity of owner, General Partner or Developer. If a Public Housing Authority organized an entity for the purpose of developing residential units the Public Housing Authority shall be considered a principal for the purpose of this requirement. If the individual requesting the certification was not the Development Owner, General Partner or Developer, but was the individual within one of those entities doing the work associated with the development of the units, the individual must show that the units were successfully developed as required below, and also provide written confirmation from the entity involved stating that the individual was the person responsible for the development. If rehabilitation experience is being claimed to qualify for an Application involving new construction, then the rehabilitation must have been substantial and involved at least \$6,000 of direct hard cost per unit.

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

(A) at least 100 residential units or, if less than 100 residential units, 80 percent of the total number of Units the Applicant is applying to build (e.g. you must have 40 units successfully built to apply for 50 Units); or

(B) at least 36 residential units if the Development is a Rural Development; or

(C) at least 25 residential units if the Development has 36 or fewer total Units.

(2) One or more of the following documents must be submitted: American Institute of Architects (AIA) Document A111 - Standard Form of Agreement Between Owner & Contractor, AIA Document G704 - Certificate of Substantial Completion, IRS Form 8609, HUD Form 9822, development agreements, partnership agreements, or other documentation satisfactory to the Department verifying that the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals have the required experience. If submitting the IRS Form 8609, only one form per Development is required. The evidence must clearly indicate:

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

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(B) that the names on the forms and agreements tie back to the Development Owner's General Partner, partner (or if Applicant is to be a limited liability company, the managing member), Developer or their Principals as listed in the Application; and

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

(h) **Threshold Criteria.** The following Threshold Criteria listed in this subsection are mandatory requirements at the time of Application submission unless specifically indicated otherwise:

(1) Completion and submission of the Application, which includes the entire Uniform Application and any other supplemental forms which may be required by the Department. (§2306.1111)

(2) Completion and submission of the Site Packet as provided in the Application.

(3) Set-Aside Eligibility. Documentation must be provided that confirms eligibility for all Set-Asides under which the Application is seeking funding as required in the Application.

(4) Certifications. The "Certification Form" provided in the Application confirming the following items:

(A) A certification of the basic amenities selected for the Development. All Developments, must meet at least the minimum threshold of points. These points are not associated with the selection criteria points in subsection (i) of this section. The amenities selected must be made available for the benefit of all tenants. If fees in addition to rent are charged for amenities reserved for an individual tenant's use, then the amenity may not be included among those provided to satisfy this requirement. Developments must provide a minimum number of common amenities in relation to the Development size being proposed. The amenities selected must be selected from clause (ii) of this subparagraph and made available for the benefit of all tenants. Developments proposing Rehabilitation or proposing Single Room Occupancy will receive 1.5 points for each point item. Applications for non-contiguous scattered site housing, including New Construction, Reconstruction, Rehabilitation, and single-family design, will have the threshold test applied based on the number of Units per individual site, and must submit a separate certification for each individual site under control by the Applicant. Any future changes in these amenities, or substitution of these amenities, must be approved by the Department in accordance with §49.17(d) of this title and may result in a decrease in awarded credits if the substitution or change includes a decrease in cost, or in the cancellation of a Commitment Notice or Carryover Allocation if all of the Common Amenities claimed are no longer met.

(i) Applications must meet a minimum threshold of points (based on the total number of Units in the Development) as follows:

(I) Total Units are less than 13, 0 points are required to meet Threshold for Single Room Occupancy and 1 point is required to meet threshold for all other Developments;

(II) Total Units are between 13 and 24, 1 point is required to meet Threshold;

(III) Total Units are between 25 and 40, 3 points are required to meet Threshold;

(IV) Total Units are between 41 and 76, 6 points are required to meet Threshold;

(V) Total Units are between 77 and 99, 9 points are required to meet Threshold;

(VI) Total Units are between 100 and 149, 12 points are required to meet Threshold;

(VII) Total Units are between 150 and 199, 15 points are required to meet Threshold;

(VIII) Total Units are 200 or more, 18 points are required to meet Threshold.

(ii) Amenities for selection include those items listed in subclauses (I) - (XXIV) of this clause. Both Developments designed for families and Qualified Elderly Developments can earn points for providing each identified amenity unless the item is specifically restricted to one type of Development. All amenities must meet accessibility standards as further described in §§49.9(h)(4)(D) and (F) of this title. An Application can only count an amenity once, therefore combined functions (a library which is part of a community room) only count under one category. Spaces for activities must be sized appropriately to serve the anticipated population.

(I) Full perimeter fencing (2 points);

(II) Controlled gate access (1 point);

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

(IV) Accessible walking/ jogging path separate from a sidewalk (1 point);

(V) Community laundry room with at least one front loading washer (1 point);

(VI) Emergency 911 telephones accessible and available to tenants 24 hours a day (2 points);

(VII) Barbecue grill and picnic table-at least one of each for every 50 Units (1 point);

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

(IX) Swimming pool (3 points);

(X) Furnished fitness center (2 points);

(XI) Equipped and functioning business center or equipped computer learning center with 1 computer for every 30 Units proposed in the Application, 1 printer for every 3 computers (with minimum of one printer), and 1 fax machine (2 points);

(XII) Furnished Community room (1 point);

(XIII) Library with an accessible sitting area (separate from the community room) (1 point);

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

- (XIV) Enclosed sun porch or covered community porch/patio (2 points);
- (XV) Service coordinator office in addition to leasing offices (1 point);
- (XVI) Senior Activity Room (Arts and Crafts, etc.)-Only Qualified Elderly Developments Eligible (2 points);
- (XVII) Health Screening Room (1 point);
- (XIII) Secured Entry (elevator buildings only)(1 point);
- (XIX) Horseshoe pit, putting green 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) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot, -Only Family Developments Eligible-Only Family Developments Eligible (1 Point)
- (XXII) Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each-Only Family Developments Eligible (2 points);
- (XXIII) Sport Court (Tennis, Basketball or Volleyball)-Only Family Developments Eligible (2 points); or
- (XXIV) Furnished and staffed Children's Activity Center-Only Family Developments Eligible (3 points).

(B) A certification that the Development will have all of the following Unit Amenities (not required for Single Room Occupancy Developments). If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to satisfy this requirement. Any future changes in these amenities, or substitution of these amenities, may result in a decrease in awarded credits if the substitution or change includes a decrease in cost or in a cancellation of a Commitment Notice or Carryover Allocation if the Threshold Criteria are no longer met.

(i) All New Construction Units must be wired with 6 pair CAT5e wiring or better to provide phone and data service to each unit and wired with COAX cable to provide TV and high speed internet data service to each unit;

- (ii) Blinds or window coverings for all windows;
- (iii) Dishwasher and Disposal (not required for TX-USDA-RHS Developments);
- (iv) Refrigerator;
- (v) Oven/Range;
- (vi) Exhaust/vent fans in bathrooms; and
- (vii) Ceiling fans in living areas and bedrooms.

(C) A certification that the Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or if no local building codes are in place then to the most recent version of the International Building Code.

(D) A certification that the Applicant is in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (§42U.S.C. §3601 et seq.), and the Fair Housing Amendments Act of 1988 (§42U.S.C. §3601 et seq.); the Civil Rights Act of 1964 (§42U.S.C. §2000a et seq.); the Americans with Disabilities Act of 1990 (§42U.S.C. §12101 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.); Fair Housing Accessibility; the Texas Fair Housing Act; and that the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, the Code Requirements for Housing Accessibility 2000 (or as amended from time to time) produced by the International Code Council and the Texas Accessibility Standards. (§2306.257; §2306.6705(7))

(E) A certification that the Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses, and that the Applicant will submit a report at least once in each 90-day period following the date of the Commitment Notice until the Cost Certification is submitted, in a format prescribed by the 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 §504, Rehabilitation Act of 1973 (29 U.S.C. §794), and specified under 24 C.F.R. Part 8, Subpart C. The Applicant must provide a certification from an accredited architect or Department-approved third party accessibility specialist, that the Development will comply with the accessibility standards that are required under §504, Rehabilitation Act of 1973 (29 U.S.C. §794), and specified under 24 C.F.R. Part 8, Subpart C and this subparagraph. (§§2306.6722 and 2306.6730)

(G) Developments involving New Construction (excluding New Construction of non-residential buildings) where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A similar certification will also be required after the Development is completed from an inspector, architect, or accessibility specialist. Any Developments designed as single family structures must also satisfy the requirements of §2306.514, Texas Government Code.

(H) A certification that the Development will be equipped with energy saving devices that meet the standard statewide energy code adopted by the state energy conservation office, unless historic preservation codes permit otherwise for a Development involving historic preservation. All Units must be air-conditioned. The measures must be certified by the Development architect as being included in the design of each tax credit Unit at the time the 10% Test Documentation is submitted and in actual construction upon Cost Certification. (§2306.6725(b)(1))

(I) A certification that the Development will be built by a General Contractor that satisfies the requirements of the General Appropriation Act, Article VII, Rider 8(c) applicable to the Department which requires that the General Contractor hired by the Development Owner or the Applicant, if the Applicant serves as General Contractor, must demonstrate a history of constructing similar types of housing without the use of federal tax credits.

(J) A certification that the Development Owner agrees to establish a reserve account consistent with §2306.186 Texas Government Code and as further described in §1.37 of this title.

(K) A certification that the Applicant, Developer, or any employee or agent of the Applicant has not formed a neighborhood organization for purposes of subsection §49.9(i)(2) of this title, has not given money or a gift to cause the neighborhood organization to take its position of support or opposition, nor has provided any assistance to a neighborhood organization to meet the requirements under §49.9(i)(2) of this title which are not allowed under that subsection, as it relates to the Applicant's Application or any other Application under consideration in 2007.

(L) A certification that the Development Owner will cooperate with the local public housing authority, to the extent there are any, in accepting tenants from their waiting lists (§42(m)(1)(C)(vi)).

(M) A certification that the Development Owner will contract with a Management Company through out the Compliance Period that will perform criminal background checks on all adult tenants, head and co head of households.

(5) Design Items. This exhibit will provide:

(A) All of the architectural drawings identified in clauses (i) - (iii) of this subparagraph. While full size design or construction documents are not required, the drawings must have an accurate and legible scale and show the dimensions. All Developments involving New Construction, or conversion of existing buildings not configured in the Unit pattern proposed in the Application, must provide all of the items identified in clauses (i) - (iii) of this subparagraph. For Developments involving Rehabilitation for which the Unit configurations are not being altered, only the items identified in clauses (i) and (iii) 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 and elevations for each type of residential building and each common area building clearly depicting the height of each floor and a percentage estimate of the exterior composition; and

(iii) Unit floor plans for each type of Unit showing special accessibility and energy features. The net rentable areas these Unit floor plans represent should be consistent with those shown in the "Rent Schedule" provided in the application; and

(B) A boundary survey of the proposed Development site and of the property to be purchased. In cases where more property is purchased than the proposed site of the Development, the survey or plat must show the survey calls for both the larger site and the subject site. The survey does not have to be recent; but it must show the property purchased and the property proposed for Development. In cases where the site of the Development is only a part of the site being purchased, the depiction or drawing of the Development portion may be professionally compiled and drawn by an architect, engineer or surveyor.

(6) Evidence of the Development's development costs and corresponding credit request and syndication information as described in subparagraphs (A) - (G) of this paragraph.

(A) A written narrative describing the financing plan for the Development, including any non-traditional financing arrangements; the use of funds with respect to the Development; the funding sources for the Development including construction, permanent and bridge loans, rents, operating subsidies, and

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

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(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(2) and (3))

(D) For Developments located in a Qualified Census Tract (QCT) as determined by the Secretary of HUD and qualifying for a 30% increase in Eligible Basis, pursuant to the Code, §42(d)(5)(C), if permitted under §49.6(h) of this title, Applicants must submit a copy of the census map clearly showing that the proposed Development is located within a QCT. Census tract numbers must be clearly marked on the map, and must be identical to the QCT number stated in the Department's Reference Manual.

(E) Rehabilitation Developments must submit a Property Condition Assessment meeting the requirements of paragraph (14)(C) of this subsection.

(F) If offsite costs are included in the budget as a line item, or embedded in the site acquisition contract, or referenced in the utility provider letters, then the supplemental form "Off Site Cost Breakdown" must be provided.

(G) If projected site work costs include unusual or extraordinary items or exceed \$7,500 per Unit, then the Applicant must provide a detailed cost breakdown prepared by a Third Party engineer or architect, and a letter from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible.

(7) Evidence of readiness to proceed as evidenced by at least one of the items under each of subparagraphs (A) - (D) of this paragraph:

(A) Evidence of Property control in the name of the Development Owner. If the evidence is not in the name of the Development Owner, then the documentation should reflect an expressed ability to transfer the rights to the Development Owner. All of the sellers of the proposed Property for the 36 months prior to the first day of the Application Acceptance Period and their relationship, if any, to members of the Development team must be identified at the time of Application (not required at Pre-Application). One of the following items described in clauses (i) - (iii) of this subparagraph must be provided:

(i) a recorded warranty deed with corresponding executed settlement statement; or

(ii) a contract for lease (the minimum term of the lease must be at least 45 years) which is valid for the entire period the Development is under consideration for tax credits; or

(iii) a contract for sale, an exclusive option to purchase which is valid for the entire period the Development is under consideration for tax credits. For Tax Exempt Bond Developments site control must be **valid** through December 1, 2006 with option to extend through March 1, 2007 (Applications submitted for lottery) or 90 days from the date of the bond reservation with the option to extend through the scheduled TDHCA Board meeting. The potential expiration of site control does not warrant the Application being presented to the TDHCA Board prior to the scheduled meeting. If the acquisition can be characterized as an identity of interest transaction as described in §1.32(e)(1)(B), (I) and (II) of this clause must be provided (not required at Pre-Application):

(I) documentation of the original acquisition cost in the form of a settlement statement or, if a settlement statement is not available, the seller's most recent audited financial statement indicating the asset value for the proposed Property, and

(II) if the original acquisition cost evidenced by (I) of this clause is less than the acquisition cost claimed in the application,

(-a-) an appraisal meeting the requirements of paragraph (14)(D) of this subsection, and

(-b-) any other verifiable costs of owning, holding, or improving the Property that when added to the value from subclause (I) of this clause justifies the Applicant's proposed acquisition amount.

(-1-) For land-only transactions, documentation of owning, holding or improving costs since the original acquisition date may include Property taxes, interest expense, a calculated return on equity at a rate consistent with the historical returns of similar risks, the cost of any physical improvements made to the Property, the cost of rezoning, replatting or developing the Property, or any costs to provide or improve access to the Property.

(-2-) For transactions which include existing buildings that will be rehabilitated or otherwise maintained as part of the Development, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the Property, a calculated return

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

on equity at a rate consistent with the historical returns of similar risks, and allow the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the Property and avoid foreclosure.

(iv) As described in clauses (ii) and (iii) of this subparagraph, Property control must be continuous. Closing on the Property is acceptable, as long as evidence is provided that there was no period in which control was not retained.

(B) Evidence from the appropriate local municipal authority that satisfies one of clauses (i) - (iii) of this subparagraph. Documentation may be from more than one department of the municipal authority and must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period. (§2306.6705(5))

(i) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision which does not have a zoning ordinance; the letter must also state that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan, comprehensive plan, or other local planning document; or if no such planning document exists, then the letter from the local municipal authority must state that there is a need for affordable housing.

(ii) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that:

(I) the Development is permitted under the provisions of the zoning ordinance that applies to the location of the Development; or

(II) the Applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied, and a time schedule for completion of appropriate zoning. The Applicant must also provide at the time of Application a copy of the application for appropriate zoning filed with the local entity responsible for zoning approval and proof of delivery of that application in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from said official. Final approval of appropriate zoning must be achieved and documentation of acceptable zoning for the Development, as proposed in the Application, must be provided to the Department at the time the Commitment Fee, or Determination Notice Fee, is paid. If this evidence is not provided with the Commitment Fee, any commitment of credits will be rescinded. No extensions may be requested for the deadline for submitting evidence of final approval of appropriate zoning.

(iii) In the case of a Rehabilitation Development, if the property is currently a non-conforming use as presently zoned, a letter which discusses the items in subclauses (I) - (IV) of this clause:

(I) a detailed narrative of the nature of non-conformance;

(II) the applicable destruction threshold;

(III) owner's rights to reconstruct in the event of damage; and

(IV) penalties for noncompliance.

(C) Evidence of interim and permanent financing sufficient to fund the proposed Total Housing Development Cost less any other funds requested from the Department and any other sources documented in the Application. Any local, state or federal financing identified in this section which restricts household incomes at any AMGI lower than restrictions required pursuant to the Rules must be identified in the Rent Schedule and the local, state or federal income restrictions must include corresponding rent levels that do not exceed 30% of the income limitation in accordance with §42(g), Internal Revenue Code. The income and corresponding rent restrictions will be continuously maintained over the compliance and extended use period as specified in the LURA. Such evidence must be consistent with the sources and uses of funds represented in the Application and shall be provided in one or more of the following forms described in clauses (i) - (iv) of this subparagraph:

(i) bona fide financing in place as evidenced by:

(I) a valid and binding loan agreement;

(II) deed(s) of trust in the name of the Development Owner expressly allowing transfer to the Development Owner; and

(III) for TX-USDA-RHS 515 Developments involving Rehabilitation, an executed TX-USDA-RHS letter indicating TX-USDA-RHS has received a Consent Request, also referred to as a Preliminary Submittal, as described in 7 CFR 3560.406; or,

(ii) bona fide commitment or term sheet for the interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the Development Owner and which has been executed by the lender (the term of the loan must be for a minimum of 15 years with at least a 30 year amortization). The commitment must state an expiration date and all the terms and conditions applicable to the financing including the mechanism for determining the interest rate, if applicable, and the anticipated interest rate and any required Guarantors. Such a commitment

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; or,

(iii) any Federal, State or local gap financing, whether of soft or hard debt, must be identified at the time of Application as evidenced by:

(I) evidence from the lending agency that an application for funding has been made or from the Applicant indicating an intent to apply for funding; and

(II) a term sheet which clearly describes the amount and terms of the funding, and the date by which the funding determination will be made and any commitment issued, must be submitted; and

(III) Evidence of application for funding from another Department program is not required except as indicated on the Uniform Application, as long as the Department funding is on a concurrent funding period with the Application submitted and the Applicant clearly indicates that such an Application has been filed as required by the Application Submission Procedures Manual; and

(IV) If the commitment from any funding source identified in this subparagraph has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the funding source, the Commitment Notice may be rescinded; or

(iv) if the Development will be financed through more than 5% of Development Owner contributions, provide a letter from an Third Party CPA verifying the capacity of the Development Owner to provide the proposed financing with funds that are not otherwise committed together with a letter from the Development Owner's bank or banks confirming that sufficient funds are available to the Development Owner. Documentation must have been prepared and executed not more than 6 months prior to the close of the Application Acceptance Period.

(D) Provide the documents in clauses (i) - (iii) of this subparagraph:

(i) a copy of the full legal description

(ii) a current valuation report from the county tax appraisal district and documentation of the current total property tax rate for the proposed Property, and

(iii) a copy of:

(I) the current title policy which shows that the ownership (or leasehold) of the land/Development is vested in the exact name of the Development Owner; or

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

(III) if the title policy or commitment is more than six months old as of the day the Application Acceptance Period closes, then a letter from the title company indicating that nothing further has transpired on the policy or commitment.

(8) Evidence in the form of a certification of all of the notifications described in the subparagraphs of this paragraph. Such notices must be prepared in accordance with the "Public Notifications" certification provided in the Application.

(A) Evidence in the form of a certification that the Applicant met the requirements and deadlines identified in clauses (i) - (iii) of this subparagraph. Notification must not be older than three months from the first day of the Application Acceptance Period. (§2306.6705(9)) If evidence of these notifications was submitted with the Pre-Application Threshold for the same Application and satisfied the Department's review of Pre-Application Threshold, then no additional notification is required at Application, except that re-notification is required by tax credit Applicants who have submitted a change in the Application, whether from Pre-Application to Application or as a result of a deficiency that reflects a total Unit increase of greater than 10%, a total increase of greater than 10% for any given level of AMGI, or a change to the population being served (elderly, Intergenerational Housing or family). For Applications submitted for Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.), notifications and proof thereof must not be older than three months prior to the date the Volume III of the Application is submitted.

(i) The Applicant must request Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site from local elected officials as follows:

(I) No later than January 15, 2007 (or for Tax-Exempt Bond Applications, Rural Rescue, or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., not later than 21 days prior to submission of the Threshold documentation), the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format.

(II) If no reply letter is received from the local elected officials by February 25, 2007, (or For Tax-Exempt Bond Developments or Applications not applying for Tax Credits, but applying only for other Multifamily Programs such as HOME, Housing Trust Fund, etc., by 7 days prior to the submission of the Application), then the Applicant must certify to that fact in the "Application Notification Certification Form" provided in the Application.

(III) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of the submission of the Application, in the "Application Notification Certification Form" provided in the Application.

(ii) Not later than the date the Application is submitted, notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt return or similar tracking mechanism e-mail, fax or mail with registered receipt in the format required in the "Application Notification Template" provided in the Application. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials. Evidence of Notification is required in the form of a certification in the "Application Notification Certification Form" provided in the Application, although it is encouraged that Applicants retain proof of notifications in the event that the Department requires proof of Notification. Officials to be notified are those officials in office at the time the Application is submitted.

(I) Neighborhood Organizations on record with the state or county whose boundaries include the proposed Development Site as identified in clause (i)(III) of this subparagraph.

(II) Superintendent of the school district containing the Development;

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

(IV) Mayor of the governing body of any municipality containing the Development;

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

(VI) Presiding officer of the governing body of the county containing the Development;

(VII) All elected members of the governing body of the county containing the Development;

(VIII) State senator of the district containing the Development; and

(IX) State representative of the district containing the Development.

(iii) Each such notice must include, at a minimum, all of the following:

(I) The Applicant's name, address, individual contact name and phone number;

(II) The Development name, address, city and county;

(III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(IV) Statement of whether the Development proposes New Construction, Reconstruction, or Rehabilitation;

(V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing or elderly);

(VI) The approximate total number of Units and approximate total number of low-income Units;

(VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;

(VIII) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Application, which are subject to change as annual changes in the area median income occur; and

(IX) The expected completion date if credits are awarded.

(B) Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development Site prior to the date the Application is submitted. Scattered site Developments must install a sign on each Development Site. For Tax-Exempt Bond Developments, regardless of the Priority of the Application or the Issuer, the sign must be installed within thirty (30) days of the Department's receipt of Volumes I and II. The date, time and location of the bond public hearing must be included on the sign no later than thirty (30) days prior to the scheduled public hearing. Evidence submitted with the Application must include photographs of the

site with the installed 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, regardless of the issuer, the Applicant must certify to the fact that the sign was installed within 30 days of submission and the date, time and location of the bond hearing is indicated on the sign at least 30 days prior to the date of the scheduled hearing. 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.

(C) If any of the Units in the Development are occupied at the time of Application, then the Applicant must certify that they have notified each tenant at the Development and let the tenants know of the Department's public hearing schedule for comment on submitted Applications.

(9) Evidence of the Development's proposed ownership structure and the Applicant's previous experience as described in subparagraphs (A) - (D) of this paragraph.

(A) Chart which clearly illustrates the complete organizational structure of the final proposed Development Owner and of any Developer or Guarantor, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner or the Developer or Guarantor, as applicable, whether directly or through one or more subsidiaries. Nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors must be included in this exhibit.

(B) Each Applicant, Development Owner, Developer or Guarantor, or any entity shown on an organizational chart as described in subparagraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, shall provide the following documentation, as applicable:

(i) For entities that are not yet formed but are to be formed either in or outside of the state of Texas, a certificate of reservation of the entity name from the Texas Secretary of State; or

(ii) For existing entities whether formed in or outside of the state of Texas, evidence that the entity has the authority to do business in Texas or has applied for such authority.

(C) Evidence that each entity shown on the organizational chart described in subparagraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, has provided a copy of the completed and executed Previous Participation and Background Certification Form to the Department. Nonprofit entities, public housing authorities and publicly traded corporations are required to submit documentation for the entities involved; documentation for individual board members and executive directors is required for this exhibit. Any Person receiving more than 10% of the Developer fee will also be required to submit documents for this exhibit. The 2007 versions of these forms, as required in the Uniform Application, must be submitted. Units of local government are also required to submit this document. The form must include a list of all developments that are, or were, previously under ownership or Control of the Person. All participation in any TDHCA funded or monitored activity, including non-housing activities, must be disclosed.

(D) Evidence, in the form of a certification, that one of the Development Owner's General Partners, the Developer or their Principals have a record of successfully constructing or developing residential units in the capacity of owner, General Partner or Developer. Evidence must be a certification from the Department that the Person with the experience satisfies this exhibit, as further described under subsection (g)(1) of this section. Applicants must request this certification at least fourteen days prior to the close of the Application Acceptance Period. Applicants must ensure that the Person whose name is on the certification appears in the organizational chart provided in subparagraph (A) of this paragraph.

(10) Evidence of the Development's projected income and operating expenses as described in subparagraphs (A) - (D) of this paragraph:

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(A) All Developments must provide a 30-year proforma estimate of operating expenses and supporting documentation used to generate projections (operating statements from comparable properties).

(B) If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, any related contract or other agreement securing those funds or proof of Application must be provided, which at a minimum identifies the source and annual amount of the funds, the number of Units receiving the funds, and the term and expiration date of the contract or other agreement. (§2306.6705(4))

(C) Applicant must provide documentation from the source of the "Utility Allowance" estimate used in completing the Rent Schedule provided in the Application. This exhibit must clearly indicate which utility costs are included in the estimate. If there is more than one entity (Section 8 administrator, public housing authority) responsible for setting the utility allowance(s) in the area of the Development location, then the Utility Allowance selected must be the one which most closely reflects the actual utility costs in that Development area. In this case, documentation from the local utility provider supporting the selection must be provided.

(D) Occupied Developments undergoing Rehabilitation must also submit the items described in clauses (i) - (iv) of this subparagraph.

(i) The items in subclauses (I) and (II) of this clause are required unless the current property owner is unwilling to provide the required documentation. In that case, submit a signed statement as to its inability to provide all documentation as described.

(I) Submit at least one of the following:

(-a-) historical monthly operating statements of the subject Development for 12 consecutive months ending not more than 3 months from the first day of the Application Acceptance Period;

(-b-) The two most recent consecutive annual operating statement summaries;

(-c-) the most recent consecutive six months of operating statements and the most recent available annual operating summary;

(-d-) all monthly or annual operating summaries available and a written statement from the seller refusing to supply any other summaries or expressing the inability to supply any other summaries, and any other supporting documentation used to generate projections may be provided; and

(II) a rent roll not more than 6 months old as of the first day the Application Acceptance Period, that discloses the terms and rate of the lease, rental rates offered at the date of the rent roll, Unit mix, tenant names or vacancy, and dates of first occupancy and expiration of lease.

(ii) a written explanation of the process used to notify and consult with the tenants in preparing the Application; (§2306.6705(6))

(iii) For Intergenerational Applications or Qualified Elderly Developments, identification of the number of existing tenants qualified under the target population elected under this title;

(iv) a relocation plan outlining relocation requirements and a budget with an identified funding source; and (§2306.6705(6))

(v) if applicable, evidence that the relocation plan has been submitted to the appropriate legal agency. (§2306.6705(6))

(11) Applications involving Nonprofit General Partners and Qualified Nonprofit Developments.

(A) All Applications involving a nonprofit General Partner, regardless of the Set-Aside applied under, must submit all of the documents described in clauses (i) and (ii) of this subparagraph: (§2306.6706)

(i) an IRS determination letter which states that the nonprofit organization is a 501(c)(3) or (4) entity or ; and

(ii) the "Nonprofit Participation Exhibit."

(B) Additionally, all Applications applying under the Nonprofit Set-Aside, established under §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) - (iii) of this subparagraph.

(i) a Third Party legal opinion stating:

(I) that the nonprofit organization is not affiliated with or Controlled by a for-profit organization and the basis for that opinion, and

(II) that the nonprofit organization is eligible, as further described, for a Housing Credit Allocation from the Nonprofit Set-Aside and the basis for that opinion. Eligibility is contingent upon the nonprofit organization Controlling the Development, or if the organization's Application is filed on behalf of a limited partnership, or limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member; and otherwise meet the requirements of the Code, §42(h)(5),

(III) that one of the exempt purposes of the nonprofit organization is to provide low-income housing, and

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(IV) that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board, and

(V) that the Qualified Nonprofit Development will have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or co-Developer as evidenced in the development agreement; and

(ii) a copy of the nonprofit organization's most recent audited financial statement; and

(iii) 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 must provide must provide

(A) an appraisal meeting the requirements of subparagraph (14)(D) of this subsection, and

(B) an "Acquisition of Existing Buildings Form."

(13) Evidence of Financial Statement and Authorization to Release Credit Information. The financial statements and authorization to release credit information must be unbound and clearly labeled. A "Financial Statement and Authorization to Release Credit Information" must be completed and signed for any General Partner, Developer or Guarantor and any Person that has an ownership interest of ten percent or more in the Development Owner, General Partner, Developer, or Guarantor. Nonprofit entities, public housing authorities and publicly traded corporations are only required to submit documentation for the entities involved; documentation for individual board members and executive directors is not required for this exhibit.

(A) Financial statements for an individual must not be older than 90 days from the first day of the Application Acceptance Period.

(B) Financial statements for partnerships or corporations should be for the most recent fiscal year ended 90 days from the first day of the Application Acceptance Period. An audited financial statement should be provided, if available, and all partnership or corporate financials must be certified. Financial statements are required for an entity even if the entity is wholly-owned by a Person who has submitted this document as an individual.

(C) Entities that have not yet been formed and entities that have been formed recently but have no assets, liabilities, or net worth are not required to submit this documentation, but must submit a statement with their Application that this is the case.

(14) Supplemental Threshold Reports. All Applications must include documents under subparagraphs (A) and (B) of this paragraph. If required under paragraph (6) of this subsection, a Property Condition Assessment as described in subparagraph (C) of this paragraph must be submitted. If required under paragraphs (7) or (12) of this subsection, an appraisal as described in subparagraph (D) of this paragraph must be submitted. All submissions must meet the requirements stated in subparagraphs (E) - (G) of this paragraph.

(A) A Phase I Environmental Site Assessment (ESA) report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 12 months prior to the first day of the Application Acceptance Period. In the event that a Phase I Environmental Site Assessment on the Development is more than 12 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated letter or updated report dated not more than three months prior to the first day of the Application Acceptance Period from the Person or organization which prepared the initial assessment confirming that the site has been re-inspected and reaffirming the conclusions of the initial report or identifying the changes since the initial report; and

(iii) prepared in accordance with the Department's Environmental Site Assessment Rules and Guidelines, §1.35 of this title.

(iv) Developments whose funds have been obligated by TX-USDA-RHS will not be required to supply this information; however, the Applicants of such Developments are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

(B) A comprehensive Market Analysis report:

(i) prepared by a Third Party Qualified Market Analyst approved by the Department in accordance with the approval process outlined in the Market Analysis Rules and Guidelines, §1.33 of this title;

(ii) dated not more than 6 months prior to the first day of the Application Acceptance Period. In the event that a Market Analysis is more than 6 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated Market Analysis from the Person or

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

organization which prepared the initial report; however the Department will not accept any Market Analysis which is more than 12 months old as of the first day of the Application Acceptance Period; and

(iii) prepared in accordance with the methodology prescribed in the Department's Market Analysis Rules and Guidelines, §1.33 of this title.

(iv) For Applications in the TX-USDA-RHS Set-Aside proposing acquisition and Rehabilitation with residential structures at or above 80% occupancy at the time of Application Submission, the appraisal, required under paragraphs (7) or (12) of this subsection and prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Department's Appraisal Rules and Guidelines, §1.34 of this title, will satisfy the requirement for a Market Analysis; however the Department may request additional information as needed. (§2306.67055) (§42(m)(1)(A)(iii))

(C) A Property Condition Assessment (PCA) report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 6 months prior to the first day of the Application Acceptance Period;

and

(iii) prepared in accordance with the Department's Property Condition and Assessment Rules and Guidelines, §1.36 of this title.

(iv) For Developments which require a capital needs assessment from TX-USDA-RHS, the capital needs assessment may be substituted and may be more than 6 months old, as long as TX-USDA-RHS has confirmed in writing that the existing capital needs assessment is still acceptable.

(D) An appraisal report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 6 months prior to the first day of the Application Acceptance Period. In the event that an appraisal is more than 6 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated appraisal from the Person or organization which prepared the initial report; however the Department will not accept any appraisal which is more than 12 months old as of the first day of the Application Acceptance Period; and

(iii) prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Department's Appraisal Rules and Guidelines, §1.34 of this title.

(iv) For Developments which require an appraisal from TX-USDA-RHS, the appraisal may be more than 6 months old, as long as TX-USDA-RHS has confirmed in writing that the existing appraisal is still acceptable.

(E) Inserted at the front of each of these reports must be a transmittal letter from the individual preparing the report that states that the Department is granted full authority to rely on the findings and conclusions of the report. The transmittal letter must also state the report preparer has read and understood the Department rules specific to the report found at §§1.33 - 1.36 of this title.

(F) All Applicants acknowledge by virtue of filing an Application that the Department is not bound by any opinion expressed in the report. The Department may determine from time to time that information not required in the Department's Rules and Guidelines will be relevant to the Department's evaluation of the need for the Development and the allocation of the requested Housing Credit Allocation Amount. The Department may request additional information from the report provider or revisions to the report to meet this need. In instances of non-response by the report provider, the Department may substitute in-house analysis.

(G) The requirements for each of the reports identified in subparagraphs (A) - (C) of this paragraph can be satisfied in either of the methods identified in clauses (i) or (ii) of this subparagraph and meet the requirements of clause (iii) of this subparagraph.

(i) Upon Application submission, the documentation for each of these exhibits may be submitted in its entirety; or

(ii) Upon Application submission, the Applicant may provide evidence in the form of an executed engagement letter with the party performing each of the individual reports that the required exhibit has been commissioned to be performed and that the delivery date will be no later than April 2, 2007. In addition to the submission of the engagement letter with the Application, a map must be provided that reflects the Qualified Market Analyst's intended market area. Subsequently, the entire exhibit must be submitted on or before 5:00 p.m. CST, April 2, 2007. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration.

(iii) A single hard copy of the report and a searchable soft copy in the format of a single file containing all information and exhibits in the hard copy report, presented in the order they appear in the hard copy report on a CD-R clearly labeled with the report type, Development name, and Development location are required.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(15) Self-Scoring. Applicant's self-score must be completed on the "Application Self-Scoring Form." An Applicant may not adjust the Application Self Scoring Form without a request from the Department as a result of an Administrative Deficiency.

(i) **Selection Criteria.** All Applications will be scored and ranked using the point system identified in this subsection. Unless otherwise stated, use normal rounding. Points other than paragraphs (2) and (6) of this subsection will not be awarded unless requested in the Self Scoring Form. All Applications, with the exception of TX-USDA-RHS Applications, must receive a final score totaling a minimum of 105, not including any points awarded or deducted pursuant to paragraphs (2) and (6) of this subsection to be eligible for an allocation of Housing Tax Credits. Maximum Total Points: 215.

(1) **Financial Feasibility of the Development.** Financial Feasibility of the Development based on the supporting financial data required in the Application that will include a Development underwriting pro forma from the permanent or construction lender. (§§2306.6710(b)(1)(A)) Applications may qualify to receive 28 points for this item. No partial points will be awarded. Evidence will include the documentation required for this exhibit, as reflected in the Application submitted, in addition to the commitment letter required under subsection (h)(7)(C) of this section. The supporting financial data shall include:

- (A) a fifteen year pro forma prepared by the permanent or construction lender:
 - (i) specifically identifying each of the first five years and every fifth year thereafter;
 - (ii) specifically identifying underlying assumptions including, but not limited to general growth factor applied to income and expense; and
 - (iii) indicating that the Development maintains a minimum 1.15 debt coverage ratio throughout the initial fifteen years proposed for all third party lenders that require scheduled repayment; and
- (B) a statement in the commitment letter indicating that the lender's assessment finds that the Development will be feasible for fifteen years.
- (C) For Developments receiving financing from TX-USDA-RHS, the form entitled "Sources and Uses Comprehensive Evaluation for Multi-Family Housing Loans" or other form deemed acceptable by the Department shall meet the requirements of this section.

(2) **Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.** Points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. (§2306.6710(b)(1)(B); §2306.6725(a)(2)). It is possible for points to be awarded or deducted based on written statements from organizations that were not identified by the process utilized for notification purposes under subsection (h)(8)(A)(ii)(I) of this section if the organization provides the information and documentation required below. It is also possible that neighborhood organizations that were initially identified as appropriate organizations for purposes of the notification requirements will subsequently be determined by the Department not to meet the requirements for scoring.

(A) **Basic Submission Requirements for Scoring.** Each neighborhood organization may submit one letter (and enclosures) that represents the organization's input. In order to receive a point score, the letter (and enclosures) must be received or postmarked (or similar tracking system) by the Department no later than March 1, 2007, for letters relating to Applications that submitted a Pre-Application, or April 2, 2007 if a Pre-Application was not submitted. Letters should be addressed to the Texas Department of Housing and Community Affairs, "Attention: Executive Director (Neighborhood Input)." Letters received after the applicable deadline will be summarized for the Board's information and consideration, but will not affect the score for the Application. The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development on which input is provided. A letter may provide input on only one proposed Development; if an organization is eligible to provide input on additional Developments, each Development must be addressed in a separate letter;
- (ii) certify that the letter is signed by the person with the authority to sign on behalf of the neighborhood organization, and provide the street and/or mailing addresses, day and evening phone numbers, and e-mail addresses and/or facsimile numbers for the signer of the letter and for one additional contact for the organization;
- (iii) certify that the organization has boundaries, and that the boundaries in effect December 1, 2006 contain the proposed Development site.;
- (iv) certify that the organization is a "neighborhood organization." For the purposes of this section, a "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries in effect December 1, 2006 that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

"Neighborhood organizations" include homeowners associations, property owners associations, and resident councils in which the council is commenting on the Rehabilitation or Reconstruction of 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", unless the large organization is a parent organization of smaller organizations whose purpose, and composition would otherwise meet the requirements of this definition. Organizations whose boundaries include an entire city are generally not "neighborhood organizations", unless the city organization is a parent organization of smaller organizations whose purpose, and composition would otherwise meet the requirements of this definition.

(v) include documentation showing that the organization is on record as of December 1, 2006 with the state or county in which the Development is proposed to be located. A record from the Secretary of State showing that the organization is incorporated or from the county clerk showing that the organization is on record with the county is sufficient. For a property owners association, a record from the county showing that the organization's management certificate is on record is sufficient. The documentation must be from the state or county and be current. If an organization's status with the Secretary of State is shown as "forfeited," "dissolved," or any similar status in the documentation provided by the organization, the organization will not be considered on record with the state, unless corrected in a deficiency response. It is insufficient to be "on record" to provide only a request to the county or a state entity to be placed on record or to show that the organization has corresponded with such an entity or used its services or programs.. There are two options to be considered on record with the Department (and thereby the state):

(I) The neighborhood organization may submit a letter from the city showing that the organization was on record with a city as of December 1, 2006 may be submitted with the QCP Package to place the organization on record with the state effective December 1, 2006. ; or

(II) The neighborhood organization may submit a letter including a contact name with a mailing address and phone number; and a written description and map of the organization's geographical boundaries, as well as proof that the boundaries described were in effect as of December 1, 2006. Under this option, a certification will not suffice. This request must be received no later than February 15, 2007. Acceptance of this documentation by the Department will be effective December 1, 2006 and will satisfy the "on record with the state" requirement, but is not a determination that the organization is a "neighborhood organization" or that other requirements are met. The Department is permitted to issue a deficiency notice for this registration process and if satisfied, the organization will still be deemed to be timely placed on record with the state.

(vi) accurately certify that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant (the seller of land is not considered to be an agent of the Application) in the 2007 Tax Credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).

(vii) While not required, the organization is encouraged to hold a meeting to which all the members of the organization are invited to consider whether the organization should support, oppose, or be neutral on the proposed Development, and to have the membership vote on whether the organization should support, oppose, or be neutral on the proposed Development. The organization is also encouraged to invite the developer to this meeting.

(viii) The organization must accurately certify that the boundaries in effect December 1, 2006 include the proposed Development Site and acknowledge in the certification that annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization to satisfy eligibility for this item; a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site.

(ix) Letters from organizations, and subsequent correspondence from organizations, may not be provided via the Applicant which includes facsimile and email communication.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) The score awarded for each letter for this exhibit will range from a maximum of +24 for the position support to +12 for the neutral position to 0 for a position of opposition. The number of points to be allocated to each organization's letter will be based on the organization's letter and evidence enclosed with the letter. The final score will be determined by the Executive Director. The Department may investigate a matter and contact the Applicant and neighborhood organizations for more information. The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a Development in determining a score.

(ii) The Department highly values quality public input addressed to the merits of a Development. Input that points out matters that are specific to the neighborhood, the proposed site, the proposed Development, or Developer are valued. If a proposed Development is permitted by the existing or pending zoning or absence of zoning, concerns addressed by the allowable land use that are related to any multifamily development may generally be considered to have been addressed at the local level through the land use planning process. Input concerning positive efforts or the lack of efforts by the Applicant to inform and communicate with the neighborhood about the proposed Development is highly valued. If the neighborhood organization refuses to communicate with the Applicant the efforts of the Applicant will not be considered negative. Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) In general, letters that meet the requirements of this paragraph and:

(I) establish at least one reason for support or opposition will be scored the maximum points for either support (+24 points) or opposition (zero);

(II) that do not establish a reason for support or opposition or that are unclear will be considered ineligible and scored as neutral (+12 points).

(iv) Applications for which there are multiple eligible letters received, an average score will be applied to the Application.

(v) Applications for which no letters from neighborhood organizations are scored will receive a neutral score of +12 points.

(C) Basic Submission Deficiencies. The Department is authorized but not required to request that the neighborhood organization provide additional information or documentation the Department deems relevant to clarify information contained in the organization's letter (and enclosures). If the Department determines to request additional information from an organization, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised. This potential deficiency process does not extend any deadline required above for the "Quantifiable Community Participation" process. An organization may not submit additional information or documentation after the applicable deadlines deadline except in response to an e-mail or facsimile from the Department specifically requesting additional information.

(3) **The Income Levels of Tenants of the Development.** Applications may qualify to receive up to 22 points for qualifying under only one of subparagraphs (A) - (F) of this paragraph. To qualify for these points, the household 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), Internal Revenue Code. (§2306.6710(b)(1)(C); §2306.111(g)(3)(B); §2306.6710(e); §42(m)(1)(B)(ii)(I); §2306.111(g)(3)(E))

(A) 22 points if at least 80% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

(B) 22 points if at least 10% of the Total Units in the Development are set-aside with incomes at or below 30% of AMGI; or

(C) 20 points if at least 60% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

(D) 18 points if at least 40% of the Total Units in the Development are set-aside with incomes at or below a combination of 50% and 30% of AMGI in which at least 5% of the Total Units are at or below 30% of AMGI; or

(E) 16 points if at least 40% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI; or

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(F) 14 points if at least 35% of the Total Units in the Development are set-aside with incomes at or below 50% of AMGI.

(4) **The Size and Quality of the Units (Development Characteristics).** Applications may qualify to receive up to 20 points. Applications may qualify for points under both subparagraphs (A) and (B) of this paragraph. (§2306.6710(b)(1)(D); §42(m)(1)(C)(iii))

(A) **Size of the Units.** Applications may qualify to receive 6 points. The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Six points for this item will be automatically granted for Applications involving Rehabilitation, Developments receiving funding from TX-USDA-RHS, or Developments proposing single room occupancy without meeting these square footage minimums if requested in the Self Scoring Form. The square feet of all of the Units in the Development, for each type of Unit, must be at least the minimum noted below.

- (i) 500 square feet for an efficiency Unit;
- (ii) 650 square feet for a non-elderly one Bedroom Unit; 550 square feet for an elderly one Bedroom Unit;
- (iii) 900 square feet for a non-elderly two Bedroom Unit; 750 square feet for an elderly two Bedroom Unit;
- (iv) 1,000 square feet for a three Bedroom Unit; and
- (v) 1,200 square feet for a four Bedroom Unit.

(B) **Quality of the Units.** Applications may qualify to receive up to 14 points. Applications in which Developments provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in clauses (i) - (xx) of this subparagraph, not to exceed 14 points in total. Applications involving scattered site Developments must have all of the Units located with a specific amenity to count for points. Applications involving Rehabilitation or single room occupancy may receive 1.5 points for each point item, not to exceed 14 points in total.

- (i) Covered entries (1 point);
- (ii) Nine foot ceilings in living room and all bedrooms (at minimum) (1 point);
- (iii) Microwave ovens (1 point);
- (iv) Self-cleaning or continuous cleaning ovens (1 point);
- (v) Ceiling fixtures in all rooms (light with ceiling fan in living area and all bedrooms) (1 point);
- (vi) Refrigerator with icemaker (1 point);
- (vii) Laundry connections (2 points);
- (viii) Storage room or closet, of approximately 9 square feet or greater, which does not include bedroom, entryway or linen closets - does not need to be in the Unit but must be on the property site (1 point);
- (ix) Laundry equipment (washers and dryers) for each individual unit including a front loading washer and dryer in required UFAS compliant Units (3 points);
- (x) Thirty year architectural shingle roofing (1 point);
- (xi) Covered patios or covered balconies (1 point);
- (xii) Covered parking (including garages) of at least one covered space per Unit (2 points);
- (xiii) 100% masonry on exterior, which can include stucco, cementitious board products, concrete brick and mortarless concrete masonry, but not EIFS synthetic stucco (3 points);
- (xiv) Greater than 75% masonry on exterior, which can include stucco and cementitious board products, concrete brick and mortarless concrete masonry, but not EIFS synthetic stucco (1 points);
- (xv) Use of energy efficient alternative construction materials (for example, Structural Insulated Panel construction) with wall insulation at a minimum of R-20 (3 points).
- (xvi) R-15 Walls / R-30 Ceilings (rating of wall system) (3 points);
- (xvii) 14 SEER HVAC or evaporative coolers in dry climates for New Construction or radiant barrier in the attic for Rehabilitation (3 points);(WG)
- (xviii) Energy Star rated refrigerators and dishwashers (2 points); or
- (xix) High Speed Internet service to all Units at no cost to residents (2 points).
- (xx) Fire sprinklers in all Units (2 points).

(5) **The Commitment of Development Funding by Local Political Subdivisions.** Applications may qualify to receive up to 18 points for qualifying under this paragraph. (§2306.6710(b)(1)(E))

(A) **Basic Submission Requirements for Scoring.** Evidence of the following must be submitted in accordance with the Application Submission Procedures Manual (ASPM).

(i) Evidence must be submitted in the Application that the proposed Development has received or will receive qualifying loan(s), grants or in-kind contributions from a Local Political Subdivision, as defined in this title.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

- (ii) The loans, grant(s) or in-kind contribution(s) must be attributed to the Total Housing Development Costs, as defined in this title, unless otherwise stipulated in this section.
- (iii) An Applicant may only submit enough sources to substantiate the point request, and all sources must be included in the Sources and Uses form. For example, if an Applicant is requesting 18 points, five sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost. However, five sources may not be submitted if each source is for an amount equal to 5% of the Total Housing Development Cost.
- (iv) An Applicant may substitute any source in response to a Deficiency Notice or after the Application has been submitted to the Department.
- (v) A loan does not qualify as an eligible source unless it has a minimum 1-year term and the interest rate must be at the Applicable Fair Market Rate (AFR) or below (at the time of application)
- (vi) In-kind contributions such as donation of land, tax exemptions, or waivers of fees such as building permits, water and sewer tap fees, or similar contributions are only eligible if the in-kind contribution provides a tangible economic benefit that results in a quantifiable Total Housing Development Cost reduction to benefit the Development will be acceptable to qualify for these points. The quantified value of the Total Housing Development Cost reduction may only include the value during the period the contribution or waiver is received and/ or assessed Donations of land must be under the control of the Applicant, pursuant to §49.9(h)(7) of this title to qualify.
- (vii) To the extent that a Notice of Funding Availability (NOFA) is released and funds are available, funds from TDHCA's HOME Investment Partnerships (HOME) Program will qualify if a resolution is submitted with the Application from the Local Political Subdivision authorizing the Applicant to act on behalf of the Local Political Subdivision in applying for HOME Funds from TDHCA for the particular application.
- (viii) Development based rental subsidies may qualify under this section if evidence of the remaining value of the contract is submitted from the Local Political Subdivision. The value of the contract does not include past subsidies.
- (ix) Evidence to be submitted with the Application must include a copy of the commitment of funds; a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received; or a certification of intent to apply for funding that indicates the funding entity and program to which the application will be submitted, the loan amount to be applied for and the specific proposed terms. For in-kind contributions, evidence must be submitted in the Application from Local Political Subdivision substantiating the value of the in-kind contributions.
- (x) If not already provided, at the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the Local Political Subdivision for the sufficient local funding to the Department. If the funding commitment from the Local Political Subdivision has not been received by the date the Department's Commitment Notice is to be submitted, the Application will be evaluated to determine if the loss of these points would have resulted in the Department's not committing the tax credits. If the loss of points would have made the Application noncompetitive, the Commitment Notice will be rescinded and the credits reallocated. If the Application would still be competitive even with the loss of points and the loss would not have impacted the recommendation for an award, the Application will be reevaluated for financial feasibility. If the Application is infeasible without the Local Political Subdivision's funds, the Commitment Notice will be rescinded and the credits reallocated.
- (xi) Funding commitments from a Local Political Subdivision will not be considered final unless the Local Political Subdivision attests to the fact that any funds committed were not first provided to the Local Political Subdivision by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision or subsidiary.
- (B) Scoring. Points will be determined on a sliding scale based on the percentage of the Total Housing Development Costs of the Development, as reflected in the in the Development Cost Schedule. If a revised Development Cost Schedule is submitted to the Department in response to a deficiency notice at anytime during the review process, the Revised Development Cost Schedule will be utilized for this calculation, and Applicants will be notified of the revised score, consistent with §49.9(e) of this title. Do not round for the following calculations. The "total contribution" is the total combined value of qualifying loan(s), grants or in-kind contributions from a Local Political Subdivision pursuant to (A) of this subsection.
- (i) A total contribution equal to or greater than 1% of the Total Housing Development Cost of the Development receives 6 points; or
- (ii) A total contribution equal to or greater than 2.5% of the Total Housing Development Cost of the Development receives 12 points; or
- (iii) A total equal to or greater than 5% of the Total Housing Development Cost of the Development 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) and (f) and (g); §2306.6725(a)(2)) Applications may qualify to receive up to 14 points for this item. Points will be awarded based on the written statements of support or opposition from state elected officials representing constituents in areas that include the location of the Development. Letters of support must identify the specific Development and must clearly state support for or opposition to the specific Development. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or official by April 2, 2007. Officials to be considered are those officials in office at the time the Application is submitted. Letters of support from state officials that do not represent constituents in areas that include the location of the Development will not qualify for points under this Exhibit. Neutral letters, or letters that do not specifically refer to the Development, will receive neither positive nor negative points. Letters from State of Texas Representative or Senator: support letters are 7 points each for a maximum of 14 points; opposition letters are - 7 points each for a maximum of -14 points.

(7) **The Rent Levels of the Units.** Applications may qualify to receive up to 12 points for qualifying under this exhibit. (§2306.6710(b)(1)(G)) If 80% or fewer of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 7 points. If between 81% and 85% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 8 points. If between 86% and 90% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 9 points. If between 91% and 95% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 10 points. If greater than 95% of the Units in the Development (excluding any Units reserved for a manager) are restricted to having rents plus the allowance for utilities equal to or below the maximum tax credit rent, then the Development shall be awarded 12 points.

(8) **The Cost of the Development by Square Foot (Development Characteristics).** Applications may qualify to receive 10 points for this item. (§2306.6710(b)(1)(H); §42(m)(1)(C)(iii)) For this exhibit, costs shall be defined as construction costs, including site work, direct hard costs, contingency, contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be costs per square foot of net rentable area (NRA). For the purposes of this subparagraph only, if the proposed Development is an elevator building serving elderly or a high rise building serving any population, the NRA may include elevator served interior corridors. 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 \$85 per square foot for Qualified Elderly, transitional, and single room occupancy Developments (transitional housing for the homeless and single room occupancy units as provided in the Code, §42(i)(3)(B)(iii) and (iv)), unless located in a "First Tier County" in which case their costs do not exceed \$87 per square foot; and \$75 for all other Developments, unless designated as "First Tier" by the Texas Department of Insurance, in which case their costs do not exceed \$77 per square foot. For 2006, the First Tier counties are Aransas, Brazoria, Calhoun, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, San Patricio, and Willacy. There are also specifically designated First Tier communities in Harris County that are east of State Highway 146, and evidence in the Application must include a map with the Development site designated clearly within the community. These communities are Pasadena, Morgan's Point, Shoreacres, Seabrook and La Porte. Intergenerational developments will receive 10 points if costs described above do not exceed the square footage limit for elderly and non-elderly units as determined by using the NRA attributable to the respective elderly and non-elderly units. The Department will determine if points will be awarded by multiplying the NRA for elderly units by the applicable square footage limit for the elderly units and adding that total to the result of the multiplication of the NRA for family units by the applicable non-elderly square footage limit. If this maximum cost amount is equal to, or greater than the total of the costs identified above for the application, points will be awarded(10 points).

(9) **The Services to be Provided to Tenants of the Development.** Applications may qualify to receive up to 8 points. Applications may qualify for points under both subparagraphs (A) and (B) of this paragraph. (§2306.6710(b)(1)(I); §2306.254; §2306.6725(a)(1); General Appropriation Act, Article VII, Rider 7)

(A) Applicants will receive points for coordinating their tenant services with those services provided through state workforce development and welfare programs as evidenced by execution of a Tenant Supportive Services Certification (2 points).

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(B) The Applicant must certify that the Development will provide a combination of special supportive services appropriate for the proposed tenants. The provision of supportive services will be included in the LURA as selected from the list of services identified in this subparagraph. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to off-site services must be provided (maximum of 6 points).

(i) Applications will be awarded points for selecting services listed in clause (ii) of this subparagraph based on the following scoring range:

- (I) Two points will be awarded for providing two of the services; or
- (II) Four points will be awarded for providing four of the services; or
- (III) Six points will be awarded for providing six of the services.

(ii) Service options include child care; transportation; basic adult education; legal assistance; counseling services; GED preparation; English as a second language classes; vocational training; home buyer education; credit counseling; financial planning assistance or courses; health screening services; health and nutritional courses; organized team sports programs or youth programs; scholastic tutoring; any other programs described under Title IV-A of the Social Security Act (§42(\$42U.S.C. §§601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of out-of-wedlock pregnancies; and encourages the formation and maintenance of two-parent families; any services addressed by §2306.254 Texas Government Code; or any other services approved in writing by the Department.

(10) **Rehabilitation or Reconstruction.** Applications may qualify to receive 7 points. Applications proposing to build solely Rehabilitation (excluding New Construction of non-residential buildings), or solely Reconstruction (excluding New Construction of non-residential buildings) qualify for points.

(11) **Housing Needs Characteristics.** (§42(m)(1)(C)(ii)) Applications may qualify to receive up to 7 points. Each Application may receive a score if correctly requested in the self score form based on objective measures of housing need in the Area where the Development is located. This Affordable Housing Need Score for each Area will be published in a Site Demographic Characteristics table in the Reference Manual.

(12) **Development Includes the Use of Existing Housing as part of a Community Revitalization Plan (Development Characteristics).** Applications may qualify to receive 7 points for this item. (§42(m)(1)(C)(iii)) The Development is an Existing Residential Development and proposed any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. Evidence of the Community Revitalization Plan and a letter from the governing body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted.

(13) **Pre-Application Participation Incentive Points.** (§2306.6704) Applications which submitted a Pre-Application during the Pre-Application Acceptance Period and meet the requirements of this paragraph will qualify to receive 6 points for this item. To be eligible for these points, the Application must:

(A) be for the identical Development Site, or reduced portion of the Development Site as the proposed Development Site under control in the Pre-Application;

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

(C) be serving the same target population (family, Intergenerational Housing, or elderly) as in the Pre-Application;

(D) be serving the same target Set-Asides as indicated in the Pre-Application (Set-Asides can be dropped between Pre-Application and Application, but no Set-Asides can be added); and

(E) be awarded by the Department an Application score that is not more than 5% greater or less than the number of points awarded by the Department at Pre-Application, with the exclusion of points for support and opposition under paragraphs (2), (6), and (16) of this of this subsection. An Applicant must choose, at the time of Application either clause (i) or (ii) of this subparagraph:

(i) to request the Pre-Application points and have the Department cap the Application score at no greater than the 5% increase regardless of the total points accumulated in the scoring evaluation. This allows an Applicant to avoid penalty for increasing the point structure outside the 5% range from Pre-Application to Application; or

(ii) to request that the Pre-Application points be forfeited and that the Department evaluate the Application as requested in the self-scoring sheet.

(14) **Development Location.** (§2306.6725(a)(4)); §42(m)(1)(C)(i)) Applications may qualify to receive 4 points. Evidence, not more than 6 months old from the first day of the Application Acceptance Period, that the subject Property is located within one of the geographical areas described in subparagraphs (A) - (G) of this

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

paragraph. Areas qualifying under any one of the subparagraphs (A) - (G) of this paragraph will receive 4 points. An Application may only receive points under one of the subparagraphs (A) - (G) of this paragraph.

(A) A geographical Area which is an Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD at the time of Application submission (§2306.127).

(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the first day of the Application Acceptance Period. (General Appropriation Act, Article VII, Rider 6; §2306.127)

(C) the Development is located in a county that has received an award as of November 15, 2006, within the past three years, from the Texas Department of Agriculture's Rural Municipal Finance Program or Real Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.

(D) the Development is located in a census tract which has a median family income (MFI), as published by the United States Bureau of the Census (U.S. Census), that is higher than the median family income for the county in which the census tract is located. This comparison shall be made using the most recent data available as of the date the Application Round opens the year preceding the applicable program year. Developments eligible for these points must submit evidence documenting the median income for both the census tract and the county. These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(E) the proposed Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and is proposed to be located in an elementary school attendance zone of an elementary school that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. The date for consideration of the attendance zone is that in existence as of the opening date of the Application Round and the academic rating is the most current rating determined by the Texas Education Agency as of that same date. (§42(m)(1)(C)(vii))

(F) the proposed Development will expand affordable housing opportunities for low-income families with children outside of poverty areas. This must be demonstrated by showing that the Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and that the census tract in which the Development is proposed to be located has no greater than 10% poverty population according to the most recent census data. (§42(m)(1)(C)(vii)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(15) **Exurban Developments (Development characteristics).** (§2306.6725(a)(4); §42(m)(1)(C)(i)) Applications may qualify to receive 7 points if the Development is not located in a Rural Area and has a population less than 100,000 based on the most current Decennial Census

(16) **Demonstration of Community Support other than Quantifiable Community Participation:** If an Applicant requests these points on the self scoring form and correctly certifies to the Department that there are no neighborhood organizations that meet the Department's definition of Neighborhood Organization pursuant to §49.9(i)(2)(A)(iv) of this title and 12 points were awarded under paragraph (2) of this subsection, then that Applicant may receive two points for each letter of support submitted from a community or civic organization that serves the community in which the site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. The community or civic organization must provide some documentation of its existence in the community to include, but not be limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that are not active in the area that includes the location of the Development will not be counted. For purposes of this item, community and civic organizations do not include neighborhood organizations, governmental entities, taxing entities or educational activities. Letters of support received after March 1, 2007, will not be accepted for this item. Two points will be awarded for each letter of support submitted in the Application, not to exceed 7 points. Should an Applicant elect this option and the Application receives letters in opposition by March 1, 2007, then two points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community. At no time will the Application, however, receive a score lower than zero for this item.

(17) **Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits:** The Application may receive 7 points if the proposed Development is located in an Urban/Exurban Area and in a census tract in which there are no other existing developments supported by housing tax credits. Applicant must

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

provide evidence of the census tract in which the Development is located. (§2306.6725(b)(2)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(18) **Tenant Populations with Special Housing Needs.** Applications may qualify to receive 4 points for this item. (§42(m)(1)(C)(v)) The Department will award these points to Applications in which at least 10% of the Units are set aside for Persons with Special Needs. Throughout the Compliance Period, unless otherwise permitted by the Department, the Development owner agrees to affirmatively market Units to Persons with Special needs. In addition, the Department will require a minimum 12 month period during which units must either be occupied by persons with Special Needs or held vacant. The 12 month period will begin on the date each building receives its certificate of occupancy. For buildings that do not receive a Certificate of Occupancy, the 12 month period will begin on the placed in service date as provided in the Cost Certification manual. After the 12 month period, the owner will no longer be required to hold units vacant for households with special needs, but will be required to continue to affirmatively market units to household with special needs.

(19) **Length of Affordability Period.** Applications may qualify to receive up to 4 points. (§2306.6725(a)(5); §2306.111(g)(3)(C); §2306.185(a)(1) and (c); §2306.6710(e)(2); §42(m)(1)(B)(ii)(II)) In accordance with the Code, each Development is required to maintain its affordability for a 15-year compliance period and, subject to certain exceptions, an additional 15-year extended use period. Development Owners that are willing to extend the affordability period for a Development beyond the 30 years required in the Code may receive points as follows:

(A) Add 5 years of affordability after the extended use period for a total affordability period of 35 years (2 points); or

(B) Add 10 years of affordability after the extended use period for a total affordability period of 40 years (4 points)

(20) **Site Characteristics.** Development Sites, including scattered sites, will be evaluated based on proximity to amenities, the presence of positive site features and the absence of negative site features. Sites will be rated based on the criteria below.

(A) Proximity of site to amenities. Developments Sites located within a one mile radius (two-mile radius for Developments competing for a Rural Regional Allocation) of at least three services appropriate to the target population will receive four points. A site located within one-quarter mile of public transportation that is accessible to all residents including Persons With Disabilities and/or located within a community that has "on demand" transportation, special transit service, or specialized elderly transportation for Qualified Elderly Developments, will receive full points regardless of the proximity to amenities, as long as the Applicant provides appropriate evidence of the transportation services used to satisfy this requirement. If a Development is providing its own specialized van or on demand service, then this will be a requirement of the LURA. Only one service of each type listed below will count towards the points. A map must be included identifying the Development site and the location of the services. The services must be identified by name on the map. If the services are not identified by name, points will not be awarded. All services must exist or, if under construction, must be at least 50% complete by the date the Application is submitted. (4 points)

(i) Full service grocery store or supermarket

(ii) Pharmacy

(iii) Convenience Store/Mini-market

(iv) Department or Retail Merchandise Store

(v) Bank/Credit Union

(vi) Restaurant (including fast food)

(vii) Indoor public recreation facilities, such as civic centers, community centers, and libraries

(viii) Outdoor public recreation facilities such as parks, golf courses, and swimming pools

(ix) Hospital/medical clinic

(x) Doctor's offices (medical, dentistry, optometry)

(xi) Public Schools (only eligible for Developments that are not Qualified Elderly Developments)

(xii) Senior Center (only eligible for Qualified Elderly Developments)

(B) Negative Site Features. Development Sites with the following negative characteristics will have points deducted from their score. For purpose of this exhibit, the term 'adjacent' is interpreted as sharing a boundary with the Development site. The distances are to be measured from all boundaries of the Development site. If an Applicant negligently fails to note a negative feature, double points will be deducted from the score or the Application may be terminated. If none of these negative features exist, the Applicant must sign a certification to that effect. (-5 points)

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(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, unless the applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail. Rural Developments funded through TX-USDA-RHS are exempt from this point deduction.

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

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

(v) Developments where the buildings are located within the "fall line" of high voltage transmission power lines will have 1 point deducted from their score.

(21) **Development Size.** The Development consists of not more than 36 (3 points).

(22) **Qualified Census Tracts with Revitalization.** Applications may qualify to receive 1 point for this item. (§42(m)(1)(B)(ii)(III)) Applications will receive the points for this item if the Development is located within a Qualified Census Tract and contributes to a concerted Community Revitalization Plan. Evidence of the Community Revitalization Plan and a letter from the governing body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted.

(23) **Sponsor Characteristics.** Applications may qualify to receive a maximum of 2 points for this item for qualifying under either subparagraph (A) or (B) of this paragraph. (§42(m)(1)(C)(iv))

(A) An Application will receive these two points for submitting a plan to use Historically Underutilized Businesses in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas.

(B) An Application will receive these points if there is evidence that a HUB that does not meet the experience requirements under §49.9(g) of this title, as certified by the Texas Building and Procurement Commission, has at least 51% ownership interest in the General Partner and materially participates in the Development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a certification from the Texas Building and Procurement Commission that the Person is a HUB at the close of the Application Acceptance Period. The HUB will be disqualified from receiving these points if any Principal of the HUB has developed, and received 8609's for, more than two Developments involving tax credits. Additionally, to qualify for these points, the HUB must partner with an experienced developer (as defined by §49.9 of this title); the experienced developer, as an Affiliate, will not be subject to the credit limit described under §49.6(d) of this title for one application per Application Round. For purposes of this section the experienced developer may not be a Related Party to the HUB.

(24) **Developments Intended for Eventual Tenant Ownership - Right of First Refusal.** Applications may qualify to receive 1 point for this item. (§2306.6725(b)(1)) (§42(m)(1)(C)(viii)) Evidence that Development Owner agrees to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period for the minimum purchase price provided in, and in accordance with the requirements of, §42(i)(7) of the Code (the "Minimum Purchase Price"), to a Qualified Nonprofit Organization, the Department, or either an individual tenant with respect to a single family building, or a tenant cooperative, a resident management corporation in the Development or other association of tenants in the Development with respect to multifamily developments (together, in all such cases, including the tenants of a single family building, a "Tenant Organization"). Development Owner may qualify for these points by providing the right of first refusal in the following terms.

(A) Upon the earlier to occur of:

(i) the Development Owner's determination to sell the Development; or

(ii) the Development Owner's request to the Department, pursuant to §42(h)(6)(E)(II) of the Code, to find a buyer who will purchase the Development pursuant to a "qualified contract" within the meaning of §42(h)(6)(F) of the Code, the Development Owner shall provide a notice of intent to sell the Development ("Notice of Intent") to the Department and to such other parties as the Department may direct at that time. If the Development Owner determines that it will sell the Development at the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to expiration of the Compliance Period. If the Development Owner determines that it will sell the Development at some point later than the end of the Compliance Period, the Notice of Intent shall be given no later than two years prior to date upon which the Development Owner intends to sell the Development.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(B) During the two years following the giving of Notice of Intent, the Sponsor may enter into an agreement to sell the Development only in accordance with a right of first refusal for sale at the Minimum Purchase Price with parties in the following order of priority:

(i) during the first six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization that is also a community housing development organization, as defined for purposes of the federal HOME Investment Partnerships Program at 24 C.F.R. §92.1 (a "CHDO") and is approved by the Department,

(ii) during the second six-month period after the Notice of Intent, only with a Qualified Nonprofit Organization or a Tenant Organization; and

(iii) during the second year after the Notice of Intent, only with the Department or with a Qualified Nonprofit Organization approved by the Department or a Tenant Organization approved by the Department.

(iv) If, during such two-year period, the Development Owner shall receive an offer to purchase the Development at the Minimum Purchase Price from one of the organizations designated in clauses (i) - (iii) of this subparagraph (within the period(s) appropriate to such organization), the Development Owner shall sell the Development at the Minimum Purchase Price to such organization. If, during such period, the Development Owner shall receive more than one offer to purchase the Development at the Minimum Purchase Price from one or more of the organizations designated in clauses (i) - (iii) of this subparagraph (within the period(s) appropriate to such organizations), the Development Owner shall sell the Development at the Minimum Purchase Price to whichever of such organizations it shall choose.

(C) After whichever occurs the later of:

(i) the end of the Compliance Period; or

(ii) two years from delivery of a Notice of Intent,

the Development Owner may sell the Development without regard to any right of first refusal established by the LURA if no offer to purchase the Development at or above the Minimum Purchase Price has been made by a Qualified Nonprofit Organization, a Tenant Organization or the Department, or a period of 120 days has expired from the date of acceptance of all such offers as shall have been received without the sale having occurred, provided that the failure(s) to close within any such 120-day period shall not have been caused by the Development Owner or matters related to the title for the Development.

(D) At any time prior to the giving of the Notice of Intent, the Development Owner may enter into an agreement with one or more specific Qualified Nonprofit Organizations and/or Tenant Organizations to provide a right of first refusal to purchase the Development for the Minimum Purchase Price, but any such agreement shall only permit purchase of the Development by such organization in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(E) The Department shall, at the request of the Development Owner, identify in the LURA a Qualified Nonprofit Organization or Tenant Organization which shall hold a limited priority in exercising a right of first refusal to purchase the Development at the Minimum Purchase Price, in accordance with and subject to the priorities set forth in subparagraph (B) of this paragraph.

(F) The Department shall have the right to enforce the Development Owner's obligation to sell the Development as herein contemplated by obtaining a power-of-attorney from the Development Owner to execute such a sale or by obtaining an order for specific performance of such obligation or by such other means or remedy as shall be, in the Department's discretion, appropriate.

(25) Leveraging of Private, State, and Federal Resources. Applications may qualify to receive 1 point for this item. (§2306.6725(a)(3)) Evidence must be submitted in the Application that the proposed Development has received or will receive loan(s), grant(s) or in-kind contributions from a private, state or federal resource, which include Capital Grant Funds and HOPE VI funds, that is equal to or greater than 2% (not using normal rounding) of the Total Housing Development Costs reflected in the Application. For in-kind contributions, evidence must be submitted in the Application from a private, state or federal resource which substantiates the value of the in-kind contributions. Development based rental subsidies from private, state or federal resource may qualify under this section if evidence of the remaining value of the contract is submitted from the source. The value of the contract does not include past subsidies. Qualifying funds awarded through local entities may qualify for points if the original source of the funds is from a private, state or federal source. Applicants may only submit enough sources to substantiate the point request, and all sources must be included in the Sources and Uses form. For example, two sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost. However, two sources may not be submitted if each source is for an amount equal to 2% of the Total Housing Development Cost. The funding must be in addition to the primary funding (construction and permanent loans) that is proposed to be utilized and cannot be issued from the same primary funding source or an affiliated source. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision. The Development must have already applied for funding from the funding entity. Evidence to be submitted with the Application must include a copy of the commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. At the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the entity for the sufficient financing to the Department. If the funding commitment from the private, state or federal source, or qualifying substitute 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. Funds from the Department's HOME and Housing Trust Fund sources will only qualify under this category if there is a Notice of Funding Availability (NOFA) out for available funds and the Applicant is eligible under that NOFA. To qualify for this point, the Rent Schedule must show that at least 3% (not using normal rounding) of all low-income Units are designated to serve individuals or families with incomes at or below 30% of AMGI.

(26) Third-Party Funding Commitment Outside of Qualified Census Tracts. Applications may qualify to receive 1 point for this item. (§2306.6710(e)(1)) Evidence that the proposed Development has documented and committed third-party funding sources and the Development is located outside of a Qualified Census Tract. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The commitment of funds (an application alone will not suffice) must already have been received from the third-party funding source and must be equal to or greater than 2% (not using normal rounding) of the Total Development costs reflected in the Application. Funds from the Department's HOME and Housing Trust Fund sources will not qualify under this category. The third-party funding source cannot be a loan from a commercial lender.

(27) 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 Allocation Agreement or the 10% Test pursuant to §49.14 of this title. For each extension request made, the Applicant will receive a 5 point deduction for not meeting the Carryover deadline. Subsequent extension requests for carryover after the first extension request made for each Development from the preceding round will not result in a further point reduction than already described. No penalty points or fees will be deducted for extensions that were requested on Developments that involved Rehabilitation when the Department is the primary lender, or for Developments that involve TX-USDA-RHS as a lender if TX-USDA-RHS or the Department is the cause for the Applicant not meeting the deadline.

(B) Penalties will be imposed on an Application if the Developer or Principal of the Applicant has been removed by the lender, equity provider, or limited partners in the past five years for failure to perform its obligations under the loan documents or limited partnership agreement. An affidavit will be provided by the Applicant and the Developer certifying that they have not been removed as described, or requiring that they disclose each instance of removal with a detailed description of the situation. If an Applicant or Developer submits the affidavit, and the Department learns at a later date that a removal did take place as described, then the Application will be terminated and any Allocation made will be rescinded. The Applicant, Developers or Principals of the Applicant that are in court proceedings at the time of Application must disclose this information and the situation will be evaluated on a case-by-case basis. 3 points will be deducted for each instance of removal.

(C) Penalties will be imposed on an Application if Developer or Principal of the Applicant violates the Adherence to Obligations pursuant to §49.9(c) of this title.

(j) Tie Breaker Factors.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(1) In the event that two or more Applications receive the same number of points in any given Set-Aside category, Rural Regional Allocation or Urban/Exurban Regional Allocation, or Uniform State Service Region, and are both practicable and economically feasible, the Department will utilize the factors in this paragraph, in the order they are presented, to determine which Development will receive a preference in consideration for a tax credit commitment.

(A) Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction.

(B) The Application located in the municipality or, if located outside a municipality, the county, that has the lowest state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins as reflected in the Reference Manual will win this second tier tie breaker.

(C) The amount of requested tax credits per net rentable square foot requested (the lower credits per square foot has preference)

(D) Projects that are intended for eventual tenant ownership. Such Developments must utilize a detached single family site plan and building design and have a business plan describing how the project will convert to tenant ownership at the end of the 15-year compliance period.

(2) This clause identifies how ties will be handled when dealing with the restrictions on location identified in §49.5(a)(8) of this title, and in dealing with any issues relating to capture rate calculation. When two Tax-Exempt Bond Developments would violate one of these restrictions, and only one Development can be selected, the Department will utilize the reservation docket number issued by the Texas Bond Review Board in making its determination. When two competitive Housing Tax Credits Applications in the Application Round would violate one of these restrictions, and only one Development can be selected, the Department will utilize the tie breakers identified in paragraph (1) of this subsection. When a Tax-Exempt Bond Development and a competitive Housing Tax Credit Application in the Application Round would both violate a restriction, the following determination will be used:

(A) Tax-Exempt Bond Developments that receive their reservation from the Bond Review Board on or before April 30, 2007 will take precedence over the Housing Tax Credit Applications in the 2007 Application Round;

(B) Housing Tax Credit Applications approved by the Board for tax credits in July 2007 will take precedence over the Tax-Exempt Bond Developments that received their reservation from the Bond Review Board on or between May 1, 2007 and July 31, 2007; and

(C) After July 31, 2007, a Tax-Exempt Bond Development with a reservation from the Bond Review Board will take precedence over any Housing Tax Credit Application from the 2007 Application Round on the Waiting List. However, if no reservation has been issued by the date the Board approves an allocation to a Development from the Waiting List of Applications in the 2007 Application Round or a forward commitment, then the Waiting List Application or forward commitment will be eligible for its allocation.

(k) **Staff Recommendations.** (§2306.1112 and §2306.6731) After eligible Applications have been evaluated, ranked and underwritten in accordance with the QAP and the Rules, the Department staff shall make its recommendations to the Executive Award and Review Advisory Committee. The Committee will develop funding priorities and shall make commitment recommendations to the Board. Such recommendations and supporting documentation shall be made in advance of the meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. The Committee will provide written, documented recommendations to the Board which will address at a minimum the financial or programmatic viability of each Application and a list of all submitted Applications which enumerates the reason(s) for the Development's proposed selection or denial, including all factors provided in subsection §49.10(a) of this section that were used in making this determination.

§49.10 Board Decisions; Waiting List; Forward Commitments

(a) **Board Decisions.** The Board's decisions shall be based upon the Department's and the Board's evaluation of the proposed Developments' consistency with the criteria and requirements set forth in this QAP and Rules.

(1) On awarding tax credits, the Board shall document the reasons for each Application's selection, including any discretionary factors used in making its determination, and the reasons for any decision that conflicts with the recommendations made by Department staff. The Board may not make, without good cause, a commitment decision that conflicts with the recommendations of Department staff. Good cause includes the Board's decision to apply discretionary factors. (§2306.6725(c); §42(m)(1)(A)(iv); §2306.6731)

(2) In making a determination to allocate tax credits, the Board shall be authorized to not rely solely on the number of points scored by an Application. It shall in addition, be entitled to take into account, as it deems appropriate, the discretionary factors listed in this paragraph. The Board may also apply these discretionary factors to its consideration of Tax-Exempt Bond Developments. If the Board disapproves or fails to act upon an

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

Application, the Department shall issue to the Applicant a written notice stating the reason(s) for the Board's disapproval or failure to act. In making tax credit decisions (including those related to Tax-Exempt Bond Developments), the Board, in its discretion, may evaluate, consider and apply any one or more of the following discretionary factors: (§2306.111(g)(3); §2306.0661(f))

- (A) the developer market study;
- (B) the location;
- (C) the compliance history of the Developer;
- (D) the financial feasibility;
- (E) the appropriateness of the Development's size and configuration in relation to the housing needs of the community in which the Development is located;
- (F) the Development's proximity to other low-income housing developments;
- (G) the availability of adequate public facilities and services;
- (H) the anticipated impact on local school districts;
- (I) zoning and other land use considerations;
- (J) any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes; and
- (K) other good cause as determined by the Board.

(3) Before the Board approves any Application, the Department shall assess the compliance history of the Applicant with respect to all applicable requirements; and the compliance issues associated with the proposed Development, including compliance information provided by the Texas State Affordable Housing Corporation. The Committee shall provide to the Board a written report regarding the results of the assessments. The written report will be included in the appropriate Development file for Board and Department review. The Board shall fully document and disclose any instances in which the Board approves a Development Application despite any noncompliance associated with the Development or Applicant. (§2306.057)

(b) **Waiting List.** (§2306.6711(c) and (d)) If the entire State Housing Credit Ceiling for the applicable calendar year has been committed or allocated in accordance with this chapter, the Board shall generate, concurrently with the issuance of commitments, a waiting list of additional Applications ranked by score in descending order of priority based on Set-Aside categories and regional allocation goals. The Board may also apply discretionary factors in determining the Waiting List. If at any time prior to the end of the Application Round, one or more Commitment Notices expire and a sufficient amount of the State Housing Credit Ceiling becomes available, the Board shall issue a Commitment Notice to Applications on the waiting list subject to the amount of returned credits, the regional allocation goals and the Set-Aside categories, including the 10% Nonprofit Set-Aside allocation required under the Code, §42(h)(5). At the end of each calendar year, all Applications which have not received a Commitment Notice shall be deemed terminated. The Applicant may re-apply to the Department during the next Application Acceptance Period.

(c) **Forward Commitments.** The Board may determine to issue commitments of tax credit authority with respect to Applications from the State Housing Credit Ceiling for the calendar year following the year of issuance (each a "forward commitment") to Applications submitted in accordance with the rules and timelines required under this rule and the Application Submission Procedures Manual. The Board will utilize its discretion in determining the amount of credits to be allocated as forward commitments and the reasons for those commitments considering score and discretionary factors. The Board may utilize the forward commitment authority to allocate credits to TX-USDA-RHS Developments which are experiencing foreclosure or loan acceleration at any time during the 2007 calendar year, also referred to as Rural Rescue Developments. Applications that are submitted under the 2007 QAP and granted a Forward Commitment of 2008 Housing Tax Credits are considered by the Board to comply with the 2008 QAP by having satisfied the requirements of this 2007 QAP, except for statutorily required QAP changes.

(1) Unless otherwise provided in the Commitment Notice with respect to a Development selected to receive a forward commitment, actions which are required to be performed under this chapter by a particular date within a calendar year shall be performed by such date in the calendar year of the Credit Ceiling from which the credits are allocated.

(2) Any forward commitment made pursuant to this section shall be made subject to the availability of State Housing Credit Ceiling in the calendar year with respect to which the forward commitment is made. If a forward commitment shall be made with respect to a Development placed in service in the year of such commitment, the forward commitment shall be a "binding commitment" to allocate the applicable credit dollar amount within the meaning of the Code, §42(h)(1)(C).

(3) If tax credit authority shall become available to the Department in a calendar year in which forward commitments have been awarded, the Department may allocate such tax credit authority to any eligible

Development which received a forward commitment, in which event the forward commitment shall be canceled with respect to such Development.

§49.11. Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants; Viewing of Pre-Applications and Applications; Confidential Information.

(a) Required Application Notifications, Receipt of Public Comment, and Meetings with Applicants.

(1) Within approximately seven business days after the close of the Pre-Application Acceptance Period, the Department shall publish a Pre-Application Submission Log on its web site. Such log shall contain the Development name, address, Set-Aside, number of units, requested credits, owner contact name and phone number. (§2306.6717(a)(1))

(2) Approximately 30 days before the close of the Application Acceptance Period, the Department will release the evaluation and assessment of the Pre-Applications on its web site.

(3) Not later than 14 days after the close of the Pre-Application Acceptance Period, or Application Acceptance Period for Applications for which no Pre-Application was submitted, the Department shall: (§2306.1114)

(A) publish an Application submission log on its web site.

(B) give notice of a proposed Development in writing that provides the information required under clause (i) of this subparagraph to all of the individuals and entities described in clauses (ii) - (x) of this subparagraph. (§2306.6718(a) - (c))

(i) The following information will be provided in these notifications:

(I) The relevant dates affecting the Application including the date on which the Application was filed, the date or dates on which any hearings on the Application will be held and the date by which a decision on the Application will be made;

(II) A summary of relevant facts associated with the Development;

(III) A summary of any public benefits provided as a result of the Development, including rent subsidies and tenant services; and

(IV) The name and contact information of the employee of the Department designated by the director to act as the information officer and liaison with the public regarding the Application.

(ii) Presiding officer of the governing body of the political subdivision containing the Development (mayor or county judge) to advise such individual that the Development, or a part thereof, will be located in his/her jurisdiction and request any comments which such individual may have concerning such Development.

(iii) If the Department receives a letter from the mayor or county judge of an affected city or county that expresses opposition to the Development, the Department will give consideration to the objections raised and will offer to visit the proposed site or Development with the mayor or county judge or their designated representative within 30 days of notification. The site visit must occur before the Housing Tax Credit can be approved by the Board. The Department will obtain reimbursement from the Applicant for the necessary travel and expenses at rates consistent with the state authorized rate (General Appropriation Act, Article VII, Rider 5) (§42(m)(1));

(iv) Any member of the governing body of a political subdivision who represents the Area containing the Development. If the governing body has single-member districts, then only that member of the governing body for that district will be notified, however if the governing body has at-large districts, then all members of the governing body will be notified;

(v) state representative and state senator who represent the community where the Development is proposed to be located. If the state representative or senator host a community meeting, the Department, if timely notified, will ensure staff are in attendance to provide information regarding the Housing Tax Credit Program; (General Appropriation Act, Article VII, Rider 8(d))

(vi) United States representative who represents the community containing the Development;

(vii) Superintendent of the school district containing the Development;

(viii) Presiding officer of the board of trustees of the school district containing the Development;

(ix) Any Neighborhood Organizations on record with the city or county in which the Development is to be located and whose boundaries contain the proposed Development site or otherwise known to the Applicant or Department and on record with the state or county; and

(x) Advocacy organizations, social service agencies, civil rights organizations, tenant organizations, or others who may have an interest in securing the development of affordable housing that are registered on the Department's email list service.

(C) The elected officials identified in subparagraph (B) of this paragraph will be provided an opportunity to comment on the Application during the Application evaluation process. (§42(m)(1))

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(4) The Department shall hold at least three public hearings in different Uniform State Service Regions of the state to receive comment on the submitted Applications and on other issues relating to the Housing Tax Credit Program for competitive Applications under the State Housing Credit Ceiling. (§2306.6717(c))

(5) The Department shall make available on the Department's website information regarding the Housing Tax Credit Program including notice of public hearings, meetings, Application Round opening and closing dates, submitted Applications, and Applications approved for underwriting and recommended to the Board, and shall provide that information to locally affected community groups, local and state elected officials, local housing departments, any appropriate newspapers of general or limited circulation that serve the community in which a proposed Development is to be located, nonprofit and for-profit organizations, on-site property managers of occupied Developments that are the subject of Applications for posting in prominent locations at those Developments, and any other interested persons including community groups, who request the information. (§2306.6717(b);)

(6) Approximately forty days prior to the date of the July Board meeting at which the issuance of Commitment Notices shall be discussed, the Department will notify each Applicant of the receipt of any opposition received by the Department relating to his or her Development at that time.

(7) Not later than the third working day after the date of completion of each stage of the Application process, including the results of the Application scoring and underwriting phases and the commitment phase, the results will be posted to the Department's web site. (§2306.6717(a)(3))

(8) At least thirty days prior to the date of the July Board meeting at which the issuance of Commitment Notices shall be discussed, the Department will:

(A) provide the Application scores to the Board; (§2306.6711(a))

(B) if feasible, post to the Department's web site the entire Application, including all supporting documents and exhibits, the Application Log as further described in §49.19(b) of this title, a scoring sheet providing details of the Application score, and any other documents relating to the processing of the Application. (§2306.6717(a)(1) and (2))

(9) A summary of comments received by the Department on specific Applications shall be part of the documents required to be reviewed by the Board under this subsection if it is received 30 business days prior to the date of the Board Meeting at which the issuance of Commitment Notices or Determination Notices shall be discussed. Comments received after this deadline will not be part of the documentation submitted to the Board. However, a public comment period will be available prior to the Board's decision, at the Board meeting where tax credit commitment decisions will be made.

(10) Not later than the 120th day after the date of the initial issuance of Commitment Notices for housing tax credits, the Department shall provide an Applicant who did not receive a commitment for housing tax credits with an opportunity to meet and discuss with the Department the Application's deficiencies, scoring and underwriting. (§2306.6711(e))

(b) **Viewing of Pre-Applications and Applications.** Pre-Applications and Applications for tax credits are public information and are available upon request after the Pre-Application and Application Acceptance Periods close, respectively. All Pre-Applications and Applications, including all exhibits and other supporting materials, except Personal Financial Statements and Social Security numbers, will be made available for public disclosure after the Pre-Application and Application periods close, respectively. The content of Personal Financial Statements may still be made available for public disclosure upon request if the Attorney General's office deems it is not protected from disclosure by the Texas Public Information Act.

(c) **Confidential Information.** The Department may treat the financial statements of any Applicant as confidential and may elect not to disclose those statements to the public. A request for such information shall be processed in accordance with §552.305 of the Government Code. (§2306.6717(d))

§49.12. Tax-Exempt Bond Developments: Filing of Applications; Applicability of Rules; Supportive Services; Financial Feasibility Evaluation; Satisfaction of Requirements.

(a) **Filing of Applications for Tax-Exempt Bond Developments.** Applications for a Tax-Exempt Bond Development may be submitted to the Department as described in paragraphs (1) and (2) of this subsection:

(1) Applicants which receive advance notice of a Program Year 2007 reservation as a result of the Texas Bond Review Board's (TBRB) lottery for the private activity volume cap must file a complete Application not later than 12:00 p.m. on December 28, 2006. Such filing must be accompanied by the Application fee described in §49.20 of this title.

(2) Applicants which receive advance notice of a Program Year 2007 reservation after being placed on the waiting list as a result of the TBRB lottery for private activity volume cap must submit Volume 1 and Volume 2 of the Application and the Application fee described in §49.20 of this title prior to the Applicant's bond reservation date as assigned by the TBRB. Those applications designated as Priority 3 by the TBRB must submit

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

Volumes I and II within 14 days of the bond reservation date if the Applicant intends to apply for tax credits regardless of the Issuer. Any outstanding documentation required under this section regardless of Priority must be submitted to the Department at least 60 days prior to the Board meeting at which the decision to issue a Determination Notice would be made unless a waiver is being requested.

(b) **Applicability of Rules for Tax-Exempt Bond Developments.** Tax-Exempt Bond Development Applications are subject to all rules in this title, with the only exceptions being the following sections: §49.4 of this title (regarding State Housing Credit Ceiling), §49.7 of this title (regarding Regional Allocation and Set-Asides), §49.8 of this title (regarding Pre-Application), §49.9(d) and (f) of this title (regarding Evaluation Processes for Competitive Applications and Rural Rescue Applications), §49.9(i) of this title (regarding Selection Criteria), §49.10(b) and (c) of this title (regarding Waiting List and Forward Commitments), and §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 §49.9(h) of this title. Such Developments which received a Determination Notice in a prior calendar year must meet all Threshold Criteria requirements stipulated in the QAP and Rules in effect for the calendar year in which the Determination Notice was issued; provided, however, that such Developments shall comply with all procedural requirements for obtaining Department action in the current QAP and Rules; and such other requirements of the QAP and Rules as the Department determines applicable. Consistency with the local municipality's consolidated plan or similar planning document must be demonstrated in those instances where the city or county has a consolidated plan. If no such planning document exists then the Applicant must submit a letter from the local municipal authority stating such and that there is a need for affordable housing. This documentation must be submitted no later than 14 days before the Board meeting where the credits will be considered. Applicants will be required to meet all conditions of the Determination Notice by the time the construction loan is closed unless otherwise specified in the Determination Notice. Applicants must meet the requirements identified in §49.15 of this title. No later than 60 days following closing of the bonds, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan (as further described in the Carryover Allocation Procedures Manual), and evidence must be provided at this time of attendance of the Development Owner or management company at Department-approved Fair Housing training relating to leasing and management issues for at least five hours and the Development architect at Department-approved Fair Housing training relating to design issues for at least five hours. Certifications must not be older than two years. Applications that receive a reservation from the Bond Review Board on or before December 31, 2006 will be required to satisfy the requirements of the 2006 QAP; Applications that receive a reservation from the Bond Review Board on or after January 1, 2007 will be required to satisfy the requirements of the 2007 QAP.

(c) **Supportive Services for Tax-Exempt Bond Developments.** (§2306.254) Tax-Exempt Bond Development Applications must provide an executed agreement with a qualified service provider for the provision of special supportive services that would otherwise not be available for the tenants. The provision of these services will be included in the LURA. Acceptable services as described in paragraphs (1) - (3) of this subsection include:

(1) the services must be in at least one of the following categories: child care, transportation, basic adult education, legal assistance, counseling services, GED preparation, English as a second language classes, vocational training, home buyer education, credit counseling, financial planning assistance or courses, health screening services, health and nutritional courses, organized team sports programs, youth programs, scholastic tutoring, social events and activities, community gardens or computer facilities;

(2) any other program described under Title IV-A of the Social Security Act (§42U.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. 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 §49.10(a) of this title in determining if they will authorize the Department to issue a Determination Notice to the Development Owner. The Determination Notice, if authorized by the Board, will confirm that the Development satisfies the requirements of the QAP and Rules in accordance with the Code, §42(m)(1)(D).

(f) **Certification of Tax Exempt Applications with New Docket Numbers** Applications that are processed through the Department review and evaluation process and receive an affirmative Board Determination, but do not close the bonds prior to the bond reservation expiration date, and subsequently have that docket number withdrawn from the Bond Review Board, may have their Determination Notice reinstated. The Applicant would need to receive a new docket number from the Texas Bond Review Board. One of the following must apply:

(1) The new docket number must be issued in the same program year as the original docket number and must not be more than four months from the date the original application was withdrawn from the BRB. The application must remain unchanged. This means that at a minimum, the following can not have changed: site control, total number of units, unit mix (bedroom sizes and income restrictions), design/site plan documents, financial structure including bond and housing tax credit amounts, development costs, rent schedule, operating expenses, sources and uses, ad valorem tax exemption status, target population, scoring criteria (TDHCA issues) or BRB priority status including the effect on the inclusive capture rate. Note that the entities involved in the applicant entity and developer can not change; however, the certification can be submitted even if the lender, syndicator or issuer changes, as long as the financing structure and terms remain unchanged. Notifications under §49.9(h)(8) of this title are not required to be reissued. In the event that the Department's Board has already approved the application for tax credits, the application is not required to be presented to the Board again (unless there is public opposition) and a revised Determination Notice will be issued once notice of the assignment of a new docket number has been provided to the Department and the Department has confirmed that the capture rate and market demand remain acceptable. This certification must be submitted no later than thirty days after the date the Bond Review Board issues the new docket number and no later than thirty days before the anticipated closing. In the event that the Department's Board has not yet approved the application, the application will continue to be processed and ultimately provided to the Board for consideration. This certification must be submitted no later than thirty days after the date the Bond Review Board issues the new docket number and no later than forty-five days before the anticipated Department's Board meeting date.

(2) If there are changing to the Application as referenced in paragraph (1) of this subsection, the Application will be required to submit a new Application in full, along with the applicable fees, to be reviewed and evaluated in its entirety for a new determination notice to be issued.

§49.13 Commitment and Determination Notices; Agreement and Election Statement; Documentation Submission Requirements.

(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

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(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 in §49.16 of this title, and compliance by the Development Owner with the remaining requirements of this chapter and any other terms and conditions set forth therein by the Department. This commitment shall expire on the date specified therein unless the Development Owner indicates acceptance of the commitment by executing the Commitment Notice or Determination Notice, pays the required fee specified in §49.20 of this title, and satisfies any other conditions set forth therein by the Department. A Development Owner may request an extension of the Commitment Notice expiration date by submitting an extension request and associated extension fee as described in §49.20 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 in §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 §49.20 of this title. The Determination Notice shall also expire unless the Development Owner satisfies any conditions set forth therein by the Department within the applicable time period.

(3) notify, in writing, the mayor or other equivalent chief executive officer of the municipality in which the Property is located informing him/her of the Board's issuance of a Commitment Notice or Determination Notice, as applicable.

(4) A Commitment or Determination Notice shall not be issued with respect to any Development for an unnecessary amount or where the cost for the total development, acquisition, construction or Rehabilitation exceeds the limitations established from time to time by the Department and the Board, unless the Department staff make a recommendation to the Board based on the need to fulfill the goals of the Housing Tax Credit Program as expressed in this QAP and Rules, and the Board accepts the recommendation. The Department's recommendation to the Board shall be clearly documented.

(5) A Commitment or Determination Notice shall not be issued with respect to the Applicant, the Development Owner, the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of one or more other low-income rental housing properties in the state of Texas administered by the Department, or outside the state of Texas, that is in Material Noncompliance with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for such property, as described in §60.1 of this title.

(6) The executed Commitment or Determination Notice must be returned to the Department on the date specified with the Commitment Notice or Determination Notice, which shall be no earlier than ten days of the effective date of the Notice.

(b) Agreement and Election Statement. Together with the Development Owner's acceptance of the Carryover Allocation, the Development Owner may execute an Agreement and Election Statement, in the form prescribed by the Department, for the purpose of fixing the Applicable Percentage for the Development as that for the month in which the Carryover Allocation was accepted (or the month the bonds were issued for Tax-Exempt Bond Developments), as provided in the Code, §42(b)(2). Current Treasury Regulations, §1.42-8(a)(1)(v), suggest that in order to permit a Development Owner to make an effective election to fix the Applicable Percentage for a Development, the Carryover Allocation Document must be executed by the Department and the Development Owner within the same month. The Department staff will cooperate with a Development Owner, as possible or reasonable, to assure that the Carryover Allocation Document can be so executed.

(c) Documentation Submission Requirements at Commitment of Funds. No later than the date the Commitment Notice or Determination Notice is executed by the Applicant and returned to the Department with the appropriate Commitment Fee as further described in §49.20(f) of this title, the following documents must also be provided to the Department. Failure to provide these documents may cause the Commitment to be rescinded. For each Applicant all of the following must be provided:

(1) Evidence that the entity has the authority to do business in Texas;

(2) A Certificate of Account Status from the Texas Comptroller of Public Accounts or, if such a Certificate is not available because the entity is newly formed, a statement to such effect; and a Certificate of Organization from the Secretary of State;

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(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.

§49.14. Carryover; 10% Test; Commencement of Substantial Construction.

(a) **Carryover.** All Developments which received a Commitment Notice, and will not be placed in service and receive IRS Form 8609 in the year the Commitment Notice was issued, must submit the Carryover documentation to the Department no later than November 1 of the year in which the Commitment Notice is issued pursuant to §42(h)(l)(c) IRC. Commitments for credits will be terminated if the Carryover documentation, or an approved extension, has not been received by this deadline. In the event that a Development Owner intends to submit the Carryover documentation in any month preceding November of the year in which the Commitment Notice is issued, in order to fix the Applicable Percentage for the Development in that month, it must be submitted no later than the first Friday in the preceding month. If the financing structure, syndication rate, amount of debt or syndication proceeds are revised at the time of Carryover from what was proposed in the original Application, applicable documentation of such changes must be provided and the Development may be reevaluated by the Department. The Carryover Allocation format must be properly completed and delivered to the Department as prescribed by the Carryover Allocation Procedures Manual. All Carryover Allocations will be contingent upon the following, in addition to all other conditions placed upon the Application in the Commitment Notice:

(1) The Development Owner for all New Construction Developments must have purchased the property for the Development.

(2) A current original plat or survey of the land, prepared by a duly licensed Texas Registered Professional Land Surveyor. Such survey shall conform to standards prescribed in the Manual of Practice for Land Surveying in Texas as promulgated and amended from time to time by the Texas Surveyors Association as more fully described in the Carryover Procedures Manual.

(3) For all Developments involving New Construction, evidence of the availability of all necessary utilities/services to the Development site must be provided. Necessary utilities include natural gas (if applicable), electric, trash, water, and sewer. Such evidence must be a letter or a monthly utility bill from the appropriate municipal/local service provider. If utilities are not already accessible, then the letter must clearly state: an estimated time frame for provision of the utilities, an estimate of the infrastructure cost, and an estimate of any portion of that cost that will be borne by the Development Owner. Letters must be from an authorized individual representing the organization which actually provides the services. Such documentation should clearly indicate the Development property. If utilities are not already accessible (undeveloped areas), then the letter should not be older than three months from the first day of the Application Acceptance Period.

(4) The Department will not execute a Carryover Allocation Agreement with any Owner in Material Noncompliance on October 1, 2007.

(b) **10% Test.** No later than six months from the date the Carryover Allocation Document is executed by the Department and the Development Owner, more than 10% of the Development Owner's reasonably expected basis must have been incurred pursuant to §42(h)(1)(E)(i) and (ii) of the Internal Revenue Code and Treasury Regulations, §1.42-6. The evidence to support the satisfaction of this requirement must be submitted to the Department no later than June 30 of the year following the execution of the Carryover Allocation Document in a format prescribed by the Department. At the time of submission of the documentation, the Development Owner must also submit a Management Plan and an Affirmative Marketing Plan as further described in the Carryover Allocation Procedures Manual. Evidence must be provided at this time of attendance of the Development Owner or management company at Department-approved Fair Housing training relating to leasing and management issues for at least five hours and the Development architect at Department-approved Fair Housing training relating to design issues for at least five hours on or before the time the 10% Test Documentation is submitted. Certifications must not be older than two years.

(c) **Commencement of Substantial Construction.** The Development Owner must submit evidence of having commenced and continued substantial construction activities. The evidence must be submitted not later than December 1 of the year after the execution of the Carryover Allocation Document with the possibility of an extension as described in §49.20 of this title.

§49.15. LURA, Cost Certification.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(a) **Land Use Restriction Agreement (LURA).** The Development Owner must request a LURA from the Department no later than the date specified in §60.1(p)(6), the Department's Compliance Monitoring Policies and Procedures. The Development Owner must date, sign and acknowledge before a notary public the LURA and send the original to the Department for execution. The initial compliance and monitoring fee must be accompanied by a statement, signed by the Owner, indicating the start of the Development's Credit Period and the earliest placed in service date for the Development buildings. After receipt of the signed LURA from the Department, the Development Owner shall then record the LURA, along with any and all exhibits attached thereto, in the real property records of the county where the Development is located and return the original document, duly certified as to recordation by the appropriate county official, to the Department no later than the date that the Cost Certification Documentation is submitted to the Department. If any liens (other than mechanics' or materialmen's liens) shall have been recorded against the Development and/or the Property prior to the recording of the LURA, the Development Owner shall obtain the subordination of the rights of any such lienholder, or other effective consent, to the survival of certain obligations contained in the LURA, which are required by §42(h)(6)(E)(ii) of the Code to remain in effect following the foreclosure of any such lien. Receipt of such certified recorded original LURA by the Department is required prior to issuance of IRS Form 8609. A representative of the Department, or assigns, shall physically inspect the Development for compliance with the Application and the representations, warranties, covenants, agreements and undertakings contained therein. Such inspection will be conducted before the IRS Form 8609 is issued for a building, but it shall be conducted in no event later than the end of the second calendar year following the year the last building in the Development is placed in service. The Development Owner for Tax-Exempt Bond Developments shall obtain a subordination agreement wherein the lien of the mortgage is subordinated to the LURA. The LURA shall not contain any provision which requires the Development Owner to restrict rents and incomes at any AMGI level, other than the AMGI levels reflected in the final Application (at the time of Board approval) or amendments to the Application made pursuant to §49.17(d) of this title, regardless of the underwriting methodology utilized in determining feasibility. The restricted gross rents for any AMGI level outlined in the LURA will be calculated in accordance with §42(g)(2)(A), Internal Revenue Code.

(b) **Cost Certification.** The Cost Certification Procedures Manual sets forth the documentation required for the Department to perform a feasibility analysis in accordance with §42(m)(2)(C)(i)(II), Internal Revenue Code, and determine the final Credit to be allocated to the Development.

(1) To request IRS Forms 8609, Developments must have:

(A) Placed in Service by December 31 of the year the Commitment Notice was issued if a Carryover Allocation was not requested and received; or December 31 of the second year following the year the Carryover Allocation Agreement was executed;

(B) Scheduled a final construction inspection in accordance with §60.1(c) of this title;

(C) Informed the Department of and received written approval for all Development amendments in accordance with §49.17(c) of this title;

(D) Submitted to the Department the LURA in accordance with §49.15(a) of this title;

(E) Paid all applicable Department fees; and

(F) Prepared all Cost Certification documentation in the format prescribed by the Cost Certification Procedures Manual.

(2) Required Cost Certification documentation must be received by the Department no later than January 15 following the year the Credit Period begins. Any Developments issued a Commitment Notice or Determination Notice that fails to submit its Cost Certification documentation by this deadline will be reported to the IRS and the Owner will be required to submit a request for extension consistent with §49.20(l) of this title.

(3) The Department will perform an initial evaluation of the Cost Certification documentation within 45 days from the date of receipt and notify the Owner in a deficiency letter of all additional required documentation. Any deficiency letters issued to the Owner pertaining to the Cost Certification documentation will also be copied to the syndicator. The Department will issue IRS Forms 8609 no later than 90 days from the date that all required documents have been received.

(4) The Department will perform an evaluation of the Applicant, the Development Owner, the General Contractor, or any Affiliate of the General Contractor that is active in the ownership or Control of the Development to determine if any entity is in Material Noncompliance with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for such property, as described in §60.1 of this title prior to issuance of IRS Forms 8609.

§49.16. Housing Credit Allocations.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(a) In making a commitment of a Housing Credit Allocation under this chapter, the Department shall rely upon information contained in the Application to determine whether a building is eligible for the credit under the Code, §42. The Development Owner shall bear full responsibility for claiming the credit and assuring that the Development complies with the requirements of the Code, §42. The Department shall have no responsibility for ensuring that a Development Owner who receives a Housing Credit Allocation from the Department will qualify for the housing credit.

(b) The Housing Credit Allocation Amount shall not exceed the dollar amount the Department determines is necessary for the financial feasibility and the long term viability of the Development throughout the affordability period. (§2306.6711(b)) Such determination shall be made by the Department at the time of issuance of the Commitment Notice or Determination Notice; at the time the Department makes a Housing Credit Allocation; and as of the date each building in a Development is placed in service. Any Housing Credit Allocation Amount specified in a Commitment Notice, Determination Notice or Carryover Allocation Document is subject to change by the Department based upon such determination. Such a determination shall be made by the Department based on its evaluation and procedures, considering the items specified in the Code, §42(m)(2)(B), and the department in no way or manner represents or warrants to any Applicant, sponsor, investor, lender or other entity that the Development is, in fact, feasible or viable.

(c) The General Contractor hired by the Development Owner must meet specific criteria as defined by the General Appropriation Act, Article VII, Rider 8(c). A General Contractor hired by a Development Owner or a Development Owner, if the Development Owner serves as General Contractor must demonstrate a history of constructing similar types of housing without the use of federal tax credits. Evidence must be submitted to the Department, in accordance with §49.9(h)(4)(H) of this title, which sufficiently documents that the General Contractor has constructed some housing without the use of Housing Tax Credits. This documentation will be required as a condition of the commitment notice or carryover agreement, and must be complied with prior to commencement of construction and at cost certification and final allocation of credits.

(d) An allocation will be made in the name of the Development Owner identified in the related Commitment Notice or Determination Notice. If an allocation is made to a member or Affiliate of the ownership entity proposed at the time of Application, the Department will transfer the allocation to the ownership entity as consistent with the intention of the Board when the Development was selected for an award of tax credits. Any other transfer of an allocation will be subject to review and approval by the Department consistent with §49.17(c) of this title. The approval of any such transfer does not constitute a representation to the effect that such transfer is permissible under §42 of the Code or without adverse consequences thereunder, and the Department may condition its approval upon receipt and approval of complete current documentation regarding the owner including documentation to show consistency with all the criteria for scoring, evaluation and underwriting, among others, which were applicable to the original Applicant.

(e) The Department shall make a Housing Credit Allocation, either in the form of IRS Form 8609, with respect to current year allocations for buildings placed in service, or in the Carryover Allocation Document, for buildings not yet placed in service, to any Development Owner who holds a Commitment Notice which has not expired, and for which all fees as specified in §49.20 of this title have been received by the Department and with respect to which all applicable requirements, terms and conditions have been met. For Tax-Exempt Bond Developments, the Housing Credit Allocation shall be made in the form of a Determination Notice. For an IRS Form 8609 to be issued with respect to a building in a Development with a Housing Credit Allocation, satisfactory evidence must be received by the Department that such building is completed and has been placed in service in accordance with the provisions of the Department's Cost Certification Procedures Manual. The Cost Certification documentation requirements will include a certification and inspection report prepared by a Third-Party accredited accessibility inspector to certify that the Development meets all required accessibility standards. IRS Form 8609 will not be issued until the certifications are received by the Department. The Department shall mail or deliver IRS Form 8609 (or any successor form adopted by the Internal Revenue Service) to the Development Owner, with Part I thereof completed in all respects and signed by an authorized official of the Department. The delivery of the IRS Form 8609 will occur only after the Development Owner has complied with all procedures and requirements listed within the Cost Certification Procedures Manual. Regardless of the year of Application to the Department for Housing Tax Credits, the current year's Cost Certification Procedures Manual must be utilized when filing all cost certification materials. A separate Housing Credit Allocation shall be made with respect to each building within a Development which is eligible for a housing credit; provided, however, that where an allocation is made pursuant to a Carryover Allocation Document on a Development basis in accordance with the Code, §42(h)(1)(F), a housing credit dollar amount shall not be assigned to particular buildings in the Development until the issuance of IRS Form 8609s with respect to such buildings. The Department may delay the issuance of IRS Form 8609 if any Development violates the representations of the Application.

2007 Housing Tax Credit Program 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 construction threshold criteria and Development characteristics identified at application. At a minimum, all Development inspections must meet Uniform Physical Condition Standards (UPCS) as referenced in Treasury Regulation §1.42-5 (d)(2)(ii) and include an inspection for quality during the construction process while defects can reasonably be corrected and a final inspection at the time the Development is placed in service. All such Development inspections shall be performed by the Department or by an independent Third Party inspector acceptable to the Department. The Development Owner shall pay all fees and costs of said inspections as described in §49.20 of this title. Details regarding the construction inspection process are set forth in the Department Rule §60.1 of this title (§2306.081; General Appropriation Act, Article VII, Rider 8(b)).

(h) After the entire Development is placed in service, which must occur prior to the deadline specified in the Carryover Allocation Document and as further outlined in §49.15 of this title, the Development Owner shall be responsible for furnishing the Department with documentation which satisfies the requirements set forth in the Cost Certification Procedures Manual. For purposes of this title, and consistent with IRS Notice 88-116, the placed in service date for a new or existing building used as residential rental property is the date on which the building is ready and available for its specifically assigned function and more specifically when the first Unit in the building is certified as being suitable for occupancy in accordance with state and local law and as certified by the appropriate local authority or registered architect as ready for occupancy. The Cost Certification must be submitted for the entire Development; therefore partial Cost Certifications are not allowed. The Department may require copies of invoices and receipts and statements for materials and labor utilized for the New Construction or Rehabilitation and, if applicable, a closing statement for the acquisition of the Development as well as for the closing of all interim and permanent financing for the Development. If the Development Owner does not fulfill all representations and commitments made in the Application, the Department may make reasonable reductions to the tax credit amount allocated via the IRS Form 8609, may withhold issuance of the IRS Form 8609s until these representations and commitments are met, and/or may terminate the allocation, if appropriate corrective action is not taken by the Development Owner.

(i) The Board at its sole discretion may allocate credits to a Development Owner in addition to those awarded at the time of the initial Carryover Allocation in instances where there is bona fide substantiation of cost overruns and the Department has made a determination that the allocation is needed to maintain the Development's financial viability.

(j) The Department may, at any time and without additional administrative process, determine to award credits to Developments previously evaluated and awarded credits if it determines that such previously awarded credits are or may be invalid and the owner was not responsible for such invalidity.

§49.17 Board Reevaluation, Appeals Process; Provision of Information or Challenges Regarding Applications; Amendments; Housing Tax Credit and Ownership Transfers; Sale of Tax Credit Properties; Withdrawals; Cancellations; Alternative Dispute Resolution.

(a) **Board Reevaluation.** (§2306.6731(b)) Regardless of development stage, the Board shall reevaluate a Development that undergoes a substantial change between the time of initial Board approval of the Development and the time of issuance of a Commitment Notice or Determination Notice for the Development. For the purposes of this subsection, substantial change shall be those items identified in subsection (d)(4) of this section. The Board may revoke any Commitment Notice or Determination Notice issued for a Development that has been unfavorably reevaluated by the Board.

(b) **Appeals Process.** (§2306.6715) An Applicant may appeal decisions made by the Department as follows.

(1) The decisions that may be appealed are identified in subparagraphs (A) - (D) of this paragraph.

(A) a determination regarding the Application's satisfaction of:

- (i) Eligibility Requirements;
- (ii) Disqualification or debarment criteria;
- (iii) Pre-Application or Application Threshold Criteria;
- (iv) Underwriting Criteria;

(B) the scoring of the Application under the Application Selection Criteria; and

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(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 §49.9 of this title. In the appeal, the Applicant must specifically identify the Applicant's grounds for appeal, based on the original Application and additional documentation filed with the original Application. If the appeal relates to the amount of housing tax credits recommended to be allocated, the Department will provide the Applicant with the underwriting report upon request.

(4) The Executive Director of the Department shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the Applicant is not satisfied with the Executive Director's response to the appeal, the Applicant may appeal directly in writing to the Board, provided that an appeal filed with the Board under this subsection must be received by the Board before:

(A) the seventh day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made; or

(B) the third day preceding the date of the Board meeting described by subparagraph (A) of this paragraph, if the Executive Director does not respond to the appeal before the date described by subparagraph (A) of this paragraph.

(5) Board review of an appeal under paragraph (4) of this subsection is based on the original Application and additional documentation filed with the original Application. The Board may not review any information not contained in or filed with the original Application. The decision of the Board regarding the appeal is final.

(6) The Department will post to its web site an appeal filed with the Department or Board and any other document relating to the processing of the appeal. (§2306.6717(a)(5))

(c) Provision of Information or Challenges Regarding Applications from Unrelated Entities to the Application. The Department will address information or challenges received from unrelated entities to a specific 2007 active Application, utilizing a preponderance of the evidence standard, in the following manner, provided the information or challenge includes a contact name, telephone number, fax number and e-mail address of the person providing the information or challenge:

(1) Within 14 business days of the receipt of the information or challenge, the Department will post all information and challenges received (including any identifying information) to the Department's website.

(2) Within seven business days of the receipt of the information or challenge, the Department will notify the Applicant related to the information or challenge. The Applicant will then have seven business days to respond to all information and challenges provided to the Department.

(3) Within 14 business days of the receipt of the response from the Applicant, the Department will evaluate all information submitted and other relevant documentation related to the investigation. This information may include information requested by the Department relating to this evaluation. The Department will post its determination summary to its website. Any determinations made by the Department cannot be appealed by any party unrelated to the Applicant.

(d) Amendment of Application Subsequent to Allocation by Board. (§2306.6712 and §2306.6717(a)(4))

(1) If a proposed modification would materially alter a Development approved for an allocation of a housing tax credit, or if the Applicant has altered any selection criteria item for which it received points, the Department shall require the Applicant to file a formal, written request for an amendment to the Application.

(2) The Executive Director of the Department shall require the Department staff assigned to underwrite Applications to evaluate the amendment and provide an analysis and written recommendation to the Board. The appropriate party monitoring compliance during construction in accordance with §49.18 of this title shall also provide to the Board an analysis and written recommendation regarding the amendment. For amendments which require Board approval, the amendment request must be received by the Department at least 30 days prior to the Board meeting where the amendment will be considered.

(3) The Board must vote on whether to approve an amendment. The Board by vote may reject an amendment and, if appropriate, rescind a Commitment Notice or terminate the allocation of housing tax credits and reallocate the credits to other Applicants on the Waiting List if the Board determines that the modification proposed in the amendment:

(A) would materially alter the Development in a negative manner; or

(B) would have adversely affected the selection of the Application in the Application Round.

(4) Material alteration of a Development includes, but is not limited to:

(A) a significant modification of the site plan;

(B) a modification of the number of units or bedroom mix of units;

(C) a substantive modification of the scope of tenant services;

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

- (D) a reduction of three percent or more in the square footage of the units or common areas;
- (E) a significant modification of the architectural design of the Development;
- (F) a modification of the residential density of the Development of at least five percent;
- (G) an increase or decrease in the site acreage of greater than 10% from the original site under control and proposed in the Application; and
- (H) any other modification considered significant by the Board.

(5) In evaluating the amendment under this subsection, the Department staff shall consider whether the need for the modification proposed in the amendment was:

- (A) reasonably foreseeable by the Applicant at the time the Application was submitted; or
- (B) preventable by the Applicant.

(6) This section shall be administered in a manner that is consistent with the Code, §42.

(7) Before the 15th day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and monitor regarding the amendment will be posted to the Department's web site.

(8) In the event that an Applicant or Developer seeks to be released from the commitment to serve the income level of tenants targeted in the original Application, the following procedure will apply. For amendments that involve a reduction in the total number of low-income Units being served, or a reduction in the number of low-income Units at any level of AMGI represented at the time of Application, evidence must be presented to the Department that includes written confirmation from the lender and syndicator that the Development is infeasible without the adjustment in Units. The Board may or may not approve the amendment request, however, any affirmative recommendation to the Board is contingent upon concurrence from the Real Estate Analysis Division that the Unit adjustment (or an alternative Unit adjustment) is necessary for the continued feasibility of the Development. Additionally, if it is determined by the Department that the allocation of credits would not have been made in the year of allocation because the loss of low-income targeting points would have resulted in the Application not receiving an allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the Applicant and all persons or entities with any ownership interest in the Application (excluding any tax credit purchaser/syndicator), from participation in the Housing Tax Credit Program (for both the Competitive Housing Tax Credit Developments and Tax-Exempt Bond Developments) for 24 months from the time that the amendment is approved.

(e) **Housing Tax Credit and Ownership Transfers.** (§2306.6713) A Development Owner may not transfer an allocation of housing tax credits or ownership of a Development supported with an allocation of housing tax credits to any Person other than an Affiliate of the Development Owner unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer.

(1) Transfers will not be approved prior to the issuance of IRS Forms 8609 unless the Development Owner can provide evidence that a hardship is creating the need for the transfer (potential bankruptcy, removal by a partner, etc.). A Development Owner seeking Executive Director approval of a transfer and the proposed transferee must provide to the Department a copy of any applicable agreement between the parties to the transfer, including any third-party agreement with the Department.

(2) A Development Owner seeking Executive Director approval of a transfer must provide the Department with documentation requested by the Department, including but not limited to, a list of the names of transferees and Related Parties; and detailed information describing the experience and financial capacity of transferees and related parties. All transfer requests must disclose the reason for the request. The Development Owner shall certify to the Executive Director that the tenants in the Development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the Department. Not later than the fifth working day after the date the Department receives all necessary information under this section, the Department shall conduct a qualifications review of a transferee to determine the transferee's past compliance with all aspects of the Housing Tax Credit Program, LURAs; and the sufficiency of the transferee's experience with Developments supported with Housing Credit Allocations. If the viable operation of the Development is deemed to be in jeopardy by the Department, the Department may authorize changes that were not contemplated in the Application.

(3) As it relates to the Credit Cap further described in §49.6(d) of this title, 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.

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(f) **Sale of Certain Tax Credit Properties.** Consistent with §2306.6726, Texas Government Code, not later than two years before the expiration of the Compliance Period, a Development Owner who agreed to provide a right of first refusal under §2306.6725(b)(1), Texas Government Code and who intends to sell the property shall notify the Department of its intent to sell.

(1) The Development Owner shall notify Qualified Nonprofit Organizations and tenant organizations of the opportunity to purchase the Development. The Development Owner may:

(A) during the first six-month period after notifying the Department, negotiate or enter into a purchase agreement only with a Qualified Nonprofit Organization that is also a community housing development organization as defined by the Federal Home Investment Partnership Program (HOME);

(B) during the second six-month period after notifying the Department, negotiate or enter into a purchase agreement with any Qualified Nonprofit Organization or tenant organization; and

(C) during the year before the expiration of the compliance period, negotiate or enter into a purchase agreement with the Department or any Qualified Nonprofit Organization or tenant organization approved by the Department.

(2) Notwithstanding items for which points were received consistent with §49.9(i) of this title, a Development Owner may sell the Development to any purchaser after the expiration of the compliance period if a Qualified Nonprofit Organization or tenant organization does not offer to purchase the Development at the minimum price provided by §42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. §42(i)(7)), and the Department declines to purchase the Development.

(g) **Withdrawals.** An Applicant may withdraw an Application prior to receiving a Commitment Notice, Determination Notice, Carryover Allocation Document or Housing Credit Allocation, or may cancel a Commitment Notice or Determination Notice by submitting to the Department a notice, as applicable, of withdrawal or cancellation, and making any required statements as to the return of any tax credits allocated to the Development at issue.

(h) **Cancellations.** The Department may cancel a Commitment Notice, Determination Notice or Carryover Allocation prior to the issuance of IRS Form 8609 with respect to a Development if:

(1) The Applicant or the Development Owner, or the Development, as applicable, fails to meet any of the conditions of such Commitment Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Applications process for the Development;

(2) Any statement or representation made by the Development Owner or made with respect to the Development Owner or the Development is untrue or misleading;

(3) An event occurs with respect to the Applicant or the Development Owner which would have made the Development's Application ineligible for funding pursuant to §49.5 of this title if such event had occurred prior to issuance of the Commitment Notice or Carryover Allocation; or

(4) The Applicant or the Development Owner or the Development, as applicable, fails to comply with these Rules or the procedures or requirements of the Department.

(i) **Alternative Dispute Resolution Policy.** In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 209, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at §1.17 of this title.

§49.18. Compliance Monitoring and Material Noncompliance.

The Code, §42(m)(1)(B)(iii), requires the Department as the housing credit agency to include in its QAP a procedure that the Department will follow in monitoring Developments for compliance with the provisions of the Code, §42 and in notifying the IRS of any noncompliance of which the Department becomes aware. Detailed compliance rules and procedures for monitoring are set forth in Department Rule §60.1 of this title.

§49.19. Department Records; Application Log; IRS Filings.

(a) **Department Records.** At all times during each calendar year the Department shall maintain a record of the following:

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

- (1) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Commitment Notices during such calendar year;
- (2) the cumulative amount of the State Housing Credit Ceiling that has been committed pursuant to Carryover Allocation Documents during such calendar year;
- (3) the cumulative amount of Housing Credit Allocations made during such calendar year; and
- (4) the remaining unused portion of the State Housing Credit Ceiling for such calendar year.

(b) **Application Log.** (§2306.6702(a)(3) and §2306.6709) The Department shall maintain for each Application an Application Log that tracks the Application from the date of its submission. The Application Log will contain, at a minimum, the information identified in paragraphs (1) - (9) of this subsection.

- (1) the names of the Applicant and all General Partners of the Development Owner, the owner contact name and phone number, and full contact information for all members of the Development Team;
- (2) the name, physical location, and address of the Development, including the relevant Uniform State Service Region of the state;
- (3) the number of Units and the amount of housing tax credits requested for allocation by the Department to the Applicant;
- (4) any Set-Aside category under which the Application is filed;
- (5) the requested and awarded score of the Application in each scoring category adopted by the Department under the Qualified Allocation Plan;
- (6) any decision made by the Department or Board regarding the Application, including the Department's decision regarding whether to underwrite the Application and the Board's decision regarding whether to allocate housing tax credits to the Development;
- (7) the names of individuals making the decisions described by paragraph (6) of this subsection, including the names of Department staff scoring and underwriting the Application, to be recorded next to the description of the applicable decision;
- (8) the amount of housing tax credits allocated to the Development; and
- (9) a dated record and summary of any contact between the Department staff, the Board, and the Applicant or any Related Parties.

(c) **IRS Filings.** The Department shall mail to the Internal Revenue Service, not later than the 28th day of the second calendar month after the close of each calendar year during which the Department makes Housing Credit Allocations, a copy of each completed (as to Part I) IRS Form 8609, the original of which was mailed or delivered by the Department to a Development Owner during such calendar year, along with a single completed IRS Form 8610, Annual Low-income Housing Credit Agencies Report. When a Carryover Allocation is made by the Department, a copy of the Carryover Allocation Agreement will be mailed or faxed to the Development Owner by the Department. The original of the Carryover Allocation Document will be retained by the Department and IRS Form 8610 Schedule A will be filed by the Department with IRS Form 8610 for the year in which the allocation is made. The Department shall be authorized to vary from the requirements of this section to the extent required to adapt to changes in IRS requirements.

§49.20. Program Fees; Refunds; Public Information Requests; Adjustments of Fees and Notification of Fees; Extensions; Penalties.

(a) **Timely Payment of Fees.** All fees must be paid as stated in this section, unless the Executive Director has granted a waiver for specific extenuating and extraordinary circumstances. To be eligible for a waiver, the Applicant must submit a request for a waiver no later than 10 business days prior to the deadlines as stated in this section. Any fees, as further described in this section, that are not timely paid will cause an Applicant to be ineligible to apply for tax credits and additional tax credits and ineligible to submit extension requests, ownership changes and Application amendments. Payments made by check, for which insufficient funds are available, may cause the Application, commitment or allocation to be terminated.

(b) **Pre-Application Fee.** Each Applicant that submits a Pre-Application shall submit to the Department, along with such Pre-Application, a non-refundable Pre-Application fee, in the amount of \$10 per Unit. Units for the calculation of the Pre-Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Pre-Applications without the specified Pre-Application Fee in the form of a check will not be accepted. Pre-Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Pre-Application fee. (General Appropriation Act, Article VII, Rider 7; §2306.6716(d)) For Tax Exempt Bond Developments with the Department as the issuer, the Applicant shall submit the following fees: \$1,000 (payable to TDHCA), \$1,500 (payable to Vincent & Elkins, Bond Counsel), and \$5,000 (payable to the Texas Bond Review Board).

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(c) **Application Fee.** Each Applicant that submits an Application shall submit to the Department, along with such Application, an Application fee. For Applicants having submitted a Pre-Application which met Pre-Application Threshold and for which a Pre-Application fee was paid, the Application fee will be \$20 per Unit. For Applicants not having submitted a Pre-Application, the Application fee will be \$30 per Unit. Units for the calculation of the Application Fee include all Units within the Development, including tax credit, market rate and owner-occupied Units. Applications without the specified Application Fee in the form of a check will not be accepted. Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the managing General Partner of the Development Owner, or Control the managing General Partner of the Development Owner, will receive a discount of 10% off the calculated Application fee. (General Appropriation Act, Article VII, Rider 7; §2306.6716(d)) FoA Tax Exempt Bond developments with the Department as the Issuer the Applicant shall submit a tax credit application fee of \$30 per unit and bond application fee of \$10,000. Those applications utilizing a local issuer only need to submit the tax credit application fee.

(d) **Refunds of Pre-Application or Application Fees.** (§2306.6716(c)) Upon written request from the Applicant, the Department shall refund the balance of any fees collected for a Pre-Application or Application that is withdrawn by the Applicant or that is not fully processed by the Department. The amount of refund on Pre-Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 50% of the review, and Threshold review prior to a deficiency issued will constitute 30% of the review. Deficiencies submitted and reviewed constitute 20% of the review. The amount of refund on Applications not fully processed by the Department will be commensurate with the level of review completed. Intake and data entry will constitute 20% of the review, the site visit will constitute 20% of the review, Eligibility and Selection review will constitute 20%, and Threshold review will constitute 20% of the review, and underwriting review will constitute 20%. The Department must provide the refund to the Applicant not later than the 30th day after the date of request.

(e) **Third Party Underwriting Fee.** Applicants will be notified in writing prior to the evaluation of a Development by an independent external underwriter in accordance with §§49.9(d)(6), (e)(3), and (f)(4) of this title if such a review is required. The fee must be received by the Department prior to the engagement of the underwriter. The fees paid by the Development Owner to the Department for the external underwriting will be credited against the commitment fee established in subsection (f) of this section, in the event that a Commitment Notice or Determination Notice is issued by the Department to the Development Owner.

(f) **Commitment or Determination Notice Fee.** Each Development Owner that receives a Commitment Notice or Determination Notice shall submit to the Department, not later than the expiration date on the Commitment or Determination notice, a non-refundable commitment fee equal to 5% of the annual Housing Credit Allocation amount. The commitment fee shall be paid by check. If a Development Owner of an Application awarded Competitive Housing Tax Credits has paid a Commitment Fee and returns the credits by November 1, 2007, the Development Owner will receive a refund of 50% of the Commitment Fee.

(g) **Compliance Monitoring Fee.** Upon receipt of the cost certification, the Department will invoice the Development Owner for compliance monitoring fees. The amount due will equal \$40 per tax credit unit. The fee will be collected, retroactively if applicable, beginning with the first year of the credit period. The invoice must be paid prior to the issuance of form 8609. Subsequent anniversary dates on which the compliance monitoring fee payments are due shall be determined by the beginning month of the compliance period.

(h) **Building Inspection Fee.** The Building Inspection Fee must be paid at the time the Commitment Fee is paid. The Building Inspection Fee for all Developments is \$750. Inspection fees in excess of \$750 may be charged to the Development Owner not to exceed an additional \$250 per Development.

(i) **Tax-Exempt Bond Credit Increase Request Fee.** As further described in §49.12 of this title, requests for increases to the credit amounts to be issued on IRS Forms 8609 for Tax-Exempt Bond Developments must be submitted with a request fee equal to five percent of the amount of the credit increase for one year.

(j) **Public Information Requests.** Public information requests are processed by the Department in accordance with the provisions of the Government Code, Chapter 552. The Department uses the guidelines promulgated by The Texas Building and Procurement Commission to determine the cost of copying, and other costs of production.

(k) **Periodic Adjustment of Fees by the Department and Notification of Fees.** (§2306.6716(b)) All fees charged by the Department in the administration of the tax credit program will be revised by the Department from time to time as necessary to ensure that such fees compensate the Department for its administrative costs and expenses. The Department shall publish each year an updated schedule of Application fees that specifies the amount to be charged at each stage of the Application process. Unless otherwise determined by the Department,

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

all revised fees shall apply to all Applications in process and all Developments in operation at the time of such revisions.

(l) **Extension and Amendment Requests.** All extension requests relating to the Commitment Notice, Carryover, Documentation for 10% Test, Substantial Construction Commencement, Placed in Service or Cost Certification requirements and amendment requests shall be submitted to the Department in writing and be accompanied by a mandatory non-refundable extension fee in the form of a check in the amount of \$2,500. Such requests must be submitted to the Department no later than the date for which an extension is being requested. All requests for extensions totaling less than 6 months may be approved by the Executive Director and are not required to have Board approval. For extensions which require Board approval, the extension request must be received by the Department at least 15 business days prior to the Board meeting where the extension will be considered. The extension request shall specify a requested extension date and the reason why such an extension is required. Carryover extension requests shall not request an extended deadline later than December 1st of the year the Commitment Notice was issued. The Department, in its sole discretion, may consider and grant such extension requests for all items. If an extension is required at Cost Certification, the fee of \$2,500 must be received by the Department to qualify for issuance of Forms 8609. Amendment requests must be submitted consistent with §49.17(d) of this title. The Board may waive related fees for good cause.

(m) **Penalties.** Development Owners who have more tax credits allocated to them than they can substantiate through Cost Certification will return those excess tax credits prior to issuance of 8609's. For Competitive Housing Tax Credit Developments, a penalty fee equal to the one year credit amount of the lost credits (10% of the total unused tax credit amount) will be required to be paid by the Owner prior to the issuance of form 8609's if the tax credits are not returned, and 8609's issued, within 180 days of the end of the first year of the credit period. This penalty fee may be waived without further Board action if the Department recaptures and re-issues the returned tax credits in accordance with §42, Internal Revenue Code.

§49.21. Manner and Place of Filing All Required Documentation.

(a) All Applications, letters, documents, or other papers filed with the Department must be received only between the hours of 8:00 a.m. and 5:00 p.m. on any day which is not a Saturday, Sunday or a holiday established by law for state employees.

(b) All notices, information, correspondence and other communications under this title shall be deemed to be duly given if delivered or sent and effective in accordance with this subsection. Such correspondence must reference that the subject matter is pursuant to the Tax Credit Program and must be addressed to the Housing Tax Credit Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, TX 78711-3941 or for hand delivery or courier to 221 East 11th Street, Austin, Texas 78701 or more current address of the Department as released on the Department's website. Every such correspondence required or contemplated by this title to be given, delivered or sent by any party may be delivered in person or may be sent by courier, telecopy, express mail, telex, telegraph or postage prepaid certified or registered air mail (or its equivalent under the laws of the country where mailed), addressed to the party for whom it is intended, at the address specified in this subsection. Regardless of method of delivery, documents must be received by the Department no later than 5:00 p.m. for the given deadline date. Notice by courier, express mail, certified mail, or registered mail will be considered received on the date it is officially recorded as delivered by return receipt or equivalent. Notice by telex or telegraph will be deemed given at the time it is recorded by the carrier in the ordinary course of business as having been delivered, but in any event not later than one business day after dispatch. Notice not given in writing will be effective only if acknowledged in writing by a duly authorized officer of the Department.

(c) If required by the Department, Development Owners must comply with all requirements to use the Department's web site to provide necessary data to the Department.

§49.22. Waiver and Amendment of Rules.

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

(b) Section 1.13 of this title may be waived for any person seeking any action by filing a request with the Board.

(c) The Department may amend this chapter and the Rules contained herein at any time in accordance with the Government Code, Chapter 2001.

§49.23. Deadlines for Allocation of Housing Tax Credits. (§2306.6724)

2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(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 FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Items

Presentation, Discussion and Possible Approval of the 2007 Multifamily Application Submission Procedures Manual (ASPM) 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 Draft 2007 Multifamily 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.

Please note that the 2007 ASPM is currently in DRAFT form. The Draft ASPM attached is not based on the QAP in your Board book, and it will not be updated until after the Board approves the 2007 Final QAP. It will be substantially updated when finalized. Any changes made by the Board to the QAP will be correspondingly made to the ASPM to ensure consistency. The Final 2007 ASPM will be posted to the Department's website with all of the 2007 Application Documents.

Staff Recommendation:

Approve the Draft 2007 Multifamily Application Submission Procedures Manual (ASPM) in accordance with §2306.67022 of Texas Government Code, as recommended, with permission to update and revise as necessary to ensure consistency with the 2007 Rules.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Multifamily Finance Production Division 2007 DRAFT APPLICATION SUBMISSION PROCEDURES MANUAL (ASPM)

TABLE OF CONTENTS

I. INTRODUCTION	2
II. INELIGIBILITY	3
III. COMPETITIVE HOUSING TAX CREDITS: PRE-APPLICATION AND APPLICATION SUBMISSION	3
IV. COMPETITIVE HOUSING TAX CREDITS: FORMAT FOR SUBMITTING PRE-APPLICATION	7
V. FORMAT FOR PRE-CERTIFICATION AND ACKNOWLEDGEMENT (EXPERIENCE CERTIFICATE) 11	
VI. FORMAT FOR SUBMITTING THE APPLICATION (APPLIES TO ALL PROGRAMS UNLESS SPECIFICALLY MENTIONED IN THIS SECTION)	12
VII. LIST OF REQUIRED EXHIBITS FOR THE APPLICATION	21
A. VOLUME 1. PRIORITY REVIEW AND THRESHOLD DOCUMENTATION	21
B. VOLUME 2. SITE PACKET	30
C. VOLUME 3. SUPPLEMENTAL THRESHOLD DOCUMENTATION	31
D. VOLUME 4. SELECTION DOCUMENTATION FOR COMPETITIVE HOUSING TAX CREDIT PROGRAM	43
E. VOLUME 5. SELECTION DOCUMENTATION FOR THE HOUSING TRUST FUND PROGRAM	52
F. VOLUME 6. BOND SUBMISSION VOLUME FOR TAX-EXEMPT BOND DEVELOPMENTS UTILIZING TDHCA AS AN ISSUER	52
G. VOLUME 7. THRESHOLD AND SELECTION DOCUMENTATION FOR HOME CHDO AND RENTAL DEVELOPMENT PROGRAMS	53
VIII. PUBLIC VIEWING OF PRE-APPLICATIONS AND APPLICATIONS	58
IX. TIMELINE FOR THE 2007 MULTIFAMILY COMPETITIVE HOUSING TAX CREDIT APPLICATION CYCLE	59

I. INTRODUCTION

The Texas Department of Housing and Community Affairs' (the Department) Application Submission Procedures Manual (ASPM) sets forth the basic information needed for filing a Pre-Application or Application for all Department rental development programs. All portions of the ASPM must be followed when filing a Pre-Application or an Application for any program. This document is meant to serve only as a complementary guide on how to put the Application together. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the programs they are applying for.

Competitive Housing Tax Credits (Competitive HTC): The Department's estimated available 2007 tax credit authority for Competitive HTC Applications is approximately \$43 million. The Pre-Application and Application are based on the 2007 Qualified Allocation Plan and Rules (QAP), which were approved by the Board at the November 9, 2006 Board Meeting, and will be subsequently approved by the Governor. For the 2007 Competitive HTC Application Round, a complete Pre-Application or Application must be submitted to the Department within the Pre-Application or Application Acceptance Periods, respectively.

HOME CHDO or Rental Development Programs: (This section will be updated based on pending decision about HOME NOFAs for 2007.)

Housing Trust Fund (HTF) Rental Development: (This section will be updated based on pending decision about the HTF NOFAs for 2007.)

Tax Credits for Tax-Exempt Bond Developments: For Applications involving Tax-Exempt Bonds – regardless of the entity serving as the issuer – an Application is also submitted for the 4% Tax Credits. There is not a cumulative ceiling to these types of Applications, however to the extent that there is a bond ceiling governed by the Texas Bond Review Board, the quantity of corresponding 4% Tax Credit Applications is limited. Application submission deadlines relating to this program are somewhat fluid and are dictated by the reservation date of the bonds as well as the intended Department Board meeting. Please note that forms which indicate HTC only, should also be included in the 4% HTC or Tax-Exempt Bond Application.

Because of changes to all of the Department's programs and rules, and the competitive nature of some programs, attendance at the 2007 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 20, 2006.

II. INELIGIBILITY

The following section is presented as a guide to ineligibility under the 2007 QAP, which can be found at <http://www.tdhca.state.tx.us/multifamily/htc/index.htm>, and is titled “2007 Final QAP Signed by Governor (PDF).” Please read this section prior to completing an application to ensure that the proposed Development is eligible for funding under Department guidelines. Please note that this list is a guide, and is not comprehensive; Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the programs they are applying for as well as to read the sections of the 2007 QAP cited below.

Department Deadlines

1. Administrative Deficiencies for Competitive HTC – If Administrative Deficiencies are not resolved within three business days, five points will be deducted from the Selection Criteria score for each additional day the Administrative Deficiency remains outstanding. If Administrative Deficiencies are not resolved by the end of the 5th business day, the Application will be terminated. (§49.9(d)(4) of the 2007 QAP)
2. Administrative Deficiencies for Tax-Exempt Bond Developments – If Administrative Deficiencies are not resolved within five business days, a penalty of \$500 will be incurred for each additional day the Administrative Deficiency remains outstanding. If Administrative Deficiencies are not resolved by the end of the 10th business day, the Application will be terminated. (§49.9(e)(2) of the 2007 QAP)
3. Third party reports for Competitive HTC – If third party reports are not received by April 2, 2007, the Application will be terminated. (§49.9(h)(14)(G)(i) and (ii) of the 2007 QAP)

Development Location

The following locations are ineligible:

1. Two times per capita – Development located in a municipality, or ETJ of a municipality, or if completely outside a municipality, in a county that has more than twice the state average of units per capita supported by HTC or private activity bonds at the time the Application Round begins (or at time of reservation for Tax-Exempt Bond Developments). (§49.5(a)(7) of the 2007 QAP)

Exceptions: Approval and written statement of support from the governing body of the municipality or county received by Department by April 2, 2007 (for Competitive HTC Developments) or 14 days prior to the Board meeting (for Tax-Exempt Bond Developments). (§49.5(a)(7)(A), (B) and (C) of the 2007 QAP)

2. One-mile three-year rule – Proposed Development within one mile of an Development that received HTC for New Construction during the three years preceding the date the Application Round begins (or for Tax-Exempt Bond Developments, the date the Volume 1 is submitted). (§49.5(a)(8) of the 2007 QAP)

Exceptions: Development is using HOPE VI funds, is in a county with a population less than one million, is located outside a metropolitan statistical area or local government has approved the Development’s construction within one mile of the previously funded Development. (§49.5(a)(8)(D) of the 2007 QAP)

3. Floodplain – New Construction or Rehabilitation within a FEMA 100-year floodplain.

Exceptions: Rehabilitation receives funding from HUD or TX USDA-RHS and New Construction is built to the specifications outlined in the QAP. (§49.6(a) of the 2007 QAP)

4. One-mile one-year – Developments within one linear mile of another Development in counties with populations over one million (Competitive HTC ONLY). (§49.6(f) of the 2007 QAP)
5. Census Tracts – Development located in a census tract that has more than 30% HTC per total households (§49.6(g) of the 2007 QAP)

Exceptions: Development located in area with population less than 100,000, proposes only Rehabilitation or Reconstruction or governing body of municipality or county has approved Development in the form of a resolution. (§49.6(g)(1), (2) and (3) of the 2007 QAP)

6. 30% Increase for certain Qualified Census Tracts (QCT) – Developments located in QCTs with more than 40% HTC Units per household will not receive a 30% increase in Eligible Basis (§49.6(h)(2) of the 2007 QAP)

Exception: Development proposes only Rehabilitation or Reconstruction. (§49.6(h)(2) of the 2007 QAP)

Design Issues

1. Ineligible Building Types:

- a. Hospitals, nursing homes, trailer parks, dormitories, or transient housing (§49.3(52)(A) of the 2007 QAP)
- b. Elderly Developments or age restricted buildings within Intergenerational Developments without elevators for two stories or more (§49.3(52)(B) of the 2007 QAP)
- c. Elderly Developments or age restricted buildings within Intergenerational Developments with more than two bedrooms (§49.3(52)(C) of the 2007 QAP)
- d. Four or more story building with no elevator (§49.3(52)(D) of the 2007 QAP)

2. Unit Mix:

- a. One bedroom – No more than 30% of the total Units (§49.3(52)(G)(i) of the 2007 QAP)
- b. Two bedroom – No more than 55% of the total Units (§49.3(52)(G)(ii) of the 2007 QAP)
- c. Three bedroom – No more than 40% of the total Units (§49.3(52)(G)(iii) of the 2007 QAP)
- d. Four bedroom – No more than 5% of the total Units (for Development involving New Construction), unless entirely single-family dwellings (§49.3(52)(E) of the 2007 QAP)

Exceptions: Rural Allocation, 100% Rehabilitation, Qualified Elderly Development, single room occupancy, transitional, entirely single family, or an increase above allowable percentage to reach the next highest number divisible by four. (§49.3(52)(G) of the 2007 QAP)

3. Development Size

- a. HTC minimum – 16 Units (§49.6(e)(1) of the 2007 QAP)
- b. HTF minimum – 4 Units (§49.6(e)(1) of the 2007 QAP)
- c. HOME minimum – 4 Units (§49.6(e)(1) of the 2007 QAP)
- d. Rural maximum – 76 Units for New Construction, no limit on Rehabilitation (§49.6(e)(2) of the 2007 QAP)

- e. New Construction maximum (excludes Tax-Exempt Bond Developments) – 252 total Units, 200 Department administered Units (§49.6(e)(3) of the 2007 QAP)
- f. Second phase or adjacent to existing development maximum – combined Unit total for the Developments may not exceed the max allowable Development size (§49.6(e)(4) of the 2007 QAP)

Exceptions: Reconstruction of Existing Residential Development to replace previously existing affordable multifamily units on the site, or the first phase has been completed and has attained Sustaining Occupancy for at least six months (§49.6(e)(4) of the 2007 QAP)

Ineligibility – General

1. Debarment, etc. – Debarment, suspension, or termination from procurement in a state or federal program, or presence on List of Parties Excluded from Federal Procurement or Non-Procurement Programs. Subject to an enforcement or disciplinary action under state or federal securities law or by the NASD, subject to a federal tax lien, or subject to any enforcement proceeding with any Governmental Entity – applies to Applicant, Development Owner, Developer or Guarantor. (§49.5(a)(1) and (3) of the 2007 QAP)
2. Conviction in past 15 years – Conviction of fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds within 15 years preceding Application deadline – applies to Applicant, Development Owner, Developer or Guarantor. (§49.5(a)(2) of the 2007 QAP)
3. Unresolved issues with Department – Unresolved audit findings or questioned or disallowed costs – applies to Applicant, Development Owner, Developer or Guarantor. (§49.5(a)(4) of the 2007 QAP)
4. Two year rule – Applicant or Related Party has been a member of the Board, Executive Director, Deputy Executive Director, Director of Multifamily Finance Production, Director of Portfolio Management and Compliance, Director of Real Estate or manager over housing tax credits employed with the Department at time of Application or during the 2-year period preceding the date the Application Round begins. (§49.5(a)(5) of the 2007 QAP)
5. Replacement of bond financing – Applicant proposes to replace in less than 15 years any private activity bond financing. (§49.5(a)(6) of the 2007 QAP)

Exceptions: 100% of Units supported by HTC will be restricted at 50% AMGI for 30 years and at least 1/3 of all Units in Development are public housing or Section 8 Development-based units. (§49.5(a)(6)(A) and (B) of the 2007 QAP)

6. Quality of Application – Application has entire volume missing, has excessive omissions or is too unclear and disjointed that a review cannot be performed by the Department. (§49.5(a)(9) of the 2007 QAP)
7. Contract with certain Developers – Development Owner has or will contract with Developer that is on the Department’s debarred list, has an uncorrected breach of contract with a public agency or has made misrepresentations to subcontractors. (§49.5(c)(4) of the 2007 QAP)

III. COMPETITIVE HOUSING TAX CREDITS: 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 2007 Competitive Housing Tax Credit Application Round the dates are:

Pre and Full Application Cycle Open:	Friday, December 8, 2006
Pre-Application Acceptance Period Closes:	Monday, January 8, 2007
Application Acceptance Period Closes:	Thursday, March 1, 2007

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.

IV. COMPETITIVE HOUSING TAX CREDITS: FORMAT FOR SUBMITTING PRE-APPLICATION

The Pre-Application for Competitive HTC consists of three parts: bound items, unbound items and electronic submission. The complete Pre-Application for each proposed development must be submitted as described in this section. **Incomplete Pre-Applications or improperly bound Pre-Applications will not be accepted.**

Please note that Applicants are not required to submit a Pre-Application. However, pursuant to §49.7(a) and (b)(2) of the 2007 QAP, Applicants who apply for Competitive HTC under the At-Risk Set-Aside or USDA allocation must either submit a Pre-Application or file an *Intent to Request 2007 Housing Tax Credits* form by January 8, 2007 to be considered for the 2007 Application Round. This form will be made available on the Department's website along with all 2007 Application Materials.

Exhibits shown in *italics* are forms, templates or reference material included on the Department's website and in the Pre-Application. The forms, templates and reference materials required to complete the Pre-Application are:

1. "2007 9% HTC Pre-Application (PDF)" – Will be referred to as "***Pre-Application Exhibits***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/htc/applications.htm>.
2. "2007 HTC Reference Manual (PDF)" – Will be referred to as "***Reference Manual***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
3. "2007 Templates and Financials (DOC)" – Will be referred to as "***Templates***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
4. "2007 Final QAP Signed by Governor (PDF)" – Will be referred to as "***2007 QAP***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/htc/index.htm>.

Submission Format:

- 3 **Identifying Labels** – All sets of documentation submitted with the Pre-Application must be clearly labeled with the following:
 1. Development Name
 2. Owner Name
 3. Contact Name
 4. Contact Address
 5. Contact Phone and Fax Numbers
 6. Contact Email Address
- 3 **Required Binding Materials** – The bound portion of the Pre-Application must be bound using the following:
 1. Yellow Pressboard Binders – If the required documentation exceeds the capacity of one binder, a second binder may be used to subdivide the volume. Information on where to purchase binders is available in the ***Reference Manual*** on the Department website.
 2. Divider Tabs – Information on where to purchase tabs is available in the ***Reference Manual*** on the Department website.

A. Bound Items: The Pre-Application consists of one bound volume, Tabs 1-3. All required forms may be found on the Department’s website at the links provided above; the names of these forms are presented in *italics*. Each form must be completed; all questions must be answered and spaces completed. If a question does not pertain to the Development, mark “N/A.”

If you have difficulty downloading the files from the website, contact Jason Burr at (512) 475-3986, or Jason.burr@tdhca.state.tx.us.

Tab 1: All forms included in the *Pre-Application Exhibits* under *Tab 1*

1. *Part A: HTC Pre-Application Submission Form*

- ∄ Form must include an original signature
- ∄ Entire form must be completed
- ∄ The amount of credits being requested cannot exceed \$1.2 million
- ∄ A second contact person must be provided

2. *Part B: The HTC Pre-Application Self-Scoring Form*

- ∄ **Note: Pursuant to §49.9(h)(15) of the 2007 QAP, an Applicant may not adjust the Self- Scoring Form in an Administrative Deficiency without a specific request from the Department. Therefore, it is important that care is taken when requesting points.**

Tab 2: Evidence of Site Control (§49.9(h)(7)(A) of the 2007 QAP)

- ∄ Site control must be valid through March 1, 2007
- ∄ Evidence must be in one of the following forms:
 - a. A recorded warranty deed with a corresponding executed settlement statement
 - b. A contract for lease (45 yr minimum term)
 - c. A contract for sale or purchase option
- ∄ Evidence must be in the name of the Development Owner. If not in the name of the Development Owner, then the documentation must reflect an expressed ability to transfer the rights to the Development Owner.
- ∄ If a contract is provided as evidence of site control, the closing date must be highlighted or flagged. If the date is not explicitly stated, but rather is triggered by other dates or periods, submit on outline of the dates that must be used to derive the closing date.

Tab 3: All forms included in the *Pre-Application Exhibits* under *Tab 3*

1. *Relevant Development Information Form Parts I and II*

- ∄ Entire form must be completed
- ∄ **IMPORTANT:** If there is a change from Pre-Application to Application that results in a total unit increase of greater than 10%, an increase of greater than 10% for any given level of AMGI, a change in the target

population, or a change in an elected official, you must re-notify as required by §49.9(h)(8)(A) of the 2007 QAP.

2. *Public Notification Information and Certification Form, Pages 1-6* (§49.9(h)(8)(A) of the 2007 QAP)

- ∄ Page six of form must be signed and dated
- ∄ Single-member district – If the city council and/or county commission is a single-member district body, check the box to indicate this and list the single district representative in the space provided; you do not have to list the other members.
- ∄ Both single member and at-large district – If the city council or county commission has both district-based and at-large members, indicate so on the form and list the single district representative in the space provided and all at-large members in the spaces provided for all representatives.
- ∄ At-large district – List all representatives in the spaces provided

3. *Certification of Pre-Application Notification Form* (§49.9(h)(8)(A) of the 2007 QAP)

- ∄ All three boxes on the form must be checked
- ∄ The form must be signed, dated and notarized
- ∄ While copies of notifications are not required to be submitted with the Pre-Application, please note the following:
 - a. *Sample Request for Neighborhood Organizations and Public Notification Format* available on the Department's website under **Templates**
 - b. Request for a list of Neighborhood Organizations must be made by December 8, 2006 (§49.8(d)(3)(A)(i) of the 2007 QAP)
 - c. Notifications must be made no later than the date the Pre-Application is submitted to the Department
 - d. Notifications should be made using a form of delivery that can be tracked
 - e. Developments located in Extra Territorial Jurisdictions (ETJ) of a city are not required to notify city officials
- ∄ Notifications must be made using the language outlined in the *Neighborhood Organization Request* and *Public Notifications Format* available on the Department's website under **Templates**.

B. Unbound Items: The following items must be submitted with the Pre-Application, but must not be bound within the Pre-Application:

- ³ *Document and Payment Receipt*

- 3 Pre-Application Fee – **The Department will not accept a Pre-Application without the corresponding fee.**

C. Electronic Submission: A searchable electronic copy of the complete Pre-Application bound volume must be submitted as one PDF file on a recordable compact disk (CD-R). This electronic copy must be submitted with the Pre-Application on or before January 8, 2007 in the following required format:

- 3 The volume's tabs must be correctly bookmarked
- 3 Files should average less than 100 Kilobytes per page
- 3 Files must be readable with free PDF file viewers including Adobe Reader and be compatible with Adobe Reader 5.0 and above
- 3 Files should be saved so that "Fast Web View" (or page-at-a-time downloading) is enabled
- 3 Text within the PDF file should be searchable using the "Find" command in the PDF viewer
- 3 The PDF file should be named in the following format -- <file_number>.pdf (i.e., 05125.pdf)

V. FORMAT FOR PRE-CERTIFICATION AND ACKNOWLEDGEMENT (EXPERIENCE CERTIFICATE)

All Applicants are required to submit an Experience Certificate as part of their Application. The Experience Certificate is issued by the Department and must either be requested in advance of the Application deadline (for Competitive HTC) or be requested at the time of Application submission (for Tax-Exempt Bond Developments, HOME and HTF).

Process: Individuals (a person or an entity) that will be utilizing their experience to meet the experience threshold requirement must submit evidence of experience to the Department to the attention of Multifamily Finance Production Division. 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. For Competitive HTC, the request for an Experience Certificate must be submitted by Thursday, February 15, 2007. For Tax-Exempt Bond Development, HOME and HTF, the request must be included with the Application submission. While a form requesting the experience certificate is not required, a form has been created for this purpose entitled *2007 Experience Certification*; this form is available on the Department's website and facilitates the Department's prompt issuance of the requested document.

Eligibility of Previously Issued Experience Certificates: 2004, 2005 and 2006 Experience Certificates are eligible for use in all 2007 applications; requests for recertification are not necessary.

Required Documentation: The required documentation is explained in detail in §49.9(g) of the 2007 QAP.

VI. FORMAT FOR SUBMITTING THE APPLICATION (Applies to all programs unless specifically mentioned in this section)

The Application consists of three parts: bound items, unbound items and electronic submission. 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.

Exhibits shown in *italics* are forms, templates or reference material included on the Department's website and in the Application. The forms, templates and reference materials required to complete the Application are:

1. "2007 Uniform Application (DOC)" – Will be referred to as "***Uniform Application***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
2. "MF App 2007 Uniform Application Inserts (XLS)" – Will be referred to as "***Excel Inserts***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
3. "2007 HTC Reference Manual (PDF)" – Will be referred to as "***Reference Manual***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
4. "2007 Templates and Financials (DOC)" – Will be referred to as "***Templates***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
5. "2007 Final QAP Signed by Governor (PDF)" – Will be referred to as "***2007 QAP***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/htc/index.htm>.
6. "2007 Real Estate Analysis Rules and Guidelines (PDF)" – Will be referred to as "***REA Rules***" in this ASPM. Link found at <http://www.tdhca.state.tx.us/rea/>.

Submission Format:

- 3 **Identifying Labels** – All sets of documentation are clearly labeled with the following:
 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
 7. Contact Email Address
- 3 **Required Binding Materials** – The bound volumes of the Application must be bound using the following:
 1. Red Pressboard Binders – Each volume must be submitted in a separate red pressboard binder. If the required documentation for a volume exceeds the capacity of one binder, a second binder may be used to subdivide the volume. Information on where to purchase binders is available in the ***Reference Manual*** on the Department website.

2. Divider Tabs – Information on where to purchase tabs is available in the *Reference Manual* on the Department website.

A. Bound Items: The bound portion of the Application consists of Volumes 1 through 7. The volumes listed below are required for each funding program unless otherwise noted.

All required forms may be found on the Department’s website at the links provided above; the names of these forms are presented in *italics*. The forms submitted to the Department must be the current version available on the Department website; the Department will not accept Application materials from previous years, and will terminate Applications for this reason. Each form must be completed; all questions must be answered and spaces completed. If a question does not pertain to the Development, mark “N/A.”

If you have difficulty downloading the files from the website, contact Jason Burr at (512) 475-3986, or Jason.burr@tdhca.state.tx.us.

Volume 1 – Priority Review and Threshold Documentation

Volume 2 – Site Packet

Volume 3 – Supplemental Threshold Documentation

Volume 4 – Selection Documentation for Competitive Housing Tax Credit Program (applies only to Competitive Housing Tax Credit Developments)

Volume 5 – Selection Documentation for the Housing Trust Fund Program (applies only to Housing Trust Fund Rental Development)

Volume 6 – Bond Submission Volume for Tax-Exempt Bond Developments Utilizing TDHCA as an Issuer (applies only to Tax-Exempt Bond Developments Utilizing TDHCA as an Issuer)

Volume 7 – Threshold and Selection Documentation for the HOME CHDO and Rental Development Programs (applies only to TDHCA HOME CHDO and Rental Development)

B. Unbound Items: The following documents are a part of the Application, but must not be bound within the red pressboard binders used for any volume of the Application. Please note that not all of the Unbound Items listed below are due at the same time as the bound portion of the Application (i.e. third party reports). Please do not use three-ring binders for these unbound submissions.

³ *Document and Payment Receipt*

³ Application Fee – **The Department will not accept an Application without the corresponding fee.**

³ Appraisal (if required) (§49.9(h)(14)(D), (7)(A)(iii)(I) and (II) and (12)(A) of the 2007 QAP and §1.34 of the REA Rules)

1. Submission Deadlines:

∅ Competitive Housing Tax Credit Developments

- a. Engagement letters (submitted bound in Volume 3 Tab 8) – Due upon Application submission, March 1, 2007.
 - b. Report – Must be submitted not later than 5:00 p.m. CST, April 2, 2007. If each entire report is not received by that time, the Application will be terminated and will be removed from consideration.
- ∅ HOME CHDO or Rental Development
- a. Engagement Letters (submitted bound in Volume 3 Tab 8) – Due upon Application submission.
 - b. Report – Must be submitted within 30 days of the Application submission. Failure to submit these documents within 30 days will cause the Applicant to lose its “received by” date and time.
- ∅ Tax-Exempt Bond Developments
- a. Report – Must be submitted 60 days prior to the date of the Board meeting at which the decision to issue a Determination Notice would be made. (§49.12(a)(2) of the 2007 QAP)
2. Hardcopy – Must be provided and may be bound using the analyst’s preferred format.
 - ∅ Must be prepared in accordance with the Department’s Appraisal Rules and Guidelines, §1.34 of the current year’s Real Estate Analysis Rules and Guidelines.
 - ∅ Must be prepared by a qualified Third Party.
 - ∅ Must be dated within six months of the first day of the Application Acceptance Period or with an updated appraisal from the Person that prepared the initial report; however any appraisal which is more than 12 months old as of the first day of the Application Acceptance Period will not be accepted.
 - ∅ Must include a transmittal letter from the provider stating that the Department may rely on the report.
 - ∅ Values stated must include the as-is value of the land and the value of any improvements must be stated separately (remember that acquisition credits may only be requested for buildings that have value and the eligible basis for the credits in *Volume 1, Tab 3 Part A. Development Cost Schedule* must be consistent with the appraisal, just as the land must be)
 - ∅ For Developments which require an appraisal from TX-USDA-RHS, the appraisal may be more than six months old, as long as TX-USDA-RHS has confirmed in writing that the existing appraisal is still acceptable.
 3. Electronic copy – A searchable electronic copy in the format of a single file containing all information and exhibits in the hard copy report, presented in the order they appear in the hard copy report on a CD-R clearly labeled with the report type, Development name, and Development location are required. (§49.9(h)(14)(G)(iii) of the 2007 QAP)

³ Phase I Environmental Site Assessment (§49.9(h)(14)(A) of the 2007 QAP and §1.35 of the REA Rules)

1. Submission Deadlines:

∄ Competitive Housing Tax Credit Developments

- a. Engagement letters (submitted bound in Volume 3 Tab 8) – Due upon Application submission, March 1, 2007.
- b. Report – Must be submitted not later than 5:00 p.m. CST, April 2, 2007. If each entire report is not received by that time, the Application will be terminated and will be removed from consideration.

∄ HOME CHDO or Rental Development

- a. Engagement Letters (submitted bound in Volume 3 Tab 8) – Due upon Application submission.
- b. Report – Must be submitted within 30 days of the Application submission. Failure to submit these documents within 30 days will cause the Applicant to lose its “received by” date and time.

∄ Tax-Exempt Bond Developments

- a. Report – Must be submitted 60 days prior to the date of the Board meeting at which the decision to issue a Determination Notice would be made. (§49.12(a)(2) of the 2007 QAP)

2. Hardcopy – Must be provided and may be bound using the analyst’s preferred format.

∄ TX-USDA-RHS Developments will not be required to supply an ESA.

∄ Must be prepared in accordance with the Department’s Environmental Site Assessment Rules and Guidelines, §1.35 of the current year’s Real Estate Analysis Rules and Guidelines.

∄ Must be prepared by a qualified Third Party. (§1.35 of the REA Rules)

∄ Must be dated within 12 months of the first day of the Application Acceptance Period or including an update letter or updated report from the original provider, dated within three months of the first day of the Application Acceptance Period, confirming that the site has been re-inspected and reaffirming the initial conclusions or identifying any changes.

∄ Must include a transmittal letter from the provider stating that the Department may rely on the report.

∄ Statement from the provider that the report fee is his sole benefit and findings are not contingent on compensation from the client or its affiliates. (§1.35 of the REA Rules)

∄ Applicant must certify that appropriate action has been or will be undertaken if the ESA indicates that either abatement or further

investigation of any environmental issue is warranted. (§1.35 of the REA Rules)

- ∄ Noise study must be expressly stated to be recommended or not recommended. (§1.35 of the REA Rules)
- ∄ FEMA map panel, including panel number, of the subject area with the outline of the subject site superimposed (or otherwise unmistakably identified) (NOTE: find out if the ESA provider intends to include a FEMA map – if not, use another provider or submit it, yourself. Remember to identify the site on the map and to show the panel number). (§1.35 of the REA Rules)
- ∄ All other items specified in §1.35 of the REA Rules.

3. Electronic copy – A searchable electronic copy in the format of a single file containing all information and exhibits in the hard copy report, presented in the order they appear in the hard copy report on a CD-R clearly labeled with the report type, Development name, and Development location are required. (§49.9(h)(14)(G)(iii) of the 2007 QAP)

³ Market Analysis (§49.9(h)(14)(B) of the 2007 QAP and §1.33 of the REA Rules)

1. Submission Deadlines:

- ∄ Competitive Housing Tax Credit Developments
 - a. Engagement letters (submitted bound in Volume 3 Tab 8) – Due upon Application submission, March 1, 2007.
 - b. Report – Must be submitted not later than 5:00 p.m. CST, April 2, 2007. If each entire report is not received by that time, the Application will be terminated and will be removed from consideration.
- ∄ HOME CHDO or Rental Development
 - a. Engagement Letters (submitted bound in Volume 3 Tab 8) – Due upon Application submission.
 - b. Report – Must be submitted within 30 days of the Application submission. Failure to submit these documents within 30 days will cause the Applicant to lose its “received by” date and time.
- ∄ Tax-Exempt Bond Developments
 - a. Report – Must be submitted 60 days prior to the date of the Board meeting at which the decision to issue a Determination Notice would be made. (§49.12(a)(2) of the 2007 QAP)

2. Hardcopy – Must be provided and may be bound using the analyst’s preferred format.

- ∄ Must be prepared by a Third Party Market Analyst approved by the Department as indicated in the Department’s Market Analysis Rules and Guidelines, §1.33 of the current year’s Real Estate Analysis Rules and Guidelines.

- ∄ Must be dated within six months of the first day of the Application Acceptance Period or the Person that prepared the initial report must supply an updated Market Analysis; however, if the initial Market Analysis was more than 12 months old, it will not be accepted;
 - ∄ Must include a transmittal letter from the provider stating that the Department may rely on the report.
 - ∄ Must include a map, including scale, showing primary market area. (§49.9(h)(14)(G)(ii))
 - ∄ Must include a map, with scale, showing secondary market area. (QAP §49.9(h)(14)(G)(ii))
 - ∄ Report must conform with all other Market Analysis Rules and Guidelines. (§1.33 of the REA Rules)
 - ∄ For the TX-USDA-RHS Set-Aside, acquisition and Rehabilitation of residential structures at or above 80% occupancy at the time of Application, the appraisal, required under §49.9(h)(7) or (12), prepared in compliance with the Department’s Appraisal Rules and Guidelines, §1.34, will satisfy the requirement for a Market Analysis; however the Department may request additional information as needed. (§2306.67055) (§42(m)(1)(A)(iii))
3. Electronic copy – A searchable electronic copy in the format of a single file containing all information and exhibits in the hard copy report, presented in the order they appear in the hard copy report on a CD-R clearly labeled with the report type, Development name, and Development location are required. (§49.9(h)(14)(G)(iii) of the 2007 QAP)
- ³ Property Condition Assessment (if required) (§49.9(h)(14)(C) and (6)(E) of the 2007 QAP and §1.36 of the REA Rules)
1. Submission Deadlines:
 - ∄ Competitive Housing Tax Credit Developments
 - a. Engagement letters (submitted bound in Volume 3 Tab 8) – Due upon Application submission, March 1, 2007.
 - b. Report – Must be submitted not later than 5:00 p.m. CST, April 2, 2007. If each entire report is not received by that time, the Application will be terminated and will be removed from consideration.
 - ∄ HOME CHDO or Rental Development
 - a. Engagement Letters (submitted bound in Volume 3 Tab 8) – Due upon Application submission.
 - b. Report – Must be submitted within 30 days of the Application submission. Failure to submit these documents within 30 days will cause the Applicant to lose its “received by” date and time.
 - ∄ Tax-Exempt Bond Developments

- a. Report – Must be submitted 60 days prior to the date of the Board meeting at which the decision to issue a Determination Notice would be made. (§49.12(a)(2) of the 2007 QAP)
2. Hardcopy – Must be provided and may be bound using the analyst’s preferred format.
 - ∄ Must be prepared by a qualified Third Party as stated in the Department’s Property Condition and Assessment Rules and Guidelines, §1.36 of the current year’s Real Estate Analysis Rules and Guidelines.
 - ∄ Must be dated within three months prior of the first day of the Application Acceptance Period or including an updated PCA report from the Person or organization that prepared the initial report, but the Department will not accept any PCA report that is more than six months old as of the first day of the Application Acceptance Period.
 - ∄ Must include a transmittal letter from the provider stating that the Department may rely on the report. Must be prepared in accordance with all other requirements of §1.36;
 - ∄ For Developments which require a capital needs assessment from TX-USDA-RHS, the capital needs assessment may be substituted and may be more than six months old, as long as TX-USDA-RHS has confirmed in writing that the existing capital needs assessment is still acceptable.
3. Electronic copy – A searchable electronic copy in the format of a single file containing all information and exhibits in the hard copy report, presented in the order they appear in the hard copy report on a CD-R clearly labeled with the report type, Development name, and Development location are required. (§49.9(h)(14)(G)(iii) of the 2007 QAP)
- ³ Volume 1 Tab 5 unbound – An extra copy of unbound Volume 1 Tab 5 bound with a clip or staple
- ³ *Part A.2: Applicant Unique Identifier Number*, form included in Uniform Application Word document

∄ **Do not include in Electronic Submission**

- ∄ The shaded area in the form is provided as an example of how to complete the form.
- ∄ All references to the “Development Owner” mean the Development Owner excluding the investor limited partner position that will typically be filled by a third-party syndicator. Any limited partner or special limited partner that is not the syndicator must be included in the form.
- ∄ Note that the first entry on the form will be the Development Owner. The Development Owner will only appear on the form once. Therefore, the middle column of the Development Owner’s line must be left blank so that the identification number of the Development Owner may be entered in the right-hand column.

- ∄ Every organization that is listed in the middle column as a Principal of the Development Owner will later be listed again in the left-hand column with its own Principals listed in the middle column starting on the line below it. For simplicity, do not make entries in both the left-hand column and middle column of the same line. If an organization is named in the left-hand column of a line, leave the middle column blank and begin the list of “Principals” on the next line below the line with the blank middle column.
 - ∄ The Principals of nonprofit organizations will be the board members and executive officers, with the ownership percentage of each being stated as “0%.”
 - ∄ In general, every organization will be listed at least once in the middle column of the form and, generally, only once in the left-hand column of the form. Exceptions in which the same organization might be listed twice in the left-hand column include cases wherein the same organization is both an owner and a developer, and other such “special cases” as explained below.
 - ∄ **Special Cases:** The Developer, Guarantor and any entity that will receive more than 10% of the developer fee must also be listed on the form, even if they do not have any ownership. Therefore, after listing owners, list the applicable entities that have no ownership, including any Developers, Guarantors and organizations or Persons that will receive more than 10% of the developer fee. Where there is no ownership, be sure to state the percentage of ownership as “0%.”
 - ∄ Use additional pages of the form as necessary to completely list all applicable participants.
- ³ Volume 3 Tab 7 unbound – An extra copy of unbound Volume 3 Tab 7 if the Applicant is a nonprofit; must include the depiction of the organizational charts.
 - ³ Volume 2 unbound – An extra copy of unbound Volume 2.
 - ³ Volume 7 Tab 6 unbound (HOME only) – An extra copy of unbound Volume 7 Tab 6 and all attachments.
 - ³ Financials – Submitted unbound and clearly labeled as required by §49.9(h)(13). Please note: forms relating to this section are available on the Department’s website under **Templates**. For questions relating to this requirement, contact Lisa Vecchietti at (512) 475-3227.

1. *Financial Statement and Authorization to Release Credit Information*

- ∄ Must be completed and signed for every General Partner, Developer or Guarantor and any Person that has ownership interest in the Development Owner, general Partner, Developer or Guarantor.
- ∄ Nonprofit entities, public housing authorities and publicly traded corporations are only required to submit documentation for the entities involved; documentation for individual board members and executive directors is not required.

2. Financial Statements

- ∄ Must be submitted for each party and Person listed in number 1 above.
 - ∄ 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 the Application stating that this is the case.
 - ∄ Financial statements for individuals must not be older than 90 days from the first day of the Application Acceptance Period.
 - ∄ Financial statements for partnerships or corporations should be for the most recent fiscal year ended 90 days from the first day of the Application Acceptance Period.
- ³ Support/Opposition letters – If the Applicant has received support/opposition letters from elected officials and/ or neighborhood organizations, members of the public, or neighborhood organizations, they 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, unless instructed to do so in the Application itself.**

C. Electronic Submission: A searchable electronic copy of complete Application Volumes 1-7 must be submitted as one PDF file on a recordable compact disk (CD-R). This electronic copy must be submitted with the Full-Application March 1, 2007 in the following required format:

Any Social Security numbers appearing in any portion of the Application submission must be removed from the PDF copy prior to submission to the Department. The file will be posted to the Department's website and the Department will not be responsible for editing.

- ³ Each volume's tabs must be correctly bookmarked
- ³ Files should average less than 100 Kilobytes per page
- ³ Files must be readable with free PDF file viewers including Adobe Reader and be compatible with Adobe Reader 5.0 and above
- ³ Files should be saved so that "Fast Web View" (or page-at-a-time downloading) is enabled
- ³ Text within the PDF file should be searchable using the "Find" command in the PDF viewer
- ³ The PDF file should be named in the following format -- <file_number>.pdf (e.g., 05125.pdf)

VII. LIST OF REQUIRED EXHIBITS FOR THE APPLICATION

This section describes the specific documents required for the bound portions of the application. **You must compile the Application based on the order provided in this document.** Note that this order does not necessarily follow the order that is used in the QAP!

Exhibits shown in *italics* are forms, templates or reference material included on the Department’s website and in the Application. The forms, templates and reference materials required to complete the Application are:

1. “2007 Uniform Application (DOC)” – Will be referred to as “*Uniform Application*” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
2. “MF App 2007 Uniform Application Inserts (XLS)” – Will be referred to as “*Excel Inserts*” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
3. “2007 HTC Reference Manual (PDF)” – Will be referred to as “*Reference Manual*” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
4. “2007 Templates and Financials (DOC)” – Will be referred to as “*Templates*” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
5. “2007 Final QAP Signed by Governor (PDF)” – Will be referred to as “*2007 QAP*” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/htc/index.htm>.
6. “2007 Real Estate Analysis Rules and Guidelines (PDF)” – Will be referred to as “*REA Rules*” in this ASPM. Link found at <http://www.tdhca.state.tx.us/rea/>.

Volume 1. Priority Review and Threshold Documentation

Include all of the following documents:

Volume 1 Tab 1: All forms included in the *Uniform Application* under *Volume 1, Tab 1 Parts A-C*

1. *Part A. Activity Overview*
 - ∅ This form must have an original signature.
2. *Part B. Applicant Information*
 - ∅ All items must be completed.
 - ∅ A second contact must be provided.
3. *Part C. Funding Request*
 - ∅ Correctly select the appropriate items.
 - ∅ Annual amount of Housing Tax Credits cannot exceed \$1,200,000. (§49.6(d) of the 2007 QAP)
 - ∅ HOME funds cannot exceed \$3,000,000 and cannot exceed 90% of the total development cost (if using TDHCA HOME).

Volume 1 Tab 2: All forms included in the *Uniform Application* under *Volume 1, Tab 2* and in the *Excel Inserts* under *Volume 1, Tab 2 Parts B-F*

1. *Part A. Populations Served*

- ∄ For Developments with fewer than 50 total units, no more than 36% of the units may be set aside for Persons with Disabilities.
 - ∄ For Developments with 50 total units or greater, no more than 18% of the units may set aside for Persons with Disabilities.
 - ∄ Note that the “Type of Unit” categories are not mutually exclusive. For instance: for a 200 unit Qualified Elderly Development with 10% of the Units set aside for Persons with Disabilities, the table would read 200 Elderly Units and 20 Units for Persons with Disabilities with corresponding percentages of total Units.
2. *Part B. Rent Schedule*
- ∄ Note that this is a two-page form.
 - ∄ If the Development includes efficiency units, label these units as zero (0) bedrooms.
 - ∄ If any non-rental income is included, describe the source(s) of the income.
3. *Part C. Utility Allowances*
- ∄ Form must be completed; if the form is not applicable, indicate such and submit the form. If the Development is all bills paid, indicate such and indicate the utilities and energy source.
 - ∄ Utility Allowance worksheet must be included unless Development is all bills paid.
4. *Part D. Annual Operating Expenses*
5. *Part E. 30 Year Rental Housing Operating Pro forma*
- ∄ Debt Coverage Ratio must be greater than 1.10 for each period.
6. *Part F. Building/Unit Type Configuration*
- ∄ Units and square footage must conform to *Part B. Rent Schedule*
 - ∄ Number of buildings must conform to the site plan.
7. *Part G. Areas Excluded From the Total Development Area*
- ∄ Form must be completed; if the excluded area equals zero (0), enter zero for the total and submit the form.

Volume 1 Tab 3: All forms included in the *Excel Inserts* under *Volume 1, Tab 3 Parts A-C*

1. *Part A. Development Cost Schedule*

- ∄ Must be signed by Development Owner and Contractor.
- ∄ Owner’s Requested Credits must match *Volume 1, Tab 1 Part C. Section 3. Funding Request*
- ∄ **IMPORTANT:** If projected site work costs include unusual or extraordinary items or exceed \$7,500 per Unit, then the Applicant must provide (§49.9(h)(6)(G) of the 2007 QAP):

- a. a detailed cost breakdown prepared by a Third Party engineer or architect, and
 - b. 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.
2. *Part B. Offsite Costs Breakdown*
- ∄ This form is only applicable if offsite costs are included in *Part A. Development Cost Schedule*.
 - ∄ Must be signed by registered engineer or architect.
3. *Part C. Site Work Costs*
- ∄ This form is only applicable if the subtotal site work cost from *Part A. Development Cost Schedule* is above \$7,500 per unit.

Volume 1 Tab 4: All forms included in the *Uniform Application* under *Volume 1, Tab 4* and in the *Excel Inserts* under *Volume 1 Tab 4 Part A*

1. *Part A. Summary of Sources and Uses of Funds*
 - ∄ Financing participants must be listed in the right-hand column.
 - ∄ Total sources of funds must equal total uses of funds.
 - ∄ Total sources must match *Volume 1, Tab 3 Part A. Development Cost Schedule* Total Development Cost.
 - ∄ Amounts listed must match amounts listed in *Part B. Financing Participants*, the Financing Narrative, Commitment Letters and Syndicator Letters.
2. *Part B. Financing Participants*
 - ∄ The sources and amounts of funds indicated on this form must match those indicated on *Part A. Summary of Sources and Uses of Funds*.
3. Financing Narrative (§49.9(h)(6)(A) of the 2007 QAP)
 - ∄ Sources and amounts of funds must match *Part A. Summary of Sources and Uses of Funds*.
4. Commitment Letters (§49.9(h)(7)(C) of the 2007 QAP)
 - ∄ Evidence of interim and permanent financing
 - ∄ Evidence must be consistent with *Part A. Summary of Sources and Uses of Funds*
 - ∄ Evidence must be provided in one or more of the following forms:
 - a. Valid and binding loan agreement, deed of trust in the name of the Development Owner and/or that allows transfer to the Development Owner, and, if USDA Rehabilitation, a letter indicating that USDA has received a Consent Request or Primary Submittal.
 - b. Commitment or term sheet:

- Must be addressed to Development Owner
 - Must be executed by lender
 - Must indicate a principal amount, loan term, stated interest rate, amortization term and expiration date
- c. For any soft debt of subsidized gap financing:
- Provide intent to apply or evidence from lending agency that an application has been received, and
 - Term sheet that indicates terms and amount of funding and date funding determination will be made and a commitment issued
- d. If Development is financed through more than 5% Development Owner contributions:
- Third Party CPA letter verifying the capacity of the Development Owner to provide the proposed funding with funds not otherwise committed, and
 - Letter from Development Owner's bank confirming that sufficient funds are available to the Development Owner
5. Syndicator Letters (§49.9(h)(6)(C) of the 2007 QAP)
- ∄ Evidence must be consistent with *Part A. Summary of Sources and Uses of Funds*
 - ∄ 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 (HTC Only).

Volume 1 Tab 5: All forms included in the *Uniform Application* under *Volume 1, Tab 5 Parts A-E*. ***Note: Do not bind Part A.2 and do not include in Electronic Submission.**

1. *Part A.1. Applicant and Developer Ownership Chart* (use form as template) (§49.9(h)(9)(A) of the 2007 QAP)
 - ∄ A separate chart must be provided for the Applicant and Developer; the charts must not be combined.
 - ∄ If a Guarantor that is not an owner exists, a separate chart must be provided.
 - ∄ Chart must show the following:
 - a. Name and ownership percentage of each entity and Person with an ownership interest in the Development Owner, General Partner, Special Limited Partner, Guarantor and Developer.

- b. State the percentage of ownership of each entity and Person in the chart in terms of the entity's or Person's direct ownership of the organization that the entity or Person owns, not in terms of the Development Owner as a whole (See examples of ownership percentages in the example chart).
- c. Trusts must show trustee and each beneficiary.
- d. Nonprofit entities, public housing authorities and publicly traded corporations must show name of organization, president, vice president and secretary (executive officers).
- e. Any person receiving 10% of the Developer Fee must also be included in the chart.

2. *Part B. List of Organizations with an Ownership Interest in the Applicant*

- ∄ Only organizations are listed on this form.
- ∄ Every organization listed on the organizational chart must be included.
- ∄ Natural persons will only be reported on this form if they directly own an interest in the Development Owner rather than owning an interest as members of an organization with an ownership interest.
- ∄ Submit as many pages of the form as necessary to report all applicable organizations (and all natural persons with direct interests as owners, developers, guarantors or recipients of more than 10% of the developer fee).

3. *Part C. List of Principals of Organizations with an Ownership Interest in the Applicant*

- ∄ Every natural person listed on the organizational chart must be included.
- ∄ To complete this form, refer to the instructions for *Part A.2. Applicant Unique Identifier Number* (found in the "Unbound Items" portion of section VI. Format for Submitting the Application).
 - a. Be sure to list all organizations and natural persons that are "Special Cases."
 - b. Be sure that every entity listed in the left-hand column does not have a "Principal" listed by it on the same line (i.e. each line should contain the name of only one organization or if it is a "special case," one natural person).

4. *Part D. Certification of Principal*

- ∄ Must be completed by all natural persons that appear on the organization chart.
- ∄ This certification must be signed and filed by all natural persons who, either directly or through ownership of an intermediary organization, will have an ownership interest in the Development Owner, Developer, Guarantor or any organization that will receive more than 10% of the developer fee, or who, directly, will receive more than 10% of the developer fee.

- ∄ For publicly traded corporations, the chief executive officer and members of the board must each sign.
 - ∄ For nonprofit corporations and governmental or quasi-governmental organizations, such as public housing authorities, the executive director and each board member must sign.
5. *Part E. Previous Participation and Background Certification* (§49.9(h)(9)(C) of the 2007 QAP)
- ∄ Must be completed for each entity and natural person shown on the organizational chart
 - ∄ For nonprofit entities, public housing authorities and publicly traded corporations, exhibit must be completed for entity, individual board members and executive director
 - ∄ Must be completed for any Person receiving more than 10% of the Developer fee

Volume 1 Tab 6: The form included in the *Uniform Application* under *Volume 1 Tab 6*

1. *Part A. Development Team Members*
- ∄ **IMPORTANT:** If there is a direct or indirect, financial or other interest with the Applicant or other team members, provide an attachment behind Volume 3 Tab 2 of the Application that explains the relationship.

Volume 1 Tab 7: All forms included in the *Uniform Application* under *Volume 1, Tab 7*

1. *Part A. HTC Application Supplement (Competitive Housing Tax Credit and Tax-Exempt Bond Developments ONLY, NOT required for HOME or HTF-only Developments)*
- ∄ **IMPORTANT:** Section 1 – Once a set-aside election is made, it is irrevocable.
 - ∄ Section 4 – If you answer yes to any of the questions in this section, you must provide documentation of an acceptable exception behind this form.
2. *Part B. 9% HTC Confirmation of Set-Aside and Allocation Eligibility (Competitive Housing Tax Credit Developments ONLY)*
- ∄ If documentation is required for any set-aside selected, the documentation must be provided behind this tab unless already required elsewhere within the application.
3. **At-Risk Set-Aside documentation (Competitive Housing Tax Credit Developments applying under the At-Risk Set-Aside ONLY)** (§49.3(13) of the 2007 QAP)
- ∄ Development must be at risk of losing all affordability from all of the financial benefits available on the Development

1. *Relevant Development Information Form (Parts I and II)*

- ∅ If a Pre-Application was submitted and no information has changed since Pre-Application, check the two boxes that indicate no change from Pre-Application.
- ∅ If a Pre-Application was not submitted, if any of the information has changed, or if re-notifications were necessary, submit the form with updated information indicated.

2. *Public Notification Information and Certification Form (Pages 1-6)*
(§49.9(h)(8)(A) of the 2007 QAP)

- ∅ Page six of form must be signed and dated.
- ∅ If a Pre-Application was submitted and no information has changed since Pre-Application, check the box that indicate no change and sign and date the last page. **Note: these forms are required at Application, even if a Pre-Application was submitted.**
- ∅ If a Pre-Application was not submitted, if any of the information has changed, or if re-notifications were necessary, submit the signed and dated form with updated information indicated.
- ∅ Single-member district – If the city council and/or county commission is a single-member district body, check the box to indicate this and list the single district representative in the space provided; you do not have to list the other members.
- ∅ Both single member and at-large district – If the city council or county commission has both district-based and at-large members, indicate so on the form and list the single district representative in the space provided and all at-large members in the spaces provided for all representatives.
- ∅ At-large district – List all representatives in the spaces provided.

Volume 2. Site Packet

Include all of the following documents:

Volume 2 Tab 1:

1. Current site address
2. Project name
3. State whether the project is existing or proposed
4. Indicate housing type
5. Owner name, contact name and phone number

Volume 2 Tab 2:

1. A full, legible legal description of the site.

Volume 2 Tab 3:

1. A fold-up city map or a copy of a map clearly indicating the location of the development in relation to the entire city or town in which it is located. The map should also indicate the location of the following facilities within 2 miles of the site:
 - ∅ Existing HTC or other affordable housing projects
 - ∅ Retail centers
 - ∅ Medical complexes
 - ∅ Recreational facilities
 - ∅ Educational facilities (elementary, secondary, high school, college or vocational) and libraries
 - ∅ Large scale employment centers
 - ∅ Public transportation stop closest to the site (if it falls within the two mile radius)

Volume 2 Tab 4:

1. Copy of the site plan. Site plan must indicate adjacent street names, existing/proposed buildings, parking, ingress, egress, encroachments, flood plains, and easements. A copy of the site plan must also be provided in Volume 3 Tab 1.

Volume 2 Tab 5:

1. Photographs of site features (street signs, billboards, existing structures etc.) that will help staff correctly identify the site during the site inspection.

Volume 2 Tab 6:

1. Written instructions to the site from the nearest state or interstate highway.

Volume 3. Supplemental Threshold Documentation

Include all of the following documentation:

Volume 3 Tab 1 – Development Certification and Design Items: All forms included in the *Uniform Application* under *Volume 3, Tab 1 Parts A-C*

1. *Part A.1. Development Certification Form* (Competitive Housing Tax Credit and Tax-Exempt Bond Developments ONLY)
 - ∄ Must be signed and dated; signature does not have to be an original.
 - ∄ Required for all Development types (i.e. New Construction, Rehabilitation, etc.); no exceptions.
2. *Part A.2. Architect Certification Form*
 - ∄ Must be signed and dated; signature does not have to be an original.
 - ∄ Required for all Development types (i.e. New Construction, Rehabilitation, etc.); no exceptions
3. *Part B: Specifications and Amenities*
 - ∄ Required for all Development types (i.e. New Construction, Rehabilitation, etc.); no exceptions
- ∄ 4. *Part C: Common Onsite Amenities* (Competitive Housing Tax Credit and Tax-Exempt Bond Developments ONLY) (§49.9(h)(4)(A) of the 2007 QAP)
 - ∄ Must be signed and dated; signature does not have to be an original.
 - ∄ Required for all Development types (i.e. New Construction, Rehabilitation, etc.); no exceptions
 - ∄ Note: Developments proposing Rehabilitation or Single Room Occupancy will receive 1.5 times the point value for any selected amenity. Developments involving scattered sites must include a separate onsite amenities form for each separate site.
5. Architectural drawings (§49.9(h)(5)(A)(i) through (iii) of the 2007 QAP)
 - ∄ Site plan
 - a. Must include a scale and/or dimensions, and be legible to the unaided eye.
 - b. Must include a unit matrix which is consistent with *Volume 1, Tab 2 Part B. Rent Schedule* and *Part F. Building/Unit Configuration*.
 - c. Number of residential and non residential buildings shown must be consistent with *Volume 3, Tab 1 Part B. Specifications and Amenities*
 - e. Must delineate all floodplain boundaries and easements.
 - ∄ Building floor plans (**NOT required for Developments involving Rehabilitation in which the Unit configurations are not being altered**)

- a. Must include a scale and/or dimensions, and be legible to the unaided eye.
 - b. Must be submitted for each residential building type and all common buildings.
- ∄ Building elevations (**NOT required for Developments involving Rehabilitation in which the Unit configurations are not being altered**)
- a. Must include a scale and/or dimensions, and be legible to the unaided eye.
 - b. Must be submitted for each residential building type and all common buildings.
 - c. Must include a percentage estimate of the exterior composition materials used.
- ∄ Unit floor plans
- a. Must include a scale and/or dimensions, and be legible to the unaided eye.
 - b. Must be submitted for each unit type.
 - c. Net rentable area must be indicated and must be consistent with *Volume 1, Tab 2 Part B. Rent Schedule*
6. Boundary Survey (§49.9(h)(5)(B) of the 2007 QAP)
- ∄ If the tract of land being purchased is larger than the portion being used for the Development; the survey must depict both the larger tract as well as the site to be developed.

Volume 3 Tab 2: The form included in the *Uniform Application* under *Volume 3, Tab 2*

1. *Site Information*
2. Tax Assessment (§49.9(h)(7)(D)(ii) of the 2007 QAP)
 - ∄ Provide the most current tax assessment valuation from the applicable county.
 - ∄ Must indicate tax rates for each taxing jurisdiction.
3. Evidence of Site Control (§49.9(h)(7)(A))
 - ∄ Site control must be valid for the entire period the Development is under consideration, which is:
 - a. July 31, 2007 for Competitive Housing Tax Credit Developments.
 - b. 150 days after the Application Acceptance Period or through the full reservation and allocation period whichever is longer for Tax-Exempt Bond Developments.
 - ∄ Evidence must be in one of the following forms:

- a. A recorded warranty deed with a corresponding executed settlement statement
 - b. A contract for lease (45-year minimum term)
 - c. A contract for sale or purchase option
- ∅ Evidence must be in the name of the Development Owner. If not in the name of the Development Owner, then the documentation must reflect an expressed ability to transfer the rights to the Development Owner.
- ∅ If a contract is provided as evidence of site control, the closing date must be highlighted or flagged. If the date is not explicitly stated, but rather is triggered by other dates or periods, submit an outline of the dates that must be used to derive the closing date.
- ∅ **Note: Do not include documentation required under §49.9(h)7(A)(I) through (II) for identity of interest transactions; this documentation must be provided in Volume 3 Tab 6.**
4. Evidence of zoning (§49.9(h)(7)(B) of the 2007 QAP)
- ∅ Zoning must match representation made in *Volume 3, Tab 2 Site Information* form.
- ∅ Evidence must have been prepared and executed not more than six months prior to the close of the Application Acceptance Period.
- ∅ Evidence must be in one of the following forms:
- a. A letter from the CEO of the political subdivision or another local official with appropriate jurisdiction stating the Development is located in a political subdivision which does not have a zoning ordinance and that the Development fulfills a need for additional affordable rental housing as evidenced in the local consolidated plan, comprehensive plan or other local planning document;
 - b. A letter from the CEO of the political subdivision or another local official with appropriate jurisdiction stating that the Development is permitted under the provisions of the zoning ordinance that applies to the location of the Development; or
 - c. A letter stating 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 the appropriate zoning is denied; and a time schedule for completion of appropriate zoning. Submit a copy of the application for change in zoning as well as proof of delivery in the form of a signed certified or overnight mail receipt, or confirmation from said official.
 - d. For Developments involving Rehabilitation, if the property is currently a non-conforming use as presently zoned, a letter which addresses the following items must be submitted:

- Nature of non-conformance; detailed narrative must be provided.
 - Applicable destruction threshold.
 - Owner's right to reconstruct in the event of damage.
 - Penalties for noncompliance.
5. Legal Description and Title Commitment/Policy (§49.9(h)(7)(D)(i) - (iii) of the 2007 QAP)
- ∄ Copy of the full legal description
 - ∄ Title commitment/policy
 - a. Must be less than six months old as of the date the Application Acceptance Period closes. If the documentation is older than six months, a letter from the title company indicating that nothing further has transpired on the policy or commitment must be provided.
 - b. Evidence must be one of the following:
 - 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
 - Current title commitment with the proposed insured matching exactly the name of the Development Owner and the title of the Property/Development vested in the exact name of the seller or lessor as indicated on the sales contract or lease.
6. Qualified Census Tract (QCT) Map (**Required ONLY for Developments Located in a QCT**) (§49.9(h)(6)(D) of the 2007 QAP):
- ∄ Must clearly show that the proposed Development is located within a QCT.
 - ∄ Census tract numbers must be clearly marked on the map.
 - ∄ Census tract number must be identical to the QCT number stated in the Department's *Reference Manual* and *Volume 3, Tab 2 Site Information*.

Volume 3 Tab 3 – Evidence of Notifications: The form included in the Uniform Application under *Volume 3, Tab 3*

1. *Certification of Notifications (Sections A-C)* (§49.9(h)(8)(A) of the 2007 QAP)
- ∄ The form must be signed, dated and notarized.
 - ∄ *Section A* of the form must be completed by all Applicants:
 - a. If a Pre-Application was submitted and all notifications and/or appropriate re-notifications have been made, check the box in *Section 1 (Competitive Housing Tax Credit Developments ONLY)*.

- b. If a Pre-Application for Competitive Housing Tax Credits was not submitted, or if the submission did not satisfy the Department's review, all three boxes in *Section 2* must be checked.
 - ∄ *Section B* of the form must only be completed if mailings were completed in lieu of posting signage on the property.
 - ∄ *Section C* of the form must only be completed if the Application is for Rehabilitation of an existing property that was occupied at the time of Application submission.
 - ∄ While copies of notifications are not required to be submitted with the Pre-Application, please note the following:
 - a. Sample *Request for Neighborhood Organizations and Public Notification Format* in **Templates** on the Department's website.
 - b. Request for a list of Neighborhood Organizations must be made by:
 - January 15, 2007 for Competitive Housing Tax Credit Developments that did not submit a Pre-Application
 - Not later than 21 days prior to submission of the Volume 3 for Tax-Exempt Bond Developments, and submission of the Application for HOME and HTF Developments NOT layered with Competitive Housing Tax Credits.
 - c. Notifications must be made no later than the date the Application is submitted to the Department.
 - d. Notifications should be made using a form of delivery that can be tracked.
 - e. Developments located in Extra Territorial Jurisdictions (ETJ) of a city are not required to notify city officials.
2. Evidence of signage or alternative (§49.9(h)(8)(B) of the 2007 QAP)
- ∄ Sample signage and alternative available in **Templates** on the Department's website.
 - ∄ Must submit either evidence of signage or evidence of signage alternative
 - a. Signage:
 - Submit a photo of sign; content of the sign must be legible and must show the relative location of the sign on the Development Site.
 - Sign must be four feet by eight feet.
 - Sign must be located within 20 feet of and facing the main road adjacent to the site.
 - Sign must be continuously maintained on the Development Site until the day the Board takes final action on the Application.

- For Tax-Exempt Bond Developments, Applicant must certify that the date time and location of the TEFRA hearing are indicated on the sign as soon as the hearing has been scheduled.
- Sign must be installed:
 - i. Prior to the date the Application is submitted (EXCEPT for Tax-Exempt Bond Developments), or
 - ii. Within thirty days of the submission of Volumes 1 and 2 of the Application or thirty days prior to the Bond hearing date, whichever is earlier (Tax-Exempt Bond Developments ONLY).
- b. Alternative – mailed notifications
 - Submit a map of the proposed Development site that marks the distance required by local zoning, or if no zoning, 1,000 feet, and indicates street names and addresses.
 - Submit a list of all addresses the notice was mailed to.
 - Submit an exact copy of the notice that was mailed.
 - Submit evidence of local zoning notification requirements or evidence of no zoning.
 - *Certification of Notifications, Section B* must be completed.

Volume 3 Tab 4 – Organization Documents (§49.9(h)(9)(B) of the 2007 QAP)

Each entity shown on the organizational chart provided in Volume 1 Tab 5 must provide the following documentation as applicable:

1. For entities that are not yet formed but are to be formed either inside or outside the state of Texas, a certificate of reservation of the entity name from the Texas Secretary of State must be submitted.
2. For existing entities whether formed inside 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 must be submitted.

Volume 3 Tab 5 – Precertification Documents, Experience Certificate

- ∄ Please see section V. Format for Pre-Certification and Acknowledgement (Experience Certificate) for detailed requirements
- ∄ For Competitive Housing Tax Credit Developments, the request for an Experience Certificate must be submitted by Thursday, February 15, 2007.
- ∄ For Tax-Exempt Bond Development, HOME and HTF, the request for an Experience Certificate must be included with the Application submission.
- ∄ 2004, 2005 and 2006 Experience Certificates are eligible for use in all 2007 applications; requests for recertification are not necessary.

- ∄ Documentation required for a request for an Experience Certificate is explained in detail in §49.9(g) of the 2007 QAP.

Volume 3 Tab 6 – Acquisition, Rehabilitation and Identity of Interest: The form included in the Uniform Application under *Volume 3, Tab 6 Acquisition Rehabilitation Form Parts A-C*

1. *Volume 3, Tab 6 Acquisition and/or Rehabilitation*

- ∄ Required for Developments proposing acquisition and/or Rehabilitation

2. Rehabilitation Developments

- ∄ *Volume 3, Tab 6 Acquisition and/or Rehabilitation Part B.* must be completed

- ∄ Property Condition Assessment must be submitted unbound (see section VI. Format for Submitting the Application, B. Unbound Items and §49.9(h)(14)(C) of the 2007 QAP)

- ∄ If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development (§49.9(h)(10)(B) of the 2007 QAP):

- a. Any related contract or other agreement securing those funds or proof of Application must be provided, which at a minimum:

- Identifies the source of funds
- Identifies the annual amount of funds
- Identifies the number of Units receiving the funds, and
- Identifies the term and expiration date of the contract or other agreement

- ∄ Occupied Developments involving Rehabilitation (§49.9(h)(10)(D) of the 2007 QAP)

- a. Applicants for the HOME program must complete this section and all applicable relocation sections of Volume 7 Tab 3

- b. At least one of the following must be submitted, unless the current property owner is unwilling to provide the required documentation; in that case, submit a signed statement from the current property owner either refusing to provide the information or stating an inability to provide the information:

- Monthly operating statements for 12 consecutive months ending not more than three months from the first day of the Application Acceptance Period;
- The two most recent consecutive annual operating statement summaries;

- The most recent consecutive six months of operating statements and the most recent available annual operating summary; or
 - 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. Any other supporting documentation used to generate projections may be provided.
- c. A rent roll not more than six months old as of the first day the Application Acceptance Period must be provided
- Must disclose the terms and rate of the lease;
 - Must disclose rental rates offered at the date of the rent roll;
 - Must disclose Unit mix;
 - Must disclose tenant names or vacancy; and
 - Must disclose the dates of first occupancy and expiration of lease;
 - **OR**, if all of the documentation required is not available, provide all foregoing information as possible **AND** a written statement from the seller expressing refusal or inability to supply any other information. Submit any other supporting documentation used to generate proforma projections of revenue.
- d. Written explanation of the process used to notify and consult with the tenants in preparing the Application must be submitted.
- e. For Intergenerational Applications or Qualified Elderly Developments, the number of existing tenants qualified under the target population elected must be identified.
- f. Relocation plan outlining relocation requirements and a budget with an identified funding source must be submitted.
- g. Evidence that the relocation plan has been submitted to the appropriate legal agency must be submitted, if applicable.
3. For Applications requesting acquisition credits
- ∄ No substantial rehabilitation (as defined in tax code) or sale of the property that resulted in a new placed in service date may have occurred in the past ten years.
 - ∄ *Volume 3, Tab 6 Acquisition and/or Rehabilitation, Part C.* must be completed
 - ∄ Appraisal must be submitted unbound (see section VI. Format for Submitting the Application, B. Unbound Items and §49.9(h)(14)(D) of the 2007 QAP)
 - a. To take acquisition credits, the appraisal must separately state the value of land and buildings. (Note that acquisition credits are only

given for buildings, not land, and demolishing a building would disqualify it from receiving acquisition credits.)

- b. The appraised value must be consistent with the value that is stated in *Volume 1, Tab 3 Part A. Development Cost Schedule* of the Application and with the settlement statement or audited financial statements related to the acquisition. Although a lower value than the documented acquisition cost may be stated in *Volume 1, Tab 3 Part A. Development Cost Schedule*, any increase above the verified acquisition cost must be supported by documenting the costs associated with purchasing, owning, holding and/or improving the property. For transactions which include existing buildings that will be preserved (not demolished), the acquisition cost claimed may include capitalized costs of improvements to the Property, a calculated return on equity at a rate consistent with the historical returns of similar risks, and allow the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the Property and avoid foreclosure. The costs and expenses allowable are detailed in §49.9(h)(7)(iii) of the 2007 QAP.

€ Third Party legal opinion stating that the proposed acquisition meets the requirements of IRS Code §42(d)(2)(B) must be submitted: (§49.9(h)(12)(C) of the 2007 QAP)

- a. In general, if acquisition credits are being requested, there may be no identity of interest between the buyer and seller and 10 years must have passed between the last time the building was placed in service or substantially rehabilitated, whichever was most recent.
- b. When selecting an attorney to supply this letter, Applicants should consider that the general rules concerning acquisition credits are affected by special stipulations in the tax code that define related party transactions, permit certain actions involving nonprofits, and describe the circumstances that must be present to constitute the 10 year period between placed in service dates including the effect of expensing depreciation.

4. Identity of Interest (§49.9(h)(7)(A)(iii)(I) and (II) of the 2007 QAP)

€ Documentation of the original acquisition cost must be submitted:

- a. Documentation must be in the form of a settlement statement, or
- b. If a settlement statement is not available, the seller's most recent audited financial statement indicating the asset value for the proposed Property.

€ If the original acquisition cost is less than the acquisition cost claimed in *Volume 1, Tab 3 Part A. Development Cost Schedule*, the following must be submitted:

- a. An Appraisal must be submitted unbound (see section VI. Format for Submitting the Application, B. Unbound Items and §49.9(h)(14)(D) of the QAP)
 - The appraisal must indicate the as-is value of the property at the time of acquisition considering only restrictions or conditions that were applicable at that time.
 - The appraised value must be consistent with the value that is stated in *Volume 1, Tab 3 Part A. Development Cost Schedule* of the Application and with the settlement statement or audited financial statements related to the acquisition. Although a lower value than the documented acquisition cost may be stated in *Volume 1, Tab 3 Part A. Development Cost Schedule*, any increase above the verified acquisition cost must be supported by documenting the costs associated with purchasing, owning, holding and/or improving the property. For transactions which include existing buildings that will be preserved (not demolished), the acquisition cost claimed may include capitalized costs of improvements to the Property, a calculated return on equity at a rate consistent with the historical returns of similar risks, and allow the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the Property and avoid foreclosure. The costs and expenses allowable are detailed in §49.9(h)(7)(iii) of the 2007 QAP.
- b. Evidence of any other verifiable costs of owning, holding, or improving the Property that when added to the original acquisition cost justifies the Applicant's proposed acquisition amount.
 - 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.
 - For transactions which include existing buildings that will be rehabilitated or otherwise maintained as part of the Development, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the Property, a calculated return on equity at a rate consistent with the historical returns of similar risks, and allow the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the Property and avoid foreclosure.

Volume 3 Tab 7 – Nonprofit Documentation: The form included in the *Uniform Application* under *Volume 3 Tab 7 Evidence of Nonprofit Organization and CHDO Participation, Parts A-B*

Note: This section must only be completed if the Applicant is a Nonprofit.

1. Documents required for all Applications involving a nonprofit General Partner (§49.9(h)(11)(A) of the 2007 QAP)
 - ∄ *Volume 3 Tab 7 Evidence of Nonprofit Organization and CHDO Participation, Parts A-B*
 - ∄ IRS determination letter which states that the nonprofit organization is a 501(c)(3) or (4) entity. If the organization is a Qualified Nonprofit Organization as defined in the tax code, notwithstanding any apparent limitations in the QAP about the particular parts of the code under which a nonprofit may qualify, submit an IRS determination letter.
2. Additional documents required for Competitive Housing Tax Credit Developments applying under the Nonprofit Set-Aside (§49.9(h)(11)(B) of the 2007 QAP):
 - ∄ Third Party legal opinion – Note: A sample *Legal Opinion Letter for Nonprofit Set-Aside Applicants* is available in *Templates* on the Department’s website.
 - a. Must state that the nonprofit is not affiliated with, or Controlled by, a for-profit.
 - b. Must state that the nonprofit is eligible under the QAP to apply in the Nonprofit Set-Aside. In a typical ownership structure, **eligibility as defined by §49.7(b)(1) of the 2007 QAP requires the nonprofit to directly Control the Development as the General Partner of the Development Owner** and, also, to meet the requirements of the IRS Code, §42(h)(5).
 - c. Must state that one of the exempt purposes of the nonprofit must be to provide low-income housing, and
 - d. Must state that the nonprofit prohibits any member of its board, except a member that is also the executive director, from receiving compensation for participation.
 - e. Must state that the Qualified Nonprofit Development will have the nonprofit or its nonprofit affiliate be the Developer or co-Developer as evidenced in the development agreement.
 - ∄ The nonprofit’s most recent audited financial statement
 - ∄ A certification that a majority of the board resides:
 - a. Within this state if the Development is in a Rural Area, or
 - b. Within 90 miles of the Development if it is not in a Rural Area.

Volume 3 Tab 8 – Third Party Reports Engagement Letters (Competitive Housing Tax Credit Developments and HOME CHDO or Rental Development ONLY)

1. Competitive Housing Tax Credit Developments

- ∄ Engagement letters – Upon Application submission, March 1, 2007, Applicants must provide an executed engagement letter from the party performing the ESA, Market Study, Appraisal, and PCA, as applicable. The letter must clearly indicate that the required report has been ordered and will be delivered no later than April 2, 2007.
- ∄ Third Party Reports (see section VI. Format for Submitting the Application, B. Unbound Items for detailed submission requirements) – The required third party reports, as described in §49.9(h)(14), (12)(A), 7(A)(iii)(II)(-a-), and (6)(E) of the 2007 QAP, respectively, must be submitted not later than 5:00 p.m. CST, April 2, 2007. If each entire report is not received by that time, the Application will be terminated and will be removed from consideration. If the full report is provided with the Application, then no documentation is needed behind this Tab.

2. HOME CHDO or Rental Development

- ∄ Engagement Letters – Upon Application submission, Applicants must provide an executed engagement letter from the party performing the ESA, Market Study, Appraisal, and PCA, as applicable. The letter must clearly indicate that the required report has been ordered and will be delivered no later than thirty days from the date of Application submission.
- ∄ Third Party Reports (see section VI. Format for Submitting the Application, B. Unbound Items for detailed submission requirements) – The required third party reports, as described in §49.9(h)(14), (12)(A), 7(A)(iii)(II)(-a-), and (6)(E) of the 2007 QAP, respectively, must be submitted within 30 days of the Application submission. Failure to submit these documents within 30 days will cause the Applicant to lose its “received by” date and time.

Volume 4. Selection Documentation for Competitive Housing Tax Credit Program –
Competitive Housing Tax Credit Developments ONLY

The forms and templates required to complete Volume 4 are:

1. “2007 Competitive HTC Application Supplement (DOC)” – Will be referred to as “*Competitive HTC Supplement*” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/htc/applications.htm>.

Note: If you do not wish to claim points for an item, then no documentation is needed.

Note: For information regarding Quantifiable Community Participation and Level of Community Support from State Elected Officials, please see the Department’s website (more information regarding location of information will be given here). Letters for points for these items should **NOT** be provided in Volume 4.

Volume 4 Tab 1 – Applicant Self Score: The form included in the *Competitive HTC Supplement* under *Volume 4 Tab 1*

1. *Volume 4, Tab 1 Applicant Self Score*
 - ∄ Total self score must be correct when added together.
 - ∄ **Note: an Applicant may not adjust the *Applicant Self Score* form in an Administrative Deficiency without a specific request from the Department. Therefore, it is important that care is taken when requesting points.** (§49.9(h)(15) of the 2007 QAP)

Volume 4 Tab 2 – Financial Feasibility of the Development (§49.9(i)(1) of the 2007 QAP)

1. Thirty year proforma prepared by the permanent or construction lender that must:
 - a. Identify each of the first five years and every fifth year thereafter.
 - b. Identify underlying assumptions including general growth factor applied to income and expense.
 - c. Maintain a minimum 1.15 debt coverage ratio for the entire 30 years for all third party lenders that require scheduled repayment.
 - ∄ If the lender uses the Department’s form for the proforma, the lender must sign and date the profoma.
2. Commitment letter that includes a statement that the lender’s assessment finds that the Development will be feasible for 30 years.
3. 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 will meet these requirements.

Volume 4 Tab 3 – Income Levels of Tenants: The form included in the *Competitive HTC Supplement* under *Volume 4 Tab 3* (§49.9(i)(3) of the 2007 QAP)

1. *Volume 4, Tab 3 Income Levels of Tenants*

- ∄ The election should be consistent with *Volume 1, Tab 2 Part B. Rent Schedule*.
- ∄ Households receiving any Section 8 voucher rental subsidies, Tenant Based Rental Assistance (TBRA), or similar rental assistance may not occupy the Units designated for points under this section (excluding 100% Project Based Section 8).

Volume 4 Tab 4 – Size and Quality of Units: The form included in the *Competitive HTC Supplement* under *Volume 4 Tab 4* (§49.9(i)(4) of the 2007 QAP)

1. *Volume 4, Tab 4 Size and Quality of the Units Parts A and B*

- ∄ Size of Units:
 - a. Applicants must meet the minimum size requirements under §49.9(i)(4)(A) of the 2007 QAP.
 - b. The size of the units should be consistent with the *Volume 1, Tab 2 Part B. Rent Schedule* and Volume 3 Tab 1 architectural plans.
 - c. Applications involving Rehabilitation, Developments receiving funding from TX-USDA-RHS, or Developments proposing single room occupancy will automatically be awarded points **only if the points are requested in the Self Scoring Form.**
- ∄ Quality of the Units:
 - a. The Applicant will be required to comply with all elections made even if more items are selected than necessary to score the maximum number of points.
 - b. Scattered site Developments must provide an amenity for all Units in order for the amenity to count for points.

Volume 4 Tab 5 – Commitment of Funding by Local Political Subdivision: The form included in the *Competitive HTC Supplement* under *Volume 4 Tab 5* (§49.9(i)(5) of the 2007 QAP)

1. *Volume 4, Tab 5 Commitment of Development Funding by Local Political Subdivisions*

- ∄ An Applicant may only submit one source to substantiate the point request, but may submit as many sources needed to combine the amounts to substantiate the point request. For example, if the Applicant is requesting 18 points, three sources may be submitted if each is for an amount equal to 4% of the Total Housing Development Cost. However, three sources may not be submitted if each source is for an amount equal to 12% of the Total Housing Development Cost.

- ∄ The allocation of funds must be for on-site development costs. [Clarify if they can submit funding for operating expenses (i.e. tax abatement)] There is no rounding.
 - ∄ Local Political Subdivisions or Governmental Instrumentalities eligible for these points include:
 - a. Cities
 - b. Counties
 - c. Entities on the *Previously Approved List* located in the **Reference Manual** found on the Department's website.
 - d. An entity that provides a certification from the funding entity that they are a governmental instrumentality with the legal authority to act on behalf of a Local Political Subdivision.
 - ∄ Unless an in-kind contribution is being proposed, the amount of the funding should be indicated on *Volume 1, Tab 4 Part A. Summary of Sources and Uses of Funds* and the terms of the funding should be indicated on *Volume 1, Tab 4 Part B. Financing Participants*
 - ∄ If an in-kind contribution is being proposed, evidence from the Local Political Subdivision that substantiates the value must be provided. If a donation of land is being proposed, the land must already be under the control of the Applicant. [Clarify whether tax assessment is acceptable to prove the value of the land. Also clarify whether we will accept a letter from a third party contractor detailing the cost savings or the LPS to prove the value of a parking space variance.]
 - ∄ Federal funds are acceptable as long as the funds are being received directly from the local political subdivision. Therefore, funding from Department HOME or HTF will not qualify for points.
2. One of the following must be submitted:
- ∄ Commitment of funds:
 - a. The commitment must include a statement that any funds committed were not first provided to the Local Political Subdivision by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application unless the Applicant itself is a Local Political Subdivision or subsidiary.
 - ∄ Application for funding and a letter from the funding entity indicating that the application was received:
 - a. The application should include the amount and terms of the proposed funding.
 - ∄ Certification of an intent to apply for funding:
 - a. Must indicate the funding entity and program to which the application will be submitted, the loan amount to be applied for and the specific proposed terms.

Volume 4 Tab 6 – Rent Levels of Units: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 6* (§49.9(i)(7) of the 2007 QAP)

1. *Volume 4, Tab 6 Rent Levels of Units*

- ∄ The election should be consistent with *Volume 1, Tab 2 Part B. Rent Schedule*.
- ∄ Use normal rounding. As an example, if an application proposes to build a 150 unit Development, and 143 of the units are proposed low-income units, then 95.33% of the Development would be rent restricted, or low-income. When normal rounding is applied to this example, 95.33% rounds down to 95% of the proposed Development. Therefore, the Development is eligible for 10 points.

Volume 4 Tab 7 – Cost of the Development by Square Foot: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 7* (§49.9(i)(8) of the 2007 QAP)

1. *Volume 4, Tab 7 Cost of the Development by Square Foot*

- ∄ Calculation:
 - a. Use the following line items from *Volume 1, Tab 3 Part A. Development Cost Schedule* to calculate this item: Subtotal Site Work Costs, Subtotal Direct Hard Costs, and Subtotal Direct Construction Costs.
 - b. The Net Rentable Area should be taken from the *Volume 1, Tab 2 Part B. Rent Schedule*.
- ∄ Clarify rounding here
- ∄ There are specifically designated First Tier communities within Harris County that are east of State Highway 146 (Pasadena, Morgan’s Point, Shoreacres, Seabrook and LaPorte). In order to qualify for the increased cost per square foot allowance in these communities, **a map must be submitted clearly showing that the Development Site is within the community.**
- ∄ [Intergenerational calculation – pending QAP revisions and Intergenerational policy].

Volume 4 Tab 8 – Services to be Provided to Tenants: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 8* (§49.9(i)(9) of the 2007 QAP)

1. *Volume 4, Tab 8 Tenant Supportive Services Certification*

Volume 4 Tab 9 – Use of Existing Housing as Part of a Community Revitalization Plan: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 9* (§49.9(i)(12) of the 2007 QAP)

1. *Volume 4, Tab 9 Use of Existing Housing as Part of a Community Revitalization Plan*
2. A copy of the Community Revitalization Plan
3. The ordinance or resolution that shows that the plan has been adopted by the local governing body.
4. A letter from the governing body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan.

Volume 4 Tab 10 – Pre-Application Incentive Points: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 10* (§49.9(i)(13) of the 2007 QAP)

1. *Volume 4, Tab 10 Pre-Application Certification*

Volume 4 Tab 11 – Development Location: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 11* (§49.9(i)(14) of the 2007 QAP)

1. *Volume 4, Tab 11 Development Location*
2. Evidence to substantiate points requested
 - ∅ Evidence must be dated no earlier than June 8, 2006
 - (A) The appropriate designation should be noted on *Volume 3, Tab 2 Site Information*
 - (B) The appropriate designation should be noted on the *Volume 3, Tab 2 Site Information*. Submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone.
 - (C) Refer to the list in the *Reference Manual*. No further evidence is needed.
 - (D) Refer to the *2007 Housing Tax Credit Site Demographic Characteristics Report* in the *Reference Manual*. Provide a census tract map with the location of the Development Site identified. [Clarify whether applicant must provide evidence of the median income for census tract and county. We have a question pending with Steve.]
 - (E) Provide the name of the school and an attendance zone map of the school with the Development Site identified or a letter from the school stating that the Development Site is in the school's attendance zone.
 - (F) Refer to the *2007 Housing Tax Credit Site Demographic Characteristics Report* in the *Reference Manual*. Provide a census tract map with the location of the Development Site identified.

Volume 4 Tab 12 – Demonstration of Community Support other than Quantifiable Community Participation (§49.9(i)(16) of the 2007 QAP)

??

Volume 4 Tab 13 – Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits (§49.9(i)(17) of the 2007 QAP)

1. Provide a census tract map with the location of the Development Site identified. Refer to the *2007 Housing Tax Credit Site Demographic Characteristics Report* in the *Reference Manual*.

Volume 4 Tab 14 – Tenant Populations with Special Needs: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 11* (§49.9(i)(18) of the 2007 QAP)

1. *Volume 4, Tab 14 Tenant Populations with Special Needs*

Volume 4 Tab 15 - Length of Affordability Period: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 15* (§49.9(i)(19) of the 2007 QAP)

1. *Volume 4, Tab 15 Length of Affordability Period Selection Form*

Volume 4 Tab 16 – Site Characteristics: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 16* (§49.9(i)(20) of the 2007 QAP)

1. *Volume 4, Tab 16 Proximity of Site to Amenities (Part A) and Negative Site Amenities (Part B)*

∉ A map must be submitted that includes the following information:

- a. The location of the Development Site (if scattered sites, must have three services located within the appropriate distance of each site),
- b. A scale or a radius (one mile radius for Urban/Exurban and two miles for Rural),
- c. Services identified by name
- d. If electing points for public transportation, the location of the public transportation stop and a one-quarter mile radius around the Development Site

Volume 4 Tab 17 – Development Size (§49.9(i)(21) of the 2007 QAP)

1. Development must not have more than 36 Units.
2. Provide a map showing that no other HTC developments are contiguous to the Development Site.

Volume 4 Tab 18 – Qualified Census Tracts with Revitalization: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 18* (§49.9(i)(22) of the 2007 QAP)

1. *Volume 4, Tab 18 Qualified Census Tract with Community Revitalization Plan*

2. The Community Revitalization Plan
3. The ordinance or resolution that shows that the plan has been adopted by the local governing body.
4. A letter from the governing body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan.
5. A census tract map with the location of the Development Site identified.

Volume 4 Tab 19 – Sponsor Characteristics: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 19* (§49.9(i)(23) of the 2007 QAP)

1. *Volume 4, Tab 19 Sponsor Characteristics Certification Form Part A and B*
 - ∄ *Part A* – Attach a plan to use Historically Underutilized Businesses (HUB) in the development process consistent with the HUB Guidelines for contracting with the State of Texas.
 - ∄ *Part B* – Submit a HUB certification from the Texas Building and Procurement Commission. The HUB must be shown on the Volume 1 Tab 5, organizational chart as having at least a **51% interest in the General Partner**.

Volume 4 Tab 20 – Developments Intended for Eventual tenant Ownership – Right of First Refusal: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 20* (§49.9(i)(24) of the 2007 QAP)

1. *Volume 4, Tab 20 Agreement to the Provision of the Right of First Refusal*

Volume 4 Tab 21 – Leveraging of Private, State, and Federal Resources: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 21* (§49.9(i)(25) of the 2007 QAP)

1. *Volume 4, Tab 21 Leveraging of Private, State, and Federal Resources*
 - ∄ Funding is from a federal, state or private source in addition to the primary funding (construction and permanent loans) that is proposed to be utilized and cannot be from the same source or an affiliated source.
 - ∄ [Can they substitute funds?] [Do in-kind contributions count?]
 - ∄ Funding must be equal to or greater than 2% of the Total Development Costs reflected in *Volume 1, Tab 3 Part A. Development Cost Schedule*.
 - ∄ *Volume 1, Tab 2 Part B. Rent Schedule* must show that at least 3% of all low-income Units are designated to serve individuals or families with incomes at or below 30% of AMGI. Use normal rounding??
 - ∄ [Do City HOME/CDBG funds count?] Funds from the Department’s HOME and HTF sources will only qualify under this category if there is a Notice of Funding Availability (NOFA) out for the available funds and the Applicant is eligible under that NOFA.

2. One of the following must be submitted:
 - € Commitment of funds
 - a. The commitment must include a statement that the provider of funds is not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and that the funds committed were not first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application.
 - € Application for funding and a letter from the funding entity indicating that the application was received
 - a. The application should include the amount and terms of the proposed funding.

Volume 4 Tab 22 - Third-Party Funding Commitment Outside of Qualified Census Tracts: The form included in the *Competitive HTC Supplement* under *Volume 4, Tab 22* (§49.9(i)(26) of the 2007 QAP)

1. *Volume 4, Tab 22 Third-Party Funding Commitment Outside of Qualified Census Tracts*
 - € Funding must be equal to or greater than 2% of the Total Development costs reflected in the *Volume 1, Tab 3 Part A. Development Cost Schedule*. Use normal rounding??
 - € Funds from the Department's HOME and HTF sources will not qualify under this category and the third party source cannot be a loan from a commercial lender.
2. Commitment of funds must be attached
 - € Commitment must include a statement that the provider of funds is not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and that the funds committed were not first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application.
3. Evidence that Development is located outside of a Qualified Census Tract.

Volume 4 Tab 23 – Scoring Criteria Imposing Penalties (§49.9(i)(27) of the 2007 QAP)

1. Applicants that request extensions for submitting the carryover allocation agreement and/or 10% test packages will have five points deducted from their application scores.
 - € Only one five-point deduction will be made for carryover allocation extensions and only one five-point deduction will be made for 10% test

extensions, no matter how many extensions were requested. The penalty will be calculated and assessed based on the tax credit round immediately preceding the round that is being scored.

2. All Applicants and Developers must include an affidavit certifying that, as described in §49.9(i)(27)(B) of the 2007 QAP, they have not been removed by the lender, equity provider, or limited partners for failing to perform as required by the loan documents or partnership agreement. The affidavit must disclose each instance of removal with a detailed description of the circumstances. Failure to make the required disclosure will result in termination of the application and/or rescission of the allocation. Principals of the Applicant or Developer that are engaged in court proceedings at the time of Application must disclose the information to be evaluated on the basis of its individual circumstances. Three points will be deducted from the Application score for each instance of removal.

Volume 5. Selection Documentation for the Housing Trust Fund Program – Housing Trust Fund ONLY

This section is left blank. The Department does not intend to release funding through HTF for rental development in fiscal year 2006. If the Department does release funding at a later date, an addendum to the ASPM will be published on the Department's website.

Volume 6. Bond Submission Volume for Tax-Exempt Bond Developments Utilizing TDHCA as an Issuer – ONLY required to Tax-Exempt Bond Developments utilizing TDHCA as an issuer

This section left blank. The Department does not intend to require Volume 6 for Tax-Exempt Bond Developments utilizing TDHCA as an issuer.

Volume 7. Threshold and Selection Documentation for HOME CHDO and Rental Development Programs – HOME CHDO or Rental Development ONLY

Volume 7 is required for all Applicants applying for HOME CHDO or Rental Development Funds. Failure to submit this volume along with all other applicable volumes of the Uniform Application may result in termination of the Application.

The forms and templates required to complete Volume 7 are:

1. “2007 HOME Rental Application (DOC)” – Will be referred to as “**HOME Application**” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/home/applications.htm>.
2. “2007 HOME Application Supplement (PDF)” – Will be referred to as “**HOME Supplement**” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/home/applications.htm>
3. “2007 HOME CHDO Certification Application and Checklist (PDF)” – Will be referred to as “**HOME Certification**” in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/home/applications.htm>.

Volume 7 Tab 1 – Certifications: All forms included in the *HOME Application* under *Volume 7, Tab 1*

1. Corporate Resolution and Title Block: Submit evidence in the form of a Corporate Resolution, or printed letter for single entity applicants, of the individual authorized to execute the HOME agreement. The corporate resolution must also include a valid signature or title block for the Department to use in creating loan commitments or contracts.
2. IRS Determination Letter (only for nonprofit applicants): Submit a valid 501 (c) (3) or (4) conditional or final determination letter from the IRS
3. Certification for Assistance Form: Submit the completed form with the signature and date of the individual authorized to execute the HOME agreement.

Volume 7 Tab 2 – Federal Requirements: All forms included in the *HOME Application* under *Volume 7 Tab 2*

1. Davis-Bacon Act and Labor Standards Certification:
 - ☒ Check boxes certifying compliance with Davis-Bacon, if applicable.
 - ☒ Check boxes certifying compliance with Lead Base Housing Rule Checklist.
 - ☒ Complete the Labor Standards Officer portion of the certification, if applicable.
2. Local Government Support Letters: Submit a letter or resolution from an authorized local official stating the support of the local political jurisdiction for the proposed development.

3. DUNS Number Certification: Enter the DUNS number on the form by certifying compliance with the OMB requirement or provide the DUNS number on the form.
4. Form 424 Certification: Submit the completed form with the signature and date of the individual authorized to execute the HOME agreement.
5. Environmental Clearance Certification: (This certification only applies to Developments that have applied for non-federal funds within the last 12 months) Submit a written certification stating the parties involved in the Development started the project without the intention of using Federal assistance. All activity/work or choice limiting actions will cease as of the date of the HOME application and no actions will recommence until the site has received Environmental Clearance from the U.S Department of Housing and Urban Development.

Volume 7 Tab 3 – The Uniform Relocation Act Certification: Form included in the *HOME Application* under *Volume 7, Tab 3*

1. Applicants must certify compliance with the Uniform Relocation Act. Submit the completed form with the signature and date of the individual authorized to execute the HOME agreement.

Volume 7 Tab 4 – Program Design Policy: Form included in the *HOME Application* under *Volume 7, Tab 4*

1. Submit a Program Plan that encompasses the following:
 - a. The objectives of the Development
 - b. Identifies how the Development will assist the target population.
 - c. Describes how the community and other local stakeholders will be involved in the development process.
 - d. Describe the income and rent levels the Development will serve.
2. Submit a copy of the Tenant Selection Criteria for the proposed Development.
3. Submit a Local Opportunity Plan that includes the following:
 - a. A marketing plan that will notify local businesses, HUBs and the Chamber of Commerce of contractual opportunities.
 - b. Describe a process that insures that contracts that are typically let on a negotiated rather than bid basis in areas other than the Development area, are also let on a negotiated basis, whenever reasonable, when let in the Development area.
 - c. Appoint an officer of the corporation, or other individual as the Equal Opportunity Officer to coordinate the implementation of the statements above.

- d. Describe the methods used to maintain records, including copies of correspondence, memoranda, etc., that documents that all of the above actions have been taken.

Volume 7 Tab 5 – Management Plan Certification: Form included in the *HOME Application* under *Volume 7, Tab 5*

1. Submit the completed form with the signature and date of the individual authorized to execute the HOME agreement.

Volume 7 Tab 6 – Site and Neighborhood Standards: Form included in the *HOME Application* under *Volume 7, Tab 6*

- ☒ Please note, an unbound copy of the documentation submitted under this tab will need to be submitted with the Application. Census data can be found at www.census.gov
1. A letter from an architect or engineer stating that the proposed site is of adequate size, exposure and contour to accommodate the number of Units proposed.
 2. Letters (on company letterhead) from local utility providers confirming the site has access to the following services (if applicable).
 - ☒ Water and wastewater
 - ☒ Sewer
 - ☒ Electricity
 - ☒ Garbage disposal
 - ☒ Gas
 3. A written statement confirming the Applicant will comply with the applicable provisions of the following:
 - ☒ Title VI of the Civil Rights Act of 1964
 - ☒ Title VIII of the Civil Rights Act of 1968
 - ☒ E.O. 11063
 - ☒ HUD regulations.
 4. A written statement explaining how the proposed site will promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
 5. Census Data about the city where the proposed site will be located addressing the following:
 - ☒ Race/Ethnicity of the population
 - ☒ Poverty
 - ☒ Basic counts/Population

∄ Housing-Financial Characteristics

6. A written statement explaining how the proposed Development Site is accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.
7. A written statement confirming that travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, is not excessive. This is not applicable for applicants proposing new construction of senior housing.

Volume 7 Tab 7 – The Affirmative Marketing Certification: Form included in the *HOME Application* under *Volume 7, Tab 7*

1. Applicants must certify and submit the completed form with the signature and date of the individual authorized to execute the HOME agreement.

Volume 7 Tab 8 – CHDO Requirements: Required for Applicants applying under the HOME CHDO set-aside ONLY

∄ Please note the CHDO Certification Application is bound separately from this volume.

1. CHDO Application – Applicants must file a new and separate Application with each HOME Application.
2. Tenant Participation Plan: Submit a plan or board resolution detailing a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of affordable housing.
3. CHDO Participation: Submit a completed Certification of CHDO Ownership and Responsibilities form.

Volume 7 Tab 9 – CHDO Operating Support: Form included in the *HOME Application* under *Volume 7, Tab 9*

1. Applicant applying for HOME CHDO Operating Expense funds must complete and certify to the information provided in this tab.
2. Applicants must submit behind this tab two years of audited financial statements, or IRS forms 990 and all associated paperwork related to the Applicants filing for federal taxes, for the past two fiscal years.

Volume 7 Tab 10 – Accessibility and Special Needs Populations: Form included in the *HOME Application* under *Volume 7, Tab 10*

1. Integrated Housing Standard Certification: Submit the completed form with the signature and date of the individual authorized to execute the HOME agreement.
2. Special Needs Certification: Applicants must certify to the number of Units that will be set-aside to serve Special Needs tenants. Applicants electing to set-aside Units must also provide supportive services. Submit the completed form with the signature and date of the individual authorized to execute the HOME agreement.

Volume 7 Tab 11 – Support Services Certification: Form included in the *HOME Application* under *Volume 7, Tab 11*

1. Applicants must certify to the Supportive Services they will provide. Check the box that is applicable to the Development. Submit the completed form with the signature and date of the individual authorized to execute the HOME agreement.

Volume 7 Tab 12 – Additional State Requirements Certification: Form included in the *HOME Application* under *Volume 7, Tab 12*

1. Applicants must certify that the proposed Development Site is located within or outside of the boundaries of local Participating Jurisdictions (PJ). Check the boxes that are applicable to the development. Please note, sites located within the boundaries of the PJ must check additional boxes that apply to the funding eligibility/ineligibility of the site.

VIII. PUBLIC VIEWING OF PRE-APPLICATIONS AND APPLICATIONS

The Department will allow the public to view any Pre-Applications or Applications that have been submitted to the Department in an electronic format. These electronic versions will be available 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. An Applicant may request a copy of an electronic copy between the hours of 8:00 am and 5:00 pm Monday through Friday. There may be an associated cost with requesting this information.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Draft Timeline for the 2007 Multifamily Competitive Housing Tax Credit Application Cycle
Multifamily Finance Production Division

NOVEMBER 2006

Tuesday, November 28	Houston HTC Application Workshop
Wednesday, November 29	Austin HTC Application Workshop
Thursday, November 30	Dallas HTC Application Workshop

December 2006

Friday, December 1	Deadline for Approval of the QAP Deadline for neighborhood organizations to register as being on record with the state or county, pursuant to §49.9(i)(2)(A)(v) of the QAP
Friday, December 8	Application Acceptance Period Begins

January 2007

Monday, January 8	5:00 p.m. Pre-Application Deadline
Monday, January 15	Deadline for Local Elected Official Notification as required by §49.9(h)(8)(A)(ii)(I) of the QAP
Monday, January 15	Posting of the Pre-Application Submission Log
Monday, January 29	Results of the Pre-Application round released

February 2007

Thursday, February 15	Due date for Pre-Submissions: Experience Certifications
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MARCH 2007

Thursday, March 1	Deadline for HTC 9% Competitive Applications
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Letters for QCP must be received by the Department if a Pre-Application was submitted

Thursday, March 15

Department releases a log of all Application submissions

APRIL 2007

Monday, April 2

Market Study, Environmental Site Assessments, Appraisals, Property Condition Assessments and related documents due to the Departments

Letters for QCP must be received by the Department if no Pre-Application was submitted

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 9-20

Public Hearings on Applications (not firm)

JUNE 2007

June 14

Board meeting to review HTC appeals not previously resolved

June 15

Notification by Department to all applicants of their support/opposition (40 days prior to July board meeting)

June 16

Deadline for all public comment to go to Board

June 28

Board meeting to review staff HTC recommendations and approve a list of Applications for allocations of tax credits

JULY 2007

July 12

Board meeting

July 27

Board meeting: Board approval of final commitments for HTC (legislated deadline is July 31) awards

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
November 9, 2006

Action Item

Presentation, Discussion and Possible Adoption of the Proposed Repeal of 10 Texas Administrative Code Chapter 35, 2005 Multifamily Housing Revenue Bond Rules and Proposed Adoption of 10 Texas Administrative Code Chapter 35, 2007 Draft Multifamily Housing Revenue Bond Rules.

Required Action

1. Adoption of Repeal of Title 10, Part 1, Chapter 35- 2005 Final Multifamily Housing Revenue Bond Rules
2. Adoption of New Title 10, Part 1, Chapter 35 – 2007 Final Multifamily Housing Revenue Bond Rules

Background

At the August 30, 2006, Board Meeting, the Board approved the Proposed New Title 10 Texas Administrative Code, Part 1, Chapter 35 - 2007 Draft Multifamily Housing Revenue Bond Rules and the proposed repeal of the Title 10 Texas Administrative Code, Part 1, Chapter 35 - 2005 Multifamily Housing Revenue Bond Rules for public comment. The proposals were published in the *Texas Register* on September 15, 2006, for the public to provide comments. In order to receive additional comments on all proposed rules, the Texas Department of Housing and Community Affairs staff held public hearings in the cities of Amarillo, Brownwood, Dallas, Tyler, Beaumont, Houston, Austin, Bryan, San Antonio, Corpus Christi, Harlingen, Midland and El Paso. Ninety-two (92) people attended these hearings.

The Department has not received any public comment specific to the 2007 Multifamily Housing Revenue Bond Rules or the Repeal; however there was comment to the Draft 2007 Qualified Allocation Plan and Rules that impacts this rule as well. Comment responses are included in the QAP agenda item which precedes this presentation. Below is a summary of that comment.

§35.6 (d)(7) – Pre-Application Scoring Criteria – Proper Site Control – (1,15,16)

Comment:

This year language has been added stating that for Tax Exempt Bond Developments, site control must be valid for 150 days after the Application Acceptance Period or through the full reservation and allocation period, whichever is longer. Comment suggests that this period of site control is extremely difficult to achieve with a Rehabilitation project. Owners of tenanted developments are generally unwilling to contractually agree to keep their properties off the market for such a long period of time. Comment requests the deletion of the proposed insertion and return to the language of the 2006 QAP (3). Other comment objects to the current language in the QAP regarding the requirement for site control for bond deals because they feel that this additional requirement will be harmful to developers that have chosen good sites that are highly sought after and particularly damaging to developers attempting to close on acquisition/rehabilitation deals where site control is always an issue. Comment does not object to this same requirement in TDHCA's proposed Bond rules as they feel TDHCA should be allowed to dictate

their own multi-family rules; just as the local HFCs want the ability to manage their individual programs (1,15,16).

Staff Response:

Staff appreciates the input and recommends the following change to this language:

(7) Proper Site Control (as defined in §35.3(21) of this title control through December 1, 2006 with option to extend through March 1, 2007 (Applications submitted for lottery) or 90 days from the date of the bond reservation with the option to extend through the scheduled TDHCA Board meeting. The potential expiration of site control does not warrant the application being presented to the TDHCA Board prior to the scheduled meeting.

§35.6(f)(1) – Final Application – Public Notification Signage (1,15,16)

Comment:

Comment asserts the need for flexibility in the time required for publishing the public hearing information. The federal requirement is (14) fourteen days prior to the public hearing; however, commenter agrees (30) thirty days prior to the hearing would allow the needed flexibility (1,15,16).

Staff Response:

Staff concurs with the comment and recommends the following language:

(1) A Public Notification Sign shall be installed on the proposed Development site, regardless of Priority, within thirty (30) days of the Department’s receipt of Volumes I and II. The applicant must certify to the fact that the sign was installed within (thirty) 30 days of Volume I and II submission and the date, time and location of the Bond Public Hearing must be included on the sign at least (thirty) 30 days prior to the hearing date. The sign must be at least four (4) feet by eight (8) feet in size and be located within twenty (20) feet of, and facing, the main road adjacent to the site. The sign shall be continuously maintained on the site until the day the TDHCA Board takes final action on the Application for the development. The information and lettering on the sign must meet the requirements identified in the Application. As an alternative to installing a Public Notification Sign and at the same required time, the Applicant may instead, at the Applicant's Option, mail written notification to all addresses located within the footage distance required by the local municipality zoning ordinance or 1,000 feet, if there is no local zoning ordinance or if the zoning ordinance does not require notification, of any part of the proposed Development site. This written notification must include the information otherwise required for the sign...

Recommendation

Staff recommends the Board adopt the Repeal 10 Texas Administrative Code Chapter 35 and Adopt the New 10 Texas Administrative Code Chapter 35 for the 2007 Multifamily Housing Revenue Bond Rules as presented and allow staff to make changes to these rules, where applicable, to be consistent with other rules being approved at this Board meeting.

Comment Source Reference

Tab #	Organization
1	(TAAHP) Texas Affiliation of Affordable Housing Providers, Diana McIver (Jen update)
2	Chris Hajovsky, Individual
3	Coats Rose, Barry Palmer
4	Capital Consultants and Texas United Independent Developers Association, Eric Opiela
5	Tekoa Partners, Ltd , William J. Lee
6	Office of State Representative Ryan Guillen, Robert McVey
7	Gary Driggers, Individual
8	Lancaster Pollard, Ginger McGuire
9	Trammell Crow Residential, Brent Stewart
10	Kenneth H. Mitchell, P.C., Kenneth Mitchell
11	SBG Development Services, L.P., Robert Sherman
12	Corporation for Supportive Housing, Michelle D. Hoerth
13	Winston Sullivan
14	National Housing Trust, Michael Bodaken
15	(TALFA) Texas Association of Local Housing Finance Agencies, Jeanne Talerico & David Clark
16	Capital Area Housing Finance Corporation, Jim Shaw
17	DMA Development Company, Diana Melver
18	Granger McDonald, Individual
19	Gary Kersch, Individual
20	Anderson Consulting, Sarah Anderson
21	Barry Kahn, Individual
22	American Housing Foundation, Glenda David
23	David Marquez
24	Solutions Plus, Mike Sugrue
25	NRP Group, Dan Markson
26	Patrick Barbolla, Individual
27	Dennis Hoover, Individual
28	Rural Rental Housing, Sox Johnson
29	Colonia Communities, David Turek

30	City of Wichita Falls, Nortex HFC, Texas Association of Local Finance Agencies, David Clark
31	Bobby Bowling, Individual and Tropicana Properties
32	Fortuna Enterprises, Robert de los Santos
33	Search Homeless Project, Cathy Crouch
34	Fairbanks Area Partnership, Melissa Brandon
35	Houston Housing Finance Corporation, Jeff Smith
36	NRP Group, Debra Guerrero
37	Texas Real Estate Group, Jeff Lester
38	Youngs Company, Don Youngs
39	Mark-Dana Corporation, David M. Koogler
40	O'Connor and Associates, Craig Young
41	Hyperion Holdings, Brian Cogburn
42	Donna Housing Finance Corporation, Liz Hernandez and Bob Gonzales
43	McAllen Housing Authority, Jose A Saenz
44	Odyssey Residential Holdings, LP, Bill Fisher
45	Edinburg Housing Authority, Estella L. Trevino
46	NAFRO, Richard Franco
47	Pharr Housing Authority, Roy Navarro
48	Weslaco Housing Authority, Ruben Sepulveda
49	Beaumont Housing Authority, Robert L. Reyna
50	Pharr Housing Development Corporation, Fernando Lopez
51	Flores Residential, Apolonio Flores
52	Community Development Corporation of South Texas, Inc., Robert A. Calvillo
53	Texarkana Housing Authority, Richard Herrington
54	(TACDC), Texas Association of Community Development Corporations, Matt Hull
55	Cambell & Riggs, Doak D. Brown
56	NuRock Development, Daniel Allgeier
57	Barry Kahn
58	Songhai Ventures, Inc, Cherno Njie
59	Tropicana Properties, Demetrio Jimenez
60	Margie Bingham

58	Songhai Ventures, Inc, Cherno Njie	Duplicate
59	Tropicana Properties, Demetrio Jimenez	Duplicate
60	Margie Bingham	Duplicate



Multifamily Finance Production Division

FINAL ~~2006~~ 2007 MULTIFAMILY HOUSING REVENUE BOND RULES
TITLE 10, PART 1, CHAPTER ~~3335~~, TEXAS ADMINISTRATIVE CODE

§ 3335 .1 INTRODUCTION	2
§ 3335 .2 AUTHORITY	2
§ 3335 .3 DEFINITIONS	2
§ 3335 .4 POLICY OBJECTIVES & ELIGIBLE DEVELOPMENTS	45
§ 3335 .5 BOND RATING AND INVESTMENT LETTER.....	45
§ 3335 .6 APPLICATION PROCEDURES, EVALUATION AND APPROVAL.....	55
§ 3335 .7 REGULATORY AND LAND USE RESTRICTIONS	1614
§ 3335 .8 FEES.....	1817
§ 3335 .9 WAIVER OF RULES	1817
§ 3335 .10 NO DISCRIMINATION.....	1917

TITLE 10. COMMUNITY DEVELOPMENT
PART I. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER ~~3335~~. MULTIFAMILY HOUSING REVENUE BOND RULES
10 TAC §§~~3335~~.1 - ~~3335~~.10

~~§3335~~.1. Introduction

The purpose of this Chapter ~~33-35~~ is to state the Texas Department of Housing and Community Affairs (the "Department") requirements for issuing Bonds, the procedures for applying for multifamily housing revenue Bond financing, and the regulatory and land use restrictions imposed upon Developments financed with the issuance of Bonds for the ~~2006-2007~~ Private Activity Bond Program Year. The rules and provisions contained in Chapter ~~3335~~, of this title are separate from the rules relating to the Department's administration of the Housing Tax Credit Program. Applicants seeking a housing tax credit allocation should consult the Department's Qualified Allocation Plan and Rules ("QAP"), in effect for the program year for which the Housing Tax Credit application will be submitted. If the applicable QAP contradicts rules set forth in this chapter, the applicable QAP will take precedence over the rules in the chapter.

~~§3335~~.2. Authority

The Department receives its authority to issue Bonds from Chapter 2306 of the Texas Government Code. All Bonds issued by the Department must conform to the requirements of the Act. Notwithstanding anything herein to the contrary, tax-exempt Bonds which are issued to finance the Development of multifamily rental housing are specifically subject to the requirements of the laws of the State of Texas, including but not limited to Chapter 2306 and Chapter 1372 of the Texas Government Code relating to Private Activity Bonds, and to the requirements of the Code (as defined in this chapter).

~~§3335~~.3. Definitions

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

~~(1) Administrative Deficiency~~—as defined in §49.3(1) of this title.

~~(2) Applicant~~—as defined in §49.3(6) of this title. ~~any Person or Affiliate of a Person who is a member of the General Partner, who files a Pre Application or full Application with the Department requesting the Department issue Bonds to finance a Development.~~

~~(23) Application~~-- ~~as defined in §49.3(7) of this title.~~ ~~an Application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material.~~

~~(34) Board~~--the Governing Board of the Department.

~~(45) Bond~~--an evidence of indebtedness or other obligation, regardless of the sources of payment, issued by the Department under the Act, including a bond, note, or bond or revenue anticipation note, regardless of whether the obligation is general or special, negotiable, or nonnegotiable, in bearer or registered form, in certified or book entry form, in temporary or permanent form, or with or without interest coupons.

~~(56) Code~~--the U. S. Internal Revenue Code of 1986, as amended from time to time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued by the United States Department of the Treasury or the Internal Revenue Service.

~~(67) Development~~—~~as defined in §49.3(31) of this title.~~ ~~property or work or a development, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the Department for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, or use by individuals and families of Low Income and Very Low Income and Families of Moderate Income in need of housing. The term includes:~~

~~(A) buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewage facilities, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community,~~

~~and recreational facilities the Department determines to be necessary, convenient, or desirable appurtenances; and~~

~~(B) multifamily dwellings in rural and urban areas.~~

~~(78) Development Owner-- as defined in §49.3(33) of this title. an Applicant that is approved by the Department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a Development subject to the regulatory powers of the Department and other terms and conditions required by the Department and the Act.~~

~~(89) Eligible Tenants--means~~

~~(A) individuals and families of Extremely Low, Very Low and Low Income,~~

~~(B) Families of Moderate Income (in each case in the foregoing subparagraph (A) and (B) of this paragraph as such terms are defined by the Issuer under the Act), and~~

~~(C) Persons with Special Needs, in each case, with an Anticipated Annual Income not in excess of 140% of the area median income for a four-person household in the applicable standard metropolitan statistical area; provided that all Low-Income Tenants shall count as Eligible Tenants.~~

~~(910) Extremely Low Income--the income received by an individual or family whose income does not exceed thirty percent (30%) of the area median income or applicable federal poverty line, as determined by the Act.~~

~~(101) Family of Moderate Income--a family:~~

~~(A) that is determined by the Board to require assistance taking into account~~

~~(i) the amount of total income available for the housing needs of the individuals and family,~~

~~(ii) the size of the family,~~

~~(iii) the cost and condition of available housing facilities,~~

~~(iv) the ability of the individuals and family to compete successfully in the private housing market and to pay the amounts required by private enterprise for sanitary, decent, and safe housing, and~~

~~(v) standards established for various federal programs determining eligibility based on income;~~

~~and~~

~~(B) that does not qualify as a family of Low Income.~~

~~(142) Ineligible Building Type-- as defined in §49.3(52) of this title. as defined in the Department's QAP and Rules in effect for the program year for which the Bond and Housing Tax Credit applications are submitted.~~

~~(123) Institutional Buyer--means~~

~~(A) an accredited investor as defined in Regulation D promulgated under the Securities Act of 1933, as amended (17 CFR §230.501(a)), but excluding any natural person or any director or executive officer of the Department (17 CFR §§230.501(a)(4) through (6)) or~~

~~(B) a qualified institutional buyer as defined by Rule 144A promulgated under the Securities Act of 1935, as amended (17 CFR §230.144A).~~

~~(14) Intergenerational Housing--as defined in §49.3(53) of this title.~~

~~(135) Low Income--the income received by an individual or family whose income does not exceed eighty percent (80%) of the area median income or applicable federal poverty line, as determined by the Act.~~

~~(146) Land Use Restriction Agreement (LURA)--an agreement between the Department and the Development Owner which is binding upon the Development Owner's successors in interest that encumbers the Development with respect to the requirements of law, including this title, the Act and Section 42 of the Code.~~

~~(17) New Construction--as defined in §49.3(59) of this title.~~

~~(158) Owner--an Applicant that is approved by the Department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a Development subject to the regulatory powers of the Department and other terms and conditions required by the Department and the Act.~~

~~(169) Persons with Special Needs--persons who~~

~~(A) are considered to be disabled under a state or federal law,~~

~~(B) are elderly, meaning 60 years of age or older or of an age specified by an applicable federal program,~~

~~(C) are designated by the Board as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise, or~~

FINAL 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES

(D) are legally responsible for caring for an individual described by subparagraph (A), (B) or (C) of this paragraph above and meet the income guidelines established by the Board.

(1720) Private Activity Bonds--any Bonds described by §141(a) of the Code.

(1821) Private Activity Bond Program Scoring Criteria--the scoring criteria established by the Department for the Department's Multifamily Housing Revenue Bond Program, §35.6(d) of this title.

(1922) Private Activity Bond Program Threshold Requirements--the threshold requirements established by the Department for the Department's Multifamily Housing Revenue Bond Program, §35.6(c) of this title.

(2023) Program--the Department's Multifamily Housing Revenue Bond Program.

(214) Proper Site Control--Regarding the legal control of the land to be used for the Development, means the earnest money contract is in the name of the Applicant (principal or member of the General Partner); fully executed by all parties and escrowed by the title company.

(225) Property--the real estate and all improvements thereon, whether currently existing or proposed to be built thereon in connection with the Development, and including all items of personal property affixed or related thereto.

(236) Qualified 501(c)(3) Bonds--any Bonds described by §145(a) of the Code.

(27) Reconstruction - as defined in §49.9(75) of this title.

(28) Rehabilitation--as defined in §49.9(77) of this title.

(249) Tenant Income Certification--a certification as to income and other matters executed by the household members of each tenant in the Development, in such form as reasonably may be required by the Department in satisfaction of the criteria prescribed by the Secretary of Housing and Urban Development under §8(f)(3) of the Housing Act of 1937 ("the Housing Act") (42 U.S.C. 1437f) for purposes of determining whether a family is a lower income family within the meaning of the §8(f)(1) of the Housing Act.

(2530) Tenant Services--social services, including child care, transportation, and basic adult education, that are provided to individuals residing in low income housing under Title IV-A, Social Security Act (42 U.S.C. §601 et seq.), and other similar services.

(2631) Tenant Services Program Plan--the plan, subject to approval by the Department, which describes the Tenant Services to be provided by the Development Owner in a Development.

(2732) Trustee--a national banking association organized and existing under the laws of the United States, as trustee (together with its successors and assigns and any successor trustee).

(2833) Unit--~~as defined in §49.9(91) of this title. any residential rental Unit in a Development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking and sanitation.~~

(2934) Very Low Income--the income received by an individual or family whose income does not exceed sixty percent (60%) of the area median income or applicable federal poverty line as determined under the Act.

§3335.4. Policy Objectives & Eligible Developments

The Department will issue Bonds to finance the rehabilitation, preservation or construction of decent, safe and affordable housing throughout the State of Texas. Eligible Developments may include those which are constructed, acquired, or rehabilitated and which provide housing for individuals and families of Low Income, Very Low Income, or Extremely Low Income, and Families of Moderate Income.

§3335.5. Bond Rating and Investment Letter

(a) **Bond Ratings.** All publicly offered Bonds issued by the Department to finance Developments shall have and be required to maintain a debt rating the equivalent of at least an "A" rating assigned to long-term obligations by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or Moody's Investors Service, Inc. If such rating is based upon credit enhancement provided by an institution other than the Applicant or Development Owner, the form and substance of such credit enhancement shall be subject to approval by the Board, which approval shall be evidenced by adoption by the Board of a resolution authorizing

the issuance of the credit-enhanced Bonds. Remedies relating to failure to maintain appropriate credit ratings shall be provided in the financing documents relating to the Development.

(b) **Investment Letters.** Bonds rated less than "A," or Bonds which are unrated must be placed with one or more Institutional Buyers and must be accompanied by an investment letter acceptable to the Department. Subsequent purchasers of such Bonds shall also be qualified as Institutional Buyers and shall sign and deliver to the Department an investment letter in a form acceptable to the Department. Bonds rated less than "A" and Bonds which are unrated shall be issued in physical form, in minimum denominations of one hundred thousand dollars (\$100,000), and shall carry a legend requiring any purchasers of the Bonds to sign and deliver to the Department an investment letter in a form acceptable to the Department.

~~§3335.6.~~ **Application Procedures, Evaluation and Approval**

(a) **Application Costs, Costs of Issuance, Responsibility and Disclaimer.** The Applicant shall pay all costs associated with the preparation and submission of the Application--including costs associated with the publication and posting of required public notices--and all costs and expenses associated with the issuance of the Bonds, regardless of whether the Application is ultimately approved or whether Bonds are ultimately issued. At any stage during the Application process, the Applicant is solely responsible for determining whether to proceed with the Application, and the Department disclaims any and all responsibility and liability in this regard.

(b) **Pre-application.** An Applicant who requests financing from the Department for a Development shall submit a pre-application in a format prescribed by the Department. Within fourteen (14) days of the Department's receipt of the pre-application, the Department will be responsible for federal, state, and local community notifications of the proposed Development. Upon review of the pre-application, if the Development is determined to be ineligible for Bond financing by the Department, the Department will send a letter to the Applicant explaining the reason for the ineligibility. If the Development is determined to be eligible for Bond financing by the Department, the Department will score and rank the pre-application based on the Private Activity Bond Program Scoring Criteria as described in subsection (d) of this section. The Department will ~~score and rank~~ the pre-application with higher scores ranking higher within each priority defined by §1372.0321, Texas Government Code. All Priority 1 Applications will be ranked above all Priority 2 Applications which will be ranked above all Priority 3 Applications, regardless of score, reflecting a priority structure which gives consideration to the income levels of the tenants and the rent levels of the units consistent with Section 2306.359. This priority ranking will be used throughout the calendar year. In the event two or more Applications receive the same score, the Department will use, as a tie-breaking mechanism, a priority first for Applications involving rehabilitation; then if a tie still exists, the Application with the greatest number of points awarded for Quality and Amenities for the Development; then if a tie still exists, the Department will grant preference to the pre-application with the lower number of net rentable square feet per bond amount requested. Pre-Applications must meet the threshold requirements as stated in the Private Activity Bond Program Threshold Requirements as set out in subsection (c) of this section. ~~The Private Activity Bond Program Threshold Requirements will be posted on the Department's website.~~ After scoring and ranking, the Development and the proposed financing structure will be presented to the Department's Board for consideration of a resolution declaring the Department's initial intent to issue Bonds (the "inducement resolution") with respect to the Development. Approval of the inducement resolution does not guarantee final Board approval of the Bond Application. Department staff, for good cause, may recommend that the Board not approve an inducement resolution for an Application. After Board approval of the inducement resolution, the ~~scored and ranked~~ induced Applications will be submitted to the Texas Bond Review Board for its lottery, waiting list or carryforward processing in rank order. The Texas Bond Review Board will draw the number of lottery numbers that equates to the number of eligible Applications submitted by the Department for participation in lottery. The lottery numbers drawn will not equate to a specific Development. The Texas Bond Review Board will thereafter assign the lowest lottery number drawn to the highest ~~scored and ranked~~ Application as previously determined by the Department. The Texas Bond Review Board will issue reservations of allocation for Applications submitted for the waiting list or carryforward in the order ~~determined~~ provided by the Department based on rank. The criteria by which a Development may be deemed to be eligible or ineligible are explained below in subsection (g) of this section, entitled Evaluation Eligibility Criteria. The Private Activity Bond Program Scoring Criteria will be posted on the Department's website. ~~The pre-application shall consist of the following information:~~

- ~~(1) Completed Current Uniform Application forms in the format required by the Department;~~
- ~~(2) Texas Bond Review Board's Residential Rental Attachment;~~
- ~~(3) Relevant Development Information;~~

FINAL 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES

~~(4) Certification of Local Elected Official request for neighborhood organization information and Public Notification Information;~~

~~(5) Certification and agreement to comply with the Department's rules;~~

~~(6) Agreement of responsibility of all cost incurred;~~

~~(7) An organizational chart showing the structure of the Applicant and the ownership structure of any principals of the Applicant;~~

~~(8) Evidence that the Applicant and principals are registered with the Texas Secretary of State, or if the Applicant has not yet been formed, evidence that the name of the Applicant is reserved with the Secretary of State;~~

~~(9) Organizational documents such as partnership agreements and articles of incorporation, as applicable, for the Applicant and its principals;~~

~~(10) Documentation of non-profit status if applicable; Evidence of good standing from the Comptroller of Public Accounts of the State of Texas for the Applicant and its principals; Corporate resumes and individual resumes of the Applicant and any principals;~~

~~(11) A copy of an executed earnest money contract between the Applicant and the seller of the Property. For all Applications submitted the earnest money contract must be in effect at the time of submission of the application and expire no earlier than December 1 of the year preceding the applicable program year for lottery Applications and expire no earlier than 120 days after the date of submission for waiting list and carryforward Applications. The earnest money contract must stipulate and provide for the Applicant's option to extend the contract expiration date through March 1 of the program year for lottery Applications or option to extend an additional 120 days from the initial expiration for waiting list and carryforward Applications, subject only to the seller's receipt of additional earnest money or extension fees, so that the Applicant will have site control at the time a reservation of allocation is granted. If the Applicant owns the Property, a copy of the recorded warranty deed is required;~~

~~(12) Evidence of zoning appropriate for the proposed use, application for the appropriate zoning or statement that no zoning is required;~~

~~(13) A local map showing the location of the proposed Property site;~~

~~(14) A boundary survey or subdivision plat which clearly identifies the location and boundaries of the subject Property;~~

~~(15) Name, address and telephone number of the Seller of the Property;~~

~~(16) Construction draw and lease up proforma for Developments involving new construction;~~

~~(17) Past two years' operating statements for existing Developments;~~

~~(18) Current market information which includes rental comparisons;~~

~~(19) Documentation of local Section 8 utility allowances;~~

~~(20) Verification/Evidence of delivery of federal, state, and local community notifications;~~

~~(21) Self Scoring Criteria; and~~

~~(22) Such other items deemed necessary by the Department per individual application.~~

(c) Pre-Application Threshold Requirements.

(1) As the Department reviews the Application, the Department will use the following assumptions, even if not reflected by the Applicant in the Application. Prequalification Assumptions:

(A) Development Feasibility:

(i) Debt Coverage Ratio must be greater than or equal to 1.4015;

(ii) Annual Expenses must be at least \$3,800 per Unit or \$3.75 per square foot;

(iii) Deferred Developer Fees are limited to 80% of Developer's Fees;

(iiiiv) Contractor Fee, Overhead and General Requirements are limited to 146% of direct costs plus site work cost; and

(v) Overhead is limited to 2% of direct costs plus site work cost;

(vi) General Requirements are limited to 6% of direct costs plus site work cost;

(ivii) Developer Fees cannot exceed 15% of the project's Total Eligible Basis.

(B) Construction Costs Per Unit Assumption. The acceptable range is \$55 to 65 Costs not to exceed \$75 per Unit for general population developments and \$55 to \$75 \$85 for elderly developments (Acquisition / Rehab developments are exempt from this requirement);

(C) Anticipated Interest Rate Assumption and Term. 6.00% for 30-year financing and 6.75% for 40-year financing as stated in the preliminary financing commitment from the Application;

(D) Size of Units (Acquisition / Rehab developments are exempt from this requirement);

(i) One bedroom Unit must be greater than or equal to 650 square feet for family and 550 square feet for senior Units.

(ii) Two bedroom Unit must be greater that or equal to 900 square feet for family and 750 square feet for senior Units.

FINAL 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES

(iii) Three bedroom Unit must be greater than or equal to 1,000 square feet for family.

(iv) Four bedroom Unit must be greater than or equal to 1200 square feet for family.

(2) Appropriate Zoning. Evidence of appropriate zoning for the proposed use or evidence of application made and pending decision;

(3) Executed Site Control. Properly executed and escrow receipted site control through ~~12/1/05~~ December 1, 2006 with option to extend through ~~3/1/06~~ March 1, 2007 for lottery Applications or ~~150 days later than the date of application submission or through the full reservation period, whichever is longer~~ 90 days from the date of the bond reservation with the option to extend through the scheduled TDHCA Board meeting ~~120 days from date of Application submission with option to extend an additional 120 days from the initial expiration for waiting list and carryforward Applications.~~ The potential expiration of site control does not warrant the application being presented to the TDHCA Board prior to the scheduled meeting;

(4) Previous Participation and Authorization to Release Credit Information (located in the uniform application);

(5) Current Market Information (must support affordable rents);

(6) Completed current TDHCA ~~Uniform Bond Pre-~~Application and application exhibits;

(7) Completed Multifamily Rental Worksheets;

(8) Certification of Local Elected Official request for neighborhood organization information and Public Notification Information (see application package);

(9) Relevant Development Information and Public Notification Information Form (see application package);

(10) Completed ~~2006-2007~~ Bond Review Board Residential Rental Attachment;

(11) Signed letter of Responsibility for All Costs Incurred;

(12) Signed Mortgage Revenue Bond Program Certification Letter;

(13) Evidence of Paid Application Fees (\$1,000 to TDHCA, \$1,500 to Vinson and Elkins and \$5,000 to Bond Review Board);

(14) Boundary Survey or Plat clearly identifying the location and boundaries of the subject property;

(15) Local Area map showing the location of the Property and Community Services / Amenities within a three (3) mile radius;

(16) Utility Allowance documented from the Appropriate Local Housing Authority;

(17) Organization Chart showing the structure of the Applicant and the ownership structure of any principals of the Applicant with evidence of Entity Registration or Reservation with the Secretary of State; and

(18) Required Notification. Evidence of notifications shall include a copy of the exact letter and other materials that were sent to the individual or entity, a sworn affidavit stating that they made all the required notifications prior to the deadlines and a copy of the entire mailing list (including names and complete addresses) of all the recipients. Proof of notification must not be older than three months prior to the date of Application submission date. Notification must be sent to all the following individuals and entities (If the QAP and Rules in effect for the program year for which the Bond and Housing Tax Credit applications are submitted reflect a notification process that is different from the process listed below, then the QAP and Rules will override the notification process listed below):

(A) State Senator and Representative that represents the community containing the development;

(B) Presiding Officer of the governing body of any municipality containing the development and all elected members of that body (Mayor, City Council members);

(C) Presiding Officer of the governing body of the county containing the development and all elected members of that body (County Judge and/or Commissioners);

(D) School District Superintendent of the school district containing the development;

(E) Presiding Officer of the School Board of Trustees of the school district containing the development; and

~~(F) Evidence must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Local Elected Official Notification" as outlined in the Application was sent no later than twenty one (21) days prior to the Application submission to the local elected official for the city or if located outside of a city, then the county where the Development is proposed to be located. If the Development is located in a jurisdiction that has district based local elected officials, or both at-large and district based local elected officials, the notification must be made to the city council member or county commissioner representing that district; if the Development is located in a jurisdiction that has only at-large local elected official, the notification must be made to the mayor or county judge for the jurisdiction. A copy of the reply letter or other official third party documentation from the local elected official must be provided. For urban/exurban areas, entities identified in the letters from the local elected official whose listed address has the same zip code as the zip code for the Development must be provided with written notification,~~

FINAL 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES

~~and evidence of the notification must be provided. If any other zip codes exist within a half mile of the Development site, then all entities identified in the letters with adjacent zip codes must also be provided with written notification, and evidence of that notification must be provided. For rural areas, all entities identified in the letters whose listed address is within a half mile of the proposed Development site must be provided with written notification, and evidence of that notification must be provided. If no response is received from the local elected official by seven (7) days prior to Application submission then the Applicant must submit a statement attesting to that fact in the format provided by the Department as part of the Application.~~

(F) Evidence in the form of a certification that all of the notifications required under this paragraph have been made. Requests for Neighborhood Organizations under subparagraph (i) of this paragraph must be made by the deadlines described in that clause. Evidence of notification must meet the requirements identified in subparagraph (ii) of this paragraph to all of the individuals and entities identified in subparagraph (iii) of this paragraph.

(i) The Applicant must request Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site as follows:

(I) No later than twenty-one (21) days prior to the date the Application is submitted, the Applicant must e-mail, fax or mail with registered receipt a completed, "Neighborhood Organization Request" letter as provided in the Pre-Application materials to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request neighborhood organizations from that source in the same format.

(II) If no reply letter is received from the local elected officials by seven (7) days prior to the Application submission, then the Applicant must certify to that fact with the "Pre-Application Notification Certification Form" provided in the Pre-Application materials.

(III) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of the Pre-Application Submission in the "Pre-Application Notification Certification Form" provided in the Pre-Application.

(ii) No later than the date the Pre-Application is submitted, Notification must be sent to all of the following individuals and entities by e-mail, fax or mail with registered receipt in the format required in the "Pre-Application Notification Template" provided in the Pre-Application materials. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are not required to notify city officials. Evidence of Notification is required in the form of a certification in the "Pre-Application Notification Certification Form" provided in the Pre-Application materials. It is strongly encouraged that Applicants retain proof of notifications in the event the Department requires proof of Notification. Officials to be notified are those officials in office at the time the Pre-Application is submitted.

(I) Neighborhood Organizations on record with the city, state or county whose boundaries include the proposed Development Site as identified in subsection (i)(III) of this subparagraph.

(II) Superintendent of the school district containing the Development;

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

Development;

(IV) Mayor of any municipality containing the Development;

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

Development;

(VI) Presiding officer of the governing body of the county containing the Development;

(VII) All elected members of the governing body of the county containing the Development;

(VIII) State representative of the district containing the Development; and

(IX) State senator of the district containing the Development.

(iii) Each such notice must include, at a minimum, all of the following:

(I) The Applicant's name, address, individual contact name and phone number;

(II) The Development name, address, city and county;

(III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Private Activity Bonds and Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(IV) Statement of whether the Development proposes New Construction or Rehabilitation;

FINAL 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES

(V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing, or elderly);

(VI) The approximate total number of Units and approximate total number of low-income Units;

(VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate; and

(VIII) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Pre-Application, which are subject to change as annual changes in the area median income occur.

(d) Pre-Application Scoring Criteria.

(1) Construction Cost Per Unit includes: direct hard costs, site work, contractor profit, overhead, general requirements and contingency. Calculation will be hard costs per square foot of net rentable area. Must be greater than or equal to ~~\$60~~85 per square foot (1 point) (Acquisition / Rehab will automatically receive (1 point)).

(2) Size of Units. Average size of all Units combined in the development must be greater than or equal to 950 square foot for family and must be greater than or equal to 750 square foot for elderly (5 points). (Acquisition / Rehab developments will automatically receive 5 points).

(3) Period of Guaranteed Affordability for Low Income Tenants. Add 10 years of affordability after the extended use period for a total affordability period of 40 years (1 point).

(4) Quality and Amenities (~~(maximum 35 points) Acquisition / Rehab (with no demolition / new construction) will receive double points not to exceed 35 points~~). (If there are changes to the Application prior to closing that have an adverse affect on the score and ranking order and that would have resulted in the Application being placed below another Application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points). Substitutions in amenities will be allowed as long as the overall score is not affected). Applications in which Developments provide specific qualities and amenities at no extra charge to the tenant will be awarded points as follows:

(A) Laundry Connections (2 points);

(B) Self-cleaning or continuous cleaning ovens (1 point);

(C) Microwave Ovens (in each Unit) (1 point);

(D) Refrigerator with icemaker (1 point);

(E) Laundry equipment (washer and dryers) for each Unit (3 points);

(F) Storage Room of approximately nine (9) square feet or greater (does not have to be in the unit but must be on the property) (1 point);

(G) Covered entries (1 point);

(H) Nine foot ceilings (1 point);

(I) Covered patios or covered balconies (1 point);

(J) Covered Parking (at least one per Unit) (3 points);

(K) Garages (equal to at least 35% of Units) (5 points);

(L) Ceiling Fans in all rooms except bathrooms and kitchens (light with ceiling fan in all bedrooms) (1 point);

(M) 75% or Greater Masonry (includes rock, stone, brick, stucco and cementious board product; excludes EIFS) (5 points);

(N) Thirty year architectural shingle roofing (1 point);

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

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

(Q) -14 SEER HVAC or evaporative coolers in dry climates for new construction or radiant barrier in the attic for the rehabilitation (3 points);

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

(S) One Children's Playscape Playground Equipped for 5 to 12 years olds, or one Tot Lot- Only Family Developments Eligible (1 point) and Equipment or Covered Community Porch (3 points);

(T) Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each-Only Family Developments Eligible (2 points);

(U) Sport Court (Tennis, Basketball or Volleyball) - Only Family Developments Eligible (2 points);

(V) Enclosed sun porch or covered community porch/patio (2 points);

FINAL 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES

~~(TW) BBQ Grills and Tables (at least one each per 50 Units) or Walking Trail (minimum length of 1/4 mile) (13 points);~~

(X) Accessible walking path/jogging path separate from a sidewalk (1 point);

~~(UY) Full Perimeter Fencing with controlled gate access (32 points);~~

(Z) Controlled access gate (1 point);

(VAA) Equipped and functioning business center or equipped computer learning center with 1 computer and 1 fax machine for every 25 Units proposed in the Application, and 1 printer for every 2 computers
~~Computers with internet access / Business Facilities (8 hour availability) (2 points);~~

~~(WBB) Game Room or TV Lounge (2 points);~~

(XCC) Furnished and staffed children's activity center—Only Family Developments Eligible (3 points);

(YDD) Horseshoe pit, putting green or shuffleboard court (only qualified elderly developments)—(2 points); (1 point);

~~(ZEE) Furnished Fitness Center/Workout Facilities or Library (with comparable square footage as workout facilities) (2 points).~~

(FF) Library with an accessible sitting area (separate from the community room) (1 points);

(GG) Gazebo with sitting area (1 point);

(HH) Emergency 911 telephones accessible and available to tenants 24 hours a day (2 points);

(II) Covered Pavilion that includes barbeque grills and tables (2 points);

(JJ) Swimming pool (3 points).

(KK) Community laundry room (with at least one front loading washer (1 point);

(LL) Furnished Community room (1 point);

(MM) Service coordinator office in addition to leasing offices (1 point);

(NN) Senior Activity Room (Arts and Crafts, etc.) - Only Qualified Elderly Developments Eligible (2 points);

(OO) Health Screening Room (1 point)

(PP) Secured Entry (elevator buildings only) - (1 point);

(QQ) Community Dining Room with full or warming kitchen—Only Qualified Elderly Developments Eligible (3 points);

(5) Tenant Services (Tenant Services shall include only direct costs (tenant services contract amount, supplies for services, internet connections, initial cost of computer equipment, etc.). Indirect costs such as overhead and utility allocations may not be included);

(A) \$10.00 per Unit per month (10 points);

(B) \$7.00 per Unit per month (5 points);

(C) \$4.00 per Unit per month (3 points).

(6) Zoning appropriate for the proposed use or no zoning required ~~(appropriate zoning for the intended use must be in place at the time of a Application submission date, September 6, 2005September 5, 2006 (Applications submitted for lottery) or first Monday of each monththe submission dates listed on the Department's website (for Applications submitted for waiting list and carryforward), in order to receive points)~~ (5 points).

(7) Proper Site Control (as defined in ~~§335.3(21) of this title control through 12/01/05December 1, 2006 with option to extend through 03/01/06March 1, 2007 (Applications submitted for lottery) or 150 days later than the date of application submission or through the full reservation period, whichever is longer~~ 90 days from the date of the bond reservation with the option to extend through the scheduled TDHCA Board meeting. The potential expiration of site control does not warrant the application being presented to the TDHCA Board prior to the scheduled meeting. ~~120 days after the applicable submission date with option to extend an additional 120 days after the initial expiration (for Applications submitted for waiting list and carryforward)(all information must be correct at the time of the Application submission date, September 6, 2005September 5, 2006 (for Applications submitted for lottery) or first Monday of each monththe submission dates listed on the Department's website (for Applications submitted for waiting list or carryforward), in order to receive points) (5 points).~~

(8) Development Support / Opposition ~~(Maximum net points of +24 to -24. Each letter will receive a maximum of +3 to -3. All letters received by 5:00 PM, October 7, 2005September 29, 2006 (for Applications submitted for lottery) or fourteen (14) days prior to the date of the Board meeting at which the Application will be considered (for Applications submitted for waiting list and carryforward) will be used in scoring).~~

(A) Texas State Senator and Texas State Representative (maximum +63 to -63 points per official);

(B) Presiding officer of the governing body of any municipality containing the Development and the elected district member of the governing body of the municipality containing the Development (maximum +63 to -63 points per official);

FINAL 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES

(C) Presiding officer of the governing body of the county containing the Development and the elected district member of the governing body of the county containing the Development (if the site is not in a municipality, these points will be doubled) (maximum +63 to -63 points per official);

(D) Local School District Superintendent and Presiding Officer of the Board of Trustees for the School district containing the Development (maximum +63 to -63 points per official).

(9) Penalties for Missed Deadlines in the Previous Year's Bond and / or Tax Credit program year. (This includes approved and used extensions) (-1 point with maximum 3 point deduction per missed deadline).

(10) Local Political Subdivision Development Funding Commitment that enables additional Units for the Very Low Income (CDBG, HOME or other funds through local political subdivisions) ~~(must be greater than or equal to 2% of the bond amount requested and must provide at least 5% of the total Development Units at or below 30% AMFI or an additional 5% of the total Development Units if the Applicant has chosen category Priority 1B on the residential rental attachment)~~ (2 points).

(11) Proximity to Community Services / Amenities (Community services / amenities within three (3) miles of the site. A map must be included with the Application showing a three (3) mile radius notating where the services / amenities are located) (maximum 12 points)

(A) Full service grocery store or supermarket (1 point);

(B) Pharmacy (1 point);

(C) Convenience store / mini-market (1 point);

(D) Retail Facilities (Target, Wal-Mart, Home Depot, etc.) (1 point);

(E) Bank / Financial Institution (1 point);

(F) Restaurant (1 point);

(G) Indoor public recreation facilities (community center, civic center, YMCA) (1 point);

(H) Outdoor public recreation facilities (park, golf course, public swimming pool) (1 point)

(I) Fire / Police Station (1 point);

(J) Medical Facilities (hospitals, minor emergency, doctor or dentist offices) (1 point);

(K) Public Library (1 point);

(L) Public Transportation (1/2 mile from site) (1 point);

(M) Public School (only one school required for point and only eligible with general population developments) (1 point)-.

(12) Proximity to Negative Features (adjacent to or within 300 feet of any part of the Development site boundaries). A map must be included with the application showing where the feature is located. Developer must provide a letter stating there are none of the negative features listed below within the stated area if that is correct. (maximum -20 points)

(A) Junkyards (5 points);

(B) Active Railways (excluding light rail) (5 points);

(C) Heavy industrial / manufacturing plants (5 points);

(D) Solid Waste / Sanitary Landfills (5 points);

(E) High Voltage Transmission Towers within 100 feet (5 points).

(13) Acquisition / Rehabilitation Developments will receive thirty (30) points. This will include the demolition of old buildings and new construction of the same number of units if allowed by local codes or less units to comply with local codes (not to exceed 252 total units).

(14) Preservation Developments will receive ten (10) points. This includes rehabilitation proposals on properties which are nearing expiration of an existing affordability requirement within the next two years or for which there has been a rent restriction requirement in the past ten years. Evidence must be provided.

(e) Financing Commitments. After approval by the Board of the inducement resolution, and before submission of a final application, the Applicant will be solely responsible for making appropriate arrangements with financial institutions which are to be involved with the issuance of the Bonds or the financing of the Development, and to begin the process of obtaining firm commitments for financing from each of the financial institutions involved.

(f) Final Application. An Applicant who elects to proceed with submitting a final Application to the Department must submit the Volumes I and II of the Application, for Priority 1 and 2, prior to receipt of a reservation of allocation from the Texas Bond Review Board, and For Priority 3 Applications the Volumes I and II must be submitted within fourteen (14) days of the reservation date from the Texas Bond Review Board. The Volumes III and VI of the Application and such supporting material as is required by the Department must be submitted at least sixty (60) days prior to the scheduled meeting of the Board at which the Development and the Bond issuance are to be considered, unless the Department directs the Applicant otherwise in writing. If the Applicant is applying for other Department funding then refer to the Rules for that program for Application submission requirements. The final application must adhere to the Department's QAP and Rules in effect for the

program year for which the Bond and Housing Tax Credit applications are submitted. The Department may determine that supporting materials listed in paragraphs (1) through (42) of this subsection shall be provided subsequent to the final Application deadline in accordance with a schedule approved by the Department. Failure to provide any supporting materials in accordance with the approved schedule may be grounds for terminating the Application and returning the reservation to the Texas Bond Review Board. If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. All Administrative Deficiencies shall be clarified or corrected to the satisfaction of the Department within five business days. Failure to resolve all outstanding deficiencies within five business days will result in a penalty fee of \$500 for each day the deficiency remains unresolved. Any Application with unresolved deficiencies after the 10th day from the issuance of the deficiency notice will be terminated. The Applicant will be responsible for the payment of any fees accrued pursuant to this section regardless of any termination pursuant to this section. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. The Application will not be presented to the Board for consideration until all outstanding fees have been paid. The final application and supporting material shall consist of the following information:

(1) A Public Notification Sign shall be installed on the proposed Development site, regardless of Priority, no later than thirty (30) days after the submission of Volume I and II of the Tax Credit Application to the Department (pictures and invoice receipts must be submitted as evidence of installation within thirty (30) days of the submission). within thirty (30) days of the Department's receipt of Volumes I and II. The applicant must certify to the fact that the sign was installed within (thirty) 30 days of Volume I and II submission and the date, time and location of the Bond Public Hearing must be included on the sign at least (thirty) 30 days prior to the hearing date. The sign must be at least four (4) feet by eight (8) feet in size and be located within twenty (20) feet of, and facing, the main road adjacent to the site. The sign shall be continuously maintained on the site until the day the TDHCA Board takes final action on the Application for the development. The information and lettering on the sign must meet the requirements identified in the Application. As an alternative to installing a Public Notification Sign and at the same required time, the Applicant may instead, at the Applicant's Option, mail written notification to all addresses located within the footage distance required by the local municipality zoning ordinance or 1,000 feet, if there is no local zoning ordinance or if the zoning ordinance does not require notification, of any part of the proposed Development site. This written notification must include the information otherwise required for the sign. If the Applicant chooses to provide this mailed notice in lieu of signage, the final Application must include a map of the proposed Development site and mark the 1,000 foot or local ordinance area showing street names and addresses; a list of all addresses the notice was mailed to; an exact copy of the notice that was mailed; and a certification that the notice was mailed through the U.S. Postal Service and stating the date of mailing. The Applicant must mail notice to any public official that changed from the submission of the pre-application to the submission of the final application and any neighborhood organization that is known and was not notified at the time of the pre-application submission. No additional notification is required unless the Applicant submitted a change in the Application that reflects a total Unit increase greater than 10%, an increase greater than 10% for any given AMFI, or a change in the population being served (elderly, general population or transitional);

(2) Completed Uniform Application and Multifamily Rental Worksheets forms in the format required by the Department;

(3) Certification of no changes from the pre-application to the final application. If there are changes to the Application that have an adverse affect on the score and ranking order and that would have resulted in the application being placed below another application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points);

(4) Certification and agreement to comply with the Department's rules;

(5) A narrative description of the Development;

(6) A narrative description of the proposed financing;

(7) Firm letters of commitment from any lenders, credit providers, and equity providers involved in the transaction;

(8) Documentation of local Section 8 utility allowances;

- (9) Site plan;
- (10) Unit and building floor plans and elevations;
- (11) Complete construction plans and specifications;
- (12) General contractor's contract;
- (13) Completion schedule;
- (14) Copy of a recorded warranty deed if the Applicant already owns the Property, or a copy of an executed earnest money contract between the Applicant and the seller of the Property if the Property is to be purchased;
- (15) A local map showing the location of the Property;
- (16) Photographs of the Site;
- (17) Survey with legal description;
- (18) Flood plain map;
- (19) Evidence of zoning appropriate for the proposed use from the appropriate local municipality that satisfies one of these subparagraphs (A) through (C) of this paragraph:
 - (A) ~~no later than fourteen (14) days before the Board meets to consider the transaction, the Applicant must submit to the Department~~ written evidence that the local entity responsible for initial approval of zoning has approved the appropriate zoning and that they will recommend approval of the appropriate zoning to the entity responsible for final approval of zoning decisions;
 - (B) provide a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision which does not have a zoning ordinance;
 - (C) a letter from the chief executive officer of the political subdivision or another local official with appropriate jurisdiction stating the Development is permitted under the provision of the zoning ordinance that apply to the location of the Development ~~or that there is not a zoning requirement.~~
- (20) Evidence of the availability of utilities;
- (21) Copies of any deed restrictions which may encumber the Property;
- (22) A Phase I Environmental Site Assessment performed in accordance with the Department's Environmental Site Assessment Rules and Guidelines (§1.35 of this title);
- (23) Title search or title commitment;
- (24) Current tax assessor's valuation or tax bill;
- (25) For existing Developments, current insurance bills;
- (26) For existing Developments, past two (2) fiscal year end development operating statements;
- (27) For existing Developments, current rent rolls;
- (28) For existing Developments, substantiation that income-based tenancy requirements will be met prior to closing;
- (29) A market study performed in accordance with the Department's Market Analysis Rules and Guidelines (§1.33 of this title);
- (30) Appraisal of the existing or proposed Development performed in accordance with the Department's Underwriting Rules and Guidelines (§1.32 of this title);
- (31) Statement that the Development Owner will accept tenants with Section 8 or other government housing assistance;
- (32) An organizational chart showing the structure of the Applicant and the ownership structure of any principals of the Applicant;
- (33) Evidence that the Applicant and principals are registered with the Texas Secretary of State, as applicable;
- (34) Organizational documents such as partnership agreements and articles of incorporation, as applicable, for the Applicant and its principals;
- (35) Documentation of non-profit status if applicable;
- (36) Evidence of good standing from the Comptroller of Public Accounts of the State of Texas for the Applicant and its principals;
- (37) Corporate resumes and individual resumes of the Applicant and any principals;
- (38) Latest two (2) annual ~~financial~~ financial/operating statements and current interim financial statement for the Applicant and its principals;
- (39) Latest income tax filings for the Applicant and its principals;
- (40) Resolutions or other documentation indicating that the transaction has been approved by the general partner;
- (41) Resumes of the general contractor's and the property manager's experience; and
- (42) Such other items deemed necessary by the Department per individual application.

(g) ~~Evaluation-Eligibility Criteria~~. The Department will evaluate the Development for eligibility at the time of pre-application, and at the time of final Application. If there are changes to the Application that have an adverse affect on the score and ranking order and that would have resulted in the Application being placed below another Application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points). The Development and the Applicant must satisfy the conditions set out in paragraphs (1) through (6) of this subsection in order for a Development to be considered eligible:

(1) The proposed Development must further meet the public purposes of the Department as identified in the ActCode.

(2) The proposed Development and the Applicant and its principals must satisfy the Department's Underwriting Rules and Guidelines (§1.32 of this title). The pre-application must include sufficient information for the Department to establish that the Underwriting Guidelines can be satisfied. The final Application will be thoroughly underwritten according to the Underwriting Rules and Guidelines (§1.32 of this title).

(3) The Development must not be located on a site determined to be unacceptable for the intended use by the Department.

(4) Any Development in which the Applicant or principals of the Applicant have an ownership interest must be found not to be in Material Non-Compliance under the compliance Rules in effect at the time of pre-application submission. Any corrective action documentation affecting the Material Non-compliance status score must be submitted to the Department no later than thirty (30) days prior to final application submission.

(5) Neither the Applicant nor any principals of the Applicant is, at the time of Application:

(A) barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs; or

(B) has been convicted of a state or federal crime involving fraud, bribery, theft, misrepresentation, misappropriation of funds, or other similar criminal offenses within fifteen (15) years; or

(C) is subject to enforcement action under state or federal securities law, action by the NASD, subject to a federal tax lien, or the subject of an enforcement proceeding with any governmental entity; or

(D) neither applicant nor any principals of the applicant have a development under their ownership or control with a Material Non-compliance score as set out in the Department's Compliance Monitoring Policies and Procedures (§60.1 of this title); or

(E) otherwise disqualified or debarred from participation in any of the Department's programs.

(6) Neither the Applicant nor any of its principals may have provided any fraudulent information, knowingly false documentation or other intentional or negligent misrepresentation in the Application or other information submitted to the Department.

(h) **Bond Documents.** After receipt of the final Application, bond counsel for the Department shall draft Bond documents which conform to the state and federal laws and regulations which apply to the transaction.

(i) **Public Hearings; Board Decisions.** For every Bond issuance, the Department will hold a public hearing in accordance with §2306.0661, Texas Government Code and §147(f) of the Code, in order to receive comments from the public pertaining to the Development and the issuance of the Bonds. The Applicant or member of the Development team must be present and will be responsible for conducting a brief presentation on the proposed Development and providing handouts at the hearing that should contain at a minimum, a description of the Development, maximum rents and income restrictions. If the proposed Development is an acquisition/rehabilitation then the presentation should include the scope of work that will be done to the property. All handouts must be submitted to the Department for review at least two (2) days prior to the public hearing. Publication of all notices required for the public hearing shall be at the sole expense of the Applicant. The Board's decisions on approvals of proposed Developments will consider all relevant matters. Any topics or matters, alone or in combination, may or may not determine the Board's decision. The Department's Board will consider the following topics in relation to the approval of a proposed Development:

~~(1) The Development Owner market study;~~

~~(2) The location, including supporting broad geographic dispersion;~~

~~(3) The compliance history of the Development Owner;~~

~~(4) The financial feasibility;~~

~~(5) The inclusive capture rate as described under Chapter 10, Texas Administrative Code, §1.32(g)(2);~~

~~(6) The Development's proposed size and configuration in relation to the housing needs of the community in which the Development is located;~~

~~(7) The Development's proximity to other low income Developments;~~

~~(8) The availability of adequate public facilities and services;~~

~~(9) The anticipated impact on local school districts, giving due consideration to the authorized land use;~~

~~(10) Zoning and other land use considerations;~~

- ~~(11) Fair Housing law, including affirmatively furthering fair housing;~~
- ~~(12) The Applicant and/or Developer's efforts to engage the neighborhood;~~
- ~~(13) The housing needs of the community, area, region and state;~~
- ~~(14) Consistency with local needs, including consideration of revitalization or preservation needs;~~
- ~~(15) Providing integrated, affordable housing for individuals and families with different levels of income;~~
- ~~(16) Meeting a compelling housing need;~~

- (1) The developer market study;
- (2) The location;
- (3) The compliance history of the developer;
- (4) The financial feasibility;

(5) The appropriateness of the Development's size and configuration in relation to the housing needs of the community in which the Development is located;

- (6) The Development's proximity to other low income Developments;
- (7) The availability of adequate public facilities and services;
- (8) The anticipated impact on local school districts;
- (9) Zoning and other land use considerations;

(10) Any matter considered by the Board to be relevant to the approval decision and in furtherance of the Department's purposes and the policies of Chapter 2306, Texas Government Code; and

- (11) Other good cause as determined by the Board.

(j) Approval of the Bonds.

(1) Subject to the timely receipt and approval of commitments for financing, an acceptable evaluation for eligibility, the satisfactory negotiation of Bond documents, and the completion of a public hearing, the Board, upon presentation by the Department's staff, will consider the approval of the Bond issuance, final Bond documents and, in the instance of privately placed Bonds, the pricing of the Bonds. The process for appeals and grounds for appeals may be found under §§1.7 and 1.8 of this title. The Department's conduit housing transactions will be processed in accordance with the Texas Bond Review Board rules Title 34, Part 9, Chapter 181, Subchapter A and Chapter 1372, Texas Government Code. The Bond issuance must receive an approving opinion from the Department's bond counsel with respect to the legality and validity of the Bonds and the security therefore, and in the case of tax-exempt Bonds, with respect to the excludability from gross income for federal income tax purposes of interest on the Bonds.

(2) ~~Alternative Dispute Resolution Policy. In accordance with Section 2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator (fax: (512) 475-3978). For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17. The Department encourages use of Alternative Dispute Resolution methods as outlined in §1.17 of this title.~~

(k) Local Permits. Prior to the closing of the Bonds, all necessary approvals, including building permits, from local municipalities, counties, or other jurisdictions with authority over the Development must have been obtained or evidence that the permits are obtainable subject only to payment of certain fees must be provided to the Department.

(l) Closing. If there are changes to the Application prior to closing that have an adverse affect on the score and ranking order that would have resulted in the Application being placed below another Application in the ranking, the Department will terminate the Application and return the reservation to the Texas Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points). Once all approvals have been obtained and Bond documents have been finalized to the respective parties' satisfaction, the Bond transaction will close. Any outstanding Housing Trust Fund Pre-Development loans for the proposed Development site must be paid in full at the time the bond transaction is closed. All Applicants are subject to §1.13 of this title. Upon satisfaction of all conditions precedent to closing, the Department will issue Bonds in exchange for payment thereof. The Department will then loan the proceeds of the Bonds to the Applicant and disbursements of the proceeds may begin.

§3335.7 Regulatory and Land Use Restrictions

(a) **Filing and Term of LURA.** A Regulatory and Land Use Restriction Agreement or other similar instrument (the "LURA"), will be filed in the property records of the county in which the Development is located for each Development financed from the proceeds of Bonds issued by the Department. For Developments involving new construction, the term of the LURA will be the longer of 30 years, the period of guaranteed affordability or the period for which Bonds are outstanding. For the financing of an existing Development, the term of the LURA will be the longer of the longest period which is economically feasible in accordance with the Act, or the period for which Bonds are outstanding.

(b) **Development Occupancy.** The LURA will specify occupancy restrictions for each Development based on the income of its tenants, and will restrict the rents that may be charged for Units occupied by tenants who satisfy the specified income requirements. Pursuant to §2306.269, Texas Government Code, the LURA will prohibit a Development Owner from excluding an individual or family from admission to the Development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (the "Housing Act"), and from using a financial or minimum income standard for an individual or family participating in the voucher program that requires the individual or family to have a monthly income of more than two and one half (2.5) times the individual's or family's share of the total monthly rent payable to the Development Owner of the Development. Development occupancy requirements must be met on or prior to the date on which Bonds are issued unless the Development is under construction. Adequate substantiation that the occupancy requirements have been met, in the sole discretion of the Department, must be provided prior to closing. Occupancy requirements exclude Units for managers and maintenance personnel that are reasonably required by the Development.

(c) **Set Asides.**

(1) Developments which are financed from the proceeds of Private Activity Bonds or from the proceeds of Qualified 501(c)(3) Bonds must be restricted under one of the following two minimum set-asides:

(A) at least twenty percent (20%) of the Units within the Development that are available for occupancy shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed fifty percent (50%) of the area median income, or

(B) at least forty percent (40%) of the Units within the Development that are available for occupancy shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed sixty percent (60%) of the area median income.

(2) The Development Owner must designate at the time of Application which of the two set-asides will apply to the Development and must also designate the selected priority for the Development in accordance with §1372.0321, Texas Government Code. Units intended to satisfy set-aside requirements must be distributed evenly throughout the Development, and must include a reasonably proportionate amount of each type of Unit available in the Development.

(3) No tenant qualifying under either of the set-asides shall be denied continued occupancy of a Unit in the Development because, after commencement of such occupancy, such tenant's income increases to exceed the qualifying limit; provided, however, that, should a tenant's income, as of the most recent determination thereof, exceed 140% of the then applicable income limit and such tenant constitutes a portion of the set-aside requirement of this section, then such tenant shall only continue to qualify for so long as no Unit of comparable or smaller size is rented to a tenant that does not qualify as a Low-Income Tenant. (~~These are the~~Required federal set-aside requirements)

(d) **Global Income Requirement.** All of the Units that are available for occupancy in Developments financed from the proceeds of Private Activity Bonds or from the proceeds of Qualified 501(c)(3) Bonds shall be occupied or held vacant (in the case of new construction) and available for occupancy at all times by persons or families whose income does not exceed one hundred and forty percent (140%) of the area median income for a four-person household.

(e) **Qualified 501(c)(3) Bonds.** Developments which are financed from the proceeds of Qualified 501(c)(3) Bonds are further subject to the restriction that at least seventy-five percent (75%) of the Units within the Development that are available for occupancy shall be occupied (or, in the case of new construction, held vacant and available for occupancy until such time as initial lease-up is complete) at all times by individuals and families of Low Income (less than or equal to 80% of AMFI).

(f) **Taxable Bonds.** The occupancy requirements for Developments financed from the issuance of taxable Bonds will be negotiated, considered and approved by the Department on a case by case basis.

~~(g) Special Needs.~~ At least five percent (5%) of the Units within each Development must be designed to be accessible to Persons with Special Needs and hardware and cabinetry must be stored on site or provided to be installed on an as needed basis in such Units. The Development will comply with accessibility requirements in the Fair Housing Act Design manual. The Development Owner will use its best efforts (including giving preference to Persons with Special Needs) to:

- ~~(1) make at least five percent (5%) of the Units within the Development available for occupancy by Persons with Special Needs;~~
- ~~(2) make reasonable accommodations for such persons; and~~
- ~~(3) allow reasonable modifications at the tenant's sole expense pursuant to the Housing Act. During the term of the LURA, the Development Owner shall maintain written policies regarding the Development Owner's outreach and marketing program to Persons with Special Needs.~~

~~(hg) Fair Housing.~~ All Developments financed by the Department must comply with the Fair Housing Act which prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. The Fair Housing Act also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities.

~~(ih) Tenant Services.~~ The LURA will require that the Development Owner offer a variety of services for residents of the Development through a Tenant Services Program Plan which is subject to annual approval by the Department.

~~(ji) The LURA will require the Development Owner~~ Land Use Restriction Agreement. Requirements as defined in §60 of this title.

~~(1) To obtain, complete and maintain on file Tenant Income Certifications from each Eligible Tenant, including:~~

~~(A) a Tenant Income Certification dated immediately prior to the initial occupancy of each new Eligible Tenant in the Development; and~~

~~(B) thereafter, annual Tenant Income Certifications which must be obtained on or before the anniversary of such Eligible Tenant's occupancy of the Unit, and in no event less than once in every 12 month period following each Eligible Tenant's occupancy of a Unit in the Development. For administrative convenience, the Development Owner may establish the first date that a Tenant Income Certification for the Development is received as the annual recertification date for all tenants. The Development Owner will obtain such additional information as may be required in the future by §142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations which are tax exempt private activity bonds described in §142(d) of the Code. The Development Owner shall make a diligent and good faith effort to determine that the income information provided by an applicant in a Tenant Income Certification is accurate by taking steps required under §142(d) of the Code pursuant to provisions of the Housing Act.~~

~~(C) The Development shall comply with Title 10, Part 1, Chapter 60, Subchapter A.~~

~~(2) As part of the verification, such steps may include the following, provided such action meets the requirements of §142(d) of the Code and the gross income of individuals shall be determined in a manner consistent with the determinations of low income families under section 8 of the United States Housing Act of 1937:~~

~~(A) obtain pay stubs sufficient to annualize income;~~

~~(B) obtain third party written verification of income;~~

~~(C) obtain an income verification from the applicant's current employer;~~

~~(D) obtain an income verification from the Social Security Administration; or~~

~~(E) if the applicant is self-employed, unemployed, does not have income tax returns or is otherwise not reasonably able to provide other forms of verification as required above, obtain another form of independent verification as would, in the Development Owner's reasonable commercial judgment, enable the Development Owner to determine the accuracy of the applicant's income information. The Development Owner shall retain all Tenant Income Certifications obtained in compliance with this subsection (b) of this section until the date that is six years after the last Bond is retired.~~

~~(3) To obtain from each tenant in the Development, at the time of execution of the lease pertaining to the Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form as provided by the Department to the Development Owner from time to time that~~

~~(A) such lease is subordinate to the Mortgage and the LURA;~~

FINAL 2006-2007 MULTIFAMILY HOUSING REVENUE BOND RULES

~~(B) all statements made in the Tenant Income Certification submitted by such tenant are accurate;~~
~~(C) the family income and eligibility requirements of the LURA and the Loan Agreement are substantial and material obligations of tenancy in the Development;~~
~~(D) such tenant will comply promptly with all requests for information with respect to such requirements from the Development Owner, the Trustee and the Department; and~~
~~(E) failure to provide accurate information in the Tenant Income Certification or refusal to comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Development;~~

~~(4) To maintain complete and accurate records pertaining to the Low Income Units and to permit, at all reasonable times during normal business hours and upon reasonable notice, any duly authorized representative of the Department, the Trustee, the Department of the Treasury or the Internal Revenue Service to enter upon the Development Site to examine and inspect the Development and to inspect the books and records of the Development Owner pertaining to the Development, including those records pertaining to the occupancy of the Low Income Units;~~

~~(5) On or before each February 15 during the qualified development period, to submit to the Department (to the attention of the Portfolio Management and Compliance Division) a draft of the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Development continues to meet the requirements of §142(d) of the Code and on or before each March 31 during the qualified development period, to submit such completed form to the Secretary of the Treasury and the Department;~~

~~(6) To prepare and submit the compliance monitoring report. To cause to be prepared and submitted to the Department and the Trustee on the first day of the state restrictive period, and thereafter by the tenth calendar day of each March, June, September, and December, or other quarterly schedule as determined by the Department with written notice to the Development Owner, a certified compliance monitoring report and Development Owner's certification in such form as provided by the Departments to the Development Owner from time to time; and~~

~~(7) To provide regular maintenance to keep the Development sanitary, decent and safe.~~

~~(8) To establish a reserve account consistent with the requirements of §2306.186, Texas Government Code.~~

~~(9) To prepare and submit the Housing Sponsor Report to the Department no later than March 1st of each year.~~

§~~33~~35.8 Fees

(a) Application and Issuance Fees. The Applicant is required to submit, at the time of pre-application, the following fees: \$1,000 (payable to TDHCA), \$1,500 (payable to Vinson & Elkins, the Department's Bond Counsel) and \$5,000 (payable to the Texas Bond Review Board (BRB)) These fees cover the costs of pre-application review and filing fees to the BRB. The Department shall set fees to be paid by the Applicant in order to cover the costs of pre-application review, Application and Development review, the Department's expenses in connection with providing financing for a Development, and as required by law. (§1372.006(a), Texas Government Code). At the time of full application the Applicant is required to submit a tax credit application fee of \$30/unit and \$10,000 for the bond application fee. At the closing of the bonds the following fees are required, an issuance fee equal to 5 basis points (0.005) of the issued bond amount, administration fee equal to 2 basis points (0.002) and a compliance fee equal to \$40/unit.

(b) Annual Administration, Portfolio Management and Compliance, and Asset Management Fees. The Department shall set ongoing fees to be paid by Development Owners to cover the Department's costs of administering the Bonds, portfolio management and compliance with the program requirements applicable to each Development and asset management applicable requirements. The annual compliance fee is paid in advance and is equal to \$40/unit beginning two years from the first payment date; the asset management fee is paid in advance and is equal to \$25/unit beginning two years from the first payment date; both are adjusted annually for CPI. The annual administration fee is paid in arrears and is equal to 1 basis point (0.001) of the outstanding bond amount beginning three years from the closing date. These fees are paid for a minimum of thirty (30) years or as long as the bonds are out standing.

§~~33~~35.9 Waiver of Rules

Provided all requirements of the Act, the Code, and any other applicable law are met, the Board may waive any one or more of the Rules set forth in §§~~335~~.3 through 335.8 of this title relating to the Multifamily Housing Revenue Bond Program in order to further the purposes and the policies of Chapter 2306, Texas Government Code; to encourage the acquisition, construction, reconstruction, or rehabilitation of a Development that would provide decent, safe, and sanitary housing, including, but not limited to, providing such housing in economically depressed or blighted areas, or providing housing designed and equipped for Persons with Special Needs; or for other good cause, as determined by the Board.

§~~33~~35.10 No Discrimination

The Department and its staff or agents, Applicants, Development Owners, and any participants in the Program shall not discriminate under this Program against any person or family on the basis of race, creed, national origin, age, religion, handicap, family status, or sex, or against persons or families on the basis of their having minor children, except that nothing herein shall be deemed to preclude a Development Owner from selecting tenants with Special Needs, or to preclude a Development Owner from selecting tenants based on income in renting Units to comply with the set asides under the provisions of this Chapter.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Item

Presentation, Discussion and Possible Adoption of the Final Housing Trust Fund Rules, 10 Texas Administrative Code Chapter 51.

Required Action

1. Adoption of Repeal of Title 10, Part 1, Chapter 51- 2006 Housing Trust Fund Rules
2. Adoption of New Title 10, Part 1, Chapter 51 – 2007 Final Housing Trust Fund Rules

Background

At the August 30, 2006, Board Meeting, the Board approved the Proposed New Title 10 Texas Administrative Code, Part 1, Chapter 51 - 2007 Draft Housing Trust Fund Rules and the proposed repeal of the Title 10 Texas Administrative Code, Part 1, Chapter 51 - 2006 Housing Trust Fund Rules for public comment. The proposals were published in the *Texas Register* on September 15, 2006, for the public to provide comments. In order to receive additional comments on all proposed rules, the Texas Department of Housing and Community Affairs staff held public hearings in the cities of Amarillo, Brownwood, Dallas, Tyler, Beaumont, Houston, Austin, Bryan, San Antonio, Corpus Christi, Harlingen, Midland and El Paso. Ninety-two people attended these hearings.

The following summary provides the Department's response to the one comment received at the public hearings. The comment and response is summarized below by rule section if applicable.

All blackline represented are the changes originally approved by the Board on August 30, 2006.

Comments on HTF Rules

General: Barrier Removal Programs (Jean Langendorf, United Cerebral Palsy of Texas)

Summary: Speaker at the Austin hearing recommended the Department undertake a capacity building program to provide technical assistance to nonprofits for the development of consumer-driven barrier removal programs. The speaker further requested the use of HTF funds to support consumer-driven barrier removal programs.

Staff Response: The Department is committed to ensuring that Housing Trust Funds are utilized to maximize the benefit to the citizens of Texas. No change is recommended since the proposed activity would be permissible under the current rule, to the extent funds are available.

Recommendation

Staff recommends the Board adopt the Repeal of 10 Texas Administrative Code Chapter 51 and Adopt the New 10 Texas Administrative Code Chapter 51 for the 2007 Housing Trust Fund Rules and allow staff to make changes to these rules, where applicable, to be consistent with other rules being approved at this Board meeting.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FINAL 2007 HOUSING TRUST FUND RULE

TITLE 10, PART 1, CHAPTER 51 TEXAS ADMINISTRATIVE CODE

§51.1.	Purpose.....	1
§51.2.	Definitions.	1
§51.3.	Allocation of Housing Trust Funds.	4
§51.4.	Basic Eligible Activities.	5
§51.5.	Ineligible Activities and Restrictions.	6
§51.6.	Application Procedure and Requirements.	7
§51.7.	Criteria for Funding.	10
§51.8.	Other Program Requirements.....	11
§51.9.	Citizen Participation.	13
§51.10.	Records to be Maintained.	13
§51.11.	Waiver.	13

§51.1. Purpose.

This Chapter clarifies the use and administration of the Housing Trust Fund. The Department shall use the Housing Trust Fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, for profit entities, nonprofit organizations, income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. The fund is created pursuant to §2306.201 of the Texas Government Code. Pursuant to §2306.202 of the Texas Government Code, the use of the Housing Trust Fund is limited to providing:

- (1) assistance for individuals and families of low and very low income;
- (2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;
- (3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and
- (4) subject to the limitations in §2306.251 of the Texas Government Code, the Department may also use the fund to acquire property to endow the fund.

§51.2. Definitions.

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

- (1) **Administrative Deficiencies**--The absence of information or a document from the Application which is important to a review and scoring of the Application as required in this rule, and the Notice of Funding Availability (NOFA).

(2) **Applicant**-- Any Person or Affiliate of a Person who is preparing to submit or has submitted an application for Housing Trust Fund assistance and is assuming contractual liability and legal responsibility by executing the written agreement with the Department.

(3) **Board**--The governing board of the Department.

(4) **Capacity Building**--Educational and organizational support assistance to promote the ability of community housing development organizations and nonprofit organizations to maintain, rehabilitate and construct housing for low, very low, and extremely low-income persons and families. This activity may include:

(A) organizational support to cover expenses for housing development or management related training, technical and other assistance to the board of directors, staff, and members of the nonprofit organizations or community housing development organizations;

(B) technical assistance and training related to housing development, housing management, or other subjects related to the provision of housing or housing services; or

(C) studies and analyses of housing needs.

(5) **Community Housing Development Organizations (CHDO)**--A nonprofit organization that satisfies the requirements of § 53.63 of this title.

(6) **Competitive Application Cycle**-- A competition for funding during a defined period when applications may be submitted in response to a NOFA. Applications will be reviewed and scored in accordance with the rules for application review published in the NOFA, and application guidelines.

(7) **Department**--The Texas Department of Housing and Community Affairs.

(8) **Eligible Applicants**--Local units of government, public housing authorities, community housing development organizations, nonprofit organizations, for-profit entities, and persons and families of low, very low, and extremely low income.

(9) **Extremely Low-Income Persons and Families**--Families whose annual incomes do not exceed 30% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

(10) **Housing Development Costs**--The total of all costs incurred, or to be incurred, by the Development Owner in acquiring, constructing, rehabilitating and financing a Development as determined by the Department based on the information contained in the Application. Such costs include reserves and any expenses attributable to commercial areas.

(11) **Housing Development**--Any real or personal property, project, building, structure, facilities, work, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, which meets or is designed to meet minimum property standards consistent with those prescribed in the Housing Trust Fund Property Standards, found in the Program Guidelines, for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by persons and families of low, very low, and extremely low income, and persons with special needs. The term may include buildings, structures, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community and recreational facilities the Department determines to be necessary, convenient, or desirable appurtenances.

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

(13) **Intergenerational Housing**--as defined by §49.3 of this title.

(14) **Local Units of Government**--A county; an incorporated municipality; a special district; a council of governments; any other legally constituted political subdivision of the state; a public, nonprofit housing finance corporation created under the Local Government Code, Chapter 394; or a combination of any of the entities described here.

(15) **Low-Income Persons and Families**--Families whose annual incomes do not exceed 80% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

(16) **Nonprofit Organization**--Any public or private, nonprofit organization that:

(A) is organized under state or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) has a current tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c)(3), a charitable, nonprofit corporation, or Section 501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization non-profit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and

(D) A private nonprofit organization's pending application for 501(c)(3) or (c)(4) status cannot be used to comply with the tax status requirement.

(17) **NOFA**--Notice of Funding Availability, published in the *Texas Register*.

(18) **Open Application Cycle**--A defined period during which applications may be submitted in response to a published NOFA and which will be reviewed on a first come-first served basis until all funds available are committed, or until the NOFA is closed. Applications will be reviewed in accordance with the rules for application review published in the NOFA and application guidelines.

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

(A) has a physical, mental or emotional impairment that:

(i) is expected to be of a long, continued and indefinite duration,

(ii) substantially impedes his or her ability to live independently, and

(iii) is of such a nature that the disability could be improved by more suitable housing conditions,

(B) has a developmental disability, as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. Section 15002), or

(C) has a disability, as defined in 24 CFR §5.403.

(20) **Person with Special Needs**--

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

(B) Housing Trust Funds may also be awarded through persons legally responsible for caring for an individual described by subparagraph (A.) of this paragraph, pursuant to §2306.511 of the Texas Government Code.

(21) **Predevelopment Costs**--Reimbursable costs related to a specific eligible housing project including:

(A) Predevelopment housing project costs that the Department determines to be customary and reasonable, including but not limited to consulting fees, 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 architectural plans and specifications, zoning approvals, engineering studies and legal fees; and

(C) Predevelopment costs do not include general operational or administrative costs.

(22) **Public Agency**--A unit of government created by a National, State or Local Government.

(23) **Public Housing Authority**--A housing authority established under the Texas Local Government Code, Chapter 392.

(24) **Received Date**--The date and time at which an Application is actually received by the Department.

(25) **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.

(26) **Rental Housing Development**--A project for the acquisition, new construction, reconstruction or rehabilitation of multi-family or single family rental housing, or conversion of commercial property to rental housing.

(27) **Rural Development**-- A proposed Development located in an area that is :

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

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

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

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

(28) **State**--The State of Texas.

(29) **Statute**--Texas Government Code chapter 2306.

(30) **Very Low-Income Persons and Families**--Families whose annual incomes do not exceed 60% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

§51.3. Allocation of Housing Trust Funds.

(a) Pursuant to §2306.201 of the Texas Government Code, the Housing Trust Fund is a fund administered by the Department, and placed with the Texas Treasury Safekeeping Trust Company.

(b) The fund consists of:

(1) appropriations or transfers made to the fund;

- (2) unencumbered fund balances;
 - (3) public or private gifts or grants;
 - (4) investment income, including all interest, dividends, capital gains, or other income from the investment of any portion of the fund;
 - (5) repayments received on loans made from the fund; and
 - (6) funds from any other source
- (c) Each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations. The remaining portion shall be competed for by nonprofit organizations, for-profit organizations, and other eligible entities, pursuant to §2306.202 of the Texas Government Code.
- (d) Funds shall be allocated to achieve broad geographic dispersion by awarding funds in accordance with § 2306.111(d) and (g), Texas Government Code.
- (e) The Department shall require that applicants target at least 50% of those units served by housing trust funds to individuals and families earning less than 60% of median family income.
- (f) Bond indenture requirements governing expenditure of bond proceeds deposited in the housing trust fund shall govern and prevail over all other allocation requirements established in this section. However, the Department shall distribute these funds in accordance with the requirements of this section to the extent possible.
- (g) Housing Trust Funds may also be allocated to the Texas Bootstrap Loan Program and will be awarded in accordance with §2306.753 of the Texas Government Code.

§51.4. Basic Eligible Activities.

- (a) The department, through the housing finance division, shall use the housing trust fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, for profit entities, nonprofit organizations, and income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. In each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing. The remaining portion shall be competed for by nonprofit organizations, for-profit organizations, and other eligible entities. Notwithstanding any other section of this chapter, but subject to the limitations in Section 2306.251(c), the department may also use the fund to acquire property to endow the fund.
- (b) Use of the fund is limited to providing:
- (1) assistance for individuals and families of low and very low income;
 - (2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income; and
 - (3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income.

§51.5. Ineligible Activities and Restrictions.

(a) Ineligible Applicants: The following violations will cause an Applicant, and any applications they have submitted, to be ineligible:

(1) Previously funded recipient(s) whose Housing Trust Funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to the current funding cycle;

(2) Applicants, or persons affiliated with the Applicant that have been barred, suspended, or terminated from procurement in a state or federal program and listed in the List of Parties Excluded from Federal Procurement of Non-procurement Programs;

(3) Applicants or persons affiliated with the Applicant that are subject of enforcement action under state or federal securities law, or is the subject of an enforcement proceeding with a state or federal agency or another governmental entity;

(4) Applicants or persons affiliated with the Applicant that have unresolved audit findings related to previous or current funding agreements with the Department;

(5) Applicants or persons affiliated with the Applicant that have delinquent loans, fees or other commitments with the Department, until payment is made;

(6) Applicants who have not satisfied all threshold requirements described in this title, and the NOFA to which they are responding, and for which Administrative Deficiencies were unresolved;

(7) Refinancing or rehabilitation of properties constructed within the past 5 years and previously funded by the Department are not eligible;

(8) Applicants who have submitted incomplete Applications;

(9) Applicants or persons affiliated with the Applicant that have been otherwise barred by the Department;

(10) Applicants are subject to §1.13 of this title;

(11) Applicants or persons affiliated with the Applicant that have breached a contract with a public agency; or

(12) The acquisition, rehabilitation, reconstruction or refinancing of affordable rental housing constructed within the past 5 years or previously funded by the Department.

(b) Displacement of Existing Affordable Housing. Pursuant to §2306.203(a)(4) of the Texas Government Code, Housing Trust Funds shall not be utilized on a development that has the effect of permanently displacing low, very low, and extremely low income persons and families. Low-income persons who may be temporarily displaced by the rehabilitation of affordable housing may be eligible for compensation of moving and relocation expenses. If a Housing Trust Fund recipient violates the permanent dislocation provision of this subsection, that recipient risks loss of Housing Trust Funds and the landlord/developer must pay the affected tenant's costs and all moving expenses.

(c) Communication with Department Employees. Communication with Department staff by Applicants that submit a Pre-Application or Application must follow the following requirements. During the period beginning on the date a Development Pre-Application or Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person that is active in the construction, rehabilitation, ownership or Control of the proposed Development including a General Partner or contractor and a Principal or Affiliate of a General Partner or contractor, or individual employed as a lobbyist by the Applicant or a Related Party, may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet, so long as that communication satisfies the conditions established under paragraphs (1) - (3) of this

subsection. Section 49.5(b)(6) of this title applies to all communication with Board members. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.

(1) The communication must be restricted to technical or administrative matters directly affecting the Application;

(2) The communication must occur or be received on the premises of the Department during established business hours (emails may be sent and received after business hours);

(3) a record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication. (2306.1113)

(d) Material Noncompliance. Each Application will be reviewed for its compliance history by the Department, consistent with Chapter 60 of this title. Applicants, or persons affiliated with an Application, found to have a Development or Contract in Material Noncompliance with the Department, will have their Applications terminated.

(e) Rental Housing Development Site and Development Restrictions. Restrictions include all those items referred to in Chapter 2306 of the Texas Government Code and any additional items included in the NOFA for rental housing developments.

(f) Limitations on the Size of Developments. Developments involving new construction will be limited to 252 units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum unit restrictions. The minimum number of units shall be 4 units.

§51.6. Application Procedure and Requirements.

(a) In distributing funds, the Department will release a NOFA and/or request for proposals that identifies the uses of the available funds and the specific criteria that will be utilized in evaluating applicants.

(b) Applicants must submit a complete application to be considered for funding, along with an application fee determined by the Department and outlined in the NOFA. Applications containing false information will be disqualified. Applications submitted under a Competitive Application Cycle must be received by the application deadline or they will be disqualified. Disqualified Applicants will be notified in writing. All applications must be received by the Department by 5:00 p.m. regardless of method of delivery.

(c) Applications received by the Department in response to a Competitive Application Cycle NOFA for housing development activities will be handled in the following manner:

(1) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to meet the Threshold Criteria defined by the NOFA and any Threshold Criteria that may be applicable to the Housing Trust Fund as defined by this rule and Chapter 2306 of the Texas Government Code.

(2) Scoring Evaluation. For an Application to be scored, the Application must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then be scored and ranked according to the Scoring Criteria identified in the NOFA.

(3) Financial Feasibility Evaluation. After the Application is scored, the Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate

Analysis Division. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate funding amount and terms. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title.

(d) Applications received by the Department in response to an Open Application Cycle NOFA for housing development activities will be handled in the following manner:

(1) The Department will accept applications on an ongoing basis, until such date when the Department makes notice to the public that the Open Application Cycle has been closed. All applications must be received during business hours and no later than 5:00 p.m. on any business day. The Department may limit the eligibility of applications in the NOFA.

(2) Each application will be handled on a first-come, first-served basis as further described in this section. Each application will be assigned a "received date" based on the date and time it is physically received by the Department. Then each application will be reviewed on its own merits in three review phases. Applications will continue to be prioritized for funding based on their "received date" unless they do not proceed into the next phase(s) of review. Applications proceeding in a timely fashion through a phase will take priority over applications that may have an earlier "received date" but that did not timely complete a phase of review.

(A) Phase One will begin as of the received date. Applications not being considered as CHDOs will be passed through to Phase Two upon receipt. Phase One will only entail the review of the CHDO Certification package. The Department will ensure review of these materials and issue notice of any deficiencies on the CHDO Certification package within 30 days of the received date. Applicants who are able to resolve their deficiencies within five business days will be forwarded into Phase Two and will continue to be prioritized by their received date. Applications which do not resolve all deficiencies five business days will be retained in Phase One until all deficiencies have been addressed or resolved by the Applicant to the Department's satisfaction. Only upon satisfaction of all deficiencies will the Application be forwarded to Phase Two. Applications that have not proceeded out of Phase One within 50 days of the received date will be terminated and must reapply for consideration of funds.

(B) Phase Two will include a review of all application requirements. The Department will ensure review of all application materials required under the NOFA and issue notice of any deficiencies on the application's satisfaction of threshold and eligibility within 45 days of the date it enters Phase Two. Applicants who are able to resolve their deficiencies within five business days will be forwarded into Phase Three and will continue to be prioritized by their received date. Applications which do not resolve all deficiencies within five business days, will be retained in Phase Two until all deficiencies have been addressed or resolved by the Applicant to the Department's satisfaction. Only upon resolution of all deficiencies will the Application be forwarded to Phase Three. Applications that have not left Phase Two within 65 days of the date it entered Phase Two will be terminated and must reapply for consideration of funds.

(C) Phase Three will include a comprehensive review for material noncompliance and financial feasibility by the Department. Financial feasibility reviews will be conducted by the Department's Real Estate Analysis (REA) Division consistent with 10 TAC §1.32, Underwriting Rules and Guidelines. REA will draft an underwriting report that will identify staff's recommended loan terms, the loan or grant amount and any conditions to be placed on the development. The Department will ensure financial feasibility review and issue notice of any required deficiencies for that feasibility review within 45 days of the date it enters Phase Three. Applicants who are able to resolve their deficiencies within five business days will be forwarded into "Recommended Status" and will continue to be prioritized by their received date. Applications with deficiencies not satisfied within five 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 21 days prior to the next Board meeting, it will be placed on the next Board meeting's agenda. If Phase Three is completed with less than 21 days before the next Board meeting, the recommendation will be placed on the following month's Board meeting agenda.

(E) Because applications are prioritized by "received date," it is possible that the Department will expend all available funds before an application has been completely reviewed. If all funds are committed before an application has completed all phases of the review process, the Department will notify the applicant that their application will remain active for 90 days in its current phase. If new funds become available applications already under review will continue with their review without losing their received date status. If new funds do not become available within 90 days of the notification, the applicant will be notified that their application is no longer under consideration and in the event of future funding, they would be required to reapply. If on the date an application is received by the Department, no funds are available under the NOFA, the applicant will be notified that no funds remain under the NOFA and that the application will not be processed.

(F) The Department may decline to consider any application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. Beyond the use of the "received date", staff will make selections based upon the need for housing in the community where the development is located, the effectiveness with which the proposed use of funds would aid in continuing to provide affordable housing, the general feasibility of the proposed transaction, and the credibility of the applicant. The Department is not obligated to proceed with any action pertaining to any applications which are received, and may decide it is in the Department's best interest to refrain from funding any application. The Department strives, through its terms, to maximize the return on its funds while ensuring the financial feasibility of a development. The Department reserves the right to negotiate individual elements of any application.

(e) Layered Applications. If an Application is submitted to the Department for a Development that requests funds from two separate housing finance programs, and only one of the housing finance programs is operated as a competitive cycle, then the Application will be handled in accordance with the competitive cycle guidelines for that program. If an Application is submitted for two separate housing finance programs where both programs are either open cycle, or competitive, the Application will be handled in accordance with the most restrictive program rules with the approval of the Department's Executive Director.

(f) Administrative Deficiencies. If an application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the application, the Department staff may request clarification or correction of such Administrative Deficiencies including both threshold and/or scoring documentation. The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. Administrative Deficiencies given to Applications submitted under an Open Application Cycle NOFA will be handled in the manner described under Part B of this Section. Applications submitted under a Competitive Application Cycle NOFA will be treated in the following manner. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within three business days of the deficiency notice date, then five points shall be deducted from the application score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within five 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.

(g) All applications for housing development activities will be reviewed in the following manner:

(1) A site visit will be conducted. Applicants must receive recommendation for approval from the Department to be considered for funding by the Board.

(2) Board approval for the award of Development activity funds is conditioned upon a completed loan closing and any other conditions deemed necessary by the Department.

(h) Applications other than Rental Housing Developments will be reviewed and evaluated in accordance with the NOFA for that activity.

(i) Applicants may appeal staff's decisions regarding their applications consistent with §1.7 of this title.

(j) Alternative Dispute Resolution Policy. Applicant's may utilize the Department's Alternative Dispute Resolution process as defined by §1.17 of this title.

(k) Public Notification. Applicants for Rental Development activities will be required to provide written notification to each of the following persons or entities 14 days prior to the submission of any application package. Failure to provide written notifications 14 days prior to the submission of an application package at a minimum will cause an application to lose its "received by date" under open application cycles, or be terminated under competitive application cycles. Applicants must provide notifications to:

(1) the executive officer and elected members of the governing board of the community where the development will be located. This includes municipal governing boards, city councils, and County governing boards;

(2) all neighborhood organizations whose defined boundaries include the location of the Development;

(3) executive officer and Board President of the school district that covers the location of the Development;

(4) residents of occupied housing units that may be rehabilitated, reconstructed or demolished; and

(5) the State Representative and State Senator whose district covers the location of the Development.

(6) The notification letter must include, but not be limited to, the address of the development site, the number of units to be built or rehabilitated, the proposed rent and income levels to be served, and all other details required of the NOFA and Application Manual.

§1.7. Criteria for Funding.

(a) In considering applications for funding, the Department considers the following requirements under § 2306.203, Texas Government Code, and such others as may be enumerated during the funding cycle:

(1) Minimum Eligibility Criteria. To be considered for funding, an Applicant must first demonstrate that it meets each of the following threshold criteria:

(A) the application is consistent with the requirements established in this rule and the NOFA;

(B) the applicant provides evidence of its ability to carry out the proposal in the areas of financing, acquiring, rehabilitating, developing or managing an affordable housing development;

(C) the proposal addresses and identifies a housing need. This assessment will be based on statistical data, surveys and other indicators of need as appropriate; and

(D) any outstanding Housing Trust Fund Pre-Development loans for the same proposed Development site must be paid in full at the time of loan closing for the current requested funds.

(2) Evaluation Factors. Pursuant to §2306.203(c) of the Texas Government Code, the criteria used to evaluate applications, as more fully reflected in the NOFA, will include at a minimum the:

(A) leveraging of federal funds including the extent to which the project will leverage State funds with other resources, including federal resources, and private sector funds;

(B) cost-effectiveness of a proposed development; and

(C) extent to which individuals and families of very low income and extremely low income are served by the development.

(b) The Board has final approval on all recommendations for funding.

(c) Eligible Applicants that have been approved for funding and that require a material change in the project description must provide a written request for the material change to the Department prior to implementing the change.

(1) A material change may include, but is not limited to, the following:

(A) Change in project site;

(B) Change in the number of units or set asides; and

(C) An increase in funding that is not permitted under subsection (d) of this section.

(2) Failure to comply with this subsection may result in the termination of funding to Applicant.

(d) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any Housing Trust Fund development proposal or written agreement provided that:

(1) in the case of a modification or amendment to the dollar amount of the request or award, such modification or amendment does not increase the dollar amount by more than 25% of the original request or award, or \$50,000, whichever is greater;

(2) in the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award; and

(3) Modifications and/or amendments that increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; or significantly decrease the benefits to be received by the Department, in the estimation of the Executive Director, will be presented to the Board for approval.

§51.8. Other Program Requirements.

(a) Employment opportunities. In connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment shall be given to low, very low, and extremely low-income persons who meet position requirements residing within the area in which the project is located.

(b) Conflict of Interest.

(1) Conflict Prohibited. No person described in paragraph (2) of this subsection who exercises or has exercised any functions or responsibilities with respect to Housing Trust Fund activities under the

Statute or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a Housing Trust Fund assisted activity, or have an interest in any Housing Trust Fund contract, subcontract or agreement or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(2) Persons Covered. The conflict of interest provisions of paragraph (1) of this subsection apply to any person who is an employee, agent, consultant, officer, elected official or appointed official of the Recipient.

(c) Right to Inspect and Monitor.

(1) The Department may, at any time, inspect and monitor the records and the work of the project so as to ascertain the level of project completion, quality of work performed, inventory levels of stored material, compliance with the approval plans and specifications, property standards, and program rules and requirements.

(2) Any unsatisfactory findings in the inspection may result in a reduction in the amount of funds requested or termination of funding.

(3) Within 45 days of completion of any construction, and before the release of any retainage funds, Recipients are required to notify the Department of the completion by submitting a certificate of completion and any other documents required by program guidelines, including, but not limited to, the following:

(A) Architect's Certification of Substantial Compliance;

(B) Recipient's Certificate of Substantial Completion; and

(C) Recipient's and Supplier's Release of Lien and warrantee.

(4) The Department performs a final close-out visit and assists owners in preparing for long-term compliance requirements upon completion of project development.

(d) Compliance.

(1) Recipient must maintain compliance with each of its written agreements with the Department.

(2) Restrictions are stated and enforced through a regulatory agreement.

(3) These restrictions include, but are not limited to the following:

(A) Rent restrictions;

(B) Record keeping and reporting; and

(C) Income targeting of tenants.

(4) The Department monitors compliance with project restrictions and any other covenants by Recipient in any Housing Trust Fund agreement. An annual per unit compliance fee of \$25.00 may be charged for this review.

(e) For funds being used for multifamily rental properties, the Recipient must establish a reserve account consistent with §2306.186, Texas Government Code, and as further described in §1.37 of this title.

(f) Accounting Requirements. Within 60 days following the conclusion of a contract issued by the Department the Recipient shall provide a full accounting of funds expended under the terms of the contract. Failure of a recipient to provide full accounting of funds expended under the terms of a

contract shall be sufficient reason to terminate the contract and for the Department to deny any future contract to the recipient.

§51.9. Citizen Participation.

(a) The Department holds at least one public hearing annually, and additional public hearings prior to consideration of any proposed significant changes to these rules, to solicit comments from the public, eligible applicants, and Recipients on the Department's rules, guidelines, and procedures for the Housing Trust Fund.

(b) The Department considers the comments it receives at public hearings. The Board annually reviews the performance, administration, and implementation of the Housing Trust Fund in light of the comments it receives. The Board also reviews funding goals and set-asides relating to Allocation of Housing Trust Funds.

(c) Unless the request is made during a competitive application cycle, Applications for Housing Trust Funds are public information and the Department shall afford the public an opportunity to comment on proposed housing applications prior to making awards.

(d) Complaints will be handled in accordance with the Department's complaint procedures of §1.2 of this title.

§51.10. Records to be Maintained.

(a) Recipients are required, at least on an annual basis, to submit to the Department information required under Chapter 1 of this title, which may include, but is not limited to:

(1) such information as may be necessary to determine whether a project is benefiting low, very low, and extremely low-income persons and families;

(2) the monthly rent or mortgage payment for each dwelling unit in each structure assisted;

(3) such information as may be necessary to determine whether Recipients have carried out their housing activities in accordance with the requirements and primary objectives of the Housing Trust Fund and implementing regulations;

(4) the size and income of the household for each unit occupied by a low, very low, or extremely low-income person or family;

(5) data on the extent to which each racial and ethnic group and households have applied for and benefited from any project or activity funded in whole or in part with funds made available under the Statute. This data shall be updated annually; and

(6) A final statement of accounting upon completion of the project.

(b) Recipients shall maintain records pertinent to the tenant's files for a period of at least three years.

(c) Recipients shall maintain records pertinent to funding awards including but not limited to project costs and certification work papers for a period of at least five years.

(d) Recipient shall maintain records in an accessible location.

§51.11. Waiver.

The Board may, in its discretion, waive any one or more of the rules set forth in this chapter to accomplish its legislative mandates or for other compelling circumstances.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

2006-2007 Draft HOUSING TRUST FUND RULE

TITLE 10, PART 1, CHAPTER 51 TEXAS ADMINISTRATIVE CODE

<u>§51.1.</u>	<u>Purpose.....</u>	<u>1</u>
<u>§51.2.</u>	<u>Definitions.....</u>	<u>1</u>
<u>§51.3.</u>	<u>Allocation of Housing Trust Funds.....</u>	<u>5</u>
<u>§51.4.</u>	<u>Basic Eligible Activities.....</u>	<u>6</u>
<u>§51.5.</u>	<u>Ineligible Activities and Restrictions.....</u>	<u>7</u>
<u>§51.6.</u>	<u>Application Procedure and Requirements.....</u>	<u>9</u>
<u>§51.7.</u>	<u>Criteria for Funding.....</u>	<u>13</u>
<u>§51.8.</u>	<u>Other Program Requirements.....</u>	<u>14</u>
<u>§51.9.</u>	<u>Citizen Participation.....</u>	<u>15</u>
<u>§51.10.</u>	<u>Records to be Maintained.....</u>	<u>16</u>
<u>§51.11.</u>	<u>Waiver.....</u>	<u>16</u>

§51.1. Purpose.

This Chapter clarifies the use and administration of the Housing Trust Fund. The Department shall use the Housing Trust Fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, for profit entities, nonprofit organizations, income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. The fund is created pursuant to §2306.201 of the Texas Government Code. Pursuant to §2306.202 of the Texas Government Code, the use of the Housing Trust Fund is limited to providing:

- (1) assistance for individuals and families of low and very low income;
- (2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;
- (3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and
- (4) subject to the limitations in §2306.251~~(e)~~ of the Texas Government Code, the Department may also use the fund to acquire property to endow the fund.

§51.2. Definitions.

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

- (1) **Administrative Deficiencies**--The absence of information or a document from the Application which is important to a review and scoring of the Application as required in this rule, and the Notice of Funding Availability (NOFA).

(2) **Applicant**-- Any Person or Affiliate of a Person who An eligible entity which is preparing to submit or has submitted an application for Housing Trust Fund assistance and is assuming contractual liability and legal responsibility by executing the written agreement with the Department.

(3) **Board**--The governing board of the Department.

(4) **Capacity Building**--Educational and organizational support assistance to promote the ability of community housing development organizations and nonprofit organizations to maintain, rehabilitate and construct housing for low, very low, and extremely low-income persons and families. This activity may include:

(A) organizational support to cover expenses for housing development or management related training, technical and other assistance to the board of directors, staff, and members of the nonprofit organizations or community housing development organizations;

(B) technical assistance and training related to housing development, housing management, or other subjects related to the provision of housing or housing services; or

(C) studies and analyses of housing needs.

(5) **Community Housing Development Organizations (CHDO)**--A nonprofit organization that satisfies the requirements of § 53.63 of this title.

(6) **Competitive Application Cycle**-- A competition for funding during a defined period when applications may be submitted in response to a NOFA. Applications will be reviewed and scored in accordance with the rules for application review published in the NOFA, and application guidelines.

(7) **Department**--The Texas Department of Housing and Community Affairs.

(8) **Eligible Applicants**--Local units of government, public housing authorities, community housing development organizations, nonprofit organizations, for-profit entities, and persons and families of low, very low, and extremely low income.

(9) **Extremely Low-Income Persons and Families**--Families whose annual incomes do not exceed 30% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

(10) **Housing Development Costs**--The total of all costs incurred, or to be incurred, by the Development Owner in acquiring, constructing, rehabilitating and financing a Development as determined by the Department based on the information contained in the Application. Such costs include reserves and any expenses attributable to commercial areas.

(11) **Housing Development**--Any real or personal property, project, building, structure, facilities, work, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, which meets or is designed to meet minimum property standards consistent with those prescribed in the Housing Trust Fund Property Standards, found in the Program Guidelines, for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by persons and families of low, very low, and extremely low income, and persons with special needs. The term may include buildings, structures, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community and recreational facilities the Department determines to be necessary, convenient, or desirable appurtenances.

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

(13) **Intergenerational Housing**--as defined by §49.3 of this title. Housing that includes specific units that are restricted to the age requirements of a Qualified Elderly Development and specific units that are not age restricted in the same Development that:

~~(A) have separate and specific buildings exclusively for the age restricted units;~~

~~(B) have separate and specific leasing offices and leasing personnel exclusively for the age restricted units;~~

~~(C) have separate and specific entrances, and other appropriate security measures for the age restricted units;~~

~~(D) provide shared social service programs that encourage intergenerational activities but also provide separate amenities for each age group;~~

~~(E) share the same Development site;~~

~~(F) are developed and financed under a common plan and owned by the same Person for federal tax purposes; and~~

~~(G) meet the requirements of the federal Fair Housing Act (42 U.S.C. 3601).~~

(14) **Local Units of Government**--A county; an incorporated municipality; a special district; a council of governments; any other legally constituted political subdivision of the state; a public, nonprofit housing finance corporation created under the Local Government Code, Chapter 394; or a combination of any of the entities described here.

(15) **Low-Income Persons and Families**--Families whose annual incomes do not exceed 80% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

~~(16) **New construction** Any Development not meeting the definition of Rehabilitation or Reconstruction.~~

~~(17)~~(16) **Nonprofit Organization**--Any public or private, nonprofit organization that:

(A) is organized under state or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) has a current tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c)(3), a charitable, nonprofit corporation, or Section 501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the application and must continue to be effective throughout the length of any contract agreements; or classification as a subordinate of a central organization non-profit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and

(D) A private nonprofit organization's pending application for 501(c)(3) or (c)(4) status cannot be used to comply with the tax status requirement.

~~(17)~~(18) **NOFA**--Notice of Funding Availability, published in the *Texas Register*.

~~(18)~~(19) **Open Application Cycle**--A defined period during which applications may be submitted in response to a published NOFA and which will be reviewed on a first come-first served basis until all funds available are committed, or until the NOFA is closed. Applications will be reviewed in accordance with the rules for application review published in the NOFA and application guidelines.

~~(19)~~ **Persons with Disabilities**--A person who:

~~(A) has a physical, mental or emotional impairment that:~~

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

(20) Person with Special Needs--

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

~~(A) persons with disabilities, persons with alcohol or other drug addictions, persons with HIV/AIDS and their families, the elderly, victims of domestic violence, persons living in Colonias, and migrant farm workers, any of whom also meets the income guidelines of a person of low, very low or extremely low income.~~

(B) Housing Trust Funds may also be awarded through persons legally responsible for caring for an individual described by subparagraph (A.) of this paragraph, pursuant to §2306.511 of the Texas Government Code.

(21) Predevelopment Costs--Reimbursable costs related to a specific eligible housing project including:

(A) Predevelopment housing project costs that the Department determines to be customary and reasonable, including but not limited to consulting fees, ~~costs of preliminary financial applications, legal fees,~~ architectural fees, engineering fees, engagement of a development team, site control, and title clearance;

(B) Pre-construction housing project costs that the Department determines to be customary and reasonable, including but not limited to, the costs of obtaining ~~firm construction loan commitments,~~ architectural plans and specifications, zoning approvals, engineering studies and legal fees; and

(C) Predevelopment costs do not include general operational or administrative costs.

(22) Public Agency--A ~~unit of government created by a branch of~~ National, State or Local Government.

(23) Public Housing Authority--A housing authority established under the Texas Local Government Code, Chapter 392.

(24) Received Date--The date and time at which an Application is actually received by the Department.

~~(25) (24) Recipient--~~Community housing development organization, nonprofit organization, for-profit entity, local unit of government, or public housing authority that is approved by the Department to receive and administer housing trust funds in accordance with these rules.

~~(e) (25) Reconstruction--~~The rebuilding of a structure on the same lot where housing is standing at the time of project commitment. During reconstruction, the number of rooms per unit may change, but the number of units may not.

~~(f) (26) Rehabilitation--~~The alteration, improvement or modification of an existing structure. It also includes moving an existing structure to a newly constructed foundation. Rehabilitation may include

~~adding rooms outside the existing walls of a structure, but adding a housing unit is considered new construction.~~

~~(26) (27) Rental Housing Development--~~A project for the acquisition, new construction, reconstruction or rehabilitation of multi-family or single family rental housing, or conversion of commercial property to rental housing.

~~(27) (28) Rural Development--~~ A proposed Development located in an area that is :

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

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

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

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

~~(A) outside the boundaries of a Primary Metropolitan Statistical Area (PMSA) or Metropolitan Statistical Area (MSA); or~~

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

~~(C) in an area that is eligible for new construction or rehabilitation funding by TX-USDA-RHS.~~

~~(28) (29) State--~~The State of Texas.

~~(29) (30) Statute--~~Texas Government Code [chapter](#) 2306.

~~(30) (30) Very Low-Income Persons and Families--~~Families whose annual incomes do not exceed 60% of the median income of the area, as determined by HUD and published by the Department, with adjustments for family size.

§51.3. Allocation of Housing Trust Funds.

(a) Pursuant to §2306.201 of the Texas Government Code, the Housing Trust Fund is a fund administered by the Department, and placed with the Texas Treasury Safekeeping Trust Company.

(b) The fund consists of:

(1) appropriations or transfers made to the fund;

(2) unencumbered fund balances;

(3) public or private gifts or grants;

(4) investment income, including all interest, dividends, capital gains, or other income from the investment of any portion of the fund;

(5) repayments received on loans made from the fund; and

(6) funds from any other source

(c) Each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations. The remaining

portion shall be competed for by nonprofit organizations, for-profit organizations, and other eligible entities, pursuant to §2306.202 of the Texas Government Code.

(d) Funds shall be allocated to achieve broad geographic dispersion by awarding funds in accordance with § 2306.111(d) and (g), Texas Government Code.

(e) The Department shall require that applicants target at least 50% of those units served by housing trust funds to individuals and families earning less than 60% of median family income.

(f) Bond indenture requirements governing expenditure of bond proceeds deposited in the housing trust fund shall govern and prevail over all other allocation requirements established in this section. However, the Department shall distribute these funds in accordance with the requirements of this section to the extent possible.

(g) Housing Trust Funds may also be allocated to the Texas Bootstrap Loan Program and will be awarded in accordance with §2306.753 of the Texas Government Code.

§51.4. Basic Eligible Activities.

(a) The department, through the housing finance division, shall use the housing trust fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, for profit entities, nonprofit organizations, and income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. In each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing. The remaining portion shall be competed for by nonprofit organizations, for-profit organizations, and other eligible entities. Notwithstanding any other section of this chapter, but subject to the limitations in Section 2306.251(c), the department may also use the fund to acquire property to endow the fund.

(b) Use of the fund is limited to providing:

(1) assistance for individuals and families of low and very low income;

(2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income; and

(3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income.

~~The Department shall make grants and loans from the Housing Trust Fund to Eligible Applicants for purposes consistent with §51.2 of this title and §2306.202 of the Texas Government Code. Eligible program activities for the Housing Trust Fund include, but are not limited to:~~

~~(1)the acquisition, rehabilitation, and new construction of affordable rental housing. Refinancing or rehabilitation of properties constructed within the past 5 years and previously funded by the Department are not eligible;~~

~~(2)the acquisition, rehabilitation, new construction of affordable homeownership developments. Developments may be completed by a contracted developer or through Self-Help Construction. Housing that is newly constructed or rehabilitated must meet all applicable local and state codes, rehabilitation standards, ordinances, zoning ordinances, §2306.514 of the Texas Government Code, and all additional standards or codes as specified in the application guide;~~

~~(3) tenant based rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant based rental assistance also includes security and utility deposits for rental of dwelling units;~~

~~(4) predevelopment loans to nonprofit housing development organizations for eligible reimbursable costs associated with the planning and implementation of affordable housing activities;~~

~~(5) credit enhancements or security for repayment of revenue bonds issued to finance affordable housing; and~~

~~(6) technical assistance or other forms of capacity building to nonprofit housing developers.~~

§51.5. Ineligible Activities and Restrictions.

(a) Ineligible Applicants: The following violations will cause an Applicant, and any applications they have submitted, to be ineligible:

(1) Previously funded recipient(s) whose Housing Trust Funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to the current funding cycle;

(2) Applicants, or persons affiliated with the Applicant that have been barred, suspended, or terminated from procurement in a state or federal program and listed in the List of Parties Excluded from Federal Procurement of Non-procurement Programs;

(3) Applicants or persons affiliated with the Applicant that are subject of enforcement action under state or federal securities law, or is the subject of an enforcement proceeding with a state or federal agency or another governmental entity;

(4) Applicants or persons affiliated with the Applicant that have unresolved audit findings related to previous or current funding agreements with the Department;

(5) Applicants or persons affiliated with the Applicant that have delinquent loans, fees or other commitments with the Department, until payment is made;

(6) Applicants who have not satisfied all threshold requirements described in this title, and the NOFA to which they are responding, and for which Administrative Deficiencies were unresolved;

(7) Refinancing or rehabilitation of properties constructed within the past 5 years and previously funded by the Department are not eligible;

(8) Applicants who have submitted incomplete Applications;

(9) Applicants or persons affiliated with the Applicant that have been otherwise barred by the Department;

(10) Applicants are subject to §1.13 of this title;

(11) Applicants or persons affiliated with the Applicant that have breached a contract with a public agency; or

(12) The acquisition, rehabilitation, reconstruction or refinancing of affordable rental housing constructed within the past 5 years or previously funded by the Department.

(b) ~~(a)~~ Displacement of Existing Affordable Housing. Pursuant to §2306.203(a)(4) of the Texas Government Code, Housing Trust Funds shall not be utilized on a development that has the effect of permanently displacing low, very low, and extremely low income persons and families. Low-Income persons who may be temporarily displaced by the rehabilitation of affordable housing may be eligible for compensation of moving and relocation expenses. If a Housing Trust Fund recipient violates the permanent dislocation provision of this subsection, that recipient risks loss of Housing Trust Funds and the landlord/developer must pay the affected tenant's costs and all moving expenses.

~~(b) If a Housing Trust Fund recipient violates the permanent dislocation provision of this subsection, that recipient risks loss of Housing Trust Funds and the landlord/developer must pay the affected tenant's costs and all moving expenses.~~

~~(c) Communication with Department Employees. Communication with Department staff by Applicants that submit a Pre-Application or Application must follow the following requirements. During the period beginning on the date a Development Pre-Application or Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person that is active in the construction, rehabilitation, ownership or Control of the proposed Development including a General Partner or contractor and a Principal or Affiliate of a General Partner or contractor, or individual employed as a lobbyist by the Applicant or a Related Party, may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet, so long as that communication satisfies the conditions established under paragraphs (1) - (3) of this subsection. Section 49.5(b)(6) of this title applies to all communication with Board members. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.~~

~~(1) The communication must be restricted to technical or administrative matters directly affecting the Application;~~

~~(2) The communication must occur or be received on the premises of the Department during established business hours (emails may be sent and received after business hours);~~

~~(3) a record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication. (2306.1113)~~

~~(c) Communication with Department Employees. Communication with Department staff by Applicants that submit a Pre-Application or Application must follow the following requirements. During the period beginning on the date a Development Pre-Application or Application is filed and ending on the date the Board makes a final decision with respect to any approval of that Application, the Applicant or a Related Party, and any Person that is active in the construction, rehabilitation, ownership or Control of the proposed Development including a General Partner or contractor and a Principal or Affiliate of a General Partner or contractor, or individual employed as a lobbyist by the Applicant or a Related Party, may communicate with an employee of the Department about the Application orally or in written form, which includes electronic communications through the Internet, so long as that communication satisfies the conditions established under paragraphs (1) through (3) of this subsection. Section 49.5(b)(7) of this title applies to all communication with Board members. Communications with Department employees is unrestricted during any board meeting or public hearing held with respect to that Application.~~

~~(1)The communication must be restricted to technical or administrative matters directly affecting the Application;~~

~~(2)The communication must occur or be received on the premises of the Department during established business hours;~~

~~(3)A record of the communication must be maintained by the Department and included with the Application for purposes of board review and must contain the date, time, and means of communication; the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the Applicant; the subject matter of the communication; and a summary of any action taken as a result of the communication (§2306.1113).~~

~~(d) Ineligible Applicants: The following violations will cause an Applicant, and any applications they have submitted, to be ineligible:~~

~~(1) Previously funded recipient(s) whose Housing Trust Funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to the current funding cycle;~~

~~(2) Applicants who have not satisfied all threshold requirements described in this title, and the NOFA to which they are responding, and for which Administrative Deficiencies were unresolved;~~

~~(3) Applicants who have submitted incomplete applications;~~

~~(4) Applicants that have been otherwise barred by the Department;~~

~~(5) Applicant or Developer, or their staff, who violate the state revolving door policy, Chapter 572 of the Texas Government Code; or~~

~~(e) Any applicant who would otherwise be considered ineligible under §50.5 of this title, excluding those requirements at §§50.5(a)(5)–(8), (10) and (11) of this Title.~~

~~The Department will not recommend an application for funding if it includes a principal who is or has been:~~

~~(1) Barred, suspended, or terminated from procurement in a state or federal program and listed in the List of Parties Excluded from Federal Procurement of Non-procurement Programs;~~

~~(2) The subject of enforcement action under state or federal securities law, or is the subject of an enforcement proceeding with a state or federal agency or another governmental entity;~~

~~(3) If the applicant has unresolved audit findings related to previous or current funding agreements with the Department; or~~

~~(4) Has breached a contract with a public agency.~~

~~(d) (f) Material Noncompliance. Each Application will be reviewed for its compliance history by the Department, consistent with Chapter 60 of this title. Applicants, or persons affiliated with an Application, found to have a Development or Contract in Material Noncompliance with the Department, will have their Applications terminated. Applications found to be in Material Noncompliance, will be terminated.~~

~~(e) (g) Rental Housing Development Site and Development Restrictions. Restrictions include all those items referred to in Chapter 2306 of the Texas Government Code and any additional items included in the NOFA for rental housing developments.~~

~~(f) (h) Limitations on the Size of Developments. Developments involving new construction will be limited to 252 units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum Unit-unit restrictions. The minimum number of units shall be 4 units.~~

§51.6. Application Procedure and Requirements.

(a) In distributing funds, the Department will release a NOFA and/or request for proposals that identifies the uses of the available funds and the specific criteria that will be utilized in evaluating applicants.

(b) Applicants must submit a complete application to be considered for funding, along with an application fee determined by the Department and outlined in the NOFA. Applications containing false information will be disqualified. Applications submitted under a Competitive Application Cycle must be received by the application deadline or they will be disqualified. Disqualified Applicants will

be notified in writing. All applications must be received by the Department by 5:00 p.m. regardless of method of delivery.

(c) Applications received by the Department in response to a Competitive Application Cycle NOFA for housing development activities will be handled in the following manner:

(1) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to meet the Threshold Criteria defined by the NOFA and any Threshold Criteria that may be applicable to the Housing Trust Fund as defined by this rule and Chapter 2306 of the Texas Government Code.

(2) Scoring Evaluation. For an Application to be scored, the Application must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then be scored and ranked according to the Scoring Criteria identified in the NOFA.

(3) Financial Feasibility Evaluation. After the Application is scored, the Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate funding amount and terms. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title.

(d) ~~(e)~~ Applications received by the Department in response to an Open Application Cycle NOFA for housing development activities will be handled in the following manner:

(1) The Department will accept applications on an ongoing basis, until such date when the Department makes notice to the public that the Open Application Cycle has been closed. All applications must be received during business hours and no later than 5:00 p.m. on any business day. The Department may limit the eligibility of applications in the NOFA.

(2) Each application will be handled on a first-come, first-served basis as further described in this section. Each application will be assigned a "received date" based on the date and time it is physically received by the Department. Then each application will be reviewed on its own merits in three review phases. Applications will continue to be prioritized for funding based on their "received date" unless they do not proceed into the next phase(s) of review. Applications proceeding in a timely fashion through a phase will take priority over applications that may have an earlier "received date" but that did not timely complete a phase of review.

(A) Phase One will begin as of the received date. Applications not being considered as CHDOs will be passed through to Phase Two upon receipt. Phase One will only entail the review of the CHDO Certification package. The Department will ensure review of these materials and issue notice of any deficiencies on the CHDO Certification package within 30 days of the received date. Applicants who are able to resolve their deficiencies within fiveseven 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 fiveseven business days will be retained in Phase One until all deficiencies have been addressed or resolved by the Applicant to the Department's satisfaction. Only upon satisfaction of all deficiencies will the Application be forwarded to Phase Two. Applications that have not proceeded out of Phase One within 50 days of the received date will be terminated and must reapply for consideration of funds.

(B) Phase Two will include a review of all application requirements. The Department will ensure review of all application materials required under the NOFA and issue notice of any deficiencies on the application's satisfaction of threshold and eligibility within 45 days of the date it enters Phase Two. Applicants who are able to resolve their deficiencies within fiveseven 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 fiveseven business days, will be retained in Phase Two until all deficiencies have been addressed or resolved by the Applicant to the Department's

satisfaction. Only upon resolution of all deficiencies will the Application be forwarded to Phase Three. Applications that have not left Phase Two within 65 days of the date it entered Phase Two will be terminated and must reapply for consideration of funds.

(C) Phase Three will include a comprehensive review for material noncompliance and financial feasibility by the Department. Financial feasibility reviews will be conducted by the Department's Real Estate Analysis (REA) Division consistent with 10 TAC §1.32, Underwriting Rules and Guidelines. REA will draft an underwriting report that will identify staff's recommended loan terms, the loan or grant amount and any conditions to be placed on the development. The Department will ensure financial feasibility review and issue notice of any required deficiencies for that feasibility review within 45 days of the date it enters Phase Three. Applicants who are able to resolve their deficiencies within ~~five seven~~ business days will be forwarded into "Recommended Status" and will continue to be prioritized by their received date. Applications with deficiencies not satisfied within ~~five seven~~ business days, will be retained in Phase Three until Applicant resolves all deficiencies to the Department's satisfaction. Only upon satisfaction of all deficiencies will the Application be forwarded to the Department's Executive Award Review and Advisory Committee for final approval before recommendation to the Board. Any application that has not left Phase Three after 65 days of the date it entered Phase Three will be terminated and must reapply for consideration of funds.

(D) Upon completion of Phase Three, applications will be presented to the Executive Awards Review and Advisory Committee (the Committee). If satisfactory, the Committee will then recommend the award of funds to the Board, as long as funds are still available for this activity under the applicable NOFA. If Phase Three is completed at least ~~14-21~~ days prior to the next Board meeting, it will be placed on the next Board meeting's agenda. If Phase Three is completed with less than ~~14-21~~ days before the next Board meeting, the recommendation will be placed on the following month's Board meeting agenda.

(E) Because applications are prioritized by "received date," it is possible that the Department will expend all available funds before an application has been completely reviewed. If all funds are committed before an application has completed all phases of the review process, the Department will notify the applicant that their application will remain active for 90 days in its current phase. If new funds become available applications already under review will continue with their review without losing their received date status. If new funds do not become available within 90 days of the notification, the applicant will be notified that their application is no longer under consideration and in the event of future funding, they would be required to reapply. If on the date an application is received by the Department, no funds are available under ~~the~~~~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.

(e) Layered Applications. If an Application is submitted to the Department for a Development that requests funds from two separate housing finance programs, and only one of the housing finance programs is operated as a competitive cycle, then the Application will be handled in accordance with the competitive cycle guidelines for that program. If an Application is submitted for two separate housing finance programs where both programs are either open cycle, or competitive, the

Application will be handled in accordance with the most restrictive program rules with the approval of the Department's Executive Director.

(f) ~~(d)~~—Administrative Deficiencies. If an application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the application, the Department staff may request clarification or correction of such Administrative Deficiencies including both threshold and/or scoring documentation. The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. Administrative Deficiencies given to Applications submitted under an Open Application Cycle NOFA will be handled in the manner described under Part B of this Section. Applications submitted under a Competitive Application Cycle NOFA will be treated in the following manner. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within three five-business days of the deficiency notice date, then five points shall be deducted from the application score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within five seven-business days from the deficiency notice date, then the application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement an application in any manner after the filing deadline, except in response to a direct request from the Department.

~~(e) Applications received by the Department in response to a Competitive Application Cycle NOFA for housing development activities will be handled in the following manner:~~

~~(1) Threshold Evaluation. Applications submitted for Rental Housing Developments will be required to meet the Threshold Criteria defined by the NOFA and any Threshold Criteria that may be applicable to the Housing Trust Fund as defined by Chapter 2306 of the Texas Government Code.~~

~~(2) Scoring Evaluation. For an Application to be scored, the Application must demonstrate that the Development meets all of the Threshold Criteria requirements. Applications that satisfy the Threshold Criteria will then be scored and ranked according to the Scoring Criteria identified in the NOFA.~~

~~(3) Financial Feasibility Evaluation. After the Application is scored, the Department will assign, as herein described, Developments for review for financial feasibility by the Department's Real Estate Analysis Division. The Department shall underwrite an Application to determine the financial feasibility of the Development and an appropriate funding amount and terms. In making this determination, the Department will use the Underwriting Rules and Guidelines, §1.32 of this title.~~

~~(f)(g)~~ All applications for housing development activities will be reviewed in the following manner:

(1) A site visit will be conducted. Applicants must receive recommendation for approval from the Department to be considered for funding by the Board.

(2) Board approval for the award of Development activity funds is conditioned upon a completed loan closing and any other conditions deemed necessary by the Department.

~~(g)(h)~~ Applications other than Rental Housing Developments will be reviewed and evaluated in accordance with the NOFA for that activity.

~~(h)(i)~~ Applicants may appeal staff's decisions regarding their applications consistent with §1.7 of this title.

~~(i)(j)~~ Alternative Dispute Resolution Policy. Applicant's may utilize the Department's Alternative Dispute Resolution process as defined by §1.17 of this title. In accordance with §2306.082, Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009,

~~Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17.~~

~~(j)(k)~~ (k) Public Notification. Applicants for Rental Development activities will be required to provide written notification to each of the following persons or entities 14 days prior to the submission of any application package. Failure to provide written notifications 14 days prior to the submission of an application package at a minimum will cause an application to lose its "received by date" under open application cycles, or be terminated under competitive application cycles. Applicants must provide notifications to:

- (1) the executive officer and elected members of the governing board of the community where the development will be located. This includes municipal governing boards, city councils, and County governing boards;
- (2) all neighborhood organizations whose defined boundaries include the location of the Development;
- (3) executive officer and Board President of the school district that covers the location of the Development;
- (4) residents of occupied housing units that may be rehabilitated, reconstructed or demolished; and
- (5) the State Representative and State Senator whose district covers the location of the Development.
- (6) The notification letter must include, but not be limited to, the address of the development site, the number of units to be built or rehabilitated, the proposed rent and income levels to be served, and all other details required of the NOFA and Application Manual.

§51.7. Criteria for Funding.

(a) In considering applications for funding, the Department considers the following requirements under § 2306.203, Texas Government Code, and such others as may be enumerated during the funding cycle:

(1) Minimum Eligibility Criteria. To be considered for funding, an Applicant must first demonstrate that it meets each of the following threshold criteria:

(A) the application is consistent with the requirements established in this rule and the NOFA;

(B) the applicant provides evidence of its ability to carry out the proposal in the areas of financing, acquiring, rehabilitating, developing or managing an affordable housing development; ~~and~~

(C) the proposal addresses and identifies a housing need. This assessment will be based on statistical data, surveys and other indicators of need as appropriate-; ~~and~~

(D) any outstanding Housing Trust Fund Pre-Development loans for the same proposed Development site must be paid in full at the time of loan closing for the current requested funds.

(2) Evaluation Factors. Pursuant to §2306.203(c) of the Texas Government Code, the criteria used to evaluate applications, as more fully reflected in the NOFA, will include at a minimum the:

(A) leveraging of federal funds including the extent to which the project will leverage State funds with other resources, including federal resources, and private sector funds;

(B) cost-effectiveness of a proposed development; and

(C) extent to which individuals and families of very low income and extremely low income are served by the development.

(b) The Board has final approval on all recommendations for funding.

(c) Eligible Applicants that have been approved for funding and that require a material change in the project description must provide a written request for the material change to the Department prior to implementing the change.

(1) A material change may include, but is not limited to, the following:

(A) Change in project site;

(B) Change in the number of units or set asides; and

(C) An increase in funding that is not permitted under subsection (d) of this section.

(2) Failure to comply with this subsection may result in the termination of funding to Applicant.

(d) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any Housing Trust Fund development proposal or written agreement provided that:

(1) in the case of a modification or amendment to the dollar amount of the request or award, such modification or amendment does not increase the dollar amount by more than 25% of the original request or award, or \$50,000, whichever is greater;

(2) in the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award; and

(3) Modifications and/or amendments that increase the dollar amount by more than 25% of the original award or \$50,000, whichever is greater; or significantly decrease the benefits to be received by the Department, in the estimation of the Executive Director, will be presented to the Board for approval.

§51.8. Other Program Requirements.

(a) Employment opportunities. In connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment shall be given to low, very low, and extremely low-income persons [who meet position requirements](#) residing within the area in which the project is located.

(b) Conflict of Interest.

(1) Conflict Prohibited. No person described in paragraph (2) of this subsection who exercises or has exercised any functions or responsibilities with respect to Housing Trust Fund activities under the Statute or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a Housing Trust Fund assisted activity, or have an interest in any Housing Trust Fund contract, subcontract or agreement or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(2) Persons Covered. The conflict of interest provisions of paragraph (1) of this subsection apply to any person who is an employee, agent, consultant, officer, elected official or appointed official of the Recipient.

(c) Right to Inspect and Monitor.

(1) The Department may, at any time, inspect and monitor the records and the work of the project so as to ascertain the level of project completion, quality of work performed, inventory levels of stored material, compliance with the approval plans and specifications, property standards, and program rules and requirements.

(2) Any unsatisfactory findings in the inspection may result in a reduction in the amount of funds requested or termination of funding.

(3) Within 45 days of completion of any construction, and before the release of any retainage funds, Recipients are required to notify the Department of the completion by submitting a certificate of completion and any other documents required by program guidelines, including, but not limited to, the following:

(A) Architect's Certification of Substantial Compliance;

(B) Recipient's Certificate of Substantial Completion; and

(C) Recipient's and Supplier's Release of Lien and warrantee.

(4) The Department performs a final close-out visit and assists owners in preparing for long-term compliance requirements upon completion of project development.

(d) Compliance.

(1) Recipient must maintain compliance with each of its written agreements with the Department.

(2) Restrictions are stated and enforced through a regulatory agreement.

(3) These restrictions include, but are not limited to the following:

(A) Rent restrictions;

(B) Record keeping and reporting; and

(C) Income targeting of tenants.

(4) The Department monitors compliance with project restrictions and any other covenants by Recipient in any Housing Trust Fund agreement. An annual per unit compliance fee of \$25.00 may be charged for this review.

~~(5) Prior to the leasing of any units, project owners are provided guidance and training by the Department to assist project owners in adhering to restrictions and reporting requirements.~~

(e) For funds being used for multifamily rental properties, the Recipient must establish a reserve account consistent with §2306.186, Texas Government Code, and as further described in §1.37 of this title.

(f) Accounting Requirements. Within 60 days following the conclusion of a contract issued by the Department the Recipient shall provide a full accounting of funds expended under the terms of the contract. Failure of a recipient to provide full accounting of funds expended under the terms of a contract shall be sufficient reason to terminate the contract and for the Department to deny any future contract to the recipient.

§51.9. Citizen Participation.

(a) The Department holds at least one public hearing annually, and additional public hearings prior to consideration of any proposed significant changes to these rules, to solicit comments from the public, eligible applicants, and Recipients on the Department's rules, guidelines, and procedures for the Housing Trust Fund.

(b) The Department considers the comments it receives at public hearings. The Board annually reviews the performance, administration, and implementation of the Housing Trust Fund in light of the comments it receives. The Board also reviews funding goals and set-asides relating to Allocation of Housing Trust Funds.

(c) Unless the request is made during a competitive application cycle, Applications for Housing Trust Funds are public information and the Department shall afford the public an opportunity to comment on proposed housing applications prior to making awards.

(d) Complaints will be handled in accordance with the Department's complaint procedures of §1.2 of this title.

§51.10. Records to be Maintained.

(a) Recipients are required, at least on an annual basis, to submit to the Department information required under Chapter 1 of this title, which may include, but is not limited to:

(1) such information as may be necessary to determine whether a project is benefiting low, very low, and extremely low-income persons and families;

(2) the monthly rent or mortgage payment for each dwelling unit in each structure assisted;

(3) such information as may be necessary to determine whether Recipients have carried out their housing activities in accordance with the requirements and primary objectives of the Housing Trust Fund and implementing regulations;

(4) the size and income of the household for each unit occupied by a low, very low, or extremely low-income person or family;

(5) data on the extent to which each racial and ethnic group and households have applied for and benefited from any project or activity funded in whole or in part with funds made available under the Statute. This data shall be updated annually; and

(6) A final statement of accounting upon completion of the project.

(b) Recipients shall maintain records pertinent to the tenant's files for a period of at least three years.

(c) Recipients shall maintain records pertinent to funding awards including but not limited to project costs and certification work papers for a period of at least five years.

(d) Recipient shall maintain records in an accessible location.

§51.11. Waiver.

The Board may, in its discretion, waive any one or more of the rules set forth in this chapter to accomplish its legislative mandates or for other compelling circumstances.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

November 9, 2006

Action Items

Presentation, Discussion and Possible Approval of the Housing Tax Credit Program 2007 Policy for Awarding Housing Tax Credit Commitments out of the 2008 Credit Ceiling to Rural Rescue Developments.

Required Action

Approve or Amend the attached Policy.

Background and Recommendations

In March 2003, the Board approved the Housing Tax Credit Rural Rescue Policy authorized for the first time in the 2003 QAP. The policy enables the Board to utilize its forward commitment authority to allocate credits to TX-USDA-RHS Developments which are experiencing foreclosure or loan acceleration. The policy assists in addressing the dilemma associated with RHS developments facing foreclosure or loan acceleration that have missed the HTC filing deadline, but need assistance prior to the following year's credit cycle. These developments were termed rural "rescue" developments. The language that enables this program has remained in the QAP since 2003 and the Rural Rescue Policy is updated annually. The policy is provided as a blackline - denoting revisions from the approved 2006 policy.

While \$220,997 and 130 units were created under this program in 2005, there have been no requested Rural Rescue credits from the 2007 Credit Ceiling to date. The deadline for these requests is November 15, 2006.

The revisions to the policy are administrative. There are no recommended substantive changes from the 2006 Policy.

Staff Recommendation

Staff recommends that the policy be approved as proposed.

Housing Tax Credit (HTC) Program
2006 2007 Policy for Awarding Housing Tax Credit Commitments out of the 2008 Credit Ceiling to Rural “Rescue Developments” Policy for Granting Forward Commitments to Rural “Rescue” Developments

I. Introduction

§~~50.49~~.10(c) of the ~~2006~~2007 Qualified Allocation Plan and Rules (QAP) states: “The Board may utilize the forward commitment authority to allocate credits to TX-USDA-RHS Developments which are experiencing foreclosure or loan acceleration at any time during the ~~2006~~2007 calendar year, also referred to as Rural Rescue Developments.” This language was included in the QAP so that RHS developments that have experienced foreclosure, are facing foreclosure or loan acceleration, or which are otherwise in danger of default and foreclosure, and missed the HTC filing deadline would still have an opportunity to receive credits without a delay until the following year’s credit cycle. These developments are termed rural “rescue” developments.

Because the QAP does not include the details of how these requests and awards would be handled, this policy provides the procedures for application, staff review and recommendation specifically for Rural Rescue developments.

II. Definitions

All definitions used in this policy are definitions found in the ~~2006~~2007 QAP.

III. Eligibility

Applications must:

1. be funded through RHS; and
2. must be able to provide evidence that the loan:
 - a. has been foreclosed and is in the RHS inventory, or
 - b. is being foreclosed, or
 - c. is being accelerated, or
 - d. is in imminent danger of foreclosure or acceleration, or
 - e. is for an application in which two adjacent parcels are involved, of which at least one parcel qualifies under clauses (a) through (d) of this item and for which the application is submitted under one ownership structure, one financing plan and for which there are no market rate units.
3. Applicants must be identified as in compliance with TX-USDA-RHS regulations.

IV. Credit Ceiling and Applicability of QAP

All applicants will receive their credit allocation out of the ~~2007~~2008 Credit Ceiling and therefore, will be required to follow the rules and guidelines identified in the ~~2007~~2008 QAP. However, because the ~~2007~~2008 QAP will not be in effect during the time period that the Rural Rescue applications can be submitted, applications submitted under this policy will be considered by the Board to have satisfied the requirements of the ~~2007~~2008 QAP and are

waived from [20072008](#) QAP requirements that are changes from the [20062007](#) QAP, to the extent permitted by statute.

V. Procedures for Intake and Review

1. Applications for Rural Rescue deals may be submitted between March 2, [20062007](#) and November 15, [20062007](#) and must be submitted in accordance with §[50.49.21](#) of the QAP. A complete Application must be submitted at least 40 days prior to the date of the Board meeting at which the Applicant would like the Board to act on the proposed Development. Applications must include the full Application Fee of \$30 per Unit as further described in §[50.49.20\(c\)](#) of the QAP. Applicants must submit documents in accordance with the procedures set out in the [20062007](#) Application Submission Procedures Manual for Volumes I, II, III and IV. Volume IV, evidencing Selection Criteria, MUST be submitted.
2. Applicants do not need to participate in the Pre-Application process outlined in §[50.49.8](#) of the QAP, nor will they need to submit pre-certification documents identified in §[50.49.9\(g\)](#) of the QAP.
3. Applications will be processed on a first-come, first-served basis. Applications unable to meet all deficiency and underwriting requirements within 30 days of the request by the Department, will remain under consideration, but will lose their submission status and the next application in line will be moved ahead in order to expedite those applications most able to proceed. Applications for Rural Rescue will be processed and evaluated as described in §[50.49.9\(f\)](#) of the QAP. Applications will be reviewed to ensure that the Application is eligible as a rural “rescue” Development as described in paragraph III of this Policy.
4. Prior to the Development being recommended to the Board, RHS must provide TDHCA with a copy of the physical site inspection report performed by RHS, as provided in §[49.9\(d\)\(8\)](#) of the QAP.

VI. Procedures for Recommendation to the Board

Consistent with §[50.49.9\(k\)](#) of the QAP, staff will make its recommendation to the Executive Award and Review Advisory Committee (“The Committee”). The Office of Rural Community Affairs (ORCA) will be invited to be in attendance at these meetings and give feedback on the proposed recommendation. The Committee will make commitment recommendations to the Board. Staff will provide the Board with a written, documented recommendation which will address at a minimum the financial and programmatic viability of each Application and a breakdown of which Selection Criteria were met by the Applicant. The Board will make its decision based on §[50.49.10\(a\)](#) of the QAP.

Any award made to a Rural Rescue Development will be credited against the Rural Regional Allocation for the [20072008](#) Application Round, but will not be reduced from (or attributed to) the USDA Allocation target for [20072008](#). For purposes of allocating credits based on the regional allocation formula, any award made to a Rural Rescue Development will also be credited against the region in which each Development is located for the [20072008](#) Application Round.

VII. Applicability

All Developments submitted under this policy are subject to all rules, definitions, policies and deadlines of TDHCA, as more specifically outlined in the Qualified Allocation Plan and Rules and the Underwriting Rules and Guidelines, except as specifically excepted above.

VIII. Limitation on Allocation

No more than \$350,000 in credits will be forward committed from the [20072008](#) credit ceiling by this Policy. To the extent applications are received that exceed the maximum limitation, staff will prepare the award for Board consideration noting for the Board that the award would require a waiver of this limitation.